

ISSUE DATE:

Oct. 19, 2010



PL100508

Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellants: Joyce & Paul Ridley
Subject: By-law No. 2010-93
Municipality: City of North Bay
OMB Case No.: PL100508
OMB File No.: PL100508

APPEARANCES:

Parties

Counsel*/Agent

City of North Bay

Rob Shirkey*

Joyce and Paul Ridley

Richard Woodward

DECISION DELIVERED BY J. E. SNIEZEK AND ORDER OF THE BOARD

Introduction

Kelly Loxton applied for and received approval of a rezoning application to permit a two storey, twelve unit apartment building on lands fronting on Circle Lake Road that are presently zoned R3 (requested zone change to RM3).

Joyce and Paul Ridley (the Appellants) appealed the approval of By-law 2010-93 to this Board.

The Board heard evidence from Richard Woodward, agent for the Appellants, the Appellants (Joyce and Paul Ridley), and Mark Nickless, a nearby resident. From the City, the Board heard from Steve McArthur, Senior Planner, Alan Korell, Managing Director Engineering - Environmental & Works, Paula Scott, Director of Planning and Development of the North Bay - Mattawa Conservation Authority and Rod Bilz, an environmental consultant retained by the City.

Background

The subject lands consist of a 0.2 hectare property at the end of Circle Lake Road. The property has a frontage of 34.327 m on Circle Lake Road and a flankage of 58.506 m along the unopened Rodney Drive. The existing R3 zoning permits single detached, duplexes, semi detached, accessory home-based businesses and Institutional uses. The proposed RM3 uses include Apartment Dwellings, Parks, Playgrounds, Associated Non-Profit uses, Licenced Day Nurseries, Churches, Public Schools other than Trade Schools, Accessory Home-based businesses and Accessory Non-Residential Use.

The land uses in the area include detached housing, a campus of Canadore College, Peter Pelangio Arena and Ball Fields (used as a school bus transfer station during the day), Arclin Canada (a chemical plant), E. S. Hubbell & Sons Limited (a culvert supply company) Stock Bus Lines, G&P Welding, North Bay Hydro and Expertech.

The area south of Circle Lake is a Provincially Significant Wetland (PSW). The area around Circle Lake may be a habitat for Blanding's Turtles (two occurrences) King Rail and Snapping Turtle (one occurrence each). These species are listed as threatened or endangered or of special concern.

Planned infrastructure improvements in the area include sidewalks along Wallace Road and the extension of Seymore Street from Wallace Road to Sage Road.

The main street access in the area is Wallace Road (a collector road) where Circle Lake Road connects to the street hierarchy. Wallace Road has a traffic volume in excess of 8,300 vehicles per day and provides access to a school bus transfer area and lacks sidewalks. The Official Plan provides arterial and collector roads that shall be provided with a sidewalk along one side of the road where feasible.

The Position of the Appellants

The position of the Appellants focuses on two areas: pedestrian and traffic safety given the lack of a sidewalk on Wallace Road and the threat to the environment given

the location of the Provincially Significant Wetland and the habitat of rare, threatened or concerned species.

The Response from the City

The response from the City is focused upon the testimony of Mr. Korell, Ms Scott, Mr. Bilz and Mr. McArthur.

Mr. Korell is a Professional Engineer with considerable experience in the City of North Bay. It was his evidence that a sidewalk is planned for Wallace Road and that a traffic study was not warranted for a twelve unit apartment building.

Ms Scott is a qualified environmental professional and it was her evidence from the perspective of the NBMCA that the subject site had an urban character and that an Environmental Impact Statement was not required.

Mr. Bilz had visited the site and reviewed the Ministry of Natural Resources' notes and reached the conclusion that the area was not a habitat for the Bandling's Turtle.

Mr. McArthur indicated that the subject site was beyond the buffer area for Provincially Significant Wetlands. The site conformed to the Official Plan and represented good planning.

Board Findings

The Appellants have raised issues but those issues - public safety and environmental concerns have not been substantiated with proof. The City and its witness adequately addressed the issue of the sidewalk (it will be constructed in the near future and environmental concerns - the area is not an endangered and threaten species habitat and is not within the buffer of a Provincially Significant Wetland. The City's planning witness indicated that the proposal represented good planning; conformed to the Official Plan; was consistent with the PPS and represented good

planning. The Appellants have a burden of proof to bear and raising concerns without substantive proof is not sufficient. Therefore, based upon the uncontradicted testimony of the witnesses put forward by the City, the Board dismisses the appeal.

THE BOARD ORDERS that the appeal be dismissed.

The Board so Orders.

“J. E. Sniezek”

J. E. SNIEZEK
MEMBER