

CORPORATION OF THE TOWNSHIP OF McNAB/BRAESIDE  
July 8, 2014  
PUBLIC MEETING UNDER THE PLANNING ACT

A Public Meeting under the Planning Act was held at 6:30 p.m. to consider a proposed amendment to the Zoning By-Law for the Township of McNab/Braeside in accordance with the provisions of Section 34 of the Planning Act, 1990.

All members of Council were in attendance for the meeting this evening.

Also in attendance: William Morton  
Rosemary Morton

Members were asked to state any pecuniary interest and the general nature thereof before the item is discussed. No disclosures of pecuniary interest were declared at this time.

Moved by Councillor Campbell, seconded by Deputy Mayor Blimkie, **THAT** the Public Meeting agenda dated July 8, 2014 for the Zoning By-Law Amendment proposed by R. Morton / W. Morton be adopted as submitted and circulated. **CARRIED.**

The purpose of the amendment is to rezone an existing 0.76 hectare (1.87 acre) residential lot from Limited Service Residential (LSR) to Limited Service Residential-Exception Four (LSR-E4) to permit a second detached dwelling on the subject lands, as an additional permitted use and implement a minimum 24 metre building setback from top of slope of the Madawaska River. All other provisions of the Zoning By-law shall apply.

Additional information regarding the Zoning By-law amendment was available for inspection at the Township of McNab/Braeside Municipal Office during regular office hours.

The lands affected by the proposed amendment are Part of Lot 16, Concession 3, geographic Township of McNab, in the Township of McNab/Braeside, and are located at 124 McVicar Lane.

The notice of the public meeting was read by the Deputy Clerk.

The Deputy Clerk advised that the notice of the public meeting was circulated to all property owners within 120m of the subject property as well as all of the applicable agencies. The Deputy Clerk advised that verification was received that the notice of the proposed amendment was posted on the subject property as required.

The Deputy Clerk read correspondence received from Hydro One Distribution advising they had no comments or concerns.

The Deputy Clerk read correspondence received from the Building Inspector Mr. Chris Vereyken

advising he had no comments or concerns.

The Deputy Clerk read correspondence received from the Sewage System Inspector Mr. Chris Vereyken advising he will provide more detailed comments and/or conditions after a more thorough review. Mr. Vereyken further commented that the hydrogeological study concluded that the septic system and well could support the proposed second dwelling, however he would recommend the study be peer reviewed.

The Deputy Clerk advised that letters of support for the proposed amendment had been received from Mr. Grant Armstrong, owner of 98 McVicar Lane as well as a letter from Walker/Giroux advising that they are the owners of the property immediately adjacent to the property in question and they believe that the proposed use is appropriate and consistent with other properties in the area.

Correspondence was also received from Mr. Morton advising that he has concerns with the 24 m setback being imposed on the entire lot.

A Planning Report was requested and received by the Township from Mr. Bruce Howarth. A copy of the Planning Report was submitted and circulated to the Planning Advisory Committee for ease of reference. Mr. Howarth outlined the details of the zoning amendment request as follows:

“To permit a second detached dwelling on an existing 0.76 hectare (1.87 acre) residential lot located on the Madawaska River. The proposed rezoning has been supported by a Slope Stability Assessment prepared by Houle Chevrier, dated May 14, 2014, that requires a minimum 24 metre setback from the top of slope of the river. The subject lands are proposed to be rezoned from Limited Service Residential (LSR) to Limited Service Residential-Exception Four (LSR-E4) to permit the secondary dwelling and require minimum 24 metre building setback from the top of the slope of the Madawaska River.”

The General Planning Comments are as follows:

“The owner is proposing to construct a 2-storey building on the banks of the Madawaska River. The building is proposed to accommodate vehicle and general, personal storage on the main floor and a one-bedroom dwelling unit with kitchen and dining facilities, sitting room and washroom on the second floor. The existing cottage will continue to be used seasonally. The property is accessed by McVicar Lane which is a private road. In support of the zoning amendment application the owner submitted a planning rationale letter, slope stability evaluation, Hydrogeological report (prepared by himself), and a legal opinion regarding the access to the property.

The lands are designated Environmental Protection in the Township’s Official Plan. Section 9.4(9) of the Environmental Protection designation states that the boundaries of the designation are to be used as guides to be further assessed at the time of development. Section 14.2(25) states that development applications may require geotechnical assessment when there is the potential for hazardous and unstable slopes. The applicant provided a Slope Stability Assessment prepared by Houle Chevier. The assessment confirms that the location of the proposed development is stable but

recommends a minimum 24 metre setback from top of slope. The Assessment further recommends that site drainage including eavestroughing to be directed away from the slope of the river to help mitigate possible erosion and slope stability. The Assessment, in effect, defines the boundary of the Environmental Protection designation for these lands and the existing and proposed development is outside the hazard.

The lands are currently zoned Limited Service Residential (LSR) in the Township's Zoning By-law which permits a seasonal dwelling on an existing lot that does not receive any municipal services (i.e. public road access, public road maintenance, garbage collection, etc.). Section 3.13.2(a) of the Township's Zoning By-law permits development on lots existing as of May 13, 1980, with a registered right-of-way leading from a public improved street to the lot. The applicant's solicitor has requested that the municipality grant a right-of-way over Part 2, 49R-2317 to ensure legal access from McLeod Road to the subject lands. The Township has agreed to this request. This will satisfy the requirement of Section 3.13.2(a) of the Zoning By-law and allow the building permit to be issued for the secondary dwelling unit.

Section 3.3.2 of the Zoning By-law states that no accessory building shall contain a habitable room except where a dwelling is a permitted accessory use. Section 3.7 states that no more than one building used as a dwelling or containing none or more dwelling units shall be erected on any lot, unless stated otherwise in the Zoning By-law. The applicant submitted with the application a planning rationale, prepared by Jane Thomson, Architect, that reviews portions of the Official Plan and Zoning By-law provisions. The planning rationale provides justification for the second dwelling unit. It concludes that both units together constitute modest development on the site, that the location of the second dwelling will preserve the natural amenities of the property, and that the second dwelling unit/garage will be located safely away from steep slopes on the property. Existing well water and septic services will serve the new structure. An addition to enlarge the living area of the existing dwelling would not achieve these results.

The 2014 Provincial Policy Statement, section 1.1.5.2 and 1.1.5.3 provide for both limited residential and recreational development on rural lands in municipalities. The policies encourage development that is compatible with the rural landscape and sustainable at a rural service level. The *Strong Communities through Affordable Housing Act, 2011* amended various sections of the *Planning Act* to facilitate the creation of secondary dwelling units by supporting secondary units in detached houses as well as in ancillary structures (e.g., above garages). While the Act supports secondary units, the Act recognizes there may be inherent constraints within portions of a municipality or community which would make those areas inappropriate for secondary units (such as flood-prone areas or those with inadequate servicing).

The owner submitted a hydrogeological study which concluded that the additional dwelling unit can be adequately serviced by the existing septic system and the existing well. Provided that the Township is satisfied with the hydrogeological study, the secondary dwelling unit above the garage satisfies the new requirements of the *Strong Communities through Affordable Housing Act*. It is therefore recommended that the proposed zoning amendment be approved to include an exception to Section 3.7 of the Zoning By-law to permit a second detached dwelling on the subject lands and

implement a minimum 24 metre building setback from top of slope of the Madawaska River.”

In conclusion, Mr. Howarth stated that passing of the amendment may be appropriate if supported by the circulated agencies as planning concerns have not been identified in his report.

The Deputy Clerk advised there was no other correspondence received either to object or to support the proposed application.

Mayor Campbell inquired if Council Members had any questions or concerns at this point.

Deputy Mayor Blimkie advised she had some concerns with regards to the septic system and inquired if all future secondary dwellings will be required to share a septic and well.

Mr. Morton stated that the original septic system design was for a 4 bedroom and two baths and that the existing dwelling is one bedroom and bath and the proposed unit above the garage is also one bedroom and bath.

The Committee concluded that a peer review of the hydrogeological study will not be required should the building department files indicate that the septic and well can support the burden of the extra dwelling unit.

Mayor Campbell inquired as to the access to this property and the required 45 m frontage. Councillor Styles stated that the Municipality has recently granted a ROW in favour of the Mortons to provide legal access to the subject property.

Mayor Campbell inquired if the members of the public in attendance this evening had any questions or comments at this time.

Mr. Morton requested that his objection to the 24 m setback be addressed by the Committee, as the 24 m setback was only to apply to the new carriage house in accordance with the Houle Chevier report, however the proposed by-law has incorporated this setback to the entire lot.

Mayor Campbell indicated that this setback will not inhibit the current project which is what the proposed exception is being considered. At Mayor Campbell's request Mr. Howarth offered clarification with regards to future development and the need to provide a more detailed study.

Mr. Morton also inquired as to if the Official Plan and the Zoning By-Law will be brought up to date to be consistent as there is a provision in the Official Plan for it to be updated every 5 years. Mayor Campbell explained the difference between the Official Plan and the Zoning By-Law and how the mapping is done. Mayor Campbell further requested that the Township Planner keep Mr. Morton's concerns in mind when the Township is reviewing the Official Plan.

The Deputy Clerk advised that the By-Law will be brought forward to the July 15, 2014 meeting of Council for consideration of passing.

The Deputy Clerk advised that should the Zoning Amendment By-Law be passed a notice of passing would then be circulated as required under the Planning Act. There would then be an appeal period of 20 days from the date the notice of passing is sent out.

The Mayor advised that should there be any members of the public in attendance who wished to receive further notification with regards to this amendment to please leave their name, address and phone number on the list at the back of the Council Chambers.

Mayor Campbell thanked everyone for their attendance.

The meeting adjourned at 7:12 p.m. on a motion moved by Deputy Mayor Blimkie, seconded by Councillor Campbell. **CARRIED.**

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MAYOR

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CAO/CLERK