

ADMINISTRATIVE REPORT

Subject: A3-2022: Application for Consent – 800-804 McKenzie Avenue
Date: 2022-11-02
To: Committee of Adjustment
From: Cody Vangel, CBO/Planner



ISSUE

An application for consent (lot creation) File A3-2022 has been submitted by authorized agent Lawrence A. Eustace on behalf of the Trustees of Ukrainian Greek Orthodox Church. The application proposes to sever 804 McKenzie Avenue (see attached sketch) and retain 800 McKenzie Avenue (see attached sketch).

800 McKenzie Avenue will be retained for use as a place of worship and will retain the church building.

804 McKenzie Avenue will be severed, transferred and used for use as a single-family dwelling and will contain the church manse (dwelling).

PROPERTY HISTORY

The following building permits for the property are indicated on file:

- No. 0465 (August 1984): 30' x 12' addition to Church Manse
- No. 0911 (September 1985): Construct a covered deck to south side of church residence

THE OFFICIAL PLAN

The official plan designation for the property is "Living". The Living area promotes a variety of institutional uses as well as residential uses.

The current official plan designation is appropriate for the retained lands use as a place of worship, as well as the proposed severed lands use as a residential use.

ZONING BY-LAW

The existing zoning for the property is Institutional (I).

The proposed use as a place of worship for the retained lands is a permitted use in the Institutional zone. The following table will outline the required versus proposed regulations for the lands:

A3-2022: APPLICATION FOR CONSENT – 800-804 MCKENZIE AVENUE

Regulation	Required	Proposed	Compliant
Lot Area (m2)	550	793	Yes
Lot Frontage (m)	15	26.8	Yes
Minimum Yard (m)			
- Front	7.5	4.31	No
- Interior Side	7.5	8.63	Yes
- Exterior Side	7.5	7.17	No
- Rear	10.5	4.65	No
Maximum Lot Coverage (%)	50	Less than 50%	Yes
Minimum Landscape Area (%)	10	Greater than 10%	Yes
Maximum Building Height (m)	20	Less than 20m	Yes

It should be noted that the above highlighted non-compliances (in red) being the front, exterior side and rear yard setbacks are existing legally non-complying setbacks as the building had been situate on the property subject to these setbacks prior to the passing of the current zoning by-law. The newly proposed interior side yard will meet the minimum requirement of the Institutional zone. At this time, and given this, it does not appear warranted that a subsequent minor variance application would be necessary to rectify this.

The proposed use for the severed lands as a single-family dwelling is not a permitted use within the Institutional zone. A rezoning of the lands would be necessary to Residential Type One (R1). The following table will outline the required versus proposed regulations for the severed lands using the provisions of the R1 zone:

Regulation	Required	Proposed	Compliant
Lot Area (m2)	460	645	Yes
Lot Frontage (m)	15	21.8	Yes
Minimum Yard (m)			
- Front	7.5	7.01	No
- Interior Side	1.5	1.90 & 10.63	Yes
- Exterior Side	3.0	N/A	N/A
- Rear	7.5	9.12	Yes
Maximum Lot Coverage (%)	40	Less than 40%	Yes
Minimum Landscape Area (%)	20	Greater than 20%	Yes
Maximum Building Height (m)	12	Less than 12m	Yes
Minimum Floor Area (m2)	79	Greater than 79	Yes
Accessory Building Setback from Property Line (m)	1.5	0.57	No

It should be noted that the above highlighted non-compliances (in red) being the front yard setback and the accessory building setback are existing legally non-complying setbacks as the buildings had been situate on the property subject to these setbacks prior to the passing of the current zoning by-law. At this time, and given this,

it does not appear warranted that a subsequent minor variance application would be necessary to rectify this, however these can be included in the context of the rezoning and applicable by-law if deemed necessary.

PROVINCIAL POLICY STATEMENT

Upon review of the Provincial Policy Statement 2020 (PPS), it does not appear that the proposed severance would contravene the PPS as the proposed uses in general are existing and fit well within the surrounding residential neighbourhood.

DIVISIONAL COMMENTS

- Fort Frances Fire Rescue
 - No issues
- Fort Frances Recreation and Culture
 - No issues
- Fort Frances Operations and Facilities
 - No issues
- Fort Frances Building & Planning
 - Severed lands will require rezoning from I to R1

OTHER

If the Committee of Adjustment wish to impose conditions on the consent, Subsection 53(41) of The Planning Act states the following:

1.1.1.1. **CONDITIONS NOT FULFILLED**

(41) If conditions have been imposed and the applicant has not, within a period of one year after notice was given under subsection (17) or (24), whichever is later, fulfilled the conditions, the application for consent shall be deemed to be refused but, if there is an appeal under subsection (14), (19) or (27), the application for consent shall not be deemed to be refused for failure to fulfil the conditions until the expiry of one year from the date of the order of the Tribunal issued in respect of the appeal or from the date of a notice issued by the Tribunal under subsection (29) or (33). 2017, c. 23, Sched. 5, s. 100 (6).

Additionally, applicants shall be aware of the following regarding consent application in Subsection 53(43) of The Planning Act:

1.1.1.2. **LAPSE OF CONSENT**

(43) A consent given under this section lapses at the expiration of two years from the date of the certificate given under subsection (42) if the transaction in respect of which the consent was given is not carried out

within the two-year period, but the council or the Minister in giving the consent may provide for an earlier lapsing of the consent. 1994, c. 23, s. 32.

SAMPLE CONDITIONS

The Committee of Adjustment may wish to impose conditions on the consent including but not limited to the following:

1. That a rezoning application be submitted and approved by Council for the severed property in order to amend the zoning of the property from Institutional (I) to Residential Type One (R1) to permit the use as a single-family dwelling.
2. That the Municipal Planner be provided with a deposited reference plan bearing the seal of the Land Registrar depicting the severed property a part thereon. A digital and hard copy of the deposited Reference Plan are to be submitted to the Municipal Planner of the Town of Fort Frances.
3. That the Municipal Planner be provided with the revised legal description of the severed and retained property for the issuance of the Certificate of Official.

SUMMARY

Administration acts as an advisory body to the Committee of Adjustment. Comments received are provided in the form of information to assist the Committee.

The Planning Act sets the standard to which provincial interests, provincial and local policies and goals are implemented. Accordingly, review of the application to consider the following:

- Conform to Subsection 51(24) as required by Subsection 53(12) of The Planning Act.
- Conform to the Town of Fort Frances Official Plan.
- Conform to the Provincial Policy Statements as required by Subsection 3(1) of The Planning Act.

Should the Committee of Adjustment find it appropriate to approve this application, the previously noted conditions have been recommended.