

TOWN OF FORT FRANCES

Committee of Adjustment

AGENDA - October 25, 2017 5:30 PM

MEETING - Civic Centre - Committee Room

	Page
1. <u>Call to Order</u>	
2. <u>Non-agenda items</u>	
3. <u>Declarations, Municipal Conflict of Interest Act</u>	
4. <u>Minutes of Previous Meetings</u>	
4.1 Previous Meeting Minutes September 26, 2017	2 - 3
5. <u>Committee Applications</u>	
5.1 A11-2017 Application for Zoning By-Law Amendment Site Specific Zoning Amendment from C2 to R2.	4 - 11
5.2 A12-2017 Application for Zoning By-Law Amendment for changes to the current 03-14 Zoning By-Law	12 - 23
5.3 A13-2017 Application for special permission to have parking lot surfacing requirement date extended.	24 - 31
6. <u>Other Business</u>	
7. <u>Outstanding Items</u>	
8. <u>Meeting Close</u>	

TOWN OF FORT FRANCES

MINUTES

COMMITTEE OF ADJUSTMENT

September 26, 2017

The meeting of Committee of Adjustment of the Town of Fort Frances was held in the Committee Room on September 26, 2017 from 5:40p.m. to 7:00p.m.

PRESENT: Tyson Dennis, Don Taylor, Charleen Mallory, Cindy Mason, Gary Rogozinski, Barry Jackson

ALSO PRESENT:

1. Call to Order - 5:40 PM

Gary Rogozinski was the meeting chairman.

2. Declarations, Municipal Conflict of Interest Act

None

3. Minutes of Previous Meetings

3.1 Meeting minutes were reviewed and carried as submitted

Moved by: Charleen Mallory

Seconded by: Barry Jackson

4. Committee Applications - 5:45-6:20 PM

4.1 Application C2-2017-Application for an Easement to relocate a storm water main 555 Flinders

Representative was not available for the meeting. The Committee members and Tyson Dennis discussed issues with that. If a committee member had a question, who would answer the question? Tyson Dennis explained as it was the Town of Fort Frances's storm water main, and the application for easement was being applied for by the North Western Catholic District School Board, on the Town's behalf. The NWCD SB would pay all fees and meet all conditions that relate to the moving of the storm water pipe at their own cost. The committee agreed to move forward but if questions could not be answered by Tyson Dennis, the Committee would allow for one deferral before making a recommendation on the matter.

The project and reason for the application was explained by Tyson Dennis, and site plans were submitted to the Committee. The Committee wanted to be sure all costs of moving the storm water would be covered by the NWCD SB as it was their property and project that would require the easement to be moved. This was correct. The Town would not endure any costs of the easement allocation, as the project is only to benefit the NWCD SB project. The Committee also wanted clarification on the area of the land which will be disturbed and the reason for ground "pre-loading" for the project. This was explained by Tyson Dennis.

The Committee felt with the information in the application and the explanation of the answers to their questions, was sufficient to vote.

Motion was Carried to grant consent to File C2-2017 with the condition of a REF plan being submitted within a 2-year time period of the completion of the storm water line moving as provided in the plans.

Moved by: Barry Jackson

Second: Charleen Mallory

5. Other Business - 6:21-6:44

5.1 A discussion between Committee members and Tyson Dennis Secretary-Treasurer of the Committee of Adjustment about the need to have applicants at meetings to discuss the applications. The applicant needs to be able to answer questions of the Committee. Tyson Dennis explained the Planning Act does not specify whether the applicant needs

to be present or not. They "may" attend. The Committee discussion also spoke of previous meetings, years prior, where there was an issue of applicants not being told they should/need to come to answer needed questions during the application process and Committee meeting.

The Committee and Tyson Dennis agreed it is imperative for applicants to come to the scheduled meeting. The applications will be updated and stressed to applicants they will attend the meetings to answer any questions by the Committee of Adjustment. This will be expressed at application drop off by Tyson Dennis and be in bold print on the new applications.

6. Outstanding Items - 6:45-7:00

6.1 Verbal update of from Secretary Treasurer on Previous Committee of Adjustment Applications

Tyson Dennis gave an update all applications and files since November 2016 to present date. No concerns brought up by the Committee Members.

7. Meeting Close

Chair, Committee of Adjustment

T. Dennis, Chief Building Official



Town of Fort Frances

320 Portage Avenue

Fort Frances, On P9A 3P9

T: 807-274-5323

F: 807-274-8479

The Planning Act, RSO 1990, as amended (O'Reg. 545/06)

www.fort-frances.com

Notice of Public Record:

In accordance with section 1.0.1 of the Planning Act, RSO, 1990, all information and materials required in support of your application shall be made available to the public.

Complete Application:

All applicable sections of the application form must be completed. An incomplete application will be returned. For assistance, contact the Planning Department by phone at 807-274-5323 ex. 252 or by email at trob@fort-frances.com.

APPLICATION TYPE (check one)

- ☒ Zoning By-Law Amendment (section 34)
 ☐ Removal of Holding Provision (section 36)
 ☐ Removal of Interim Control By-Law (section 38)
 ☐ Temporary Use By-Law (section 39)

1. The name, address, telephone number and email address (if any) of the Applicant:

Paul Noonan 608-A Scott Street Fort Frances P9A 1H6 807-275-9682 paulnoonan611@hotmail.com

2. If known the names and full addresses of the holders of any mortgages, charges or other encumbrances in respect of the subject land:

Paul Noonan and Candace Cole 608-A Scott Street Fort Frances P9A 1H6 807-275-9682
paulnoonan611@hotmail.com

3. The current Official Plan designation of subject land:

[Employment](#)

4. Describe how the application conforms to the official plan of the municipality?

[The Official Plan designation of Employment still constitutes Residential Type 2 \(R2\) zoning for the area.](#)

5. The current zoning of the subject land:

[General Commercial \(C2\)](#)

6. The nature and extent of the rezoning requested: [Change from C2 to R2 Residential Type 2. Change existing commercial use, to a residential living area.](#)

7. The reason why the rezoning is requested.					
Existing commercial use on main floor of the building to be changed into residential area with proper OBC regulations. Keep the existing 2 residential units and make the front portion of the main floor an apartment. This would make the building have three residential units.					
8. Is the subject land within an area where the municipality has pre-determined minimum & maximum density requirements or minimum or maximum height requirements?					
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, provide information relative to these requirements.					
There are no pre-determined minimum density requirements. There are height requirements for structures. The existing structures on the site are compliant with zoning requirements.					
9. The description of the subject land, such as the municipality, concession and lot numbers, registered plan and lot numbers, reference plan and part numbers and name of street and number:					
608 Scott Street. PLAN ALB E33FT LOT 430 PCL;430-2					
10. The frontage, depth and area of the subject land (in metric):					
Frontage:	33'	Depth:	150'	Area:	4950' sq
11. Is the application to implement an alteration to the boundary of an area of settlement or to implement a new area of settlement?					
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, provide details of the official plan that deals with the matter					
12. Is the application to remove land from an area of employment?					
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, provide details of the official plan that deals with the matter.					
13. Is the subject land within an area where zoning with conditions may apply?					
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, provide an explanation of how the application conforms to the official plan policies relating to zoning with conditions					

14. Is access to the subject land by provincial highway, a municipal road that is maintained all year or seasonally, another public road or a right of way or by water?	
Access to this property is from a municipal road and alley way. 604 and 608 Scott Street have been applied for to be deemed. Additional parking and access to property will be provide once deemed as one property.	
15. If access to the subject land is by water only, provide details of the parking and docking facilities used or to be used and the approximate distance of these facilities from the subject land and the nearest public land:	
16. Existing uses of the subject land:	
Existing uses of the subject land is General Commercial with residential units above and behind commercial space. Two residential rental units, and one commercial unit on main floor of building.	
17. Are there any buildings or structures on the subject land: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
18. If answer to question 17 is yes, provide, for each building or structure, the type of building or structure and the setback from the front lot lines, rear lot line and side lot lines, the height in metres of the building or structure and the dimensions or floor area of the building or structure:	
608 Scott street has a large building used for commercial and residential use. The set backs are as follows: Front 0m, left side 0m, right side 1m, rear 16m, height 8.5m, area 212m2 . Accessory building front 8m, left side 2.5m, right side 1m, rear 0m, height 3.5m, area 35m2.	
19. The proposed uses of the subject land:	
Residential apartments. Have three units. Two on main floor and one unit above the other units.	
20. Are any buildings or structures proposed for the subject land? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
21. If answer for question 20 is yes, provide, for each building or structure, the type of building or structure proposed, the setback from the front lot line, rear lot line and side lot lines, the height in metres of the building or structure and the dimensions or floor area of the building or structure:	
22. If known,	
a. the date the subject land was acquired by the current owner:	October 1, 2016
b. the date existing buildings or structures on the subject land were constructed: Garage was 1964 Building was 2002.	

c. the length of time that the existing uses of the subject land have continued: <u>The building was all commercial. In 2009 partial renovation was undertaken for residential rental apartments and commercial space.</u>	
23. Water is provided to the subject land by a publicly owned and operated piped water system, a privately owned and operated individual or communal well, a lake or other water body or by other means:	
<u>Water and sewer is municipally owned.</u>	
24. Whether sewage disposal is provided to the subject land by a publicly owned and operated piped sewage disposal system, a privately owned and operated individual or communal septic system, a privy or other means:	
<u>Water and sewer is municipally owned</u>	
25. If the application permits development on privately owned and operated individual or communal septic systems, and more than 4500 litres of effluent would be produced per day as a result of the development being completed, a servicing options report, and a hydrogeological report are required. Are these reports attached?	
a. a servicing options report,	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
b. a hydrogeological report	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
26. Indicate whether storm drainage is provided by sewers, ditches, swales or other means:	
<u>Storm water is sewers and a ditches off alley way are used for storm water.</u>	
27. If known,	
a. is the subject land the subject of an application under the Act for approval of a plan of subdivision or a consent: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
If yes, provide file number and status of the application:	
b. has the subject land ever been the subject of an application under Section 34 of the Act: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
If yes, provide file number and status of the application:	
c. has the subject land ever been the subject of a Minister's Zoning Order? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
If yes, provide Ontario Regulation number of the Order:	

28. A sketch showing, in metric units, the following:

- a. the boundaries and dimensions of the subject land.
- b. The location, size and type of all existing and proposed buildings and structures on the subject land, indicating the distance of the buildings or structures from the lot lines.
- c. The approximate location of all natural and artificial features on the subject land and on land that is adjacent to it, and that in the applicant's opinion, may affect the application (*for examples buildings, railways, roads, watercourses, drainage ditches, river or stream banks, wetlands, wooded areas, wells and septic tanks*).
- d. The current uses on land that is adjacent to the subject land.
- e. The location, width and name of any roads within or abutting the subject land, indicating whether it is an unopened road allowance, a public traveled road, a private road or a right-of-way.
- f. If access to the subject land is by water only, the location of the parking and docking facilities to be used.
- g. The location and nature of any easement affecting the subject land.

29. Is the application for an amendment to the zoning by-law consistent with the policy statements issued under subsection 3(1) of the Act. Yes ☐ No ☒

30. Is the subject land within an area of land designated under any provincial plan or plans? Yes ☐ No ☒

31. If answer to question 30 is yes, does the application conform to the applicable provincial plan or plans? Yes ☐ No ☐

32. An affidavit or sworn declaration by the applicant that the information required under this Schedule and provided by the applicant is accurate.

DECLARATION
Of Applicant or Authorized Agent

I, Paul Noonan of the Town of Fort Frances, in the District of Rainy River
solemnly declare that:

All the statements contained in this application are true and I make this solemn declaration
conscientiously believing it to be true and knowing that it is of the same force and effect as if made under
oath and by virtue of the Canada Evidence Act.

DECLARED before me at the

Town of Fort Frances, in the

District of Rainy River, this 29

day of September 2017

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)
)
)
)
)
)



Signature of Applicant or
Authorized Agent



**Elizabeth Slomke, a Commissioner, etc.,
District of Rainy River, for the Corporation
of the Town of Fort Frances.**
Signature of Commissioner etc.

PLEASE NOTE:

1. *The Owner must complete the Owner's Consent.*
2. *If the applicant is not the Owner, the application must be accompanied by an Authorization of Owner.*
3. *12 copies of this application are required for processing accompanied by the required fee as outlined in current user fee by-law.*
4. *Application and fee to be filed with the Municipal Planner*
5. *It takes approximately 3 months to complete the process for a Zoning Amendment Application.*
6. *It is strongly recommended that you consult with the Municipal Planner to ensure the timelines of your application coincide with your development proposal.*

COMPLETE IF APPLICANT IS THE OWNER

OWNER'S CONSENT

I, Paul Noonan, am the owner of the land that is the subject of this application and for the purposes of the Freedom of Information and Protection of Privacy Act, I authorize and consent to the use by or the disclosure to any person or public body of any personal information that is collected under the authority of the Planning Act for the purposes of processing this application.

Date

Sept 29/2017

Signature of Owner

[Signature]

COMPLETE IF APPLICANT IS NOT THE OWNER

AUTHORIZATION OF OWNER

I, _____, am the owner of the land that is the subject of this application for zoning amendment and, for the purpose of processing and the Freedom of Information and Protection of Privacy Act, I authorize _____ to act as my agent for this application and provide any of my personal information that will be included in this application or collected during the processing of the application and consent to the use by or the disclosure to any person or public body of any personal information that is collected under the authority of the Planning Act for the purposes of processing this application

Date

Signature of Owner

513	516		0	613		617		621		625	
511	510										
509											
578	600	604	608	610	612	614	618	620	622		

608 Scott Street

413	601	607	609	615	617	619	621
411	410						
0							

Attn: Mayor and Council

I am writing this letter to address the zoning bylaw, section 3.31 Setbacks from navigable and non-navigable water courses. The bylaw states "a building in any zone is required to be no closer than 15 meters from the top of the bank of any watercourse." This statement is unclear and leaves too many questions, who decides where the top of the bank is? My property 1057 River Road west is right on the Rainy River. My property line at the river is on top of a bank, I have another bank behind my house, yet the highest elevation is out at the curb. This house and property has been in my family since 1960. I bought it off my grandmother in December 2016 knowing the major work the house needed but seen the potential it has. I have three projects that I'd like to complete which all possible fall under this bylaw. The first and most important one is to remove the pillars which holds up one third of my house and replace with a proper foundation. If this issues is left undealt with the house will certainly fall off the pillars in the coming years. That project won't make my footprint any bigger it will ensure my house is locked into the hill forever. The second project is to build a new garage which id want to get the cement work done same time as doing the basement foundation. This will make the footprint of my house larger since it will be an attached garage. Third is a deck off the main floor which will need pillars to support it. All these projects are well within 15 meters of a bank, whether it is the bank that the bylaw is referring to I don't know. As a tax paying land owner we should have the right to improve our property and homes whether it's on a hill or not. If I would have known about this bylaw I would have thought twice about buying this house. Unable to fix the existing issues or my new plans makes the property useless and worthless. In conclusion I think this bylaw needs to be revised and/or removed to allow us to fix and improve our homes in these areas.

Scott Howarth



Thursday, August-10-17

Changing the rules along these slopes as a result of an improperly built home or a badly designed sub division should not constitute these restrictions that you have imposed on me or other tax payers who own properties along these sloped lands. People that are willing to develop lands properly and build sound homes or additions properly, should not be penalized due to other mistakes made by, developers, builders, lack of design or inspection. We learn what the problem is and correct it. Not ban the use of said lands so as not to deal with it. Are we to abandon existing homes now located on these lands having no means to repair improve or fix them. This surely makes them worthless. The Ontario building code is there for a reason and I have been following it for 39 years. I have never had any issues with additions or new homes that I have built in this community along these ravines, rivers and lake that surrounds it when following the building code and the existing bylaws that were in place prior to this change. When building on these sloped lands you need to do the following good building practises. Footings should always be placed on native soil and the lower foundation wall for walk out basement should be below the basement floor so the building is locked into the hill side. It need to be at a depth that is low enough to be protected by frost and large enough for the lateral force from the buried side during winter months and frost pressures. The existing homes in this community and around the district that I have built or added onto, where designed using this simple construction method which comes for our Ontario code. These projects have stood the test of time and after 39 years have never had any customer's contact me concerning any issues with the addition or home that our firm had constructed. It is time that we put aside the poor workmanship and design that some homes have along these ravines, river banks and lake shores that the "town" has allowed to be built in this community. I do know that through proper design, inspection and enforcement there is no reason to deem these lands HAZADOUS. A review of the foundation design prior to issuing a permit should be done but keep in mind that we have a building code and a building inspector the tools required to deal with these issues let's not make new rules that become unaffordable or deem property unusable, for people who own or live on these sloped lands.

In closing I feel there is no reason why we are not like other communities in northwest Ontario and this bylaw should be removed. We are a progress community not one that passes laws to avoid the issues from the past.

A concerned taxpaying land owner



Wayne Kaun

Thursday, August-10-17

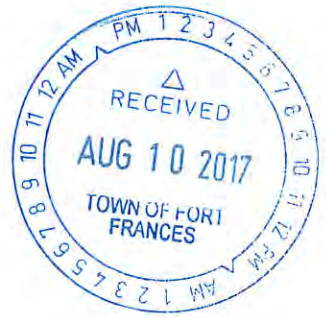
To: The Mayor and Council for the town of Fort Frances

It has come to my attention recently that the town has adopted a new bylaw that has directly affected me and the land to which I own, located directly north of Old Shambles road along the Biddison creek. This new bylaw concerning building along the edge of this ravine will restrict any future development of this property because of the new requirement to build 15 meters back of the crest of the hill beside this ravine, and who determines the crest? I was disappointed to learn that the town had changed the rules concerning river banks and ravines without directly consulting local land and home owners with property that is on sloped lands. This bylaw as a result has lowered the value of my land and lands owned by other property owners, along banks within the town of Fort Frances. This law restrict us from adding on to or change existing residence and limits the area that one can develop because of the restriction that this bylaw states. "Deming all banks hazardous" This by law has reduced my usable land by 30 to 50% this is unacceptable.

My son and I have been asking other communities in northwest Ontario if they have such a bylaw and they wondered why a community like ours would adopt such a rule to restrict land use like this. Like most communities in Ontario with sloping terrain, as long as residential buildings are built correctly and according to the Ontario building code, there should be no cause for concern.

As a result of this new bylaw which was passed people who now own lands adjacent to ravine, rivers or lakes, have had their values reduced because you have eliminated any future improvements to my property and or other people's homes along these sloped lands. This loss of value and freedom to build on these slopes as we had in the past, forces me to contest this bylaw and if not remove, also forces me contest the amount of taxes I should have to pay annually because of its now limited use of this land that the town has elected to place upon me. This bylaw in my opinion has reduced the values of all river, ravine and waterfront properties due to its limitations. It is unfair that the town should charge me or others tax on land that we can now no longer use or improve. This new bylaw has also reduced the value of my land, should I want to re sell and feel that the town should be held liable for this change in the value of these properties and homes located on hills within the Town of Fort Frances. I also feel that this change in the by-law, that that has been imposed on land holder like myself where passed without direct notification to the people that it would affect. This was unfair and unjustified and needs to be contested.

To: Fort Frances Council
320 Portage Avenue
Fort Frances Ont. P9A3P9
From: Robert and Tess Coish



Re: 1212 Olde Shambles Roade Construction

To whom it may concern,

We, Robert and Tess Coish are writing this letter in regards to

The zoning restriction 3.31 SETBACKS FROM NAVIGABLE AND NON-NAVIGABLE WATERCOURSES, HAZARD LAND AND MUNICIPAL SURFACE DRAINS .

We had demolished the deck in front of our house due to safety precautions.

Now that we are planning to rebuild but due to the set back, we are unable to do so.

Our Front entry was attached to the deck and can't access anymore because of circumstances.

We had submitted a drawing to Mr. Tyson Dennis that was requested by Mr. Rick Hallam drawn by Mr. George Glowalsky back when we originally started construction of the house in 2011 (to be a part of the original construction), we assumed that it is still part of our old building permit.

We are never going to be able to finish the house the way it should have been finish without proper access to the front of the house.

Due to this circumstances, we are requesting permission to let us finish the

building of our home.

Sincerely,

A handwritten signature in blue ink, appearing to read 'R. Coish'.

Robert and Tess Coish

1212 Olde Shambles Roade

Fort Frances On P9A3S7

From: Christopher Kaun <CWKaun@uniongas.com>

Date: 2017-08-15 9:44 AM (GMT-06:00)

To: Tyson Dennis <tdennis@fortfrances.ca>

Subject: FW: Letter

Attn: Mayor and council.

I'm writing this letter to address the issues with the bylaw pertaining to hazardous lands in fort frances . This bylaw was introduced in 2013 without notifying the homeowners that it directly affects... I built my home 10 years ago at 1222 olde shambles road. I purchased the property when I was in high school with hopes I could build a home to raise my family in... A forever home... I had my entire house drawn up, with an attached garage.

In 2007 I had my lot surveyed for my 1500 square-foot home with attach garage to make sure that everything would fit nicely and be appropriate for the lot, I worked with rick helm to identify any code or bylaw issues and the only thing brought forward at that time was the EPA agreement for 1080 ft above sea level and that I was not to disturb anything below that. Due to the high cost of building I chose to build only a section of my dream home. I have lived and raised my family there since. My family has now outgrown my house, this fall I had hoped to complete the addition and garage to accommodate my large family but this bylaw has stopped me from being able to do so. With no other options of being able to add square footage to my house or any updates I am being forced to consider relocating out of fort frances. I am currently trying to sell my home, two people have withdrawn their offer so far once they found out the home is "as is" and can never be any more, with no chance of building a deck the garage or steps to the front door. This bylaw has diminished value of my home and property which I worked so hard to complete over the last 10 years. This bylaw has shattered the dreams of my family home in a nice quiet area of Fort Frances. I understand this was put in place because of issues pertaining to the Pearson subdivision... My my property is not part and parcel of that subdivision it is separate. I built my home according to the Ontario building code, with building permits and it was inspected properly. My home has not moved because ot was built on native soil and is locked into the side of the hill just as the building code states it must be. This bylaw has taken away my prosperity and has deteriorated my ability to sell. I would like to see this bylaw fully withdrawn, or I will need to be compensated for my losses. Not able to expand, not able to change anything this bylaw makes not only my house but leaves every house along a hill in Fort Frances severely impacted. ... I am currently being charged and absorbent amount of taxes for a property that because of this by law is not worth anything. I have called other townships in Ontario they do not have this rule... The building code section 9 was created for a reason, this should be the only stipulation to building. People build on the tops of hills on the sides of mountains every day around the world, these houses outlast the owners when built to code and inspected properly. The area that this bylaw affects is prime real estate in Fort Frances, why not encourage people to build nice newer buildings? the town would intern see higher tax margins. I do not believe that homeowners would have to hire an engineer to draw a design and stamp simple additions or buildings on hills, that would a very hi cost imposed by the town of Fort Frances when we as tax payers hire a local building official for this reason. We need to encourage young family's such as myself to stay here, not impose restrictions because of the mistakes of others. the town of Fort Frances has a building inspector to make sure people are following the building code there should be no reason that people have to hire engineers for any residential design if that design is acceptable by the building code. With an inspector to enforce the building code, and complete their inspections. This bylaw is costing me every day that it is in place. I hold the town of Fort Frances responsible for the diminished value of my property. And this bylaw the sole reason that I have to relocate my family.

Thank you for your time.

Regrets,

Chris Kaun



Date: September 28, 2017

Report To: Planning and Development Executive Committee

From: Tyson Dennis, Chief Building Official/Municipal Planner

Re: Citizen letters with concern to Section 3.31 in the Zoning By-Law 03-14

At the regular Planning and Development Meeting on September 5, 2017, a matter regarding Zoning By-Law Section 3.31 was discussed with input from local citizens. The report compared the existing set back requirements from navigable and non-navigable watercourse, hazard lands and municipal surface drain areas. The previous Zoning By-Law states a much closer setback from any navigable and non-navigable watercourse. The changes and adoption of the 2014 03-14 Zoning By-Law does not allow a fair setback from these lands as it uses a setback which is 15m from the top of an embankment. This setback, in most cases, makes existing structures legal-nonconforming. Direction from the PDEC members was to research other communities, Ministry of Natural Resources, and reasons for the changes to the Zoning By-Law in 2014.

Communities in North Western Ontario have setbacks from navigable and non-navigable watercourse, hazard lands and municipal surface drain areas, which all vary in distance. These distances are not consistent and allow for interpretation. Some of these communities allow for less setback as some have larger distances required from watercourses and hazard lands.

The Ministry of Natural Resources has set a "*Flood Water Disposition Measurement*" of Rainy Lake, which is 337 m (above sea level). When comparing areas of Town located on Rainy Lake and the Upper River, the 337m *Flood Water Disposition Measurement*, along with 15m horizontal setback, allows for development in a safe proximity to high water concerns. The MNR has previously determined a mark of 1090ft (332.2m) for no clearing of vegetation below this mark. There is no calculated *Flood Water Disposition Measurement* by the MNR for the lower river area. The vegetation removal mark, has been previously used but in hazardous areas such as creeks, streams and riverbanks, can still allow for damages to existing structures.

The changes in 2014 to the Zoning By-Law 03-14, were made from a provincial starting point which allowed municipalities to make set-backs in waterway and hazard lands while using area specific interpretation to govern those set-backs.

At the time of adopting Section 3.31 in the Zoning By-Law 03-14, the provincial 15m standard was used. Fort Frances has a diverse water course area throughout the Township. To have a single regulation for watercourse and hazard land set-back is not fitting for the different plots of land.

It is the recommendation of the Planning and Development Department to amend the Zoning By-Law Section 03-14 to allow for a site-specific determination of navigable and non-navigable water-course and hazard lands. This would allow for safer site-specific placement from set-backs for future development on privately owned properties. The Ontario Building Code governs proper building practices and states, when designing foundation, excavations and soil-rock structures, design shall be based on a subsurface investigation carried out by a person of competency in this field of work when local practice is not ordinary. This allows an option for site-specific design to be carried out by an engineer or architect that is trained in soil and structural design, if the normal local practice is not capable of being completed. The Building Official or Inspector can request special site-specific design requirements.

The current Zoning By-Law Section 3.31 states:

3.31 SETBACKS FROM NAVIGABLE AND NON-NAVIGABLE WATERCOURSES, HAZARD LAND AND MUNICIPAL SURFACE DRAINS

Notwithstanding any other provisions of this By-law, a **building** in any zone is required to be no closer than 15 meters from the top of the bank of any **watercourse**, or municipal drainage ditch permanent or intermittent, which may or may not be navigable. In the case of **hazard lands**, no part of any **building** shall be constructed closer than 15 meters to the nearest point of the area to which the hazardous condition is deemed to exist.

The recommendation from the Planning and Development Department is to amend the Zoning By-Law 03-14 Section 3.31 to read as follows:

3.31 SETBACKS FROM NAVIGABLE AND NON-NAVIGABLE WATERCOURSES, HAZARD LAND AND MUNICIPAL SURFACE DRAINS

Notwithstanding any other provisions of this By-law, a **structure** in any zone, may be required to have the *normal ordinary water edge* determined by an Ontario Land Surveyor and a set-back determined from the *normal ordinary water edge*, back 15m, measured horizontally, to allow for development near navigable and non-navigable watercourses. This is to be determined on a site-specific basis.

In the case of **hazard lands and municipal surface drains**, no part of any **structure** shall be constructed closer than 15 meters, horizontally measured, to the nearest point of the area to which the hazardous condition is deemed to exist by an Ontario Land Surveyor.

The Planning and Development Department is requesting direction by the Planning and Development Executive Committee on whether to change Section 3.31 of the Zoning By-Law 03-14. These changes would clarify where proper set-backs from watercourse and hazard lands would be measured from.

Originally Signed

Tyson Dennis
Chief Building Official and Municipal Planner

Date: October 4, 2017

Report To: Mayor & Council

From: Tyson Dennis, Chief Building Official/Municipal Planner

Re: **Citizen letters with concern to Section 3.31 in the Zoning By-Law 03-14**

At the regular Planning and Development Meeting on September 5, 2017, a matter regarding Zoning By-Law Section 3.31 was discussed with input from local citizens. The report compared the existing set back requirements from navigable and non-navigable watercourse, hazard lands and municipal surface drain areas. The previous Zoning By-Law states a much closer setback from any navigable and non-navigable watercourse. The changes and adoption of the 2014 03-14 Zoning By-Law does not allow a fair setback from these lands as it uses a setback which is 15m from the top of an embankment. This setback, in most cases, makes existing structures legal-nonconforming. Direction from the PDEC members was to research other communities, Ministry of Natural Resources, and reasons for the changes to the Zoning By-Law in 2014.

Communities in North Western Ontario have setbacks from navigable and non-navigable watercourse, hazard lands and municipal surface drain areas, which all vary in distance. These distances are not consistent and allow for interpretation. Some of these communities allow for less setback as some have larger distances required from watercourses and hazard lands. The Ministry of Natural Resources has set a "*Flood Water Disposition Measurement*" of Rainy Lake, which is 337 m (above sea level). When comparing areas of Town located on Rainy Lake and the Upper River, the 337m *Flood Water Disposition Measurement*, along with 15m horizontal setback, allows for development in a safe proximity to high water concerns. The MNR has previously determined a mark of 1090ft (332.2m) for no clearing of vegetation below this mark. There is no calculated *Flood Water Disposition Measurement* by the MNR for the lower river area. The vegetation removal mark, has been previously used but in hazardous areas such as creeks, streams and riverbanks, can still allow for damages to existing structures.

The changes in 2014 to the Zoning By-Law 03-14, were made from a provincial starting point which allowed municipalities to make set-backs in waterway and hazard lands while using area specific interpretation to govern those set-backs.

At the time of adopting Section 3.31 in the Zoning By-Law 03-14, the provincial 15m standard was used. Fort Frances has a diverse water course area throughout the Township. To have a single regulation for watercourse and hazard land set-back is not fitting for the different plots of land.

The Ontario Building Code governs proper building practices and states, when designing foundation, excavations and soil-rock structures, design shall be based on a subsurface investigation carried out by a person of competency in this field of work when local practice is

not ordinary. This allows an option for site-specific design to be carried out by an engineer or architect that is trained in soil and structural design, if the normal local practice is not capable of being completed. The Building Official or Inspector can request special site-specific design requirements.

The current Zoning By-Law Section 3.31 states:

3.31 SETBACKS FROM NAVIGABLE AND NON-NAVIGABLE WATERCOURSES, HAZARD LAND AND MUNICIPAL SURFACE DRAINS

Notwithstanding any other provisions of this By-law, a **building** in any zone is required to be no closer than 15 meters from the top of the bank of any **watercourse**, or municipal drainage ditch permanent or intermittent, which may or may not be navigable. In the case of **hazard lands**, no part of any **building** shall be constructed closer than 15 meters to the nearest point of the area to which the hazardous condition is deemed to exist.

The recommendation from the Planning and Development Department is to amend the Zoning By-Law 03-14 Section 3.31 to read as follows:

3.31 SETBACKS FROM NAVIGABLE AND NON-NAVIGABLE WATERCOURSES, HAZARD LAND AND MUNICIPAL SURFACE DRAINS

Notwithstanding any other provisions of this By-law, a **structure** in any zone, may be required to have the *normal ordinary water edge* determined by an Ontario Land Surveyor and a set-back determined from the *normal ordinary water edge*, back 15m, measured horizontally, to allow for development near navigable and non-navigable watercourses. This is to be determined on a site-specific basis.

In the case of **hazard lands and municipal surface drains**, no part of any **structure** shall be constructed closer than 15 meters, horizontally measured, to the nearest point of the area to which the hazardous condition is deemed to exist by an Ontario Land Surveyor.

The Planning and Development Department received recommendation from the Planning and Development Executive Committee on October 2, 2017, to amend Section 3.31 of the Zoning By-Law 03-14. The information at the PDEC meeting was discussed with concerned citizens and was agreed the draft amendment would allow for safe and proper setbacks. These changes would clarify where proper set-backs from watercourse and hazard lands would be measured from, on a site by site basis.

Respectfully submitted,

Original Signed By

Tyson Dennis

Chief Building Official/Municipal Planner

Council approval of this report will: allow for the application for Zoning By-Law amendment to be forwarded to the Committee of Adjustment for a public meeting on October 25, 2017. This would continue the application and amendment process for changes to the setbacks for navigable and non-navigable water-course and hazard lands on a site by site basis.

APPLICATION FOR MINOR VARIANCE OR FOR PERMISSION
For applying under Section 45 of the Planning Act, R.S.O., 1990 (as revised)

It is the responsibility of the owner or authorized agent to provide complete and accurate information. This form will not be accepted as an application until such time as all questions have been answered and all requirements have been met in the manner requested herein. Please read the following carefully:

FOR OFFICE USE ONLY	
FEE	FILE NO.
\$304.90	A13/2017
PAYMENT RECEIPT STAMP	

PROPERTY INFORMATION	
Property Address	237 8th St W.
Tax Roll No.	59 - 12 - 010 - 007 - 279 - 15
Legal Description	PLAN SM138 PT 1071 48R 4286 PART 1
OWNER/APPLICANT INFORMATION	
Registered Owner(s)	WAKKAI H GANDU FUTURES CORP
Application Contact	NEIL KABEL
Full Mailing Address	237 8th St W. FF. ON P9A 3G2
Telephone	274-8530 - 275-8545
Email	kabelola@shaw.ca
AGENT INFORMATION (if applicable)	
Company Name	
Application Contact	
Full Mailing Address	
Telephone	
Email	
Note - All communication will be sent to Application Contact unless otherwise requested	
MORTGAGEES, HOLDERS OF CHARGES OR OTHER ENCUMBRANCES	
Institution	
Contact/Reference	
Full Mailing Address	
Telephone	
Email	

1. Describe the nature and extent of relief applied for (indicate what the by-law requirement is, the relevant section of the by-law, and what you are proposing):

Section R2 of Zoning by-law - to permit

asking for retention zoning
by law section 3.20C
Original completion date
October 30 / 2017

2. Why is it not possible to comply with the provisions of the by-law? (Provide an explanation of the circumstances that hinder or restrict your ability to comply)

*Funding was to be in May and
didn't come until middle August.
Weather permitting will do
as much as possible!*

3. When did the current owner acquire the Property?

2010

4. Provide the date of construction for all buildings and structures on the Property.

*Phase 1 - 2010 Phase 4 - 2017
Phase 2 - 2012
Phase 3 - 2015*

5. What is the existing use of the Property?

Apartments

6. How long has the existing use of the Property continued?

2010

7. What is the existing use of the abutting properties?

North	South	East	West
<i>Municipal Road</i>	<i>Residential</i>	<i>Residential</i>	<i>Residential</i>

8. Dimensions of the Property:

Property Dimensions	Metric	Imperial
Frontage:		<i>232 feet</i>
Depth:		<i>530 feet</i>
Area:		<i>122,960 sq ft</i>

9. **Building/Structure Particulars**
Describe the particulars (in metric) of all buildings and/or structures existing and proposed for the Property.

Main Building:	Existing	Proposed
Ground Floor Area:		
Width:		
Length:		

PHASE I approximate 66 x 66
 PHASE II approximate 178 x 36
 PHASE III approximate 178 x 36
 PHASE IV approximate 178 x 36

APPLICATION FOR MINOR VARIANCE OR FOR PERMISSION
For applying under Section 45 of the Planning Act, R.S.O., 1990 (as revised)

# of Storeys:		
Location of Building/Structure – Check geographic direction of Side Yard Setbacks		
Front Yard:		
Rear Yard:		
North <input type="checkbox"/> or East <input type="checkbox"/> - Side Yard:		
South <input type="checkbox"/> or West <input type="checkbox"/> - Side Yard:		
Accessory Building:	Existing	Proposed
Ground Floor Area:		
Width:		
Length:		
# of Storeys:		
Height:		
Distance to Main Building:		
Location of Building/Structure - Check geographic direction of Side Yard Setbacks		
Front Yard:		
Rear Yard:		
North <input type="checkbox"/> or East <input type="checkbox"/> - Side Yard:		
South <input type="checkbox"/> or West <input type="checkbox"/> - Side Yard:		

Note – Above information to match Site Plan

10. **Check the appropriate box to Indicate connected or available services to the Property:**

Source of Service:	Municipal	Private
Water	X	
Sanitary Sewer	X	
Storm Sewer		X

11. Check the appropriate box to indicate access to the Property:

Source of Access:	Yes	No
Municipal Road	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other Public Road	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Water Access Only	<input type="checkbox"/>	<input checked="" type="checkbox"/>

12. What is the Official Plan designation of the Property? Living

13. What is the Zoning of the Property? R2

14. Has the Owner ever applied for a minor variance or permission regarding the Property?
Yes ☒ No ☐ If Yes, provide details, including file number, date, decision, etc.

A4 2011

15. Is the Property the subject of a current application for consent under section 53 of the Planning Act, 1990, as revised? Yes ☐ No ☒ If Yes, provide details, including file number, date, etc.

16. **DECLARATION**

I/We, NEIL KABEL solemnly declare that all the statements contained in this application are true and make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

DECLARED before me at the Town of Fort
Frances, in the District of Rainy River this

19th day of October, 2017

Kathryn Mae Lawson
A Commissioner, etc.

Neil Kabel
(Signature of Owner or Agent)

(Signature of Owner or Agent)

Kathryn Mae Lawson, a Commissioner, etc.,
District of Rainy River, for the Corporation
of the Town of Fort Frances.

TOWN OF FORT FRANCES

MINUTES

COMMITTEE OF
ADJUSTMENT

July 18, 2016

The meeting of Committee of Adjustment of the Town of Fort Frances was held in the Civic Centre - Committee Room on July 18, 2016 from 5:00 p.m. to 6:44 p.m.

PRESENT: Barry Jackson, Cindy Mason, Irene Laing, Viktor Nowak, Charleen Mallory, Doug Brown, CAO, Travis Rob, Secretary/Treasurer

ALSO PRESENT: Elinor Curtis and Lisa Ruppenstein (5:00 - 5:14pm), Cecil Horne (5:00 - 6:43pm), Neil Kabel (5:00- 6:43pm)

1. Call to Order - 5:03pm

2. Non-agenda items
None

3. Declarations, Municipal Conflict of Interest Act
None

4. Minutes of Previous Meetings

- 4.1 Approval of the minutes of the March 28, 2016 meeting
- Approved as circulated

Laing-Nowak THAT the minutes of the March 28, 2016 meeting be approved as circulated

CARRIED

5. Committee Applications

- 5.1 C1- 2016 - 1411 Colonization Road W - Application for temporary use by-law to permit a garden suite
- The property owner and garden suite tenant were in attendance to discuss the development with the committee. The application was considered and application for temporary use by-law for a garden suite at 1411 Colonization Road was granted

Mallory-Nowak THAT the application being C1-2016 being an application for temporary use by-law to permit the construction of a garden suite at 1411 Colonization Road West be approved

CARRIED

- 5.2 A2 - 2016 - 850 King's Highway - Minor Varince Application to reduce the side yard setback from 6m to 3.5m and buffer width from 3m to 1.5m
- Candice Micucci, the agent called into the meeting at 5:14pm until 5:26pm to speak to the application. The Minor Variance request was granted.

Laing-Mallory THAT the application being A2-2016 being an application for minor variance to reduce the side yard setback from 6m to 3.5m and reduce the buffer width from 3m to 1.5m be approved.

CARRIED

- 5.3 B1-2016 - Re-conveyance of H2O Power property for effluent line to Resolute Forest Products
- The agent for the owner was in attendance to speak to the matter and consent was granted for the severance and re-conveyance with conditions

Nowak-Laing THAT the application for severance and re-conveyance being application B1-2016 be approved with conditions

CARRIED

- 5.4 B2-2016 - Easement over Resolute Forest Products Property for access to H2O Power transmission lines

-The agent for the owner was in attendance to speak to the matter and the consent was granted with conditions

Laing-Nowak THAT the application for consent for the purposes of establishing an access easement being application B2-2016 be approved with conditions

CARRIED

- 5.5 B3-2016 - Easement over Resolute Forest Products Property for access to H2O Power canal walls for maintenance

- The agent for the owner was in attendance to speak to the matter and the consent was granted with conditions

Laing-Jackson THAT the application for consent for the purposes of establishing an access easement being application B3-2016 be approved with conditions

CARRIED

- 5.6 B4-2016 - Easement over Resolute Forest Products property for access to H2O Power Sluice Gates for maintenance

- The agent for the owner was in attendance to speak to the matter and the consent was granted with conditions

Nowak-Mallory THAT the application for consent for the purposes of establishing an access easement being application B4-2016 be approved with conditions

CARRIED

6. Other Business

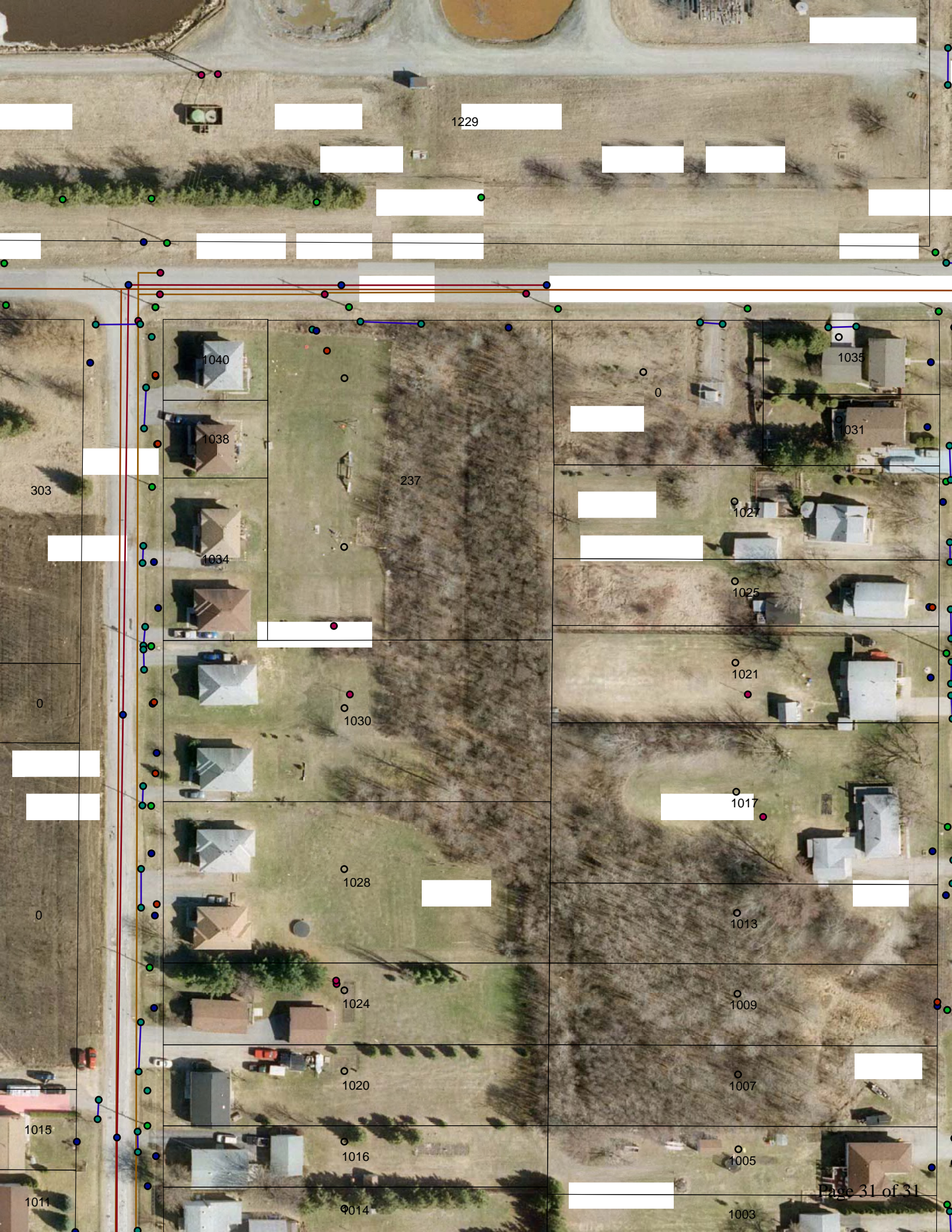
- 6.1 Request from Wahkaihanun Futures for extension to deadline for paving of parking area - 237 Eighth Street West. Relief granted by Minor Variance A4 - 2011
- The request was considered by the committee and after discussions on the future of the property, an extension was granted to October 31, 2017 for the completion of grading of the parking area at 237 Eighth Street West.

7. Outstanding Items

8. Meeting Close - 6:44pm

Chair, Committee of Adjustment

T. Rob, Chief Building Official



1229

1040

1038

1034

1030

1028

1024

1020

1016

1014

237

1035

1031

1027

1025

1021

1017

1013

1009

1007

1005

1003

303

0

0

1015

1011