



## **Planning Review Adjustment Committee January 18, 2021**

Minutes of the meeting of the Planning Review Adjustment Committee of the Fundy Regional Service Commission held on Monday January 18, 2021 at 10:00 a.m. at Crane Mountain, Saint John via teleconference.

### **1. Call to Order**

The Chairperson, Dwight Allaby, called the meeting to order at 10:02 a.m.

### **2. Record of Attendance – via teleconference**

#### **BOARD MEMBERS**

Dwight Allaby, Chairperson  
Joan Seeley, Vice Chairperson  
Glen Baxter, PRAC Member  
Donna Murchison, PRAC Member  
Ron Bridges, PRAC Member  
Walter Pollock, PRAC Member  
Brenda Rathburn, PRAC Member  
Midge Thompson, PRAC Member

#### **OTHERS**

Brian Shannon, Building Inspector/Development Officer, FRSC  
Alicia Raynes, Recording Secretary, FRSC  
Nick Cameron, Assistant Development Officer  
Steven Stone, Planning Director, Dillon Consulting  
Dana Hampton (Home Occ Report – 13 Beechwood Dr)  
Jorg Nap & Nathalie Wolf (Home Occ Report – 13 Beechwood Dr)  
Chevan Sparks (Home Occ Report – 13 Beechwood Dr)  
Joanne Baxter (Home Occ Report – 13 Beechwood Dr)  
Heidi Wilson (Temp Use Report – 218 Rte 820)

### **3. Approval of Order of Business**

The Chairperson asked for approval of the agenda as presented.

**Motion:** To approve the January 18, 2021 Agenda as presented.

Moved: Glen Baxter  
Seconded: Midge Thompson

Vote: *Motion Carried*

#### **4. Disclosure of Conflict of Interest**

None

#### **5. Approval of Minutes**

The Chairperson called for a motion to approve the minutes as circulated.

**Motion:** To approve the November 30, 2020 minutes as presented.

Moved: Joan Seeley  
Seconded: Midge Thompson  
Vote: *Motion Carried*

#### **6. Presentation of Application**

##### **a. Home Occupation in the Main Dwelling**

Nick Cameron gave an overview of the presentation on the application for the Home Occupation in the Main Dwelling Proposal.

*Applicant:* Jorg Nap and Nathalie Wolf

*Request:* The property owners have made an application to use a portion of their residence located at 13 Beechwood Drive in Willow Grove to operate an online business exporting used motorcycles as a home occupation.

*Requirement for the home occupation in the main building:*

The property is located in a Mixed-Use zone. Section 4.17(1) of the Simonds Parish Planning Area Rural Plan Regulation states that Subject to subsection (2), where a home occupation is permitted under this Regulation, there are certain occupations that may be conducted as a home occupation in the main building. An online business exporting used motorcycles would fall under this regulation. Section 4.17(2) lists a number of requirements that must be met in order to proceed with a home occupation, all of which have been met in this case.

*Consultation:*

As per section 6.2 of the PRAC By-law and Operating Procedures, notices were sent to property owners within 100m of PID 55070643 (subject property) on December 23, 2020. In total, notices were sent to 10 property owners and a deadline for written submissions was set for January 10, 2021. To date, four (4) letters have been received.

*Overview of Application:*

*The proposed home occupation: -*

*The applicant would like to operate an online business exporting used motorcycles to a business partner in the Netherlands. The applicant requires a confirmation of zoning compliance to acquire the appropriate export permits. The property is zoned as Mixed Use and although a wide range of home occupations are permitted within a Mixed Use zone, it does not specifically include an online export business. A home occupation not listed, but similar to those included in the rural plan may be approved by the Commission. Therefore, an application to the PRAC is required.*

*The applicant's business would buy used motorcycles in Canada and ship them to their business partner in the Netherlands. The application has proposed that six to eight motorcycles would be stored in the attached garage at their residence until ready to be shipped. At such time, the motorcycles will be transported by pickup truck and trailer to an off-site warehouse where they will be packed into a shipping container. The pickup truck and trailer can load three motorcycles at a time.*

*Staff have discussed the proposal with the applicant, as well as requirements of the rural plan for a home occupation in the main dwelling. A site visit was also conducted.*

*The proposed use would occupy the attached garage which is approximately 23% of the total floor area of the dwelling. Two people will be engaged in the home occupation and no changes will be made which modify the residential characteristics of the main dwelling. No equipment or material used in the home occupation will be stored in any place other than in the attached garage. The off-street parking area next to the garage can accommodate a pickup truck and trailer or two vehicles with adequate room to maneuver.*

The application proposes that a maximum of eight motorcycles would be stored in the attached garage. However, after consulting the 2010 National Building Code of Canada and considering the construction and dimensions of the garage, it was determined that the maximum number of motorcycles that can be stored in the attached garage should be limited to no more than five, as per Article 9.10.9.16 of the 2010 National Building Code of Canada. This includes motorcycles for personal use.

An export business is closely related or may be interpreted as a retail sales business which is not permitted as a home occupation in the main dwelling under subsection 4.17(1) of the rural plan. Therefore, it should be stated explicitly that on-site sales are not a permitted use from a main dwelling in a Mixed Use zone.

The proposed use is limited to the storage of motorcycles and does not extend to vehicle repair or servicing. As such, the use is similar to typical activities associated with residential uses and no adverse environmental impacts are anticipated.

*Recommendation:*

Whereas the impact of an online export business as a home occupation is similar to those cited in subsection 4.17(1)(b) of the Simonds Parish Planning Area Rural Plan Regulation, it is recommended that the application from Jorg Nap and Nathalie Wolf to allow an online business exporting motorcycles as a home occupation in the main dwelling located at 13 Beechwood Drive, Willow Grove (PID 55070643), be granted with the following conditions:

1. No more than five motorcycles shall be stored within the attached garage of the main building.
2. On-site retail sales are not permitted.
3. No Portables Garages, meaning a collapsible structure covered with plastic or fabric, used for the purpose of temporarily storing vehicles and/or the covering of driveways shall be permitted on-site.
4. No Shipping containers shall be permitted on-site.
5. The use be limited to the storage of motorcycles and the direct import and export of the motorcycles shall be completed at an off-site shipping location

The issue of restrictive covenants was discussed as it was determined that there are some restrictive covenants on this property. Planning Director, Steven Stone, Dillon Consulting, advised that the role of the Commission is to determine if the application is in compliance with the Community Planning Act and its regulations, not to approve the business itself. It was explained that basing decisions on covenants or other civil agreements could be grounds for an appeal.

**Motion:** To accept the recommendation by the Fundy Regional Service Commission to approve the proposed online business exporting motorcycles as a home occupation in the main dwelling located at 13 Beechwood Drive, Willow Grove (PID 55070643) with recommended conditions.

Moved:                      Joan Seely  
Seconded:                 Brenda Rathburn  
Vote:                         *Motion Carried*

**b. Temporary Use Report**

Nick Cameron gave an overview of the presentation on the application for the Temporary Use proposal.

*Applicant:* Brother Bear's Daycare Inc. (Heidi Wilson)

*Request:* Heidi Wilson of Brother Bear's Daycare Inc has made an application to use the former All Saints Church located at 218 Route 820 in Upper Loch Lomond to operate a daycare facility accommodating up to 41 children.

*Requirement for the Temporary Use:*

Other than as a home occupation, a standalone daycare facility is not a permitted use within the Simonds Rural Plan. Therefore, a text amendment would be

required. Based on ministerial direction, a review of the Simonds Rural Plan is pending. As such, there are limited opportunities to process plan amendments until the review is completed. Until such time, a temporary use application is a common option for this type of proposal and the timing. A temporary use would permit the applicant to establish their business while a review of the Simonds Rural Plan is scheduled and authorized by the Minister responsible. A temporary use may be extended beyond the original authorized period, as per subsection 53(2)(i) of the Community Planning Act. It is anticipated that the Rural Plan review will be underway within that time, but it is not guaranteed. The applicant has been informed of this timeline and potential risks.

Given the nature of the development and trends in modern planning, the nature of this application is typical, representing the adaptive reuse of an institutional use to a similar use, from a church to a daycare. These uses are community uses with similar land use impacts. In recent years it has been a trend to modernize Plans and Regulations to support the adaptive reuse for churches and other institutional uses to other similar uses as a means to facilitate sustainable development. It is anticipated that the proposed Simonds Rural Plan review will include policies on adaptive reuses of similar institutional structures throughout the planning area. In the event that the review and update of the Simonds Rural Plan does not include supportive regulations to capture this proposed use, the applicant will be directed to apply for a Plan Amendment ahead of the one-year temporary use timeline, in accordance with subsection 53(2)(i) of the Community Planning Act.

*Consultation:*

As per section 6.2 of the PRAC By-law and Operating Procedures, notices were sent to property owners within 100m of 218 Route 820 (subject property) on December 23, 2020. In total, notices were sent to 4 property owners and a deadline for written submissions was sent for January 10, 2021. To date, one letter was received stating that they have no concerns with the application.

*Overview of Application:*

*The proposed Temporary Use: -*

The applicant would like to operate a daycare facility at 218 Route 820, the former All Saints Church building. A residential dwelling at 220 Route 820 is located on the same lot. The proposal is to operate the daycare on the main floor of the church building, which is currently vacant. The dwelling is currently being rented. No change of use in the dwelling is proposed.

The applicant is in the process of applying for a daycare facility license from the Department of Education and Early Childhood Development. A license cannot be issued until compliance with the rural plan regulation is confirmed.

The maximum number of children that could be authorized by a daycare facility license for a building of this size is estimated to be 41. It is estimated that five (5)

staff will be needed on-site to operate the daycare. The licensing process will determine the exact number of children, staff, required site plan and floor plan of the building. The applicant has provided a proposed site plan which includes a drop off area at the front of the building and day parking at the side of the building. The site plan also includes a fenced outdoor plan area at the back of the building.

Staff have discussed the proposal and provisions of the rural plan with the applicant and a site visit was also conducted.

Parking standards for various uses are provided in section 4.20 of the Simonds Rural Plan. It does not specify requirements for a daycare facility; therefore, parking standards should be defined for this type of use. It is estimated that the parking areas shown in the proposed site plan can accommodate at least 14 vehicles without further work to the site. This is more than sufficient for the proposed use.

Changes to the current floor plan, such as adding bathroom facilities and dividing the open area with half walls, are anticipated once further requirements for the daycare license are provided by the licensor. The licensor will provide guidance on room configuration for the appropriate age groups, safety measures and other requirements.

The property is located on an arterial road with three (3) accesses: an entrance and exit to the parking area at 218 Route 820 (former church building) and a third driveway at 220 Route 820. A small portion of the southern driveway crosses a vacant lot owned by the City of Saint John. City officials were contacted and responded that they have no concern with the proposed use. The proposed use will be primarily a daytime operation limited to weekdays with traffic being generated in the morning and afternoon. The impact of this traffic is similar to the former church use.

The subject property is surrounded by vacant land on all sides other than the north side, which is the beginning of a low-density residential area. The closest dwelling is at 223 Route 820, which is approximately 92 meters from the closest driveway at 218 Route 820. There will be a fenced outdoor yard for recreation time, however, it is appropriately distanced and screened from adjacent properties and the roadway.

Given the nature of the proposed use, there are no adverse land use impacts associated with the application.

*Recommendation:*

Based on the assessment and the review of existing land uses in the area it is recommended that the application from Heidi Wilson on behalf of Brother Bear's Daycare Inc to permit the operation of a daycare facility at 218 Route 820 in Upper Loch Lomond (PIDs 00354365, 55114474), be granted with the following conditions:

1. The proposed use be permitted for a period of one (1) year, beginning on the first day of operation of the daycare;
2. Off-street vehicular parking spaces, not less than 18 square metres in area and with adequate access, shall be provided as follows:
  - a. One parking space for every staff person on-site.
  - b. One parking space for every 8 children registered with the daycare.

**Motion:** To accept the recommendation by the Fundy Regional Service Commission to approve the proposed temporary use application to operate a daycare at 218 Route 820, Upper Loch Lomond (PIDs 00354365, 55114474) with recommended conditions.

Moved: Midge Thompson  
Seconded: Brenda Rathburn  
Vote: *Motion Carried*

### **7. Other Business**

The Rural Plan for Simonds Parish was discussed. It was explained that the FRSC has contacted the local government branch and is expecting a letter to say that they will approve/entertain amendments based on housekeeping. It was also explained that the LSD committee wanted to wait until the election before beginning work on the Rural Plan for Simonds Parish so that new members would be up to date on what has been going on. There needs to be working group meetings.

Steven Stone, Planning Director, Dillon Consulting, advised that we are waiting for a letter from the Minister to allow us to do the housekeeping amendments.

Board members would like to see the Planning Director write letters to the appropriate people on behalf of PRAC to advise that developments are taking place in these areas and guidance and direction is needed. Plans need to be put in place.

The PRAC board is concerned about the delay in review of the rural plans as nothing seems to be moving forward. They would like to have monthly meetings moving forward until this situation gets sorted out. Ideally, they would like to see a summation from the Planning Director with regards to moving forward with the Simonds Plan and then the plan for St. Martins.

### **8. Motion to Adjourn**

**Motion:** The Chair called for a motion to adjourn at 12:01pm.

Moved: Brenda Rathburn  
Seconded: Ron Bridges  
Vote: *Motion Carried*

APPROVED (date) April 19, 2021

Joan K. Seeley

Joan Seeley, Vice-Chairperson

Alicia Raynes

Alicia Raynes, Recording Secretary