

PENINSULA COMMUNITY COUNCIL
MINUTES

September 13, 2010

PRESENT: Councillor Jerry Blumenthal, Chair
Councillor Dawn Sloane, Vice Chair
Councillor Jennifer Watts
Councillor Sue Uteck

STAFF: Ms. Karen Brown, Senior Solicitor
Ms. Sheilagh Edmonds, Legislative Assistant

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1. CALL TO ORDER

The Chair called the meeting to order at 7:00 p.m.

2. APPROVAL OF MINUTES

MOVED by Councillor Sloane, seconded by Councillor Uteck that the minutes of June 14, 2010 be approved. MOTION PUT AND PASSED.

3. APPROVAL OF THE ORDER OF BUSINESS AND APPROVAL OF ADDITIONS AND DELETIONS

Additions:

12.1 Recurring Curbside Garbage Dumping on the Peninsula (Councillor Watts)

12.2 District 12 PAC Appointments

MOVED by Councillor Sloane, seconded by Councillor Watts that the agenda, as amended, be approved. MOTION PUT AND PASSED.

4. BUSINESS ARISING OUT OF THE MINUTES / STATUS SHEET:

Community Council reviewed the status sheet and the following updates were requested:

Councillor Watts asked that, with regard to her motion on a policy to manage requests for upgrades to sportsfields in HRM parks on the Peninsula, staff be advised to carry out community engagement at the beginning of the process, as opposed to developing a policy first and then going to the community for comment. Councillor Watts added that she received several comments from residents who want to be involved at the beginning of the discussion of sportsfield use and upgrades and how they happen. Councillor Watts indicated that several business units were working on this item and she asked that the request be forwarded to the lead business unit.

Councillor Sloane asked for an update on the Minor Baseball item on the status sheet noting that although the season is about to close, there needs to be a good operational plan in place by next spring.

Councillor Uteck noted that the Neighbourhood Downzoning item was initially put on the status sheet October 1, 2007 with a request for a staff report on the status of the 10 neighbourhoods that were identified for downzoning. She requested that it be moved to the top of the Status Sheet and that an update be provided. Councillor Uteck indicated that the update could be provided by e-mail.

5. MOTIONS OF RECONSIDERATION: None

6. MOTIONS OF RESCISSION: None

7. CONSIDERATION OF DEFERRED BUSINESS: NONE

8. HEARINGS

8.1 Public Hearings: None

8.2 Variance Appeal Hearings:

8.2.1 Variance Appeal - #16298, 2487 Davison Street

A staff report dated September 3, 2010 was submitted.

Ms. Brenda Seymore, Development Technician, provided a presentation outlining the the Development Officer's decision to deny a variance at 2487 Davison Street for the lot area, lot frontage, rear and side yard setbacks of the Halifax Peninsula Land Use Bylaw in order to add volume to a two-unit dwelling created through conversions in 1987. In her presentation, Ms. Seymore explained that the application was to change the interior layout of the building to have the two units as an over/under dwelling as opposed to side by side. She added that, in order to do this, the basement would need to be raised in height to meet the building code, and this would result in an increase in the volume of the structure.

Ms. Seymore reviewed the Land Use Bylaw requirements versus the applicant's proposal, citing as follows: the minimum lot area requirement is 5000 sq. ft.; the proposal is 2926 sq. ft; the minimum lot frontage requirement is 50 ft.; the proposal is 38 ft; the minimum rear yard setback requirement is 20 ft.; the proposal is 15 ft.; and the minimum left side yard requirement is 5 ft.; the proposed is 3 ft. She outlined the criterion where a variance may not be granted under the land use bylaw and advised that the Development Officer determined it was contrary to the intent of the Land Use Bylaw, as it would result in an increase in the height and volume of the building.

Ms. Seymore responded to questions from Community Council.

The Chair opened the variance appeal hearing.

Ms. Shauna Scanlan, the applicant, advised that she purchased the property intending for it to be her primary home and to rent the lower level. She noted that the building only requires an additional four inches to make the lower level a legal usable height of 7 ft. She added that she was requesting an additional sixteen inches in height to accommodate a build-up for radiant heated floors and to allow for an 8 ft. ceiling in the lower living space. Ms. Scanlan noted that by making this additional investment in the property, she could attract a better tenant. She pointed out that the footprint of the building will not change, and that the total renovation cost is \$140,000 which is a considerable investment in the property and the neighbourhood. Ms. Scanlan added that she provided Councillor Sloane a copy of the neighbours names and addresses that support her request for variance, and that she also provided e-mails to Councillor Sloane from her direct neighbours who support the renovations.

Ms. Dale MacLennan, Charles Street, indicated that she supported the variance

request, and advised that it would be positive for the street to have the homeowner living in the building.

The Chair called three times for anyone else to speak; there being none, it was **MOVED by Councillor Sloane, seconded by Councillor Watts that the variance appeal hearing close. MOTION PUT AND PASSED**

Councillor Sloane pointed out that there was support in the community for this variance request and it was good to see that, in an area with a lot of turnover of rental properties, in this situation, the property owner wants to live in the building and be part of the neighbourhood.

MOVED by Councillor Sloane, seconded by Councillor Watts that the decision of the Development Officer be overturned, and the variance be granted. MOTION PUT AND PASSED.

8.2.2 Variance Appeal - #16218, 6583 Quinpool Road

A staff report dated September 3, 2010 was submitted.

Ms. Brenda Seymore, Development Technician, provided the staff presentation regarding the Development Officer's decision to approve a variance for the lot area and front and rear yard setback of the Halifax Peninsula Land Use Bylaw to construct a single unit dwelling at 6583 Quinpool Road. Ms. Seymore advised that four appeals were received in response to the decision.

Ms. Seymour reviewed the criteria under the Land Use Bylaw and advised that the Development Officer determined the proposal is in keeping with the character of the neighbourhood and meets the intent of the Land Use Bylaw. In this regard, she noted that the permitted maximum height is 35 ft., and the proposal is 33 ft. 4 inches, and the maximum number of permitted bedrooms is five and the proposal is for three. She pointed out that the lot in question has been used as the backyard for the property at 6583 Quinpool Road, however it is intended as a separate parcel of land. Ms. Seymour also noted that the difficulty experienced is unique to this property due to the configuration of the lot. She added that there has been no intentional disregard for the requirement of the land use bylaw.

The Chair opened the variance appeal hearing.

Mr. Robert Bekkers, Popular Street, addressed Community Council speaking in opposition to the variance request. Mr. Bekkers noted that he researched the property in question and could not find any mention that this parcel of land was ever proposed or intended for new construction. He added that in his review of deeds, this parcel of land was attached to 6583 Quinpool Road since 1920. Mr. Bekkers advised that, recently, he spoke with the son of the former owner and was told the smaller parcel of land that was added to the parent parcel was to compensate owners of that land for land which was lost during the re-alignment of Connaught Avenue.

Ms. Kathleen Bekkers, Popular Street, expressed concern about the size of the lot

versus the size of the dwelling, and on the infringement the variance would have on the neighbours quality of living by reducing their privacy, increasing traffic, and of fewer trees. In addition she noted that the neighbourhood has had previous problems with students and rooming houses and she was concerned about the potential of the same thing happening with this property.

Mr. Brad Perry, Connaught Avenue, advised that his main concern was that the lot was just too small, and he added that the proposed building will come up aggressively against his backyard and will have a negative impact on the amount of sunlight on his property. Mr. Perry advised that when he purchased his property he was told that the lot in question was not permitted to be infilled. He expressed concern that the proposal would devalue his property.

Ms. Thelma Johnstone, Quinpool Road, addressed Community Council and indicated she was opposed to the variance request because it would infringe on her safe and peaceful enjoyment of her property.

Mr. Gordon Stewart, Poplar Street, advised that he was opposed to the variance request because it was excessive for the size of the property, and that the land is somewhat lower and building it up will increase flooding. He also noted his concern of a reduction in the value of the surrounding properties, and that he had a concern that it would not end up as a single family home.

Mr. Kent Clarke, advised that he was a lawyer, and was speaking on behalf of the applicant, Ian Fletcher, who was unable to be in attendance this evening. Mr. Clarke explained that Mr. Fletcher currently lived on Livingstone Street but wanted to move closer to the south end. He added that Mr. Fletcher has an agreement of purchase and sale on this property with a proviso that the variance be approved. With regard to the proposal, Mr. Clarke pointed out that the footprint is within the guidelines of the bylaw, and that the setback is close to the back property line but the placement is within the line of the neighbours houses. He added that the windows are not symmetrical and this was done to maintain the privacy of the neighbours. Mr. Clarke also noted that the proposed house was a modest one and respectful of the neighbourhood. He pointed out that the lot is grandfathered and capable of development as long as the planning guidelines are followed, which is the case with this proposal.

The Chair called three times for anyone wishing to speak; there being none, it was **MOVED by Councillor Uteck, seconded by Councillor Sloane that the variance hearing close. MOTION PUT AND PASSED.**

Councillor Watts advised that she could not agree with the decision of the Development Officer because it did not support the character of the neighbourhood and the lot size was too small. She noted that the size and height of the house was fine, however, putting it on the lot in question would not be in keeping with the character of the neighbourhood.

Councillor Uteck indicated that she felt the lot size was too small for the proposal and did not fit with the neighbourhood.

MOVED by Councillor Watts, seconded by Councillor Uteck that the decision of the Development Officer be overturned and the variance be refused. MOTION PUT AND PASSED.

8.2.3 Variance Appeal - #16265, 1747 Rosebank Avenue

A staff report dated September 2, 2010 was submitted.

Ms. Laura Walsh, Development Technician provided a presentation regarding the Development Officer's decision to approve a variance of the Gross Floor Area and a left side setback reduction for a single unit dwelling at 1747 Rosebank Avenue, Halifax. She advised that the permitted gross floor area is 3,399 sq. ft. and the variance requested is 3,853.93 sq ft. and this appears to be consistent with nearby properties. Ms. Walsh also noted that there are no additional bedrooms proposed and that the left side variance requested is 4.2 ft., which is 1 ft. less than the required 5.1 ft. She added that the Development Officer determined that the portion of the proposed addition involving a side staircase is a unique circumstance which is not general to the properties in the area. In closing, Ms. Walsh added that there was no intentional disregard for the requirements of the Land Use Bylaw.

The Chair opened the appeal hearing.

Mr. Charles Ritcey, the appellant, addressed Community Council and advised that he was representing his father and brother who were property owners of the house beside the property in question, and who have appealed the variance. He explained that he was concerned about the impact the variance will have on their property and on the character of the neighbourhood. Mr. Ritcey also pointed out that the proposal will be three stories in height and large windows on one side would impact on their privacy. He added that the reduction in privacy, personal space, access and use would have a negative impact on the value of his property.

Mr. Geoffrey Goss, the applicant, addressed Community Council and explained that the reason for his variance request was to provide more living space for his family and to bring some aspects of his home—which is approximately 100 years old—up to code. He added that the stairs do not meet today's standards and present a safety hazard and, due to their configuration, it would be too expensive to reconstruct them in their present location, and the only solution was to move them to the left side of the house. Mr. Goss also explained that a similar situation exists with the set of stairs which go from the main floor to the downstairs area, which contains the laundry room and storage for the family's sports equipment. He added that there was a chimney directly by the staircase, and the only solution to rectify the problem is to move them to the side of the house. Mr. Goss also advised that his other motivation for the variance request is that it would enable him to build a larger storage closet in the front entranceway, as the present one which measures 1 ft. wide by 4ft. deep does not provide the required storage for a family. In conclusion, Mr. Goss advised that he collected the signatures of 10 neighbours who support his application for variance and added that he could make these available to the Councillors if they wished.

Ms. Joyce McCormick addressed Community Council indicating that she was the wife of

Geoff Goss. Ms. McCormick advised that she wanted to point out that the Gross Floor Area included the attic, however, much of that space was not usable space.

The Chair called three times for anyone else to speak; there being none, it was **MOVED by Councillor Sloane, seconded by Councillor Watts that the variance appeal hearing close. MOTION PUT AND PASSED.**

MOVED by Councillor Uteck, seconded by Councillor Sloane that the decision of the Development Office to approve the variance be upheld.

Councillor Uteck noted that the Gross Floor Area Ratio requirements were put in place to stop the proliferation of rooming houses, but, unfortunately, it has also impacted those families that want to expand their single family home. She added that in this situation, the actual impact is one foot. She indicated that she was supportive of the request as this was the type of residents that the area needs.

Councillor Sloane also spoke in support of the decision, noting that it was important to retain families on the Peninsula.

Councillor Watts indicated her support for the decision, and added that she felt the proposal would not have a negative impact on the character of the neighbourhood.

MOTION PUT AND PASSED.

8.2.4 Variance Appeal - #16272, 1590 Walnut Street

A staff report dated September 1, 2010 was submitted.

Ms. Liz Scott, Development Technician reviewed the application for a variance from the requirements of the Land Use Bylaw for the property at 1590 Walnut Street, Halifax, and the reason for the Development Officer's decision to approve the variance. Ms. Scott advised that the applicant's proposal is to convert the existing building from one to two units. She noted that it meets all the requirements of the Land Use Bylaw. She pointed out that there is an internal conversion clause available to residents in the secondary plan area of Peninsula Centre, however, because of a previously issued permit to excavate the basement of this dwelling, the property owner was disqualified from using it. Ms. Scott advised that the properties in the buffer zone were examined and it is apparent that most of the dwellings do not meet the sideyard setback requirements set out in the Land Use Bylaw.

Ms. Scott noted that the request is for a variance of the right side yard setback from 5 ft. to 3.5 ft.

The Chair opened the appeal hearing

Mr. Scott Ellison, Chestnut Street, addressed Community Council and advised that he appealed this decision. Mr. Ellison advised that a number of the homes on Walnut Street that back onto Chestnut Street are multi-unit dwellings with students. He

explained that the residents have dealt with issues of noise and alcohol related incidents as a result, and he added that the Dalhousie campus is nearby and the residents of the area have to deal with a lot of partying from this area. Mr. Ellison read an e-mail from Mr. Danny Graham who could not be in attendance this evening, and who also expressed his concern with the variance approval. Mr. Ellison requested that Community Council overturn the decision based on the stability and maintaining the character of the neighbourhood.

Mr. George Kovasc, Edward Street, advised that he was Co-Chair of the University Neighbourhood Watch Association which represents many dwellings surrounding the property in question and he wanted to address Community Council in regard to this matter.

Ms. Karen Brown, Solicitor, advised that Mr. Kovasc was ineligible to speak on this appeal as he did not file an appeal on this matter and does not live within 30 metres. The Solicitor explained that statutory requirements stipulate that he would have to live within the 30 metres in order to appeal and, then, he would then have to appeal within the statutory timeframes.

Councillor Uteck advised the Community Council has always had the practice of allowing those persons to speak who have been notified within 30 metres or those who have vested interest. She noted that Mr. Kovasc represents the University Neighbourhood Watch Association.

The Solicitor responded that the normal requirements would be that he should have filed an appeal on this matter and if he has a special interest, it is then up to Council to determine by decision if they wish to hear from him. The concern, she noted, was that he did not actually file an appeal and has just appeared this evening to speak.

MOVED by Councillor Uteck, seconded by Councillor Watts that Mr. Kovasc be permitted to address Community Council on this matter. MOTION PUT AND PASSED.

Mr. Kovasc advised that the organization he represented was founded in 2004 out of concern of increasing conversions of single-unit dwellings to multi-unit dwellings and loss of balance in the community. He explained that the streets in the area are being stressed with the conversions to multi-unit dwellings and pointed out that, if approved, this house would be the sixth of nine dwellings that back on to the appellants address. He noted that in a period of two years, the region that he represents had a 627 police calls for noise, assault, liquor offences, property damage, complaints and parking violations.

The Chair called three times for anyone else wishing to speak; there being none, it was **MOVED by Councillor Sloane, seconded by Councillor Watts that the appeal hearing close. MOTION PUT AND PASSED.**

MOVED by Councillor Uteck, seconded by Councillor Sloane that the decision of the Development Officer be overturned and the variance be refused.

Councillor Uteck indicated that where staff have to make decisions based on the criteria in the Land Use Bylaw, it falls on the area Councillors to consider the overall quality of life in the neighbourhood. She advised that this street was on the tipping point, explaining that it was one or two houses from no longer being a residential street. Councillor Uteck added that the street is very stressed and it was her duty to consider the social fabric of the neighbourhood as well in the overall application.

MOTION PUT AND PASSED.

8.2.5 Variance Appeal - #16338,1545 Henry Street

A staff report dated September 3, 2010 was submitted.

Ms. Karen Godwin, Development Technician, reviewed the application and the Development Officer's decision to approve a variance from the Gross Floor Area requirements of the Halifax Peninsula Land Use By-law to permit the construction of an addition to the existing single-unit dwelling at 1545 Henry Street. She advised that the proposal is for a three-storey addition to the rear of the building, noting that no additional rooms are proposed and that it is expansion of three rooms. Ms. Godwin explained that the maximum permitted gross floor area is 2400 square feet and with the addition it would be 3,300 square feet. She advised that the addition will increase the size of the recreation room on the grade level, the kitchen which is on the second level and the bedroom on the third floor. Ms. Godwin noted that notification had been sent to approximately 90 homeowners in the area and staff received two appeals.

The Chair opened the variance hearing.

Mr. John MacKay, Henry Street, advised that he appealed the decision because the proposal will increase the house size by one third and the addition will be three stories attached the back of the house. Mr. MacKay added that he believed this is not in keeping with the character of the neighbourhood, as it will be significantly bigger than the surrounding homes. Mr. MacKay noted that this addition will block all the southern exposure on his property, and enjoyment of his backyard will be diminished. He also expressed concern that approving this would set a precedent, and if additional homes do the same, then in future, if the homes change owners, there is the possibility of them turning into student housing. Mr. MacKay advised that there is a large tree in his backyard and it spans into the yard of 1545 Henry Street, and feels that the proposed addition would result in part of the tree being removed.

Mr. Albert Chapel, Henry Street, addressed Community Council to advised that he had no objection to the Development Officer's decision to approve the variance.

Ms. Sheherazade Ghorashy advised that she has made every effort to plan the addition with their contractor so that it would not significantly expand her home's current footprint or profile. She explained that the proposed addition is on the back of the house and would not be visible from the street and does not remove any current green space. She also pointed out that the addition has been designed to fit with the neighbourhood's period houses and will blend in with her home's 1910 appearance. Ms. Ghorashy

advised that one of the main reasons for the addition was to enable her to keep an eye on her children in the back yard, from her kitchen. With regard to concern over the blocking of sunlight, she noted that many trees around the properties block more sun than her proposed addition. Ms. Ghorashy emphasized that she is not increasing the amount of bedrooms in her home, only the size of certain rooms, including their kitchen and bathroom which are small. She indicate that the investment she wants to make in her property would have a positive impact on the value of the average property in the area.

There being no further speakers, it was **MOVED by Councillor Sloane, seconded by Councillor Watts that the appeal hearing close. MOTION PUT AND PASSED.**

Mr. Trevor Creaser, Development Officer, and Mr. Doug Blunden, the contractor hired by the applicant, responded to questions from Community Council.

MOVED by Councillor Uteck, seconded by Councillor Sloane that the decision of the Development Officer to approve the variance be upheld. MOTION PUT AND PASSED.

At 8:57 p.m. Community Council recessed.

At 9:05 p.m. Community Council reconvened.

9. CORRESPONDENCE, PETITIONS AND DELEGATIONS:

9.1 Correspondence: None

9.2 Petitions - None

9.3 Presentations: None

10. REPORTS:

10.1 Staff Reports:

10.1.1 Case 01214: Amendments to the Accessory Building Requirements of the Halifax Peninsula Land Use By-law

A report dated June 29, 2010 was submitted from the Chair of the District 12 Planning Advisory Committee, with an attached staff report dated June 14, 2010.

MOVED by Councillor Uteck, seconded by Councillor Sloane that First Reading be given to the proposed amendments to the Halifax Peninsula Land Use By-law as provided in Attachment A of the report dated June 14, 2010, and schedule a joint public hearing with Chebucto Community Council.

In response to a question by Councillor Watts regarding the implications of the amendments, Mr. Richard Harvey, Senior Planner indicated that there would be no

visible change as the wording of the bylaw will match the way the bylaw has been consistently applied over the past few decades.

MOTION PUT AND PASSED.

10.1.2 Case 01339: Heritage Development Agreement - 5757 Inglis Street

A staff report dated August 4, 2010 was submitted

A supplementary staff report dated August 31, 2010 was submitted.

MOVED by Councillor Uteck, seconded by Councillor Sloane that Notice of Motion to consider the Development Agreement contained in Attachment A of the staff report dated August 4, 2010 be given and a Public Hearing be scheduled.

MOTION PUT AND PASSED.

10.1.3 Case 16038: Lounges in Restaurants - Quinpool Road, Halifax

A staff report dated August 27, 2010 was submitted.

MOVED by Councillor Uteck, seconded by Councillor Sloane Peninsula Community Council recommends that Regional Council give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law, as provided in Attachments A and B of the August 27, 2010 staff report and schedule a public hearing.

Councillor Watts advised that when the matter comes to public hearing she would like for staff to have two issues clarified. Councillor Watts explained that she wanted to ensure that there would be no lounge capability for those areas backing on yards on Quinpool Road and that, with regard to the size of a lounge being 50% of the restaurant, Community Council been given the flexibility with the percentage number, and that rather than the size be set at 50%, it be set at 50% or less so it would give Peninsula Community Council the ability to deal with each case individually.

In response, Ms. MacKenzie Stonehocker, Planner addressed Community Council and clarified that the 50% is the maximum permitted for a lounge, and if the amendments are approved, each restaurant would have to go through a Development Agreement process and the actual size of the lounge would depend on that proposal. With regard to the outdoor features, Ms. Stonehocker advised that the policy states that they may be permitted in outdoor areas where the potential impact on residential areas are minimized. She noted that the policy stops short of saying they are only permitted on the Quinpool Road side, because on some places on Quinpool Road they may not be permitted. Ms. Stonehocker added that, regardless, they would not be permitted in backyards because that would not minimize the potential impact on those adjacent residential uses.

Councillor Watts added that this was a contentious issue on portion of Quinpool Road that is in her district and that she hoped in moving forward with this process it would help establish some community standards which will help in the long term.

MOTION PUT AND PASSED.

10.2 Committee Reports: None

10.3 Members of Peninsula Community Council: None

11. MOTIONS: None

12. ADDED ITEMS:

12.1 Recurring Curbside Garbage Dumping on the Peninsula (Councillor Watts)

Councillor Watts advised that she received several complaints from frustrated residents about the state of the garbage dumped on roads, as a result of the August move-out of tenants and the apparent lack of immediate action by landlords to check on properties or of Bylaw Enforcement in making sure it is cleaned up quickly. She added that this is a recurring problem and she questioned if there was any way HRM could be more proactive on this both at the end of August and the end of April when it seems to be worse.

MOVED by Councillor Watts, seconded by Councillor Sloane that staff provide a report on this matter, outlining the current practice on how the extra garbage that is put out at the end of April and August is dealt with; and that the report address whether Bylaw staff could be more proactive during these times; if the idea of having 'amnesty days' would be possible, wherein anything could be put out; and if more 'Dump and Run' initiatives, such as what Dalhousie University puts on, would be possible.

Councillor Watts requested that the item be placed on the Status Sheet.

MOTION PUT AND PASSED.

12.2 District 12 PAC Appointments

This matter had been dealt with at an In Camera meeting held earlier on this date.

MOVED by Councillor Sloane, seconded by Councillor Watts Peninsula Community Council recommends Regional Council approve the appointment of the following applicants to the District 12 Planning Advisory Committee:

**Ali Nadeem
Neil Lovitt**

MOTION PUT AND PASSED.

13. NOTICES OF MOTION: None

14. PUBLIC PARTICIPATION

No one came forward to address Community Council during Public Participation.

15. NEXT MEETING - October 4, 2010

16. ADJOURNMENT

The meeting adjourned at 9:20 p.m.

Sheilagh Edmonds
Legislative Assistant

The following Information Item was submitted:

1. Information Report dated July 29, 2010 RE: Telecommunications Towers - HRM Website Information