

APPEALS STANDING COMMITTEE  
MINUTES

November 29, 2012

PRESENT:

Councillor Brad Johns, Chair  
Councillor Matt Whitman, Vice Chair  
Councillor Gloria McCluskey  
Councillor Steve Adams  
Councillor Steve Craig  
Councillor David Hendsbee

REGRETS:

Councillor Linda Mosher

STAFF:

Ms. Tanya Phillips, Manager of By-law Services  
Mr. Scott Hill, Regional Coordinator, By-law Services  
Ms. Danielle Banks, Orders Assistant, By-law Services  
Mr. Martin Ward, Solicitor  
Mr. Randolph Kinghorn, Solicitor  
Mr. Quentin Hill, Legislative Assistant

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**1. CALL TO ORDER**

The Chair called the meeting to order at 9:07 a.m. in the Dartmouth Council Chambers.

**2. SELECTION OF CHAIR AND VICE- CHAIR**

Councillor Johns called for nominations for the position of Chair.

**MOVED by Councillor Adams, seconded by Councillor Whitman to appoint Councillor Johns as Chair of the Appeals Standing Committee.**

Councillor Johns called for a third and final time for nominations and hearing no further nominations, called for vote on the nomination. **MOTION PUT AND PASSED.**

Councillor Johns called for nominations for the position of Vice – Chair.

**MOVED by Councillor Adams, seconded by Councillor Craig to appoint Councillor Whitman as Vice – Chair of the Appeals Standing Committee.**

Councillor Johns called for a third and final time for nominations and hearing no further nominations, called for vote on the nomination. **MOTION PUT AND PASSED.**

**3. APPROVAL OF MINUTES – September 13, 2012**

**MOVED by Councillor Adams, seconded by Councillor Whitman that the minutes of September 13, 2012 be approved as presented. MOTION PUT AND PASSED.**

**4. APPROVAL OF THE ORDER OF BUSINESS AND APPROVAL OF ADDITIONS AND DELETIONS**

Councillor Adams requested that 6.2.1 be moved up on the agenda to be dealt with after Consideration of Adjourned Business to which the committee agreed.

**MOVED by Councillor Adams, seconded by Councillor Whitman to Approve the Order of Business as amended. MOTION PUT AND PASSED.**

**5. CONSIDERATION OF ADJOURNED BUSINESS**

**5.2 Case # 174296 – 595 Purcell’s Cove Rd. Halifax**

A supplementary report dated November 9, 2012 was before the committee.

Mr. Rob Coolen, By-law Officer with Municipal Compliance presented the report, including photographs of the property in question. Mr. Coolen advised that the building had not been improved since the last time the case was before the committee. He noted

that the wood on the building and the roof is rotted and in an advanced state of decay. He stated that the building is jacked up and there was a crawl space that is accessible for animals to crawl underneath. Mr. Coolen stated that the property owner advised the building is on an undersized lot and the removal of the building would not allow them to rebuild on the property. Mr. Coolen noted that the Committee had previously adjourned the case to allow the property owner time to repair the building.

The Chair called three times for the property owner to present their case before the Committee. The property owner was not present at the meeting so the Chair requested a motion from the committee.

**MOVED by Councillor Adams, seconded by Councillor Craig that the Committee finds the property to be dangerous or unsightly as per section 3(q) of the Charter and as per section 356 of the Charter, Orders demolition of the Building, including but not limited to, the removal of all demolition debris, backfilling of any foundation or crawl space, and disconnecting any and all utility connections to the standard set by each respective utility service provider, so as to leave the Property in a neat, tidy, environmentally compliant and safe condition within thirty (30) days after the Order is posted in a conspicuous place upon the property or personally served upon the owner. Otherwise, the Municipality will exercise its right as set forth under Part XV of the Charter.**

**MOTION PUT AND PASSED.**

#### **6.2.1 Case # 187279 443 Herring Cove Rd. Halifax**

A supplementary report dated November 9, 2012 was before the Committee.

Mr. Rob Coolen, By-Law officer with Municipal Compliance presented the report, including photographs of the property in question. Mr. Coolen noted that the building used to be a business. He stated that the original Order placed on the building was just to do some exterior maintenance. He indicated that after the exterior maintenance was not completed; further review revealed that the undercarriage of the building was in very poor condition. He stated that a building inspector recommended that the building be demolished, due to issues with the foundation and structural damage. Mr. Coolen also advised that the building is located in a highly populated residential area with high traffic and pedestrian volume.

Mr. David Grant Khan along with Mr. Juan Carlos Canales presented the appellants case on behalf of Ms. Seemeen Khan. Mr. Grant indicated that they felt that the matter had moved rather quickly after two repair orders were placed on the building. He stated that during the work being done from the two repair orders the building was then placed with a demolition order before the work was completed. He stated that the By-Law officer was not inside the building so could not determine that the building structure was compromised. He requested that an adjournment until March 2013 so that the appellant could deal with the finance situation on the property. He also indicated that if the

appellant decided by then to demolish the building that the appellant would like to conduct the demolition on their own. Mr. Canales explained a brief history of the building to the Committee. He stated that his family was going to Asia to attend a wedding. He indicated it was not possible to have someone take a look at the building and have it torn down before they get back. He also noted that it would also take some time to arrange financing to get the work done to be torn down or repaired.

A brief discussion ensued.

**MOVED by Councillor Adams, seconded by Councillor Craig to adjourn Case # 187279 for three months. MOTION PUT AND PASSED.**

## **6. DANGEROUS OR UNSIGHTLY**

### **6.1 Appeals**

#### **6.1.1 Case # 194210, 332 Beaver Bank Rd., Lower Sackville**

A supplementary report dated November 9, 2012 was before the Committee.

Ms. Theresa Hickey, By-Law officer Municipal Compliance presented the report, including photographs of the property in question. She noted a derelict Ford truck in the driveway. She pointed out that the truck was missing tires, a mirror and it was severely rusted. Ms. Hickey advised that the registration sticker on the vehicle was dated for 1989. She stated that the property is located near a restaurant, golf course and in a residential neighborhood.

Mr. Malcom Macleod presented on behalf of the appellant. Mr. Macleod informed the committee he owned the truck located on the property. He stated that he had an issue of not being able to repair his truck according to the By-Law officer. He indicated that he had covered it so that he could use the truck for parts. He stated that the plate was placed on the truck to appear that it was still in use from a distance.

Mr. Macleod answered questions of clarification from the committee.

**MOVED by Councillor Whitman seconded by Councillor Adams that the Committee refuse the appeal and uphold the Order to Remedy Dangerous or Unsightly Conditions issued on August 21, 2012. MOTION PUT AND PASSED.**

#### **6.1.2 Case # 192228, 8B ODell Dr., Westphal**

A supplementary report dated November 9, 2012 was before the Committee.

Mr. Trevor Oliver, By-Law officer with Municipal Compliance presented the report including photographs of the property in question. Mr. Oliver pointed out different items of strewn debris in the backyard such as, scrap wood, buckets, window frames, dog feces, bags of solid waste and an old satellite. He stated that the yard needed a general

clean up. He noted that the property is a duplex property and is located in a residential neighbourhood.

Mr. Oliver answered questions of clarification by the Committee.

Councillor McCluskey requested that at future meetings, staff provide pictures showing the full property in relation to other houses in the neighbourhood.

The Chair requested that the owner of the property come forward and present their appeal. The Appellant was not in attendance at the meeting.

**MOVED by Councillor Craig, seconded by Councillor Whitman that the Committee refuse the appeal and uphold the Order to Remedy Dangerous or Unsightly Conditions issued on August 21, 2012. MOTION PUT AND PASSED.**

#### **6.1.4 Case # 193156 518 Tower Rd., Halifax**

A supplementary report dated November 7, 2012 was before the Committee.

Mr. Robert Ryan, By-Law officer with Municipal Compliance presented the report including photographs of the property in question. He showed pictures of an open foundation only secured by an orange snow fence. Mr. Ryan noted that the property is located very close to Point Pleasant Park. He noted that the open foundation is located in a residential area and also near Saint Mary's University.

Councillor Adams inquired why a foundation is considered dangerous and unsightly.

Ms. Tanya Phillips, Manager of By-law Standards advised the committee that staff had been working with the property owner since August and advised the property owner was only good as a temporary barrier to the foundation. She said that until there is a project going forward the property needed to have a more permanent fencing of the property for safety reasons.

Mr. Martin Ward, Solicitor advised the Committee that the definition of Dangerous and Unsightly in the Charter is left to the Committee to decide based on facts presented.

Mr. Peter Brouwer, appellant addressed the Committee and provided members with an appendix of timelines related to the case. Mr. Brouwer stated that the Order to Remedy was irrelevant to the case. He noted that he was involved in a business which had purchased a number of properties on Tower Road. He stated that the conditions of the properties were in poor shape and they had torn them down. He advised that a couple of his business partners ran into financial difficulty and had slowed down the project. He noted that they have a building permit for the property at 518 Tower Road. He stated it was difficult for him to build a permanent fence around an active building site. He noted that while it is an active building site, he is required by law to make sure the site is safe and secure. Mr. Brouwer stated that as soon as pricing, permits and financing are in

place construction would begin shortly. He noted that he intended to have project going in October but now would be starting in the New Year depending on the weather.

Councillor Craig noted that construction sites are dangerous. He wanted to know what steps the property owner is taking to secure the site to the public and workers.

Mr. Brouwer stated that when construction begins they will put a proper construction fence around the property. He stated that his company uses due diligence and safety precautions when building.

**MOVED by Councillor McCluskey, seconded by Councillor Adams to adjourn the case for three months and ensure the site remains secure.**

A discussion ensued.

**MOTION PUT AND PASSED.**

The Committee recessed at 10:38 a.m. and resumed at 10:43 a.m.

#### **6.1.5 Case # 196658 105 Clermont Cres., Cole Harbour**

A supplementary report dated November 8, 2012 was before the Committee.

Mr. Trevor Oliver, By-Law officer with Municipal Compliance presented the report including photographs of the property in question.

Mr. Oliver indicated he spoke with the husband of the property owner and was advised that work had taken place since his pictures were taken. During his presentation he showed a lot of garbage and debris on the property. He noted there was siding, tires and construction materials and garbage around the property. He stated that there was an Order to Remedy the siding on the home however, the homeowners were close to completing the project and staff decided not to pursue the Order.

Mr. Grant Gosbee spoke on behalf of the property owner. He stated that he is trying to work and upgrade the home. He indicated that he has done roof repair and the siding repair on the home. He stated that his medical condition does not allow him to get as much work done as he would like. Mr. Gosbee requested that the Committee grant him a two week extension to get the property cleaned up. He stated that he has obtained a storage unit to put a lot of the items in.

The Chair noted that the Committee could uphold the staff recommendation but could request that staff withhold implementation of clean up for a period of time.

**MOVED by Councillor Adams, seconded by Councillor McCluskey to refuse the appeal and uphold the Order to Remedy Dangerous or Unsightly Conditions**

**issued on October 16, 2012, but grant an extension of two weeks to comply with the Order.**

Councillor Craig asked Mr. Gosbee if two weeks was a sufficient amount of time to clean the property up or would he need an additional couple weeks due to do a proper job. Councillor Craig advised Mr. Gosbee that this would be a short extension to clean the property and wanted to ensure that he would have enough time to comply with the Order.

Mr. Gosbee advised that if he would appreciate more time if the Committee permitted.

**MOVED by Councillor Craig, seconded by Councillor Whitman to amend the motion to grant a four week extension to comply with the Order.**

The amended motion was now before the Committee.

**MOVED by Councillor Adams, seconded by Councillor McCluskey to refuse the appeal and uphold the Order to Remedy Dangerous or Unsightly Conditions issued on October 16, 2012, but grant an extension of four weeks to comply with the Order.**

**MOTION PUT AND PASSED.**

#### **6.1.8 Case # 185110 48 Antares Crt. Westphal**

A supplementary report dated November 8, 2012 was before the Committee.

Mr. Trevor Oliver, By-Law officer with Municipal Compliance presented the report including photographs of the property in question. Mr. Oliver noted the following vehicles on the property:

- SUV
- Mini – Van
- White van
- Black CRV
- Tarpred truck (under repair after motor vehicle accident)
- Pleasure Boat – on trailer
- Winnebago
- Trailer
- Burgundy Meridian Boat
- Blue Box Trailer

Mr. Oliver noted that there are a couple other trailers that have doors, canoe and boat engine on them. He stated that some of the property had been cleaned up and the



property owner had removed a number of vehicles off the property since some of his first visits. He advised that the property owner had been cooperative during his visits.

Mr. Edgard Hoyeck appellant gave a presentation to the Committee. He stated that he wanted to know what he is allowed to have and not have on his property. He advised that he has items on his property that other people are allowed to have on their property. He said he likes to do work and likes to have recreational vehicles as his toys. He noted that the pieces of steel located on the property were used to build trailers.

The Chair asked that a copy of Appendix C from the staff report: a letter from Ms. Tanya Phillips dated July 27, 2012 be given to Mr. Hoyeck so he could answer questions of the Committee.

Mr. Hoyeck requested that the Committee allow him to keep a number of vehicles and not stipulate that the makes and models not be specified as he liked to change his vehicles often. He would like the letter to also include him the ability to have an additional boat on the property.

Councillor Adams asked staff if there was an issue of removing specifics on vehicles on the property and allow an additional boat.

Ms. Tanya Phillips, Manager By-Law Standards, advised the Committee that they have attempted to work with the appellant. She noted that it is the sheer volume and the constant changing of vehicles on the property that makes it difficult to figure out when the property is in compliance.

Councillor Hendsbee advised Mr. Hoyeck that he should look into expanding his garage for his own personal protection.

**MOVED by Councillor Whitman, seconded by Councillor Craig that the Committee refuse the Appeal and uphold the Order to Remedy Dangerous or Unsightly Conditions issued on October 16, 2012.**

**MOTION DEFEATED.**

**MOVED by Councillor Adams, seconded by Councillor McCluskey to adjourn Case # 185110 for two months.**

**MOTION PUT AND PASSED.**

Councillor Johns left the Chair at 11:40 a.m. Councillor Whitman assumed the Chair. Councillor Whitman called for a two minute break.

Appeals committee reconvened at 11:43 a.m.

## **6.2. Demolitions**

**6.2.1 6.2.1 Case # 187279 443 Herring Cove Rd. Halifax**

This item was addressed earlier in the meeting. See page 4.

**6.2.2 Case# 194967 39 Grady Road East Chezzetcook, NS**

A supplementary report dated November 15, 2012 was before the Committee.

Mr. Trevor Oliver, By-law Officer Municipal Compliance presented the report including photographs of the property in question.

Mr. Oliver noted that the house is close to the road. He showed pictures depicting the deterioration of the roof, and the chimney had separated from the roof. He noted that during his first visit the property had open access and was not secure. He advised that the property was not built on a foundation which was making the house vulnerable to water and rot. He advised that the floor inside the house is completely gone.

Mr. Sherman Clarke, appellant addressed the Committee. Mr. Clarke stated that he had inherited the property after his Grandmother passed away. He noted that the house suffered extensive damage after Hurricane Juan and White Juan. He stated that he used the property as a hunting cabin. He stated that he had boarded up the windows. Mr. Clarke stated that Mr. Oliver requested that the shed that had collapsed and a old pickup truck removed. Mr. Clarke indicated that he had hired a local contractor to get rid of the mess. He stated that the next day he was served with an Order to Remedy notice regarding the house on the property. He explained that he had spent \$700 to clean up the old shed debris and have the truck removed. He stated that he did not know why Mr. Oliver did not address all the issues on the first Order. Mr. Clarke expressed concern about being given fifteen minutes to fix the problems on the property. He advised the Committee that he lived in Truro and it was not possible to leave work and address the concerns on the Order.

Councillor McCluskey questioned staff why they would not give the Orders on the shed and house at the same time. She inquired why Mr. Sherman was only given fifteen minutes to address the issues. She stated that it is difficult for someone to be available to respond to an issue in that short period of a time.

Mr. Oliver stated that he wanted to get a second opinion from a building inspector before issuing the second Order. He stated that he had advised through a phone message that the fifteen minutes were to call him back and give him a plan to address the matter.

Ms. Tanya Phillips, Manager of By-law Services, stated that it is the obligation of a By-law officer to stay at the property if it is a immediate safety issue. She stated that the owner would have to secure the site or that staff would have to find a solution to make the site secure.

Councillor Hendsbee advised that he had spoken to Mr. Sherman early in the summer regarding the property. He did not see it as an immediate danger and thinks that the property could have been taped off and the property owner address the issues. He suggested that staff could have proceeded differently on this building and allowed Mr. Sherman more time to address the concerns.

**MOVED by Councillor Craig, seconded by Councillor McCluskey that the Committee finds the Property to be dangerous or unsightly as per section 3(q) of the Charter and as per section 356 of the Charter, Orders demolition of the Building, including but not limited to, the removal of all demolition debris, backfilling of any foundation or crawl space, and disconnecting any and all utility connections to the standard set by each respective utility service provider, so as to leave the Property in a neat, tidy, environmentally compliant and safe condition within thirty (30) days after the Order is posted in a conspicuous place upon the property or personally served upon the owner. Otherwise, the Municipality will exercise its right as set forth under Part XV of the Charter.**

A brief discussion ensued.

**MOTION PUT AND PASSED.**

### **6.2.3 Case# 188130 7220 Highway 207, West Chezzetcook**

A supplementary report dated November 9, 2012 was before the Committee.

Mr. Steve Berkman, By-law Officer Municipal Compliance presented the report including photographs of the property in question. He noted the first complaint on the property was received in February 2012. Mr. Berkman showed pictures illustrating advanced state of decay in the inside of the building. He stated that the roof and walls are completely rotted and is exposed to the weather and falling away from the building. He noted that the ceiling is collapsed inside and there is a lot of metal and piping that has been removed from the building.

Mr. James Noel, appellant addressed the Committee. He advised that he was the executor of the estate and it had no money in it to do any work. He stated the the property was willed to a minor and another lady. He noted there is an argument between the two parties of who owns it, and it is to be settled in Probate Court in February 28. He stated that the property would be more valuable once the building was torn down but would have to wait until the court case was heard. Mr.Noel thanked Mr. Berkman for working with him and keeping him well informed where the case stood.

**MOVED by Councillor McCluskey, seconded by Councillor Craig that the Committee adjourn Case #188130 until February 28, 2013.**

**MOTION PUT AND PASSED.**

**6.2.4 Case # 179901, 163 Nauglers Settlement Road, Moser River**

A supplementary report dated November 9, 2012 was before the Committee.

Mr. Trevor Oliver, By-law Officer Municipal Compliance presented the report including photographs of the property in question. Mr. Oliver noted that the building has not been maintained and in a state of disrepair. He noted that the roof is falling in and the walls are falling outward. He noted the building is a safety concern and unable to enter the building. Mr. Oliver stated that he spoke with the property owner and was not given a plan of action to remedy the property.

The property owner was not present at the meeting.

**MOVED by Councillor McCluskey seconded by Councillor Craig that the Committee finds the Property to be dangerous or unsightly as per section 3(q) of the Charter and as per section 356 of the Charter, Orders demolition of the Building, including but not limited to, the removal of all demolition debris, backfilling of any foundation or crawl space, and disconnecting any and all utility connections to the standard set by each respective utility service provider, so as to leave the Property in a neat, tidy, environmentally compliant and safe condition within thirty (30) days after the Order is posted in a conspicuous place upon the property or personally served upon the owner. Otherwise, the Municipality will exercise its right as set forth under Part XV of the Charter**

**8. ADDED ITEMS**

**9. NEXT MEETING DATE – December 13, 2012**

**10. ADJOURNMENT**

The meeting was adjourned at 12:32 p.m.

Quentin Hill  
Legislative Assistant