

HALIFAX REGIONAL MUNICIPALITY

PENINSULA COMMUNITY COUNCIL MINUTES JUNE 13, 2005

PRESENT:

Councillor Sheila Fougere, Chair
Councillor Patrick Murphy
Councillor Dawn Sloane
Councillor Sue Uteck

STAFF:

Mr. Josh Judah, Municipal Solicitor
Ms. Sherryl Murphy, Legislative Assistant

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1. CALL TO ORDER

The meeting was called to order at 7:05 p.m.

2. APPROVAL OF MINUTES

MOVED by Councillor Uteck, seconded by Councillor Murphy that the minutes of the May 9, 2005 meeting of Peninsula Community Council, as distributed, be approved. MOTION PUT AND PASSED UNANIMOUSLY.

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

Additions:

12.1 Appointment - District 12 PAC

12.2 July Meeting

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

4. BUSINESS ARISING OUT OF THE MINUTES

4.1 Status Sheet

4.1.1 CN Property Maintenance

No information has been received. This matter will remain on the status sheet.

4.1.2 Case 00544- Zoning Review - R-2A and R-2AV Zoned Properties

No information has been received. This matter will remain on the status sheet.

4.1.3 Naming of Park in Honour of Nick Meagher

No information has been received. This matter will remain on the status sheet.

4.1.4 Student Housing/Rooming Houses in Peninsula

- An Information Report dated June 10, 2005 from Paul Dunphy, Director, Planning and Development, was before Community Council. Councillor Uteck noted that a further staff report relative to this matter is expected to be before Community Council at its July meeting.

4.1.5 Household Pests

- An information report dated May 10, 2005 from M.E. Donovan, Manager, Legal Services was before Community Council.

Councillor Fougere indicated that this matter is to be removed from the status sheet.

4.1.6 Location of Reception Following Future Halifax Explosion Memorial Event

No information has been received. This matter will remain on the status sheet.

5. MOTIONS OF RECONSIDERATION - None

6. MOTIONS OF RESCISSION - None

7. CONSIDERATION OF DEFERRED BUSINESS - None

8. HEARINGS

8.1 Public Hearing - None

8.2 Variance Hearing

8.2.1 Appeal of Development Officers Decision to Refuse an Application for a Variance - 1139/43 South Park Street, Halifax

- A staff report dated April 28, 2005 from Steven Higgins, Development Officer, was before Community Council. A revised first page was distributed to members of Community Council at this meeting.

Mr. Higgins reviewed the appeal of the Development Officer's decision to refuse an application for a variance, 1139/43 South Park Street, Halifax, as contained in the April 28, 2005 staff report. He indicated that staff is recommending that Community Council uphold the decision of the Development Officer.

The Chair briefly outlined the variance hearing process noting that persons living within 30 metres of the subject property, the appellant, and anyone who can demonstrate they are especially affected by the decision in a manner different than the general public, are permitted to speak.

Mr. Cesar Selah, on behalf of the appellant, addressed Community Council noting that: his client had circulated information relating to the proposal to properties within 100 feet and had received favourable response. Mr. Selah went on to:

- describe the addition
- note that the property was the existing neighbourhood store and contained two flats
- indicate that one of the flats is owner operated and the other is rented to mature students/young professionals
- describe the improvements to the property as part of renovation including new siding, new trim, and a new sign and awning for the commercial space
- note that the variance process was a privilege process and indicate that his client has earned the privilege

Rebecca Jamieson, Halifax, addressed Community Council indicating that she had received the information from the applicant, but had not responded as she believe further information would be forthcoming. Ms. Jamieson indicated that she was not in favour of the proposal. She went on to note that the proposed lot coverage is too great. The existing structure does not conform in terms of lot coverage and this proposal would only increase that situation. Ms. Jamieson went on to note that the proposed extension will be set back from the sidewalk by only two feet which will create a 3.5 foot wall for 70 feet along Fenwick Street. She went on to indicate that the proximity to the sidewalk will increase problems with pigeon droppings and ice candles.

Ms. Jamieson suggested that the four parking spots proposed will require the entire area underneath the addition and result in a loss of green area. The paving of this area also increases the potential for run off problems for neighbouring properties. Ms. Jamieson expressed concern that storm sewer problems experienced in the past will re-occur. In conclusion, Ms. Jamieson reiterated that she did not support the proposal.

Chris Beaumont, Halifax, addressed Community Council noting that he was in favour of upholding the decision of the Development Officer. He went on to note that he did not believe the proposal met the requirements of Section 16 F(3) of the general provisions of the Land Use By-Law relative to non conforming use. He went on to note that his next issue was one of consistency. Referring to a variance requested for 1127 South Park Street some time ago, Mr. Beaumont indicated that this much smaller variance was not permitted.

In response to Mr. Beaumont reference to non conforming use, Mr. Higgins advised that HRM is consistent with regard to the definition of non-conforming uses. It is a use not permitted in the zone. If the use is permitted within the Zone, the use is not non-conforming.

Jamie McDougall, Halifax, advised that he lived in the neighbourhood and confirmed that the store and family living there are an asset to the community. Mr. McDougall noted however, that he did not see that the granting of this variance would be an asset to the Community. Mr. McDougall indicated that development of the site should meet the regulations and that he did not believe the proposal was appropriate for the community.

Ms. Paula Dukadar, the appellant, addressed Community Council noting that she and her family had lived at the address for 11 years. She noted that her business and family enjoyed a good relationship with the neighbours and that there had never been any noise or garbage complaints made regarding the store.

Ms. Dukadar noted that she and her husband had been planning major renovations for some time. She noted that without the requested addition, the renovations proposed will not be financially viable. In conclusion, Ms. Dukadar commented that she was optimistic that the renovation proposed will be beautiful and increase the property values in the neighbourhood.

The Chair called three time for speakers. Hearing none it was **MOVED by Councillor Sloane, seconded by Councillor Uteck that the appeal hearing close. MOTION PUT AND PASSED UNANIMOUSLY.**

MOVED by Councillor Uteck, seconded by Councillor Murphy that Peninsula Community Council overturn the decision of the Development Officer and allow the appeal.

Councillor Uteck addressed the matter noting that:

- the green space referred to by one speaker is one tree
- since Sobeys has been permitted to operate 24 hours, the store has experienced a loss of business
- the owner property is owner occupied
- this proposal will retain a neighbourhood commercial activity with good neighbours
- the project is good even though it does not meet all the requirements

Councillor Uteck utilized photos of the present building and a sketch of the proposal to illustrate the improvements to the building.

Councillor Sloane indicated that there are rules in place and they must be followed. She noted that the proposed addition represented 25% more lot coverage. The Councillor indicated that the development is contrary to the intent of the By-Law and for that reason she could not support the appeal.

Councillor Murphy indicated that he was compelled to support the decision of Mr. Higgins even though he liked the aesthetics of new building.

In response to a question from Councillor Uteck, Mr. Higgins advised that the zoning on the property would be R-1 and R-2 which would limit the permitted units to two.

MOTION DEFEATED.

MOVED by Councillor Sloane, seconded by Councillor Murphy that Peninsula Community Council uphold the decision of the Development Officer and deny the appeal. MOTION PUT AND PASSED.

9. CORRESPONDENCE, PETITIONS AND DELEGATIONS

9.1 Correspondence - None

9.2 Petitions - None

9.3 Presentations - None

10. REPORTS

11. MOTIONS - None

12. ADDED ITEMS

12.1 Appointment to District 12 PAC

- A staff report dated June 8, 2005 from Jan Gibson, Municipal Clerk, was before Community Council for consideration.

MOVED by Councillor Sloane, seconded by Councillor Murphy that Peninsula Community Council approve the appointment of Mr. Graeme Gunn to the District 12 Planning Advisory Committee. MOTION PUT AND PASSED UNANIMOUSLY.

12.2 July Meeting

- This matter was added during the setting of the agenda.

Councillor Sloane confirmed that the intent was that Peninsula Community Council would meet in July.

13. NOTICES OF MOTION - None

14. PUBLIC PARTICIPATION

Hugh Pullen, Halifax

Mr. Pullen asked if a commercial portion of an RC-1 zone which is located in an R-2 zone ceases operation, would the building revert to R-2. In response, Mr. Judah advised that the zone is independent of the use. He noted that Community Council could rezone the property.

In response to a question from Mr. Pullen, Mr. Judah indicated that he was not sure whether a variance could be appealed to the UARB. He indicated that he would contact Mr. Pullen directly with this information.

Mr. Pullen noted that refuse collection day for the south end is Monday. He expressed concern that many households place their garbage for pick up on Friday before going away for the weekend. Mr. Pullen asked if it would be possible to annually change the day of collection for each collection area.

Councillor Fougere indicated that due to long term contracts, this is not possible. However, HRM has By-Law enforcement officers on duty on the weekend.

15. NEXT MEETING - July 11, 2005

16. ADJOURNMENT

There being no further business, the meeting adjourned at 7:50 p.m.

Sherryll Murphy
Legislative Assistant