

PENINSULA COMMUNITY COUNCIL
MINUTES

October 20, 2008

PRESENT: Councillor Patrick Murphy, Chair
Councillor Sue Uteck, Vice Chair
Councillor Dawn Sloane
Councillor Sheila Fougere

STAFF: Ms. Karen Brown, Senior Solicitor
Ms. Sheilagh Edmonds, Legislative Assistant
Ms. Julia Horncastle, Municipal Clerk

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1. CALL TO ORDER

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

In reference to his loss in the recent municipal election, Councillor Murphy expressed his appreciation to his colleagues on Peninsula Community Council advising that it has been a pleasure to work with them, and that he was pleased with the important work the Community Council has carried out. Councillor Murphy added that he was very proud to represent District 11 over the past four years.

2. APPROVAL OF MINUTES

Councillor Fougere referred to item '12. 1 Tar Spot' in the September 8, 2008 minutes and advised that she wanted to clarify a point that was made. She explained that her concern about ensuring HRM cleaned up leaves on municipally-owned property was not simply for the fact that they would blow around, but rather, if HRM did not clean up its share of infected leaves, they would gravitate onto private property and the problem will continue to persist.

MOVED by Councillor Sloane, seconded by Councillor Fougere that the minutes of September 8, 2008 (with the clarification as noted by Councillor Fougere) be approved. MOTION PUT AND PASSED.

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

Councillor Uteck advised that early last week she was notified that, due to unforeseen circumstances, the variance appeal for 6340 Cornwall Street will be deferred to November and that the applicant for the variance appeal for 1598 Larch Street has withdrawn the appeal.

Deferral: 8.2.2 Variance Appeal - #14823 - 6340 Cornwall Street - Deferred to November 10, 2008

Deleted: 8.2.3 Variance Appeal - #14922 - 1598 Larch Street (Applicant withdrew appeal)

The agenda was accepted as amended.

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

4.1 Status Sheet

4.1.1 Neighbourhood Downzoning

No update was provided. This item is to remain on the Status Sheet.

4.1.2 Presentation - Halifax Peninsula Community Health Board

No update was provided. This item is to remain on the Status Sheet.

4.1.3 Mitchell's Enviro Depot Update

E-mail correspondence from Mr. Martin Ward, Senior Solicitor, dated September 29, 2008 was submitted.

Councillor Sloane advised that she was aware of an individual who is interested in the property. She added that she would like to know the process for this matter, so that she could pass it along to this person.

The Solicitor noted an update from Martin Ward, Senior Solicitor on this matter was included in the Councillors agenda packages.

Councillor Sloane indicated that she did not see this e-mail and suggested that it be redistributed.

4.1.4 CN Property Maintenance

Councillor Uteck advised that HRM and CN have come to an agreement on the bridge structures but, due to the fact that there are a number of other outstanding issues, she wanted to keep this on the Status Sheet.

4.1.5 Peninsula Place Flooding

Councillor Sloane advised that she was going to keep this item on the Status Sheet until all the issues are resolved.

4.1.6 By-law Regulations respecting the Keeping of Fowl

No update was provided. Councillor Fougere advised that she wanted to keep this item on the Status Sheet.

4.1.7 Litter Receptacles in the area of Robie/North/Agricola/Almon

No update was provided. This item is to 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 Hearings:

8.1.1 Case 01132: Development Agreement, 2889/2891 Oxford Street, Halifax

Notice of Motion of this matter was given at a meeting of Peninsula Community Council on September 8, 2008.

A staff report dated August 14, 2008 was submitted.

Correspondence dated October 16, 2008 was submitted by e-mail from Mr. Stillman

Barnard.

Mr. Richard Harvey, Senior Planner, addressed Community Council and outlined the application by Natalie Corbett Sampson for a development agreement to permit a change to a non-confirming use at 2889/2891 Oxford Street, Halifax.

In his remarks, Mr. Harvey advised that the property is in a R-2 zone and the retail business is a nonconforming use. The proposal is to change it from a retail to an office use, so it could become a speech pathology clinic. Mr. Harvey added that the Development Agreement would allow for the change and, in future, it would allow other office uses. He noted that in reviewing the proposal against the Municipal Planning Strategy, staff found that it fits well with the Municipal Planning Strategy and that retail office use is more compatible.

There were no questions from Community Council

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

MOVED by Councillor Fougere, seconded by Councillor Sloane that Peninsula Community Council:

4. **Approve the proposed development agreement as described in Attachment "B", of the August 14, 2008 staff report, to permit a change to a non-conforming use at 2889/2891 Oxford Street, Halifax.**
5. **Require that the proposed development agreement be signed and delivered within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval by Council and any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at and end.**

MOTION PUT AND PASSED.

8.2 Variance Hearings:

8.2.1 Variance Appeal - #14816 - 6366 London Street

A staff report dated October 8, 2008 was submitted.

Ms. Brenda Seymore, Development Technician, outlined the reasons why the Development Officer refused the request for variance of the lot area and lot frontage requirements of the Halifax Peninsula Land Use Bylaw to convert 6366 London Street from a single unit dwelling to a two unit dwelling.

Ms. Andrea Doukas, the appellant, addressed Community Council and pointed out that she was not actually asking to create a new unit because the apartment was in existence when

she purchased the building three years ago. She noted that the unit has been existing for at least 16 years. Ms. Doukas advised that there were quite a few duplexes in her neighbourhood that have the same lot frontage as hers and, therefore, with the neighbourhood being R-2 it would seem that there is a discrepancy and that the whole neighbourhood has a problem as it goes against the zoning. She added that she was not trying to increase the density and since the apartment has been in existence for 16 years, she does not feel that it is a problem shared by the entire neighbourhood.

The Chair called for further speakers; there being none, it was **MOVED by Councillor Fougere, seconded by Councillor Sloane that the appeal hearing close. MOTION PUT AND PASSED.**

MOVED by Councillor Fougere, seconded by Councillor Uteck that Peninsula Community Council overturn the Development Officer's decision and grant the Variance for the lot area and lot frontage requirements of the Halifax Peninsula Land Use Bylaw to convert 6366 London Street from a single-unit dwelling to a two-unit dwelling.

Councillor Fougere noted that the letter submitted by the appellant states not only that the unit has been in existence for 16 years but that her property tax statement indicates two units. Councillor Fougere added therefore, this was not a situation that was kept hidden from HRM.

Councillor Fougere further noted that the zoning pre-dates the existence of most of the places in the older parts of the Peninsula, and it has not been well enforced. She suggested that it was time to look at the zoning on the Peninsula and have it reflect what is actually exists. She explained that almost all properties in this area are zoned R-2 which allows up to four units, but virtually none of them would be allowed under the current property conditions because the lots are too small.

Councillor Sloane concurred with Councillor Fougere, adding that it is an issue throughout the Peninsula. She suggested that staff should provide information in either a report or e-mail advising of the timetable as to when they will be looking at either the downzoning or upgrading of the Peninsula's Municipal Planning Strategies. Councillor Sloane added that she was aware that the HRMbyDesign is looking at the matter, but that there were areas that have been waiting for years for something to be done.

MOTION PUT AND PASSED.

8.2.2 Variance Appeal - #14823 - 6340 Cornwall Street

During the approval of the Order of Business, this item was deferred to the November 10, 2008 meeting.

8.2.3 Variance Appeal - #14922 - 1598 Larch Street

During the approval of the Order of Business, Community Council was advised that the applicant had withdrawn their appeal.

At 7:30 p.m. Community Council recessed.

At 7:32 p.m. Community Council reconvened.

8.2.4 Variance Appeal - #14799 - 1670 Robie Street

A staff report dated October 9, 2008 was submitted.

Mr. Andrew Faulkner, Development Officer outlined the reasons for his refusal to grant a variance of the gross floor area requirement of the Halifax Peninsula Land Use in regard to an addition to a single unit dwelling at 1670 Robie Street. Mr. Faulkner submitted e-mail correspondence from the following individuals who expressed concern with the proposal:

- Colin and Susan Stuttard
- Pauline Barber
- James Allard

The Chair then opened the hearing.

Mr. Aubrey Fricker, 1678 Robie Street, addressed Community Council and using photographs, outlined his concerns with this matter. Mr. Fricker noted that approximately half a dozen houses in his neighbourhood have been converted and have students living in them. He added that his block is under significant pressure from speculators and that breaking the rules will set a precedent that will be followed by other speculators. Mr. Fricker also expressed concern that the property owner seemed so casual about breaking the rules.

Mr. Fricker provided background history of the property explaining that, at one time, the current property owner's mother owned the home but she did little maintenance to it and had put a number of students in it. He added that she also gravelled the backyards of three houses and began renting to eight or ten vehicles and when the Municipality put a stop to this, it was at this time her son took over the property. Mr. Fricker suggested that the proposal should be viewed as a commercial undertaking, as it is such a large house with excessive floor area. He added that it appears it is calculated to optimize the financial return on an investment.

Mr. Carl Holm, 1686 Robie Street addressed Community Council and advised that he was apprehensive about the use of the property. Mr. Holm pointed out that the neighbourhood is under significant pressure, and he noted various properties that have been converted and house students which have caused problems resulting in the police being called. Mr. Holm indicated that his main concern is that the additional space will provide the potential for creating more rooms. He concluded his remarks by asking Community Council to uphold the decision of the development officer as he and the neighbours do not want to see the variance granted.

Mr. James Allard, 6025 Binny Street, advised that he objected to allowing the basement and attic of the property in question to be converted to habitable space, and it was due to the history of the property. Mr. Allard pointed out that the neighbourhood has been

plagued by rowdy behaviour of students, which has in various instances resulted in the police issuing tickets relating to the noise bylaw and public drunkenness. He noted that the backyard of 1670 Robie has also been the scene of a bonfire that the Fire Department had to put out, and pointed out that it is an area where there are older homes that are built close together and are constructed mostly of wood.

Mr. Allard advised that a few years ago the backyards of 1670 Robie Street and 1681 Edward Street contained an illegal parking lot, with an entrance from Edward Street. For two years the owner denied the existence of this, but when a court date was set, the accused changed the plea from not guilty to guilty just a couple of days prior to the court date. Mr. Allard also pointed out that the original request for converting the basement and attic to habitable space was denied by staff, but despite this denial the owner proceeded to dig the basement and build the attic that he wanted. He added that the owner is now asking for a variance to allow what, in fact, he has already built. Mr. Allard indicated that his opposition to the proposal was based on the past history of the property, the property owner's demonstrated disregard for bylaws, and that further development of this property could lead to unruly tenants, further affecting adjacent properties and their quality of their life. Mr. Allard stressed that this opposition to the variance was not personal but it was a result of the history of property.

Mr. Bill Mason, advised that he lived next to the property in question and he concurred with the points raised by the previous speakers, and added that the quality of life has been challenging due to the behaviour of the students living in the area. He noted that he has called police at least three times due to very disruptive situations. Mr. Mason advised that he has nothing against the property owner, but that his fear is that the intention of the property owner is not to move into the home.

Mr. Alex Left, addressed Community Council and advised that he was a friend of the applicant and was here in support of him. In his remarks, he made reference to the concerns raised about students in the neighbourhood and noted that, regardless, if he gets the variance, the applicant can rent the house to students in the future, and it could still become a party house. Mr. Left explained that the variance does not have anything to do with whether this house gets rented to students in the future and the disturbances that have happened in the past. He advised that the focus should be on what the applicant intends to do with the space at this time.

Ms. Karen Abi Daoud, addressed Community Council and advised that she was the wife of Mr. Fred Abi Daoud, the appellant. Ms. Daoud spoke in support of her husband's application indicating that she found the process frustrating as she just wanted to get on with the process of completing their home.

Mr. Fred Abi Daoud, the appellant, addressed Community Council and spoke in support of his application. He advised that, with regard to his renovation of the house, he has been very open of his intentions with the property with the Councillor, staff, and neighbours. Mr. Abi Daoud added that he believed he was following the rules, and did not mean to circumvent and apologized if he has done so. Mr. Abi Daoud noted that he grew up in this neighbourhood and he has no intention for his house to become student housing. He explained that the intent to make the basement and attic liveable space is to accommodate his growing family, and that he hopes to live in the neighbourhood for a very long time. Mr.

Abi Daoud added that he felt he was being unfairly tainted by past issues which did not have a direct bearing on him. He requested Community Council's support of his request.

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

MOVED by Councillor Uteck, seconded by Councillor Fougere that Peninsula Community Council uphold the decision of the Development Officer to refuse the request for variance.

In moving the motion Councillor Uteck advised that her reason for upholding the Development Officer's decision is that the applicant received a permit based on an amended plan, but then went back and began construction based on his original plan. The Councillor advised that she met with the applicant, and viewed the home and has no doubt that he wants to have it only for his family, however, there was intentional disregard for the bylaw shown.

Councillor Sloane questioned what the next steps would for the appellant if the motion were to pass.

In response, Mr. Faulkner advised that the original building permit would stand, and the owner would have to correct any work that was done outside of the original approved permit, or make other changes to comply with the Bylaw.

MOTION PUT AND PASSED.

8.2.5 Variance Appeal - #14954 - 1405 Edward Street

A staff report dated October 8, 2008 was submitted.

Ms. Liz Scott, Development Technician, reviewed the report outlining the reason the Development Officer refused to grant a variance for the property at 1405 Edward Street. In her presentation Ms. Scott advised that HRM currently has an enforcement case open on this property as the property is not in compliance with the use permitted in the R-2 zone. She noted that this is the third time the applicant has applied for and appealed a variance request. Ms. Scott submitted a letter from Mr. Tom Dutton, an abutter, who was unable to attend this meeting. She advised that the letter was faxed to her this afternoon, and he was supporting the refusal by the Development Officer.

Councillor Uteck questioned if there is a precedent set on how many times someone can appeal a variance.

In response, Ms. Karen Brown, Senior Solicitor, advised that she was not aware of any precedent on how many times someone can appeal, and she added that Administrative Order 1 does not deal with this situation. She suggested that Community Council may want to formally bring this concern to the attention of Legal Services and to see if it can be addressed.

Councillor Uteck indicated that she would like legal services to review the variance process as to how many time a variance can be appealed and provide a report back to Community Council.

Councillor Fougere questioned if there was anything different with this application from the previous two applications.

Ms. Scott advised that there was nothing new with this application.

The Chair then opened the appeal hearing.

Mr. Tim Moore, the appellant, addressed Community Council, and noted that he has been a resident of the community for 20 years. He advised that he and his son own the property in question and that he did not receive any notification of tonight's meeting. Mr. Moore explained that his son was studying outside the country and was not able to attend the meeting. Mr. Moore advised that they purchased the property five years ago, and that his son had been living there since and has spent a significant amount of money in upgrades to the house. He added that although his son is away for eight months, he has his own private dwelling in the back, and he intends to live there when he returns. Mr. Moore pointed out that there have been no issues with the students that live in the building within the last five years. He went on to note that he spent time talking with the neighbours and everyone was in favour of their idea to transition the home from a one unit to a two unit dwelling. Mr. Moore submitted eight letters from abutting neighbours who expressed their support. He added that one gentleman he spoke with would not sign the letter because he felt there were too many students living on the street. In concluding his comments, Mr. Moore advised that when they purchased the property five years ago, it was a rooming house at the time, and he added that he has a letter from the previous owner indicating that it has been operating as a rooming house since 1958.

Mr. Bill Campbell, Halifax, addressed Community Council and advised that he reviewed the proposal in terms of the Municipal Planning Strategy and the Regional Plan and found both to be consistent with the medium density designation of this area, in that it permits single-family dwellings, semi-detached dwellings, duplexes and others through conversion. With regard to the differences in the variance applications, he pointed out that one variance application dealt with the issue of lot area, but it is not the case with this variance. Mr. Campbell advised that the proposal was a reasonable development, and it would legalize an existing use and provide for fewer units within the two units; and it would not be incompatible with the uses on the street.

Councillor Sloane noted that a few years ago, staff started registering rooming houses and she questioned if this was one had been registered.

In response, Mr. Faulkner advised that this was not registered, as it is not a legal rooming house. He also noted that the Municipality is in the middle of an enforcement action with this property.

In response to a further question by Councillor Uteck, Mr. Faulkner advised that the legal action is against the current owner, and the litigation is in regard to an illegal rooming house.

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

MOVED by Councillor Uteck, seconded by Councillor Fougere that Peninsula Community Council overturn the Development Officer's decision to refuse the variance.

Councillor Uteck explained that her reason for supporting the variance request was that by converting this to a two unit dwelling, the number of habitable of rooms will have to drop and that this would make some of the neighbours feel more comfortable with the property. She also noted that there has not been any police complaints with this property in five years.

Councillor Sloane suggested that Community Council should defer this matter until the court case is dealt with.

In response, Mr. Faulkner advised that, regardless of the decision on the variance, a rooming house is not permitted on the property. He added that this decision on the variance is regarding the two units, and it is not an approval of a rooming house.

In response to a question by Councillor Uteck, Mr. Faulkner explained that with a change in use, the number of habitable bedrooms would have to decrease to six in total for a two-unit dwelling.

THE MOTION WAS PUT AND DEFEATED.

MOVED by Councillor Sloane, seconded by Councillor Fougere that Peninsula Community Council uphold the decision of the Development Officer to refuse the variance. MOTION PUT AND PASSED.

9. CORRESPONDENCE, PETITIONS AND DELEGATIONS:

9.1 Correspondence: None

9.2 Petitions: None

9.3 Presentations: None

10. REPORTS:

10.1 Staff Reports: None

10.2 Committee Reports:

10.2.1 Case 01183: Development Agreement - 5687 Charles Street, Halifax

A report dated September 23, 2008 was submitted by Ms. Heather Ternoway, Chair of the District 12 Planning Advisory Committee, with an attached staff report dated August 29, 2008.

MOVED by Councillor Sloane, seconded by Councillor Fougere that Peninsula Community Council Give Notice of Motion to consider an application by Rod Malay

on behalf of the owner, Samira Meshal, to permit certain commercial uses on the ground floor of an existing mixed use building at 5687 Charles Street, Halifax and schedule a public hearing. **MOTION PUT AND PASSED.**

10.3 Members of Peninsula Community Council:
10.3.1 Office of a Professional Person (Councillor Uteck)

E-mail correspondence from Mr. Luc Ouellet, Planner, dated September 10, 2008 was submitted.

MOVED by Councillor Uteck, seconded by Councillor Sloane that Peninsula Community Council recommend that the concept of “Professional Persons” be removed from the Halifax Peninsula Land Use Bylaw and everyone be required to abide to the current home occupation provisions.

In moving the motion Councillor Uteck indicated that staff was to come back to Community Council in regard to the implementation.

MOTION PUT AND PASSED.

11. MOTIONS: None

12. ADDED ITEMS: None

13. NOTICES OF MOTION: None

14. PUBLIC PARTICIPATION

Mr. Pete Lavell advised that this was a night of changeover for Community Council and that he wanted offer his congratulations to those who won in the recent election and expressed his condolences to those who did not win re-election. Mr. Lavell added that, in particular he wanted to thank Councillor Murphy for the way he has conducted himself in District 11 over the past four years. He added that during his tenure, Councillor Murphy has always listened to people, kept an open mind, and was kind hearted.

Councillor Murphy expressed his appreciation to Mr. Lavell for his kind words and advised that it has been a pleasure to be the Councillor District 11. Councillor Murphy thanked his colleagues on Community Council and the Clerk and Legislative Assistant.

15. NEXT MEETING: November 10, 2008

Prior to adjourning, Councillor Fougere also thanked the members of Community Council for the many years they have worked together. She also expressed appreciation to the staff of the Clerk’s office that have supported Community Council over the years.

Councillor Fougere paid particular note to Mr. Graham Hicks for his dedicated interest in Community Council. She advised that she believed that he has attended every Community Council and Council meeting over the past ten years.

16. ADJOURNMENT

The meeting adjourned at 8:35 p.m.

Sheilagh Edmonds
Legislative Assistant