

WESTERN REGION COMMUNITY COUNCIL

APRIL 28, 2003

THOSE PRESENT: Councillor Reg Rankin, Chair
Councillor Gary Meade
Councillor Stephen D. Adams

ALSO PRESENT: Barry Allen, Municipal Solicitor
Paul Sampson, Planner
Sean Audas, Development Officer
Kevin Warner, Development Officer
Liz Scott, Development Technician
Sandra Shute, Legislative Assistant

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1. **CALL TO ORDER**

The meeting was called to order at 7:00 p.m. in the Keshen Goodman Library, 330 Lacewood Drive, Halifax. At a later point in the meeting, the Chair recognized MLA Bill Estabrooks, Timberlea/Prospect.

2. **APPROVAL OF MINUTES - JANUARY 27, 2003**

MOVED by Councillor Meade, seconded by Councillor Adams to approve the Minutes of meeting held on January 27, 2003 as circulated. MOTION PUT AND PASSED.

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

Added Items: Building/Restaurant at Crystal Crescent Beach - Councillor Adams
Disposition of Capital Assistance for Waterstone Parkland Fencing -
 Councillor Rankin
Nine Mile River Bridge - Reconstruction - Councillor Rankin

MOVED by Councillor Meade, seconded by Councillor Adams to approve the Order of Business as amended. MOTION PUT AND PASSED.

4. **BUSINESS ARISING OUT OF THE MINUTES**

4.1 **Status Sheet Items**

4.1.1 **Proposed Amendments re Maximum Square Footage of Accessory Buildings, Beaver Bank, Hammonds Plains and Upper Sackville**

No report.

4.1.2 **Exit Brentwood and Greenwood Heights**

An Information Report dated March 11, 2003 was before Community Council. Traffic flow has been investigated and in order to indicate to unsuspecting motorists that both sides of the island permit two-way traffic, a Double Arrow Sign will be installed as well as painted centre lines. The painted centre lines cannot be painted until the annual pavement marking program commences in the spring. To come off Status Sheet.

4.1.3 Four-Way Stop - Intersection of Charles/James Street

The Manager of Traffic and Transportation Services indicated that he met with the Residents Association and they were satisfied with the reasons that a four-way stop was not warranted. To come off Status Sheet.

4.1.4 Paving of Subdivision Roads

No information.

4.1.5 Access to Nine Mile River

No information.

4.1.6 70 Fraser Road, Glengarry Estates

No information.

5. **MOTIONS OF RECONSIDERATION** - None

6. **MOTIONS OF RESCISSION** - None

7. **CONSIDERATION OF DEFERRED BUSINESS** - None

8. **PUBLIC HEARINGS**

8.1 **Variance Hearings**

8.1.1 Appeal of the Refusal of a Variance - 38 Belle Street, Hammonds Plains

A Staff Report dated April 22, 2003 was before Community Council. Kevin Warner, Development Officer provided an overview of the report with the aid of overheads and photos. He further advised that all property owners within 100' of the property were notified.

The Chair then called for speakers for and against the refusal of the variance.

Dr. Lea McQuaig, 10 Colin's Road, Hammonds Plains raised the following points:

- She owns the property that the boat house encroaches upon.
- She did not understand why, when you have two acres of property, they have to encroach on someone else's property.

- When she stands in her living room, because of the layout of the lot, the boat house is in her viewplane.
- The boat house was built in 2000. In the summer of 2001, she attempted to sell her property. The listing agent indicated that the presence of the boat house was taking at least \$25,000 off the value of her property. People who came to see the property were unhappy with the location of the boat house.
- The Kanes should have made more of an effort to abide by the laws.

Councillor Rankin asked for clarification of the distance between the boat house and Dr. McQuaig's house. In response, Mr. Warner advised that the corner of Civic No. 10 to the property line would be about 45' to Set 1B on the copy of survey plan.

Councillor Adams asked if the boat house was put where it was supposed to be, what significant difference would there be in terms of the number of feet.

In response to Councillor Adams, Dr. McQuaig advised that it would still be quite noticeable; however, if and when she decided to sell the property, she could at least say she made an attempt to have the boat house positioned legally and that nothing else could have been done. Right now it is not in a legal position.

Mr. Paul Kane, 38 Belle Street, Hammonds Plains, the owner of the property in question raised the following points:

- If he had to move the boat house, it would be 4.5', not 5.5' as mentioned earlier.
- Pictures indicate that the boat house does not take away from the property value whatsoever. There were no motorized vehicles in the boat house; it was used for floatation devices.
- He referred to the fence erected by Dr. McQuaig. He acknowledged it was an error on his behalf but when you look from the water, the property line looks like it is going the other way. He did not realize the angle of the property line.
- All of the boat house is not 3.5' from the property line. It is the back corner which is over which is in error.
- He did not want to move the boat house. There was a large rock area which would have to be blasted or excavated and it was very close to the water, environmentally. There was a large stump in the way as well. He acknowledged the lot was large and the house was built higher up on the lot but the water frontage was 125' with a drainage corridor that overflows in the spring. There is also underground water he had to divert from his septic field.
- The boat house was in a corner and really there was no place to move it. He may end up having to cut the back corner off the boat house to satisfy where it is.
- Moving the boat house would incur a lot of expense.

Councillor Rankin then called three times for further speakers. Hearing none, at the request of Councillor Rankin, Councillor Adams took the chair at this time.

MOVED by Councillor Rankin, seconded by Councillor Meade to uphold the decision of the Development Officer to refuse the variance.

Councillor Rankin then outlined his rationale for his motion to refuse the variance:

- The proposal conflicted with two of the three stipulations under Section 235(3) of the Municipal Government Act.
- Having been contacted several times by the abutter, Councillor Rankin pressed staff to pursue the matter.
- There would appear to be intentional disregard. The permit was issued in 2000 where it was clear the distance was 8' to the line. The property owners are professionals and would know where to get answers if uncertain. Staff pursued the subject property owner to no avail. No statement was made as to how hard put the property owner would be if the boat house had to be moved. Ultimately, the property owner appealed the decision of the Development Officer.
- There is indication that the boat house impacts on the abutting property.
- There is no general characteristic of the lands. The boat house could have been built in a proper way.

MOTION PUT AND PASSED UNANIMOUSLY.

Councillor Rankin then resumed the Chair.

8.1.2 Appeal of the Refusal of a Variance - Lower Prospect Road, Terence Bay

A Staff Report dated April 22, 2003 was before Community Council. Sean Audas, Development Officer provided an overview of the application with the aid of overheads. As part of his presentation, Mr. Audas provided the following information:

- The existing use of the property has been a fish house/shed for a number of years.
- Based on a complaint received, the building inspector found that the second floor of the fish house was being refurbished to include a dwelling unit while the bottom portion would remain as a fish shed.
- The proposal violates all three of the criteria under the Municipal Government Act.
- Human habitation is not permitted in a fish shed either short or long term.
- The appellant wants to use the shed on a short term basis/overnight and there is a theft issue of fishing gear.
- The Land Use By-law does not differentiate between one or two nights, six months or permanent residence in the building.

The Chair called for speakers for or against the appeal.

Mr. Glen Hartlen, owner of the property, provided two letters in support of his appeal and a picture showing the location of the property. He advised the following:

- His father lived there for at least 20 years.
- When the building was first erected, there was no road.
- The wharf was getting run down so he built a new one.
- He first understood that he did not need a permit. Once a complaint was received, he stopped work to go through the variance process.

Mr. Bill Estabrooks, MLA then prepared to speak on behalf of the applicant. Councillor Rankin pointed out that unanimous consent of Community Council would be required for someone to speak other than those within 100' of the property in question. He asked for clarification from the Municipal Solicitor.

Mr. Barry Allen, Municipal Solicitor advised that for Public Hearings, the public can get up and speak; however, for variance applications it is an appeal in which there are identified parties, being the owner of the property and people who live within 100' of the property. Those people have a right to speak. It is open to Community Council to allow others to speak if they have a particular interest in the property over and above the general public or if they have evidence to bring before Community Council that might help Community Council make a decision.

MOVED by Councillor Adams, seconded by Councillor Meade to hear Bill Estabrooks. MOTION PUT AND PASSED UNANIMOUSLY.

Mr. Bill Estabrooks, MLA Timberlea/Prospect advised he has known the Hartlen family for many years and Mr. Hartlen was a hard working businessman in the community. The complaint that came forward did not come from anyone in the village. The community of Lower Prospect is fully in support of the fact that the building has been tastefully done and Mr. Hartlen stopped when he understood there was a problem. He visited the building and acknowledged it would always smell like a fish shed but it was lived in.

The Chair then called for further speakers for or against the appeal. There were none.

The Clerk advised there was no correspondence received with regard to this appeal.

MOVED by Councillor Meade, seconded by Councillor Adams to overturn the decision of the Development Officer and allow the variance. MOTION PUT AND PASSED UNANIMOUSLY.

9. **CORRESPONDENCE, PETITIONS AND DELEGATIONS** - None

10. **REPORTS**

10.1 **Case 00553 - Non-Substantial Amendment to Development Agreement - 2540 Prospect Road, Hatchet Lake**

A Staff Report dated April 8, 2003 was before Community Council. Paul Sampson, Planner provided an overview of the application which pertained to a proposed change in fencing requirements at the back of the building. Fencing is identified as a non-substantial matter which can be amended by Community Council without the need for a Public Hearing.

MOVED by Councillor Meade, seconded by Councillor Adams to:

1. **Approve a non-substantial amendment to the Development Agreement with Country Living Estates Limited to allow a change to the requirement for fencing, as illustrated and described in Attachment A of the Staff Report dated April 8, 2003;**
2. **Require the amending agreement be signed within 120 days, or any extension thereof granted by Western Region Community Council on request of the applicant, from the date of final approval of said agreement by Western Region Community Council and any other bodies as necessary, whichever is later, including any appeal periods. Otherwise, this approval shall be void and any obligations arising hereunder shall be at an end.**

MOTION PUT AND PASSED.

10.2 **Project 00382 - Bedford West Public Participation Committee**

A Staff Report dated April 10, 2003 was before Community Council requesting that Community Council appoint two representatives from the Hammonds Plains area to serve on the Bedford West Public Participation Committee.

MOVED by Councillor Meade, seconded by Councillor Adams that Anthony Wiseman and E. Grant Mosher be appointed to the Bedford West Public Participation Committee from the Hammonds Plains area. MOTION PUT AND PASSED UNANIMOUSLY.

10.3 **Proposed Common Area Rate - Maplewood Subdivision - Water Servicing Extension**

Councillor Rankin referred to a report which went forward to Regional Council on March 25, 2003 at which time Regional Council passed a motion which, in part, approved the allocation of District 22 Capital Funds as source of funding in the amount of \$10,000. Councillor Rankin then advised that rather than the source of funding being Capital Funds, he would like to see the funding come from the Common Area Rate for Hammonds Plains.

MOVED by Councillor Meade, seconded by Councillor Adams that \$10,000 be allocated from the Hammonds Plains Common Area Rate account for water servicing extension, Maplewood Subdivision rather than the District 22 Capital Funds subject to input from appropriate staff. MOTION PUT AND PASSED UNANIMOUSLY.

11. **MOTIONS** - None

12. **ADDED ITEMS**

12.1 **Building/Restaurant - Crystal Crescent Beach**

Councillor Adams advised that he understood there was a restaurant proposed to be built in the Crystal Crescent Beach area and asked for information on this matter. As Sean Audas, Development Officer was in attendance, he agreed to find out the status and contact Councillor Adams directly.

12.2 **Disposition of Capital Assistance for Waterstone Subdivision Parkland Fencing**

MOVED by Councillor Adams, seconded by Councillor Meade to endorse an amount of \$3,000 maximum from the Common Area Rate for Hammonds Plains for fencing of parkland for Waterstone Subdivision. MOTION PUT AND PASSED.

12.3 **Nine Mile River Bridge Reconstruction**

Councillor Rankin outlined problems encountered by motorists after the Nine Mile River bridge gave way just before Easter. Motorists were now encountering difficulties during reconstruction of the bridge such as duration of lights, signalization, etc.

MOVED by Councillor Meade, seconded by Councillor Adams that a request go forward to appropriate staff that they do everything possible to expedite the reconstruction and continue efforts to try to make the situation at this time more user friendly with traffic controls, notwithstanding the technology at the site. MOTION PUT AND PASSED.

13. **NOTICES OF MOTION** - None
14. **PUBLIC PARTICIPATION** - None
15. **NEXT MEETING DATE**

Monday, May 26, 2003

16. **ADJOURNMENT**

On a motion from Councillor Adams, the meeting adjourned at 8:00 p.m.

Sandra M. Shute
Legislative Assistant