

# HALIFAX REGIONAL MUNICIPALITY

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## HARBOUR EAST COMMUNITY COUNCIL MINUTES FEBRUARY 13, 2003

PRESENT: Councillor Bruce Hetherington  
Councillor Ron Cooper  
Councillor Brian Warshick  
Councillor Condo Sarto  
Councillor Jim Smith  
Councillor John Cunningham

ABSENT  
WITH REGRETS: Deputy Mayor Harry McInroy

STAFF: Ms. Karen Brown, Municipal Solicitor  
Ms. Julia Horncastle, Legislative Assistant

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**1. CALL TO ORDER**

The meeting was called to order at 7:00 p.m. with the Invocation.

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

**MOVED by Councillor Warshick, seconded by Councillor Cooper, that the Order of Business be approved. MOTION PUT AND PASSED UNANIMOUSLY.**

**3. VARIANCE HEARING****3.1 Appeal of the approval of a variance - 1319 Main Road, Eastern Passage, Nova Scotia**

- A report from Kevin Warner, Development Officer, dated February 7, 2003, on the above noted, was before Community Council.

Mr. Kevin Warner, Development Officer, with the aid of overheads, presented the staff report.

Mr. David Thompson, representing Lee Fish Brokerage, advised that Mr. Lee is not the owner of the property but has entered into an agreement with the existing owner of the property and the purchase of the property is conditional upon being able to build the lobster packing facility. Mr. Lee is a lobster exporter and is intending to build a small building which will contain a holding tank for lobsters. There will be a packing facility where lobsters will be packed into boxes and shipped off in trucks.

He stated it was determined that the existing driveway on the south side of the property was not wide enough to meet the requirements for the use proposed by Mr. Lee. In conjunction with the development office, it was decided that two one way driveways would be necessary. As well, on the north side of the property, there is a requirement to construct a retaining wall because there is a fairly steep hill. As a result of having to construct the retaining wall and the location of the house, there was a need to apply for the variance because of the narrow gap between the house and where the driveway is intended to be. He noted another option available to Mr. Lee would be to move the house from its foundation and shift it over but this is a more expensive option than constructing a second driveway.

Councillor Cunningham stated there appears to be a safety issue here. Mr. Thompson stated it is his understanding that the safety issue is with regards to pedestrian access and the existing driveway on the south side of the property does not have the required clearance. The north side which is intended to be a one way exit/entrance does not have sufficient clearance

for pedestrians.

Councillor Cooper asked if there would be refrigerator trucks. In response, Mr. Thompson stated there would be five ton trucks. In response to Councillor Cooper as to whether there would be any lobsters shipped into the facility from other areas, Mr. Thompson advised there would not be. He advised there would be lobster stored for a short period of time in a holding tank because lobster is shipped live but lobster would be coming in and shipped out by trucks.

On further question, Community Council was advised there would be approximately 1-2 trucks per day. The present intention is for Mr. Lee to use the house for office space and living quarters.

In response to Councillor Cooper, Mr. Thompson advised there will be fourteen parking spaces provided at the rear of the house.

Councillor Sarto received clarification on the exact location of the property and that it was currently vacant.

In response to Councillor Sarto with regards to the zoning on the property, Mr. Dickey advised the property did have the C-2 zone on it previously; however, through a plan amendment process in 1998 there were changes made to the zone but the name of the zone did not change. The Councillor received further clarification that the abutting properties had the same zone and land uses.

In response to Councillor Smith, Community Council was advised it will be a seasonal operation and will use lobster from the inshore fishery.

Mr. Alan Dowdy, representing Mr. Ellis, stated, in his opinion, the appropriate forum for this hearing would be Regional Council as the Municipal Government Act refers to a variance being appeal to the Council. Councillor Hetherington clarified that in this instance Section 527 (4), page 224 applies which states "A community council stand in the place and stead of the council with respect to minor variances and site-plan approvals and Part VIII applies with all necessary changes".

Mr. Dowdy posed the following questions: (1) are there any other species of fish which the applicant intends to process, (2) will the applicant be catching his own catch or will it be coming from independent fishermen, (3) will there be traffic at night, (4) will this operation be on a twenty four hour, seven days a week basis, (5) is there any chance oil will leak from any catch taken out onto the driveway or the road, (6) what is the traditional fishery in Eastern Passage.

Mr. Dowdy stated, in his opinion, the variance is in violation of the intent of the Land Use By-law as the By-law never intended there be an industrial fish processing plant allowed in the C-2 commercial zone. He stated his client feels this is a fishery export operation. He stated it is the intent of the residents to keep the traditional look and feel of Eastern Passage while expanding the commercial base. An industrial fishing operation such as this is not in the correct zone, it should be in an industrial fishing zone and not in a residential neighbourhood. The difficulty is that the other properties in the neighbourhood do not have fish trucks running through their backyard.

Mr. Thompson, in response to the questions advised the applicant only intends to process lobster, the lobster will be coming in by truck and not by boat, there will be no traffic at night, the present intention is to have one truck bring in the lobster to be stored in the holding tank facility and a truck will come in a few hours later to pick up and ship the lobster to the airport, and there is no risk of oil leakage onto the driveway or road.

He advised this is a small scale fishing operation in which a truck will come in once a day and the lobster will be stored in a holding tank. It will then be packed and processed and shipped out the same day. The amount of traffic will be low and it will not be happening all day long. He noted this variance is about clearance on a driveway and is not about the use of the facility. He stated the proposal is a permitted use under the zoning and does not feel it has to be a traditional fishing operation.

In response to Councillor Cooper, Mr. Thompson advised the lobster will be trucked in and trucked out.

Councillor Cooper stated that if in fact there are no local fishermen involved and no local boats tying up there and no wharf then it may not be a small scale fishing operation but a light industrial marketing operation. In response, Mr. Warner advised there never was a wharf proposed with respect to this application. He stated the requirement for the driveway setback does not affect whether or not there is a residence there or a commercial building. The setback simply states from a building and anticipates pedestrian traffic a specific distance away from the structure.

As there were no further speakers or questions, the following motion was placed.

**MOVED by Councillor Sarto, seconded by Councillor Smith, that the Community Council approve the recommendation by staff to uphold the decision of the Development Officer and approve the variance. MOTION PUT AND PASSED.**

**4. ADDED ITEMS - NONE**

**5. NEXT MEETING**

The next meeting is scheduled for Thursday, March 6, 2003.

**6. ADJOURNMENT**

The meeting was adjourned at 8:00 p.m.

Julia Horncastle  
Legislative Assistant