

MARINE DRIVE, VALLEY AND CANAL
COMMUNITY COUNCIL
MINUTES
May 24, 2006

PRESENT: Councillor David Hendsbee, Chair
Councillor Krista Snow

REGRETS: Councillor Steve Streach

STAFF: Mr. Randy Kinghorne, 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. in the Ash Lee Jefferson School, Fall River.

2. **APPROVAL OF MINUTES - March 8 & 9, 2006**

MOVED by Councillor Snow, seconded by Councillor Hendsbee, that the minutes of March 8 & 9, 2006 be approved. MOTION PUT AND PASSED UNANIMOUSLY.

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

Additions

12.1 Councillor Snow - Apartment Buildings - District 2

MOVED by Councillor Snow, seconded by Councillor Hendsbee, that the Order of Business, as amended, be approved. MOTION PUT AND PASSED UNANIMOUSLY.

4. **BUSINESS ARISING OUT OF THE MINUTES - NONE**

5. **MOTIONS OF RECONSIDERATION - NONE**

6. **MOTIONS OF RESCISSION - NONE**

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

8. **HEARINGS**

8.1 **VARIANCE HEARING**

8.1.1 **Appeal of the Refusal of a Variance - 145 Sanctuary Court, Fall River**

- A report dated May 3, 2006, on the above noted, was before Community Council.

Mr. Trevor Creaser, Development Officer, presented the report to Council noting:

- On April 4th the owner was issued a permit in accordance with the proposed setbacks indicated on the site plan provided with the application,
- The repositioning of the footings on the lot during construction resulted in the front

- left corner of the footings being only 4.5 feet from the property boundary,
- Mr. MacCallum was advised they would be too close to the property line and not to proceed further until the issue could be resolved,
- Mr. MacCallum permitted the foundation walls to be poured on the long weekend contrary to the advise of staff,
- On April 18th a field inspection notice was issued notifying Mr. MacCallum to stop work given the discovery that the foundation had been poured,
- Mr. MacCallum was advised one of his options was to make a variance application which was reviewed and subsequently refused on March 21st,
- The main refusal of the variance had resulted from intentional disregard as Mr. MacCallum was fully aware that the footings were too close to the left side property boundary and proceeded to pour his foundation regardless of the advise of staff on April 13th.

Councillor Hendsbee called for those eligible to speak to come forward.

Mr. MacCallum, property owner, stated:

- He was told when he applied for the permit that the footings were off,
- He was told to apply for a variance and also advised that he should not go any further as his footings were off,
- The cement trucks arrived on the lot and he allowed the basement to be poured knowing it did not meet the setback requirements,
- He stated he will take the wall down but he did not see a problem,
- He stated it is costing him money as he has lost his plumber and electrician as a result of the delay.

Mr. Steven Wayne Smith, abutting property owner, reading from prepared text which he submitted for the record advised:

- Mr. MacCallum has accessed his property in the excavation of his property as well as for the disposal of trees,
- The footing in question is at a grade at the property line which will result in difficulty in backfilling as it will fall over his property line and rainfall and runoff will flow across his property,
- Mr. MacCallum was aware he had a problem as he noted to him that he had been advised to apply for a variance,
- He has requested Mr. MacCallum not proceed as his setback was not the required distance from the property line,
- He clarified with HRM that Mr. MacCallum had been given a stop work order prior to the foundation being poured,

- Mr. MacCallum has never offered a solution and expects him, the abutting property owner, to live with his decision,
- The decision of Community Council will affect his property value,
- He requested Community Council refuse the variance.

Mr. MacCallum was provided an opportunity to rebut the comments made by the presenter and advised he would be relocating the drainage from the property into the ditch and it will not be crossing the abutting property. He noted the only problem was the corner as the rest of the property provided sufficient setback to meet requirements.

Councillor Hendsbee called for additional speakers. Hearing none, the following motion was placed.

MOVED by Councillor Snow, seconded by Councillor Hendsbee, that the hearing be closed. MOTION PUT AND PASSED UNANIMOUSLY.

On question from Councillor Hendsbee, Mr. Creasor advised the setback should be eight feet from the property line nothing that setback applied to the whole building not just the foundation.

DECISION

MOVED by Councilor Snow, seconded by Councillor Hendsbee, that Community Council refuse the variance request and uphold the decision of the development officer. MOTION PUT AND PASSED UNANIMOUSLY.

9. CORRESPONDENCE, PETITIONS AND DELEGATIONS

9.1 Correspondence - None

9.2 Petitions

9.2.1 Councillor Hendsbee

Councillor Hendsbee served a petition on behalf of the property owners along the Old Redmond Road property known as Vista Lane in the community of Gaetz Brook requesting the municipality rename the roadway to Carissa Court.

The Councillor requested staff provide a report to Community Council with Community

Council making the decision as to whether the name should or should not be changed.

10. REPORTS

10.1 Proposed New Area Rate for Fall River

- A report dated May 19, 2006, on the above noted, was before Council.

MOVED by Councillor Snow, seconded by Councillor Hendsbee, that an area rate of \$0.063 per \$100 of assessed value be approved to be applied against the taxable assessment within the mapped area depicted in Appendix A of the staff report effective with the 2006-07 fiscal year for the purpose of financing the construction of the Fall River Recreation Centre. The area rate will be reviewed if additional funding is obtained through the Canada-Nova Scotia Municipal Rural Infrastructure Program, and when the construction tender is awarded. MOTION PUT AND PASSED UNANIMOUSLY.

10.2 HRM Building Communities Fund

MOVED by Councillor Snow, seconded by Councillor Hendsbee, that the HRM Building Communities Fund allocation for Marine, Drive Valley and Canal be split equally between Districts 1, 2, and 3. MOTION PUT AND PASSE UNANIMOUSLY.

11. MOTIONS - NONE

12. ADDED ITEMS

12.1 Councillor Snow - Apartment Buildings - District 2

MOVED by Councillor Snow, seconded by Councillor Hendsbee, that staff provide a report outlining available options for consideration to allow apartment buildings in the Planning Districts 14 and 17 Plan area, specifically District 2. MOTION PUT AND PASSED UNANIMOUSLY.

13. NOTICES OF MOTION - NONE

14. PUBLIC PARTICIPATION - NONE

15. NEXT MEETING

To be determined.

16. ADJOURNMENT

The meeting was adjourned at 7:50 p.m.

Julia Horncastle
Legislative Assistant