



**APPEALS STANDING COMMITTEE
MINUTES
June 12, 2014**

PRESENT: Councillor Matt Whitman, Chair
Councillor Steve Craig, Vice Chair
Councillor Linda Mosher
Councillor Steve Adams
Councillor Gloria McCluskey
Councillor David Hendsbee
Councillor Bill Karsten

REGRETS: Councillor Brad Johns

STAFF: Ms. Tanya Phillips, Manager, By-law Standards
Mr. Randolph Kinghorne, Senior Solicitor
Ms. Quentin Hill, Legislative Assistant

The following does not represent a verbatim record of the proceedings of this meeting.

The agenda, supporting documents, and information items circulated to the Appeals Standing Committee are available online:

<http://www.halifax.ca/boardscom/SCappeals/Appeals140612.php>

The meeting was called to order at 10:05 a.m., and the Committee adjourned at 11:24 a.m.

1. CALL TO ORDER

The Chair called the meeting to order at 10:05 a.m.

2. APPROVAL OF MINUTES – April 10 and May 8, 2014

MOVED by Councilor McCluskey, seconded by Councilor Mosher that the minutes of April 10 and May 8, 2014 be approved as circulated. MOTION PUT AND PASSED.

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

MOVED by Councillor Hendsbee, seconded by Councillor Craig that the Order of Business be approved, as presented. MOTION PUT AND PASSED.

4. BUSINESS ARISING OUT OF THE MINUTES – NONE

5. MOTIONS OF RECONSIDERATION – NONE

6. MOTIONS OF RESCISSION – NONE

7. CONSIDERATION OF DEFERRED BUSINESS

7.1 Case# 223579 – 1020 Bellevue Avenue, Halifax

The following was before the Committee:

- A supplementary report dated May 20, 2014

In response to a question from Councillor Hendsbee, Mr. Randolph Kinghorne advised that the case was adjourned from a previous meeting so that the appellant could have his legal counsel represent him. He noted that staff would again be required to provide a presentation before the Committee so that the appellant's legal counsel would better understand the case. It would also afford any Council members who were not at the previous meeting to take part in the debate and recommendation.

Mr. Robert Ryan, Compliance Officer, By-law Standards provided an overview of the May 20, 2014 supplementary report; presenting photographs of the property in question.

Mr. Ryan responded to questions regarding safety issues on the site; timeline of when the project began and when the stop work order was issued.

The appellant, Mr. Mit Jah of Dartmouth was being represented by his lawyer Mr. Colin Brison. Mr. Brison questioned what safety issues staff felt were outstanding on the site.

Mr. Ryan advised that there is open access in the back of the building that could possibly allow children access to the building. He clarified that he had only recently advised Mr. Jah of the issue.

Mr. Brison advised that the matter is currently before the courts in a legal proceeding. He stated that after construction begun, it was discovered that that the plan had originally been approved by HRM based on a Land Use Bylaw (LUB) which was incorrect. He noted that after that finding there was a stop work order placed on the property and the building was constructed to its current state and no further work had taken place. Mr. Brison advised that his client feels that while the matter is before the courts, the Committee should not render a decision on the demolition of the structure. He noted that Mr. Jah would comply if the Committee did decide to order demolition, but would request that the entire structure as well as the foundation be ordered to be demolished.

Councillor Adams questioned when the change in the LUB occurred and why the application was not forwarded to Community Council to request a variance.

Mr. Brison stated that according to his information the bylaw was implemented in November 2011. He added that the LUB changes had altered the setbacks and the height of the buildings in the area. The building would have complied with the previous bylaw. Mr. Brison stated that staff had indicated the process would not be eligible for a variance appeal and now they cannot explore that option as it is before the Courts.

Councillor McCluskey questioned what the appellant is seeking out of the matter before the Court.

Mr. Brison advised that his client is seeking to get back the money he had invested in the property with interest as that money has been tied up and kept his client from pursuing any other investment opportunities.

Councillor Craig asked why the appellant is requesting the inclusion of the foundation if the Committee would be recommending demolition.

Mr. Brison explained that the request for inclusion of the foundation in any demolition order would be for economic reasons. He added that if a new house was to be built the foundation would have to be removed anyway.

Mr. Jah added that if the structure was removed without the inclusion of the foundation, the site would be unsafe with an empty hole in the ground surrounded by an unsightly fence. He offered that the best solution would be to include the foundation for removal.

Further discussion was held on the date of the issue of the construction permit and the date of the change in the LUB.

Mr. Kinghorne cautioned the Committee that the discussion is debating the information that is before the Courts and irrelevant to the current matter before the Committee.

Councillor Mason explained that he represents the District in which the property is located. He expressed sympathy to the appellant for the situation he was in. He reminded the Committee that the LUB change was to constrain the size of the homes in the area. He added that the building far exceeds the other buildings in the area and urged the Committee to support the current rules in place when making their decision.

Ms. Tanya Phillips, Manager Bylaw Services advised that the Committee could change the Demolition Order however they see fit. She noted that staff's recommendation is based on the majority of cases staff handle.

Mr. Kinghorne clarified that the appellant always has the option to fill in the foundation and there is nothing in the order that would constrain him from doing so.

Further discussion ensued.

MOVED by Councillor Craig, seconded by Councillor McCluskey that the Committee finds the property to be dangerous or unsightly as per section 3(q) of the Charter and as per section 356 of the Charter, orders demolition of the Dwelling, including but not limited to, the removal of all demolition debris, backfilling of any foundation or crawl space, and disconnecting any and all utility connections to the standard set by each respective utility service provider, so as to leave the property in a neat, tidy, environmentally compliant and safe condition within thirty (30) days after the Order is posted in a conspicuous place upon the property or personally served upon the owner. Otherwise, the Municipality will exercise its rights as set forth under Part XV of the Charter.

MOTION PUT AND PASSED.

8. CORRESPONDENCE, PETITIONS & DELEGATIONS

8.1 Correspondence - None

8.2 Petitions - None

8.3 Presentation - None

9. REPORTS

9.1 REVOVATION OF PERMITS APPEAL

9.1.1 Construction Permit #136476 – 6980 Armview Avenue, Halifax

The following was before the Committee:

- *A staff report dated May 21, 2014*

Mr. Kurt Pyle, Acting Manager Development Approvals, advised the Committee that the case before them was not a typical case heard at the Appeals Standing Committee.

Ms. Ashley Blissett, Senior Development Engineer, provided an overview of the May 21, 2014 staff report; presenting photographs of the property in question.

In response to questions from the Committee, Ms. Blissett advised that the location of the current driveway in proximity to both speed humps is not a safety concern due to the adequacy of the sightlines from the existing driveway. She explained that the suggested speed limit and the openness of the stop controlled intersection also provided increased safety for access to the current driveway. She added that the proposed driveway would also require the removal of a mature HRM tree.

In response to a question from Councillor Adams, Mr. Kinghorne advised that the Committee could not be found liable if they granted the appeal and an accident occurred. He added that the engineer did not state the proposed driveway would be a safety issue, and that would be the only reason the Committee could be found liable if they granted the appeal.

Ms. Ronda Strickland, Dartmouth, advised she was speaking on behalf of the appellant. She stated that she was the designer of the proposed driveway. She explained that the current driveway is a safety issue as there is high volume of traffic in the area and the homeowners are forced to back out onto the speed humps. There is also a utility pole and a tree that hinder the visibility when backing out of the driveway. She stated that HRM had already authorized the removal of the tree, provided that another tree is planted in close proximity to the one to be removed. Ms. Strickland added that there are other similar driveways with yard frontage of less than 100 feet in the area. She concluded that the redesign of the driveway would allow safe access for the homeowner to their property.

Discussion on the appeal ensued with focus on existing similar driveways in the neighbourhood and the safety concerns as raised by the appellant. It was also noted that the trees and stumps should be removed and any trees removed should be replaced.

MOVED by Councillor Mosher, seconded by Councillor McCluskey that the Appeals Standing Committee grants the appeal of the driveway access refusal at 6980 Armview Avenue, Halifax.

MOTION PUT AND PASSED.

MOVED by Councillor Mosher, seconded by Councillor Hendsbee that the Appeals Standing Committee request that the property owners remove the tree and tree stumps from the property and that a suitable tree is planted in accordance with the HRM Urban Forest MasterPlan.

MOTION PUT AND PASSED.

10. MOTIONS

11. IN CAMERA

11.1 In Camera Minutes – May 8, 2014

MOVED by Councillor McCluskey seconded by Councillor Mosher that the May 8, 2014 In Camera minutes be approved as presented. MOTION PUT AND PASSED.

12. ADDED ITEMS

13. NOTICES OF MOTION

14. DATE OF NEXT MEETING – July 10, 2014

15. ADJOURNMENT

The meeting was adjourned at 11:34 a.m.

Quentin Hill
Legislative Assistant