



**APPEALS STANDING COMMITTEE
MINUTES
September 11, 2014**

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

REGRETS: Councillor Brad Johns

STAFF: Ms. Tanya Phillips, Manager, By-law Standards
Mr. Randolph Kinghorne, Solicitor
Mr. Darcy Warren, Legislative Support
Ms. Krista Vining, Legislative Assistant

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

*The agenda to the Appeals Standing Committee is available online:
<http://www.halifax.ca/boardscom/SCappeals/asc140911.php>*

The meeting was called to order at 10:03 a.m., and adjourned at 11:33 a.m.

1. CALL TO ORDER

The meeting was called to order at 10:03 a.m.

2. APPROVAL OF MINUTES – July 10, 2014

MOVED by Councillor McCluskey, seconded by Councillor Adams that the July 10, 2014 minutes be approved, as presented. MOTION PUT AND PASSED.

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

Deletions:

- 9.1.2 Case#231120, 8960 Peggys Cove Road, Indian Harbour (compliance of Order)
- 9.2.3 Case #233356, 40 Mountain Road, Halifax (appeal withdrawn)
- 9.2.4 Case #234166, 1674 Henry Street, Halifax (compliance of Order)
- 9.2.5 Case #233971, 1674 Henry Street, Halifax (compliance of Order)

MOVED by Councillor McCluskey, seconded by Councillor Hendsbee that the agenda be approved, as amended. 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 – NONE**

- 8. CORRESPONDENCE, PETITIONS & DELEGATIONS**
 - 8.1 Correspondence – None**
 - 8.2 Petitions – None**
 - 8.3 Presentations – None**

9. REPORTS

9.1 DANGEROUS OR UNSIGHTLY PREMISES: DEMOLITIONS

9.1.1 Case #201361, 44 Zinck Lane, Southwest Cove

The following was before the Committee:

- A staff recommendation report dated July 31, 2014

The Chair asked if the appellant or a representative was present, which they were.

Mr. Trevor Oliver, Compliance Officer provided an overview of the July 31, 2014 staff report; presenting photographs of the property in question.

The Chair asked the Standing Committee if they had any questions of clarification for staff. Councillor McCluskey questioned if this was the only building on the property, to which Mr. Oliver confirmed that there was also a three to four car garage and a mobile home which the owner and his wife live in on the property.

Mr. Joseph Martin, Appellant indicated that he did not object to the demolition and stated that his plan when he purchased the property two years ago was to rebuild the home as it was so close to the water. Mr. Martin noted that he was currently in the process of applying for a development permit and just needed to provide proof to the development officer of the buildings existence, the boundary from the

building to the water, property lines and a signature that the building existed before 2006 to be issued a development permit. Mr. Martin confirmed that before he began building on the property the current building in question would be demolished. He explained that he did not want to demolish the building before receiving the building permit so as to not lose his rights to rebuild.

The Chair asked the Standing Committee if they had any questions of clarification for the appellant.

Councillor McCluskey questioned if the building had to be present to receive a development permit, to which Mr. Martin reiterated the requirement to provide photographs to prove the building existence in 2006 and the deck being located eight feet from the water. Mr. Martin noted that his neighbour Ken Zinck has signed an affidavit stating that the building was on the property in 2006. In response to a follow up question, Mr. Martin indicated that he was advised by the development office that once the building was demolished that there would be no proof of it ever existing on the property and that he anticipated receiving the building permit within another week. Mr. Randolph Kinghorne, Senior Solicitor clarified that if the building were to be demolished, it would not take away the present proof of the building's existence (i.e. photographs) and spoke to Mr. Martin's right to building under grandfathering and the limited time to secure a building permit once the building or its use ceases to exist. Ms. Tanya Phillips, Manager, By-law Standards added that if the Committee were to consider issuing the Order to Demolish, the Committee could provide 30 to 60 days to allow the property owner to work with the development office.

In consideration of the grandfathering timeline and Mr. Martin undergoing the building permit application process, it was **MOVED by Councillor Hendsbee, seconded by Councillor Karsten that the Appeals Standing Committee defer Case #201361, 44 Zinck Lane, Southwest Cove for 30 days to allow property owner to secure a building permit.**

The Committee entered into discussion on the deferral with Mr. Kinghorne providing advice around the addition of wording to require that the property be secured during the deferral period. The Committee also discussed the timeline in which to defer the matter to give the property owner time to secure a development permit. In agreement with the mover and seconder, the Committee amended the motion so that it read:

MOVED by Councillor Hendsbee, seconded by Councillor Karsten that the Appeals Standing Committee defer Case #201361, 44 Zinck Lane, Southwest Cove for 60 days to allow property owner to secure a building permit. The property is required to be secured the property during this time.

It was noted that the property owner should not have any issue providing proof to the development office of the property's existence based on the photos taken in the July 31, 2014 staff report and the matter being before the Committee.

MOTION TO DEFER PUT AND PASSED.

9.1.2 Case #231120, 8960 Peggys Cove Road, Indian Harbour

The following was before the Committee:

- A staff recommendation report dated August 1, 2014

This matter was removed from the agenda during the approval of the Order of Business.

9.2 DANGEROUS OR UNSIGHTLY PREMISES: APPEALS

9.2.1 Case #229950, 3371 Claremont Street, Halifax

The following was before the Committee:

- A staff recommendation report dated July 25, 2014
- Submission from Frank Fawson, Administrator of the Estate of Margaret Fawson

The Chair asked if the appellant or representative was present, which they were.

Mr. Mark Prosser, Compliance Officer, By-law Standards provided an overview of the July 25, 2014 staff report; presenting photographs of the property in question. Mr. Prosser indicated that Claremont Street was located in the North-End of Halifax.

The Chair asked if the Standing Committee had any questions of clarification for staff, of which there were none.

Mr. Frank Fawson, Administrator of the Estate of Margaret Fawson and Appellant referenced and highlighted the information and events since his sisters passing in December 2010, as outlined in his submission. Mr. Fawson indicated that he understood the role of the Compliance Office and that the process was complaint driven and unanimous; which he indicated was problematic as there were many individuals in the area that had expressed an interest in the property. He spoke to his sister suffering from mental illness and the property being in need of painting, which he noted had been observed by neighbours. Mr. Fawson advised that a neighbour interested in the property had an appraisal done in the spring of 2014. In response to the complaint made that the property having being listed for sale for the past three years, Mr. Fawson stated that this was misinformation, clarifying that the property was first listed for sale in March 2014 with Property Guys and that he could provide proof if needed. In response to complaints of food being dumped on the property and fallen trees, Mr. Fawson spoke to the piece of land owned by HRM beside the property in question and how people's perception was that the piece of land was part of the property. Mr. Fawson went on to indication that the family's goal has always been to sell the property and have the necessary repairs done and the issues with this, as outlined in his submission. He referred to the map included in his submission and his family's efforts and challenges to purchase the HRM land to re-sub-divide the lands to face onto Maxwell Street, as outlined in his submission. Mr. Fawson indicated that his family had received and accepted an offer to purchase the property from AMK Barrett Investments in March 2014, and AMK's plans to develop and the challenges around the costs associated to install services from Maxwell Street. Mr. Fawson, his family and AMK Barrett entered back into an agreement of purchase and sale in July 2014.

On a point of order raised by Councillor Mosher in regard to the relevance of the facts being presenting, the Chair asked Mr. Fawson to speak to the information relevant to his appeal of the Order to Remedy.

Mr. Fawson went on to speak to the purchase and sale agreement with AMK Barrett and that the AMK had obtained a construction permit to do the repair work on the building and the garage. He spoke to the piece of land owned by HRM next to the property in question having overgrown grass and garbage which he mows and picks up after. Mr. Fawson commented that the property looked worse with the deck having been removed but that they were asked to remove it. He further agreed that there was some rot on the building but that it was repairable, indicating that he thought carpentry at a community college for years. Mr. Fawson closed by asking the Standing Committee for an extension to November 30, 2014 to allow the purchaser to deal with the necessary repairs to the building.

The Chair asked if the Standing Committee had any questions of clarification for the appellant.

Councillor Hendsbee questioned whether the future plans to reconfigure of the property would require the demolition of the buildings to maximize the footprint. Mr. Fawson advised that that the proposal to HRM was to demolish the garage but retain the existing building and having a single family lot of either side of the building, which was approved by HRM on the condition of purchasing the piece of HRM owned land. Councillor Hendsbee further questioned the status of acquiring the piece of HRM land, to which Mr. Fawson did not respond on the status but indicated that he had been dealing with Real Estate Officer Brad Bakke in 2013.

Councillor Karsten sought clarification around Mr. Fawson's request to extend the matter to November 30, 2014 for the new property owner to do the repairs to the building. Mr. Fawson stated that the purchase and sale agreement was for November 19, 2014 and he understood that the purchaser has

plans to do the repairs to the building. Mr. Fawson further added that his family had given up their efforts in dealing with HRM to acquiring the piece of HRM land. In follow up, Councillor Karsten referenced the information provided in the July 25, 2014 staff report that on May 23, 2014 the Compliance Office had been advised that there was a purchaser who had plans to demolish the buildings on the property. Councillor Karsten questioned that if the intention was for the purchaser to repair the building, why maintenance had been deferred for the past four years. Mr. Fawson confirmed that he had been interacting with a number of interested parties on the property and interested party had expressed an interest in purchasing the property and demolishing the buildings; but was not the individual with whom they have an agreement of purchase and sale.

In response to a question raised by Councillor Craig, Mr. Fawson clarified that he was appointed by the Court as the administrator of the estate and that there were three siblings that are the heirs of the estate.

In response to a comment made around the permit, Mr. Fawson provided additional information regarding the purchaser's plans to do major renovations of the building and the purchaser's being reluctant to go into the property at this time to do beautification work before the major renovation work is undertaken.

Mr. Fawson responded to further questions around the purchase and sale agreement and the November 19, 2014 closing date. It was noted that he did not have a copy of the agreement with him but could provide if needed.

MOVED by Councillor McCluskey, seconded by Councillor Adams that the Appeals Standing Committee defer Case #229950, 3371 Claremont Street, Halifax to the first meeting after November 30, 2014.

Ms. Tanya Phillips, Manager of By-law Services spoke to the matter being time sensitive in regard to painting and the limited timeline if deferred to November and then the Committee seeking remedy at that time, the property owner may not be able to complete the work until Spring 2015.

Councillor Karsten spoke against the deferral, commenting that it was not costly to keep the property in a neat and tidy manner.

In response to a question raised by Councillor McCluskey on the delay of repairs since 2012, Mr. Fawson advised that he and his family had been working towards selling the property and having the purchaser complete the work.

MOTION TO DEFER PUT AND DEFEATED.

MOVED by Councillor Karsten, seconded by Councillor Hendsbee that the Appeals Standing Committee allow the appeal of Case #229950, 3371 Claremont Street, Halifax as required under Administrative Order One, Section 25 (8A).

A brief discussion was held with Ms. Phillips providing clarification around if the appeal was denied the timeline for the appellant to complete the work as outlined in the Order to Remedy dated July 9, 2014 and if not complete HRM completing the work.

MOTION PUT AND DEFEATED.

9.2.2 Case #230335, 3371 Claremont Street, Halifax

The following was before the Committee:

- A staff recommendation report dated July 25, 2014
- Submission from Frank Fawson, Administrator of the Estate of Margaret Fawson

Mr. Mark Prosser, Compliance Officer, By-law Standards provided an overview of the July 25, 2014 staff report; presenting photographs accessory building in question on the property.

The Chair asked if the Standing Committee had any questions of clarification for staff.

Councillor McCluskey questioned whether the food was on the piece of property in question or the HRM piece of land next to the property. Mr. Prosser advised that the service request through 311 identified food being on the property but that he had never seen any food on the property.

Mr. Frank Fawson, Administrator of the Estate of Margaret Fawson and Appellant commented that he had never seen any food on the property. He further indicated that the property had not been listed for sale until March 2014 and his family's intent to tear down garage; making reference to the purchase of HRM land to re-sub-divide the lands on to Maxwell Street as outlined in his submission.

Councillor Whitman asked staff to review and provide confirmation around complaints made for future reports; making reference to the information provided in the July 25, 2014 staff report and complaints of the property being for sale for three years and food being on the property.

The Chair asked if the Standing Committee had any questions for the appellant, of which there were none.

MOVED by Councillor Karsten, seconded by Councillor Hendsbee that the Appeals Standing Committee allow the appeal of Case #230335, 3371 Claremont Street, Halifax as required under Administrative Order One, Section 25 (8A). MOTION PUT AND DEFEATED.

9.2.3 Case #233356, 40 Mountain Road, Halifax

The following was before the Committee:

- A staff recommendation report dated July 28, 2014

This matter was removed from the agenda during the approval of the Order of Business.

9.2.4 Case #234166, 1674 Henry Street, Halifax

The following was before the Committee:

- A staff recommendation report dated July 28, 2014

This matter was removed from the agenda during the approval of the Order of Business.

9.2.5 Case #233971, 1647 Henry Street, Halifax

The following was before the Committee:

- A staff recommendation report dated July 28, 2014

This matter was removed from the agenda during the approval of the Order of Business.

9.3 DENIAL OF REQUEST FOR PERMIT

9.3.1 Denial of Request for Tree Removal at 2480 Windsor Street (St. Antonios)

The following was before the Committee:

- A staff recommendation report dated September 8, 2014
- Photographs and site plan submitted by John Lawen, President of St. Antonios Church

The Chair asked if the appellant or representative was present, which they were.

Mr. John Simmons, Urban Forester provided an overview of the September 8, 2014 staff report. Mr. Simmons noted in his presentation that there was 30 feet between the tree and the right hand side of the

property to accommodate a driveway and displayed a photograph of the property for the Committees information.

The Chair asked if the Standing Committee had any questions for staff.

Councillor Karsten questioned whether a permit application for the pavement cut had been made. Mr. Simmons advised that he was initially contacted two years by the developer regarding a request to remove the tree and at that time Mr. Simmons reviewed the site and did not see the need to remove the tree. He advised that the development agreement was altered to show the driveway south of the tree. A month and half ago he was contacted that the property owner is in the process of applying for a permit for the pavement cut where the tree is located. At the time he advised the property owner to hold off on making a permit application and he would revisit the site to see if the circumstances had changed. In meeting with the appellant, he again spoke with the development officer and HRM transportation staff and advised that there was still no reason to remove the tree.

In response to a question raised by Councillor Mosher and the location of the bell tower, Mr. Simmons advised that the final development agreement refers to the driveway on the south side of the tree which he agreed did not see as appropriate in relation to the bell tower, but that there was no reason that the driveway could not be accommodated on the north side of the tree.

Mr. John Lawen, President of St. Antonios Church and representative of the appellant Archpriest Father Maximos Saikali, advised that the restoration of the hundred year old church has been a long process. He noted that the entrance of the church had originally been from Chebucto Road and Windsor Street, which he expressed is an awkward intersection and the Parish Council understood this and wanted to ensure the safety of its parishioners and the community hall which is attached to the church. Mr. Lawen commented that parking is critical and land is tight. Part of the development/construction permit to restore the church was a requirement to have parking onsite. He noted that there is approximately 30 parking spots onsite and the community centre attached to the church serves many non-profit organizations, including the taekwondo studio, a Sunday school and the Lebanese Cultural and Community Centre. Hundreds of children will be dropped off at least twice a week to the Sunday school on either Windsor Street or St. Matthias Church. He also noted that parking serves the church which is a place of worship and there will be weddings and funerals. Mr. Lawen reiterated that the original plan had the entrance from Chebucto Road and the church was reverted to enter in from the parking lot which requires an entrance from Windsor Street. He pointed out that there was currently no curb cut from either side and were in the process of applying for a permit. He went on to indicate that the current driveway that was approved under the construction permit would have people driving into the parking lot but having to make a sharp right hand turn around the bell tower. Mr. Lawen indicated that the issue with Windsor Street is that there are three lanes and two new bike lanes on either side of the street. Any motorist entering from the south of Windsor Street into the parking lot would have to cross two driving lanes, a bike lane and then are faced with the bell tower and have to make a sharp right hand turn. Exiting Windsor Street has the same issues but the tree creates a blind spot to the north. As well, there is also an electrical pole to the left of the proposed driveway as motorist would enter the property and the entrance would be very tight. He reiterated that once the bell tower was constructed, the Parish Council realized that the driveway would be unsafe as proposed in the original construction permit. In regards to staff's suggestions to move the driveway to the left side of the tree, Mr. Lawen indicated that there are several issues; five of the 30 parking spaces would be eliminated, the driveway would abut the neighbouring property. Mr. Lawen noted that the neighbour has been accommodating during the construction. He went on to state that the driveway would be a throughway driveway and that the Parish Council could not control the direction of traffic in and out of the church from either direction on Chebucto Road and Windsor Street. Mr. Lawen went on to speak to his understanding of HRM reconfiguring Chebucto Road, Canard Street and Windsor Street and it affecting some of the church's property/community hall across the street. He stated that their other church/community centre across the property in question has been on the corner of Windsor Street for 35 years and spoke to the traffic and parking issues. Mr. Lawen commented on tree's symbolising beauty and strength and reiterated their efforts to restore the Church and Community Centre. He noted that they were a part of Doors Open Halifax and questioned when the last time a Church was restored in the downtown Halifax area. He advised that they did not want to shortcut the parking lot and did not want

someone to have an accident or drives into the bell tower. He added that the Parish Council was willing to replace the tree with four or five new trees wherever HRM staff would like and asked that the appeal be approved.

The Chair asked if the Standing Committee had questions of clarification for Mr. Lawen, of which there were none.

Councillor Hendsbee spoke in support of granting the appeal and not eliminating five parking spots if the driveway were placed to the north side of the tree. He commented on the Church removing the egress off the Chebucto Road and their willingness to replant several trees to compensate the removal of the tree. As well, he supported the Parish Council's restoration efforts to keep the Church as a place of worship.

MOVED by Councillor Hendsbee, seconded by Councillor Adams that the Appeals Standing Committee grant the appeal for removal of the tree in question located at 2480 Windsor Street, Halifax.

Councillor Mosher noted for the record her efforts to bring the Urban Forest Master Plan to Regional Council and that she would be supporting the motion after having visited the site and meeting with Father Saikali and parishioner. Councillor Mosher noted the importance of tree retention in HRM for its many environmental benefits but saw the tree in question and the proposed location of the driveway as a safety issue (i.e. visibility, the location of the bell tower and the corner lot being a high traffic area). In discussion with staff, Councillor Mosher asked that if approved the appellant work with HRM staff to use the Urban Forest Formula in determining size and species of trees and that the new trees be planted onsite, to which the Standing Committee agreed.

The discussion continues with Mr. Simmons responding to questions around the property and an appropriate location for the driveway. Many members agreed that the current location of the driveway was a safety concern and moving the driveway to the north side of the tree closer to the neighbouring property as proposed by staff would be a concern for that property owner. Members also supported the compensation of five trees planted on the property for the removal of the requested tree.

Mayor Savage entered the meeting at 11:22 p.m.

Discussion was also held with staff around the various options of species of tree that could be planted on the site.

MOTION PUT AND PASSED.

9.4 TAXIS, ACCESSIBLE TAXIS AND LIMOUSINES APPEALS – NONE

10. MOTIONS – NONE

11. IN CAMERA

11.1 Minutes – July 10, 2014

MOVED by Councillor Karsten, seconded by Councillor Adams that the in camera minutes of July 10, 2014 be approved, as circulated. MOTION PUT AND PASSED.

12. ADDED ITEMS – NONE

13. NOTICES OF MOTION

13.1 Councillor Hendsbee

Take notice that at the next meeting of the Appeals Standing Committee, to be held Thursday, October 9, 2014, I intent to move a motion to request a staff report outlining what authority or purpose the Municipality has to serve any Order to Remedy to Federal and/or Provincial properties.

14. DATE OF NEXT MEETING – October 9, 2014

15. ADJOURNMENT

The meeting was adjourned at 11:33 a.m.

Krista Vining
Legislative Assistant