



**APPEALS STANDING COMMITTEE
MINUTES
May 12, 2016**

PRESENT: Deputy Mayor Matt Whitman, Chair
Councillor Stephen Adams, Vice Chair
Councillor Russell Walker
Councillor Gloria McCluskey
Councilor David Hendsbee
Councillor Brad Johns

OTHERS: Councillor Tim Outhit

STAFF: Mr. Randolph Kinghorne, Senior Solicitor
Ms. Tanya Phillips, Manager, By-law Standards
Ms. Krista Vining, Legislative Assistant
Ms. Phoebe Rai, 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/160512asc-agenda.php>

The meeting was called to order at 10:03 a.m. The Standing Committee recessed at 11:10 a.m. and resumed at 11:12 a.m. The meeting adjourned at 11:52 a.m.

1. CALL TO ORDER

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

2. APPROVAL OF MINUTES – April 14, 2016

MOVED by Councillor McCluskey, seconded by Councillor Walker

THAT the minutes of April 14, 2016 be approved as circulated.

MOTION PUT AND PASSED.

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

The Committee agreed to address Item 12.1.1 prior to Item 8.1.

MOVED by Councillor Walker, seconded by Councillor McCluskey

THAT the agenda be approved as amended.

MOTION PUT AND PASSED.

4. BUSINESS ARISING OUT OF THE MINUTES – NONE

5. CALL FOR DECLARATION OF CONFLICT OF INTERESTS

Deputy Mayor Whitman recused himself for Item 8.1 - Appeal of Thomas Moore, Case #260082 & Case #260083 – PID#00421834, Hammonds Plains.

6. MOTIONS OF RECONSIDERATION – NONE

7. MOTIONS OF RESCISSION – NONE

8. CONSIDERATION OF DEFERRED BUSINESS – January 14, 2016

8.1 Appeal of Thomas Moore, Case #260082 & Case #260083 – PID#00421834, Hammonds Plains

This matter was addressed later in the meeting, see page 5.

9. NOTICES OF TABLED MATTERS – NONE

10. CORRESPONDENCE, PETITIONS & DELEGATIONS

10.1 Correspondence – None

10.2 Petitions – None

11. INFORMATION ITEMS BROUGHT FORWARD – NONE

12. REPORTS

12.1 DANGEROUS OR UNSIGHTLY PREMISES: APPEALS

12.1.1 Appeal of Khaled Gawdet, Case #268837 – 1358 Shore Drive, Bedford

The following was before the Standing Committee:

- A staff recommendation report dated April 28, 2016
- Submission from Paul Sampson and Geoff Franklin re: quotation/purchase of materials and photographs of work being done to the building's exterior façade

The Chair confirmed a representative for the appellant was in attendance.

Ms. Theresa Hickey, Compliance Officer gave a brief presentation providing background for the case and showed pictures of the property taken May 10, 2016.

Ms. Hickey responded to questions of clarification around the work done to the exterior of the building to date and confirmed that building permits were in order.

The Chair invited the neighbouring property owner to speak at this time.

Mr. Dean McFadden, Shore Drive explained that he and his wife moved into their home in the summer of 2011 and at that time the original house at 1358 Shore Drive had been demolished. He noted that the current structure on the property had been constructed between 2012 and 2014. Mr. McFadden understood at that time that 1358 Shore Drive was a building site and there would be noise. He pointed out that there has been very little activity at the property since the end of 2014. He was unsure why there was a delay in construction but was concerned that the Tyvek on the side of the house had not been strapped down. Mr. McFadden stated that he has met with the project builder throughout the construction process to discuss matters such as noise, debris and children on the property. He noted that the structure was roof tight in early 2015 but the siding only has Tyvek. He spoke about contacting the Municipality to see if something could be done to address the Tyvek that had ripped during the winter of 2014-2015 as it was noisy and flapped like a large flag. Mr. McFadden further stated that his wife had written to the Appeals Standing Committee the last time this property was before them, which outlined how disruptive the ripped Tyvek was and how she was losing sleep. He highlighted that by the end of 2015 some of the wood had been replaced and new Tyvek installed. At the advice of By-law Services, Mr. McFadden wrote a letter December 15, 2015 to the Mayor, area Councillor and HRM staff to document his concerns regarding the noise. However, by February 2016 the replaced Tyvek had ripped again and he wrote a second letter to the Mayor, area Councillor and staff to express concerns. Mr. McFadden expressed concern with the condition of the property and having to clean up construction debris that blows onto his yard.

Councillor McCluskey questioned when the building permit was issued. Mr. Derrick Arsenault, HRM Building Official responded that a demolition permit was issued January 4, 2010 to take down the first structure. The initial construction permit to construct a single unit dwelling was issued February 15, 2012 and a subsequent permit was issued two years later to renovate the single unit dwelling.

Councillor Johns entered meeting at this time but was unable to vote on this matter.

With the Standing Committee's agreement, the Chair invited Councillor Outhit to speak to the matter.

Mr. Randolph Kinghorne, Senior Solicitor pointed out that given Councillor Outhit's relationship with Council, his comments should be focused on factual issues rather than pleading a case.

Councillor Outhit spoke to the neighbour's frustrations with the length of time the construction was taking at this property. He commented that it has the potential to be a beautiful home in a beautiful neighbourhood and how neighbours just want the home to be finished. He pointed out that there are risks with the house having to be torn down and staring over if the work is not completed in a timely manner. Councillor Outhit further pointed out the ongoing issues with the structure not being secure and children trespassing. He expressed the need to get this structure completed and asked the Appeal Standing Committee to deny the appeal.

Mr. Geoff Franklin, Boyne Clarke, legal counsel for the appellant, explained that while the charges before the provincial court are somewhat related, the matter before the Appeals Standing Committee is to determine whether or not the loose and torn Tyvek identified in the Order issued March 2016 constitutes a premises that is dangerous or unsightly within the meaning of the legislation. As well, whether the Appeals Standing Committee has the authority/jurisdiction to order the property owner to replace or repair the Tyvek and install vent grid, which is not part of the building's design. Mr. Franklin commented that when issues arose such as ripped Tyvek; it was brought to the property owner's attention and was remedied. He confirmed that the Tyvek had been secured on the building and there was no loose Tyvek. He referred to Cameron Sampson, Project Manager who would be providing an update on the condition and status of the building.

Mr. Cameron Sampson, Project Manager explained that this was not an easy build and that it has the potential to be an impressive house and a landmark build. He noted that the building is approximately 15,000 square feet, with an indoor swimming pool, 40 foot sunroom addition and an elevator. He indicated that the builders are just as interested in completing the building as the neighbours and Appeals Standing Committee. Mr. Sampson explained that the owner is out of the country and that they are working with architect Geoff Keddy and interior designer Denise Hermanson. He commented on the time it takes to make decisions on materials for the exterior façade; referring to when this property had previously gone before the Appeals Standing Committee, how the property was identified as an active site and the need to move quickly to make decisions on completing the exterior façade. Unfortunately, some of the decisions were not able to be made before the winter due to timelines and locations of the property owners and there were downtimes between the summer of 2015 to present. He pointed out that the photos shown in the staff presentation was during the time when the exterior sheeting was being replaced and new Tyvek installed. He explained that in February of 2016 the trim for the exterior façade was ordered and delivered April 5, 2016. He spoke about the work being done to the interior façade and noted that a deposit has been made on the stone for the exterior façade, which is scheduled for delivery this week. Mr. Sampson stated that the material being used on the exterior facade is a stone veneer and has to be applied in a certain way, and therefore vent grid was not a solution, as identified in the Order. He pointed out that any time they were asked to clean up the site or there was an issue with loose or torn Tyvek it was addressed.

Mr. Franklin commented that there would be noticeable changes to the building over the next couple of weeks and that construction materials were on site and being assembled. He suggested deferring the matter for a few weeks to confirm the work has been completed. He offered to assist the Appeals Standing Committee in interpreting the Order issued March of 2016. He further pointed out that the photos presented by staff were taken May 10, 2016 and that there was no indication as to whether or not the property was in the same condition on March 1, 2016. In reference to Section 356(1) of the HRM Charter, Mr. Franklin clarified that the Appeals Standing Committee does not have the authority to order the property owner use certain materials such as vent grid; explaining that it is required under the building code or part of this project. Whether this matter is deferred or a decision made, he asked the Standing Committee to quash the Order because it is outside their jurisdiction.

In response to a question of clarification, staff displayed side by side photographs of the property taken May 12, 2015, June 9, 2015, March 1, 2016 and May 10, 2016.

Mr. Randolph Kinghorne, HRM Senior Solicitor clarified that if the appeal is denied the property owner is responsible to make the repairs as outlined in the Order issued March 2016. If they fail to comply within the timelines of the Order, the matter would be brought into compliance by the Municipality. He agreed with Mr. Franklin, that if the appeal is not granted, the Order needs to be amended to remove the words vent grid; explaining that how the matter is brought into compliance is not part of the Order.

The Committee sought additional clarification from Mr. Sampson on the work being done to the exterior façade.

MOVED by Councillor McCluskey, seconded by Councillor Walker

THAT the Appeals Standing Committee allow the appeal of Case #268837, property located at 1358 Shore Drive, Bedford.

In consultation with Mr. Kinghorne regarding the wording of the Order, it was noted that this would be addressed as a separate motion.

MOTION PUT AND DEFEATED.

MOVED by Councillor Hendsbee, seconded by Councillor Walker

THAT the Order to Remedy be amended to remove the wording “with Vent Grid”.

A brief discussion was held on the timeline for compliance.

MOTION PUT AND PASSED.

The Standing Committee recessed at 11:10 a.m. and resumed at 11:12 a.m. without Deputy Mayor Whitman or Councillor McCluskey in attendance. Councillor Adams had assumed the Chair.

Item 8.1.1 was addressed at this time.

8.1 Appeal of Thomas Moore, Case #260082 & Case #260083 – PID#00421834, Hammonds Plains

The following was before the Standing Committee:

- A supplementary staff report dated May 2, 2016

The Chair confirmed the appellant was in attendance.

Mr. Trevor Oliver, Compliance Officer gave a brief presentation providing background for the case and showed pictures of the property taken May 10, 2016.

Mr. Thomas Moore, appellant stated that there has been a lot of work done on the property since January 14, 2016; pointing out that the debris: garbage, steel and plywood, had all been removed. In regards to the boat on the trailer, Mr. Moore explained that he would like to put it beside the other boat and cover both boats but was told he could not do so by Mr. Oliver. He spoke to his son's interest in fixing the fiberglass boat and what work needed to be done to put it back in the water. Mr. Moore clarified that the two snow blowers and a ride on lawnmower have been relocated beside the temporary garage and are tarped. Mr. Moore suggested that he could put the vehicle seats in the truck bed; explaining that he was waiting to get a load of scrap steel to make it worth the trip. He further pointed out that the scrap wood has been sorted and has removed the rotten wood. Mr. Moore spoke about the renovations he was doing to his house and what materials he has onsite (e.g. 26 vinyl windows). He noted that he has been working to bring the Order into compliance before he could start work on his house. Mr. Moore spoke about his house being unsightly and how he wanted to get the renovations completed versus cleaning up the yard, and how he has been unable to reach a compromise with the Compliance Officer to bring the Order into compliance.

In response to a question of clarification, staff displayed side by side photographs of the property taken January 11, 2016 and May 10, 2016. Mr. Oliver confirmed that the majority of the items identified in the Order were still on site. Mr. Moore responded to questions of clarification regarding the materials on the property and what his plans were for the materials.

The Committee discussed their option in regard to extending the timeframe of the Order. It was noted that this would be addressed as a separate motion.

MOVED by Councillor Johns, seconded by Councillor Hendsbee

THAT the Appeals Standing Committee allow the appeal of Case #260082 and Case 260083 – PID #00421834, Hammonds Plains.

MOTION PUT AND DEFEATED.

MOVED by Councillor Johns, seconded by Councillor Walker

THAT the Order to Remedy be amended to extend the timeline for compliance to July 31, 2016 for Case #260082 & Case #260083 – PID#00421834, Hammonds Plains.

MOTION PUT AND PASSED.

- 12.2 DANGEROUS OR UNSIGHTLY PREMISES: DEMOLITIONS – NONE
- 12.3 TAXIS, ACCESSIBLE TAXIS AND LIMOUSINES: APPEALS – NONE
- 12.4 RESIDENTIAL OCCUPANCY APPEALS (By-law M-100) – NONE
- 12.5 STREETS BY-LAW – NONE
- 12.6 STAFF – NONE

- 13. MOTIONS – NONE
- 14. IN CAMERA (IN PRIVATE) – NONE
- 15. ADDED ITEMS – NONE
- 16. NOTICES OF MOTION – NONE

- 17. **DATE OF NEXT MEETING** – June 9, 2016 10:00 a.m., Council Chambers, 3rd Floor, City Hall, 1841 Argyle Street

- 18. **ADJOURNMENT**

The meeting adjourned at 11:52 a.m.

Krista Vining
Legislative Assistant