



**APPEALS STANDING COMMITTEE
MINUTES
October 6, 2016**

PRESENT: Deputy Mayor Matt Whitman, Chair
Councillor Stephen Adams, Vice Chair
Councillor Gloria McCluskey
Councillor David Hendsbee

REGRETS Councillor Russell Walker
Councillor Brad Johns

OTHERS: Councillor Steve Craig

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

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/161006asc-agenda.php>

*The meeting was called to order at 10:03 a.m., recessed at 11:30 a.m. and reconvened at 11:40 a.m.
The meeting adjourned at 12:37 p.m.*

1. CALL TO ORDER

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

2. APPROVAL OF MINUTES – September 8, 2016

MOVED by Councillor McCluskey, seconded by Councillor Adams

THAT the minutes of September 8, 2016 be approved as circulated.

MOTION PUT AND PASSED.

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

Deletions:

- 12.4.1 Appeal of Edward Webber, Edible Matters Food Company Ltd. – Temporary Sign Application #56893 – Box Sign – License Refused (applicant making another application; removed from the agenda at this time)
- 12.4.2 Appeal of Ted Hyland, Glow Parties – Temporary Sign Application #57114 – Box Sign – License Refused (applicant making another application; removed from the agenda at this time)
- 12.5.1 Appeal of George Tsimiklis – Case 280213, 22 Evans Avenue, Halifax (staff working with appellant; appeal withdrawn)
- 12.5.2 Appeal of George Tsimiklis – Case 280440, 825/827 Young Avenue, Halifax (staff working with appellant; appeal withdrawn)

Councillor Adams recognized Councillor Steve Craig who was in attendance to speak to Case 264187 and asked that Item 12.2.1 be addressed as the first order of business, which the Standing Committee agreed.

MOVED by Councillor Adams, seconded by Councillor McCluskey

THAT the agenda be approved as amended.

MOTION PUT AND PASSED.

Item 12.2.1 Case 264187 was addressed at this time.

12.2.1 Notice to Appear Dennis Baxter– Case 264187, 315 Sackville Drive, Lower Sackville

The following was before the Standing Committee:

- A staff recommendation report dated September 28, 2016

The Chair confirmed a representative for the property owner was in attendance.

Ms. Theresa Hickey, Compliance Officer gave a brief presentation providing background for the case and showed pictures of the property taken October 4, 2016.

In response to questions raised on the state of the greenhouse, Ms. Hickey advised that the greenhouse building has been empty for some time. Mr. Clifford Boudreau, Building Official stated that at present he did not believe it would be feasible to salvage the greenhouse building.

Councillor Steve Craig, District 15 – Lower Sackville was invited to present factual evidence to the case.

Councillor Craig spoke about the property's condition and it being for sale, noting that the properties owned by the Baxter family make up a significant portion of land along Sackville Drive that are able to be developed. He spoke to the family's circumstances and expressed safety and access concern with nearby junior high school, noting HRM Police are monitoring the vacant buildings on the properties. Councillor Craig supported demolishing the structures on the family's properties (i.e. 315, 323 and 341 Sackville Drive, Lower Sackville).

In response to a question raised, staff clarified that there are three (3) properties in question and that the Committee was only dealing with Case 264187, 315 Sackville Drive, Lower Sackville. Staff confirmed that cases are open for 323 and 341 Sackville Drive, Lower Sackville.

Mr. Daniel Oulton, legal counsel for the property owner provided background on the family's history. Mr. Oulton noted that he was appearing on behalf of Dennis Baxter's Power of Attorney, daughter Tamara Baxter. He clarified that the property had only been listed for sale once in the spring of 2015 for a period of six (6) months at the request of Elinor Baxter before her passing. Since then the property has been boarded up and that he and the family are working to clear up the probate issue at 323 Sackville Drive so that 323 and 315 Sackville Drive can be placed on the market together. Mr. Oulton stated that they have obtained a market appraisal, negotiated a listing agreement for 315 Sackville Drive and there is an interested buyer who wants to purchase the property outside of the listing agreement but suggested that they would be listing the property with a commercial sales agent. He indicated that they have obtained a quote to have the structures at 315 Sackville Drive demolished and requested the Standing Committee give his clients an opportunity to demolish and backfill the foundations with structural clay but give them 12 months to remove the debris because of the cost. Mr. Oulton stated that as funds become available materials would be hauled away and would be cleaned up before the listing agreement expires. He spoke about being a point of contact if any issues arise for the property and that trespassing signs had been re-posted yesterday.

Mr. Oulton responded to questions respecting the sale of the property having all three (3) properties sold from a development standpoint.

MOVED by Councillor Adams, seconded by Councillor McCluskey

THAT the Appeals Standing 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 two accessory buildings, 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 owner. Otherwise, the Municipality will exercise its rights as set forth under Part XV (15) of the Charter.

MOVED by Councillor McCluskey

THAT the Appeals Standing Committee defer Case 264187, 315 Sackville Drive, Lower Sackville for 12 months.

There being no seconder the **motion was lost.**

MOVED by Councillor Hendsbee

THAT the Appeals Standing Committee defer Case 264187, 315 Sackville Drive, Lower Sackville for six (6) months.

There being no seconder the **motion was lost.**

Following further discussion, it was MOVED by Councillor McCluskey, seconded by Councillor Hendsbee

THAT the Appeals Standing Committee defer Case 264187, 315 Sackville Drive, Lower Sackville to allow HRM staff to work with legal counsel for the property owner and bring this matter back at a later date.

Mr. Oulton responded to additional questions respecting the property.

MOTION TO DEFER PUT AND PASSED.

4. BUSINESS ARISING OUT OF THE MINUTES – August 4th & September 8, 2016

4.1 Request for Reconsideration

4.1.1 Wayne Hatcher – Order to Remedy by Demolition dated August 4, 2016 re: Case 269605, 2043 Prospect Road, Hatchet Lake

The Chair confirmed the property owner was in attendance.

Ms. Krista Vining, Legislative Assistant advised that Mr. Hatcher has obtained a building permit and is seeking reconsideration and removal of the Order to Demolish issued August 4, 2016 for the mobile home at 2043 Prospect Road, Hatchet Lake (Case 269605).

Mr. Wayne Hatcher, property owner stated he had told the Compliance Officer that he would be out of the province when the matter came before the appeals and how he was unaware that he could have a representative attend the meeting on his behalf. Mr. Hatcher explained that he had applied for a building permit in July 15, 2016 and received the permit September 7, 2016 and showed photographs of the work done to the mobile home to date. The photographs were submitted for the file. Mr. Hatcher asked the Standing Committee to reconsider the August 4, 2016 Order to Demolish to allow him to continue the work on the mobile home.

MOVED by Councillor Hendsbee, seconded by Councillor McCluskey

THAT the request for reconsideration be heard by the Appeals Standing Committee.

MOTION PUT AND PASSED.

Mr. Steve Berkman, Compliance Office gave a brief presentation, showing photos of dwelling taken August 2, 2016 and October 3, 2016.

Mr. Sergio Grbac, Supervisor of Building Standards spoke about Mr. Hatcher going marginally beyond the scope of the building permit. He explained that Mr. Hatcher has done some structural and facial work to the mobile home and has addressed most of the exterior issues identified in the staff report dated July 12, 2016. He noted that staff was only able to view the mobile home's exterior and has never been inside.

Staff responded to questions respecting the permit and the Notice of Violation dated March 23, 2016 which states: *bring the mobile home up to habitable standards*. Staff advised that the term 'habitable' would mean a safe structure that can be occupied and has the required services in the structure.

Mr. Hatcher responded to a question raised on his plan to renovate the mobile home and have water and sewer and make it liveable.

Members sought clarification respecting the issuance of a building permit and the issuance of a demolition order for 30 days. Mr. Grbac spoke to the challenges of not being able to flag properties that

are going through the demolition process when reviewing permit applications and the risk the property owner takes to undertake repairs when demolition is being considered.

Additional clarification provided by staff was that the building permit dated September 6, 2016:

- the property zoning allows for the repairs to be done onsite and the structure moved off the property when completed
- connection of services is not permitted (i.e. water and sewer hookups)
- issued for 12 months

MOVED by Councillor McCluskey, seconded by Councillor Hendsbee

THAT the Appeals Standing Committee rescind the Order to Demolish issued August 4, 2016 for the dwelling located at 2043 Prospect Road, Hatchet Lake (Case 269605).

A brief discussion was held.

MOTION TO RESIND PUT AND DEFEATED.

MOVED by Councillor Adams, seconded by Councillor McCluskey

THAT the Appeals Standing Committee amend the Order to Demolish issued August 4, 2016 for the dwelling located at 2043 Prospect Road, Hatchet Lake (Case 269605) to remove the language around demolishing the dwelling and replace it with ordering the removal of the dwelling from the property within sixty (60) days.

MOTION PUT AND PASSED.

4.1.2 Tony Bitar on behalf of Mouna Bitar – Order to Remedy by Demolition dated September 8, 2016 re: Case 274641, 273 Beaver Bank Road, Beaver Bank

The following was before the Standing Committee:

- Submission from Tony Bitar, Power of Attorney for Mouna Bitar dated September 23, 2016

Mr. Tony Bitar, Power of Attorney for the property owner sought reconsideration of the order to demolish to allow additional time to complete the demolition of the dwelling located at 273 Beaver Bank Road, Beaver Bank as the family was out of the Country and unable to attend the September 8, 2016 hearing. He further spoke to the legal action being taken to seek resolution from the insurance company of the owner of the mobile home that was on his mother's property.

A copy of Mr. Tony Bitar's Power of Attorney for Ms. Mouna Bitar is on file.

The Standing Committee recessed at 11:30 a.m. and reconvened at 11:40 a.m.

MOVED by Councillor McCluskey, seconded by Councillor Adams

THAT the Appeals Standing Committee defer the request for reconsideration to the next meeting of the Standing Committee.

MOTION PUT AND PASSED.

5. **CALL FOR DECLARATION OF CONFLICT OF INTERESTS – NONE**
6. **MOTIONS OF RECONSIDERATION – NONE**
7. **MOTIONS OF RESCISSION – NONE**
8. **CONSIDERATION OF DEFERRED BUSINESS – September 8, 2016**

8.1 Appeal of Maurita L. Richey – Case 229928, 32 Elwin Crescent, Dartmouth

The following was before the Standing Committee:

- A supplementary staff report dated September 26, 2016

Mr. Randy Kinghorne, Senior Solicitor, HRM Legal Services advised that Mr. David Richey, representative for the property owner had been in attendance but had to leave due to another commitment. On behalf of Mr. Richey, Mr. Kinghorne brought forward his request to the Committee to defer this matter to the next hearing date.

MOVED by Councillor McCluskey, seconded by Councillor Hendsbee

THAT the Appeals Standing Committee defer Case 229928, 32 Elwin Crescent, Dartmouth to the next meeting.

At the Standing Committee's request, staff reviewed photographs of the property in question taken October 3, 2016 and responded to questions.

MOTION TO DEFER PUT AND DEFEATED.

MOVED by Councillor McCluskey, seconded by Councillor Hendsbee

THAT the Appeals Standing Committee allow the appeal of Case 229928, 32 Elwin Crescent, Dartmouth.

MOTION PUT AND DEFEATED. (with the effect that the Order stands)

9. NOTICES OF TABLED MATTERS – NONE

10. CORRESPONDENCE, PETITIONS & DELEGATIONS

10.1 Correspondence

The Legislative Assistant noted that correspondence was received for item 4.1.2. This correspondence was circulated to the Standing Committee.

11. INFORMATION ITEMS BROUGHT FORWARD – NONE

12. REPORTS

12.1 DANGEROUS OR UNSIGHTLY PREMISES: APPEALS

12.1.1 Appeal of Jessica Pearce – Case 277780, 64 Alder Drive, Head of Jeddore

The following was before the Standing Committee:

- A staff recommendation report dated September 27, 2016

The Chair confirmed the property owner was in attendance.

Mr. John Chant, Compliance Officer gave a brief presentation providing background for the case and showed pictures of the property taken October 3, 2016.

In response to a question raised, Ms. Tanya Phillips, Manager, By-law Standards clarified that compliance officers look for areas that should be landscaped and kept neat, tidy and mowed.

Ms. Jessica Pearce, property owner indicated that she lives on almost an acre of land and questioned how to determine what portion of her property should be lawn and what could be left organic. She showed photographs of her property and neighbouring properties which were taken on her phone. Ms. Pearce suggested it should be at her discretion to determine how much of her property is mowed where she lives rurally. She explained that she was a single mother of two (2) children and that her eight (8) year old daughter has autism. She indicated that living rurally provides an element of safety and control for her daughter, referring to her residence in relation to the Highway #7 and the ocean. She spoke to the challenges of keeping her daughter on the property how the high grass keeps her daughter from venturing off of the property as much as possible. Ms. Pearce commented that the by-law is out of touch with rural living and suggested this was a harassment issue with a neighbour based on the number of past complaints/compliance cases. Ms. Pearce further spoke to her attempts to mow the yard and the challenges to get the work done as her daughter needs supervision. She sought clarification on what areas of her yard needed to be mowed.

Members commented on the type of yards and vegetation management for rural properties.

MOVED by Councillor Hendsbee, seconded by Councillor McCluskey

THAT the Appeals Standing Committee allow the appeal of Case 277780, 64 Alder Drive, Head of Jeddore.

MOTION PUT AND PASSED. (with the effect that the Order is overturned)

12.1.2 Appeal of Martha Haley - Case 276957, PID 00502542, Kelly Road, Wellington

The following was before the Standing Committee:

- A staff recommendation report dated September 26, 2016

The Chair confirmed that the property owner and her representative were in attendance.

Ms. Carrie Butler, Compliance Officer gave a brief presentation providing background for the case and showed pictures of the property taken September 22, 2016 and October 4, 2016.

In response to questions raised, Ms. Butler provided the following clarification:

- the property owner is responsible for removing illegally dumped material from their property
- there was no police investigation through By-law Services
- PID 00502542, Kelly Road is a "K" class provincial road; the first approximately 450 feet is maintained by the Province
- PID 00502542, Kelly Road is used by one (1) resident
- By-law Services received a complaint about the illegal dumping
- The illegal dumping does not impede access to the road

Ms. Seth Oichard-Tattie, legal counsel for property owner stated that Ms. Haley has been attempting to put a gate on her property, noting that the resident on the road is amenable to a gate with a lock. He explained that Ms. Haley has been refused permission to install a gate on her property by the Municipality and Province because Kelly Road is a "K" class provincial road.

Ms. Martha Haley, property owner read from notes regarding her concerns the challenges with illegal dumping on her property and her attempts to install a locked gate. Ms. Haley's notes were submitted for the record.

Members suggested Ms. Haley contact the Province and local MLA to seek a solution for cleaning up the property. Ms. Haley responded to questions respecting her contact with RCMP.

MOVED by Councillor Hendsbee, seconded by Councillor McCluskey

THAT the Appeals Standing Committee allow the appeal of Case 276957, PID 00502542, Kelly Road, Wellington.

MOTION PUT AND PASSED. (with the effect that the Order is overturned)

12.1.3 Appeal of Nagib Bitar – Case 277758, 331 Beaver Bank Road, Beaver Bank

The following was before the Standing Committee:

- A staff recommendation report dated September 27, 2016

The Chair confirmed a representative of the property owner was in attendance.

Following a brief discussion it was MOVED by Councillor McCluskey, seconded by Councillor Adams

THAT the Appeals Standing Committee defer Case 277758, 331 Beaver Bank Road, Beaver Bank to the next meeting.

MOTION TO DEFER PUT AND PASSED.

12.2 DANGEROUS OR UNSIGHTLY PREMISES: DEMOLITIONS

12.2.1 Notice to Appear Dennis Baxter– Case 264187, 315 Sackville Drive, Lower Sackville

This matter was addressed earlier in the meeting, see page 2.

12.3 TAXIS, ACCESSIBLE TAXIS AND LIMOUSINES: APPEALS – NONE

12.4 LICENSING OF TEMPORARY SIGNS (By-Law S-801)

12.4.1 Appeal of Edward Webber, Edible Matters Food Company Ltd. – Temporary Sign Application #56893 – Box Sign – License Refused

This matter was deleted during the approval of the agenda.

12.4.2 Appeal of Ted Hyland, Glow Parties – Temporary Sign Application #57114 – Box Sign – License Refused

This matter was deleted during the approval of the agenda.

12.5 RESIDENTIAL OCCUPANCY CONDITIONS: APPEALS

12.5.1 Appeal of George Tsimiklis – Case 280213, 22 Evans Avenue, Halifax

This matter was deleted during the approval of the agenda.

12.5.2 Appeal of George Tsimiklis – Case 280440, 825/827 Young Avenue, Halifax

This matter was deleted during the approval of the agenda.

13. MOTIONS – NONE

14. IN CAMERA (IN PRIVATE) – NONE

15. ADDED ITEMS – NONE

16. NOTICES OF MOTION – NONE

17. DATE OF NEXT MEETING – December 8, 2016 10:00 a.m., Council Chambers, 3rd Floor,
City Hall, 1841 Argyle Street

18. ADJOURNMENT

The meeting adjourned at 12:37 p.m.

Krista Vining
Legislative Assistant