

HALIFAX REGIONAL MUNICIPALITY

**PENINSULA COMMUNITY COUNCIL
Minutes**

December 8, 2008

PRESENT: Councillor Dawn Sloane
Councillor Jerry Blumenthal
Councillor Jennifer Watts
Councillor Sue Uteck

STAFF: Ms. Sheilagh Edmonds, Legislative Assistant
Ms. Mary Ellen Donovan, Municipal Solicitor

TABLE OF CONTENTS

1. CALL TO ORDER 4

2. APPROVAL OF MINUTES 4

3. APPROVAL OF THE ORDER OF BUSINESS AND APPROVAL
OF ADDITIONS AND DELETIONS 4

4. BUSINESS ARISING OUT OF THE MINUTES / STATUS SHEET: 4

 4.1 Status Sheet 4

 4.1.1 Neighbourhood Downzoning 4

 4.1.2 Presentation - Halifax Peninsula Community Health Board 4

 4.1.3 Mitchell's Enviro Depot Update 4

 4.1.4 Peninsula Place Flooding 4

 4.1.5 By-law Regulations respecting the Keeping of Fowl 4

 4.1.6 Litter Receptacles in the area of Robie/North/Agricola/Almon ... 4

5. MOTIONS OF RECONSIDERATION: 5

6. MOTIONS OF RESCISSION: 5

7. CONSIDERATION OF DEFERRED BUSINESS: 5

8. HEARINGS 5

 8.1 Public Hearings: 5

 8.2 Variance Hearings: 5

 8.2.1 Variance Appeal - #14638 - 6222 Lawrence Street, Halifax 5

 8.2.2 Variance Appeal - #14967 - 1648 Edward Street, Halifax 5

9. CORRESPONDENCE, PETITIONS AND DELEGATIONS: 8

 9.1 Correspondence: 8

 9.1.1 Memo from Legislative Assistant RE: 2009 Meeting
 Schedule for Peninsula Community Council 8

 9.2 Petitions: 8

 9.3 Presentations: 8

10. REPORTS: 8

 10.1 Staff Reports: 8

 10.2 Committee Reports: 8

 10.2.1 District 12 Planning Advisory Committee:
 Membership - District 12 Planning Advisory Committee 9

 10.3 Members of Peninsula Community Council: 9

 10.3.1 Councillor Blumenthal - Sidewalk Damage to Properties 9

11. MOTIONS: 9

12.	ADDED ITEMS:	9
13.	NOTICES OF MOTION:	9
14.	PUBLIC PARTICIPATION:	9
15.	NEXT MEETING	9
16.	ADJOURNMENT	9

Information Items:

- Information Report: Case 00484 - Amendments to the Halifax Municipal Planning Strategy and Land Use By-laws Respecting through Lots 10
- Information Report: Case 00930: Development Agreement - 6955 Bayers Road, Halifax 10

1. CALL TO ORDER

The meeting was called to order at 7:05 p.m. by Councillor Sloane. Councillor Sloane advised that Councillor Uteck was running late and asked her to Chair the meeting until she arrived.

2. APPROVAL OF MINUTES

MOVED by Councillor Blumenthal, seconded by Councillor Watts that the minutes of November 10, 2008 and November 25, 2008 be approved. MOTION PUT AND PASSED.

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

Deletion:

10.3.1 Councillor Blumenthal - Sidewalk Damage to Properties

MOVED by Councillor Watts, seconded by Councillor Blumenthal that the agenda, as amended, be approved. MOTION PUT AND PASSED.

4. BUSINESS ARISING OUT OF THE MINUTES / STATUS SHEET:

4.1 Status Sheet

4.1.1 Neighbourhood Downzoning

There was no update on this item. This item is to remain on the Status Sheet.

4.1.2 Presentation - Halifax Peninsula Community Health Board

There was no update on this item. This item is to remain on the Status Sheet.

4.1.3 Mitchell's Enviro Depot Update

Councillor Sloane advised that she met with an individual that is interested in the building; and he will be speaking with members of the community this week. She added that an environmental assessment will be done. She asked that this remain on the Status Sheet.

4.1.4 Peninsula Place Flooding

There was no update on this item. This item is to remain on the Status Sheet.

4.1.5 By-law Regulations respecting the Keeping of Fowl

There was no update on this item. This item is to remain on the Status Sheet.

4.1.6 Litter Receptacles in the area of Robie/North/Agricola/Almon

There was no update on this item. This item is to remain on the Status Sheet.

5. **MOTIONS OF RECONSIDERATION:** None

6. **MOTIONS OF RESCISSION:** None

7. **CONSIDERATION OF DEFERRED BUSINESS:** None

8. **HEARINGS**

8.1 **Public Hearings:** None

8.2 **Variance Hearings:**

8.2.1 **Variance Appeal - #14638 - 6222 Lawrence Street, Halifax**

A staff report dated November 26,2008 was submitted.

Mr. Andrew Faulkner, Development Officer addressed Community Council and outlined the reasons he refused an application for a variance of a reduced sideyard setback; reduced lot frontage requirement; and reduced lot area requirement of 6222 Lawrence Street, Halifax. In his presentation, Mr. Faulkner indicated that his refusal of the variance was based on his opinion that the difficulty experienced is general to the properties in the area. He pointed out that the immediate area is populated with single family and two unit dwellings, and the properties along Lawrence Street including the appellant's all have similar lot frontage, lot area, setbacks and building type.

The Chair reviewed the rules of procedure for Variance Appeals. She called three times for anyone wishing to speak on this matter; there being none, it was **MOVED by Councillor Blumenthal, seconded by Councillor Watts that the variance appeal close. MOTION PUT AND PASSED.**

MOVED by Councillor Watts, seconded by Councillor Blumenthal that Peninsula Community Council uphold the Development Officer's decision to refuse the variance. MOTION PUT AND PASSED.

8.2.2 **Variance Appeal - #14967 - 1648 Edward Street, Halifax**

A staff report dated November 28, 2008 was submitted.

Mr. Andrew Faulkner, Development Officer, outlined the application for a variance, which he approved, regarding 1648 Edward Street, Halifax. He advised that this hearing was an appeal of his decision to approve the variance. Mr. Faulkner explained that the proposal was to increase the lot coverage from 43% to 47.3%, approximately a 4% increase, because the applicant wants to increase an additional 98 square feet of living space to the existing single-unit dwelling and to replace the existing garage with a slightly larger attached garage. Mr. Faulkner reviewed the following points in support of his decision to grant the variance:

- Although the lot coverage exceeds the maximum allowed in the Land Use Bylaw, many properties in the area exceed the lot coverage maximum, and that an additional 4% is not an attempt to violate the intent of the land use bylaw.

- The difficulty experienced is not similar to the properties in the area - in a survey of 18 properties in the area, 10 out of the 18 properties do not meet the LUB requirement.
- There has been no intentional disregard for the land use bylaw.

Mr. Faulkner responded to questions from Community Council.

Councillor Blumenthal advised that he visited the site and he has some concern that the variance would change the character of the neighbourhood. He pointed out that the properties have detached garages and he did not see any homes with attached garages.

Mr. Faulkner pointed out that under the Municipal Government Act, there are only three reasons in which staff can refuse a variance, and that this application met those requirements. He added that everyone would have the right to attach a garage to their home; there is nothing in the Land Use Bylaw that prohibits it. Mr. Faulkner advised that Councillor Blumenthal's concern is a design consideration which is outside the variance process.

In response to a question by Councillor Sloane, Mr. Faulkner advised that this variance application would not set a precedent, explaining that a variance is an individual application and it doesn't set policy or precedence.

At 7:16 p.m. Councillor Uteck entered the meeting.

The Chair then opened the variance hearing for those wishing to speak.

Mr. Patrick Moan, addressed Community Council and spoke in opposition to the variance. Mr. Moan advised that the area has detached garages, and that to allow the property owner to attach his garage to his house will not be substantially the same as others in the neighbourhood. He also expressed concern that by permitting this, it will set a precedent for others to do the same. Mr. Moan pointed out that the area is comprised mainly of families with children and that there is an elementary school within three blocks. He suggested that if the proposal is allowed to proceed it will become a type of condominium unit, and this is not compatible with the neighbourhood, and will take this house out of the market for families with children.

Mr. Martin Karlsen, the applicant, addressed Community Council. Mr. Karlsen advised that he was surprised with the concerns expressed and he would have liked to have been informed of the concerns prior to this meeting. He pointed out that his home is his family home and it is his intention to have it remain as a single-family home, and that there is no intention to build condominiums. He pointed out that his proposal is within the Municipality's guidelines and that the garage is a personal preference and should be his decision alone, particularly since the proposal is within the law. Mr. Karlsen added that he has experience in renovating another house, and is confident that this property will look fabulous when it is finished. Mr. Karlsen also noted that a challenge he is dealing with is that the house does not have a basement and with two young children, it has limited space.

Ms. Janet Curry spoke in opposition to the variance. She expressed concern that it would negatively impact on the character of the neighbourhood and make it a less family friendly

area. She noted that the application is substantially a rebuilding of a garage, but it has not been said that it will be used as a garage.

Mr. Ron Phillipchuk spoke against the variance request. He advised that, initially, he was not too concerned about the proposal, however, after studying the orientation of garage (i.e. turning it sideways and forming a wall to the house) he feels that by adjoining this section to the house, the applicant's neighbour will be boxed-in. Mr. Phillipchuk added that he was also concerned that any future owner may turn the property into boarding house.

Ms. Christine Donnelly Moan addressed Community Council advising that she was opposed to the variance. She expressed concern that the proposal will result in creating a courtyard effect and this would negatively impact on the properties in the neighbourhood.

Ms. Dominique Daniels advised that she was in agreement with the previous speakers' concerns. Ms. Daniels expressed concerns that the renovation will result in the property not having a backyard anymore; that in the future there will be the potential for more students to move into the neighbourhood; and that changing the style of house would change the neighbourhood.

Mr. John Salsbury, addressed Community Council and advised that he resided at 6077 Cherry Street and was the realtor who assisted Mr. Karlsen in getting his home.

On the advice of the Municipal Solicitor, the Chair advised that she would recess the meeting at this time, in order to review the list of property owners who were sent a letter of notification of this hearing. The Chair explained that a Cherry Street address would appear to be outside the 30 metre notification area and, if so, Mr. Salsbury would not be eligible to speak.

The meeting recessed at 7:30 p.m.

The meeting reconvened at 7:45 p.m.

Ms. Mary Ellen Donovan, Municipal Solicitor advised that in her opinion Community Council should adhere to the standard practice and have only those individuals who are within the notification distance, address this issue. She noted that there are provisions for someone outside the notification distance to speak, providing they are speaking on behalf of the applicant; however the applicant has already spoken, therefore, it would not be appropriate for Mr. Salsbury to speak.

Mr. Dan Falvey addressed Community Council and expressed concern over the idea of moving the garage. He noted that if other neighbours did the same thing, it would have the same impact. He also advised that he was concerned that having the garage attached to the house could result in the property being used as student housing in the future.

The Chair called three times for anyone else to speak; there being none, it was **MOVED by Councillor Blumenthal, seconded by Councillor Watts that the appeal hearing close. MOTION PUT AND PASSED.**

Councillor Uteck advised that she was prepared to move a motion supporting the variance

but would outline her reasons first.

Councillor Uteck advised that she did not take this decision lightly, and was aware that it would have some impact on the Moan Family. She pointed out that Mr. Karlsen could choose to do this 'as-of-right', and the garage would still be part of the house and the wall-effect would be created. She referred to some concerns expressed about student housing eventually being created and pointed out that several years ago she brought in the Gross Floor Area Ratio rule which limits the number of habitable rooms on Peninsula Halifax. Councillor Uteck noted that it is because of this rule that Mr. Karlsen needs the variance. She added that she does not believe this house will become student housing, and advised that a lot of money is being invested in the property to make it a single-family home.

MOVED by Councillor Uteck that Peninsula Community Council uphold the decision of the Development Officer to approve the variance.

The Chair called for a seconder to the motion; there was no seconder and the MOTION WAS LOST.

MOVED by Councillor Blumenthal, seconded by Councillor Watts that Peninsula Community Council overturn the decision of the Development Officer and refuse the variance. MOTION PUT AND PASSED.

At 7:54 p.m. Councillor Uteck assumed the Chair and Councillor Sloane assumed her usual seat in Community Council.

9. CORRESPONDENCE, PETITIONS AND DELEGATIONS:

9.1 Correspondence:

9.1.1 Memo from Legislative Assistant RE: 2009 Meeting Schedule for Peninsula Community Council

A memorandum dated November 28, 2008 was submitted.

Councillor Sloane advised that the memo outlines the 2009 meeting schedule for Peninsula Community Council, according to its Rules of Procedure, and it notes that two of the meetings fall on holidays—Easter Monday and Thanksgiving. Councillor Sloane suggested that Community Council schedule alternate meeting dates for these months.

The Chair advised that she would consult with the Legislative Assistant and provide a revised schedule at January's meeting.

9.2 Petitions: None

9.3 Presentations: None

10. REPORTS:

10.1 Staff Reports: None

10.2 Committee Reports:

10.2.1 District 12 Planning Advisory Committee: Membership - District 12 Planning Advisory Committee

A report dated November 26, 2008 was submitted from the Chair of the District 12 Planning Advisory Committee.

MOVED by Councillor Sloane, seconded by Councillor Watts that Peninsula Community Council recommend Halifax Regional Council extend the terms of current members for District 12 Planning Advisory Committee until such time as the Design Review Committee is established for *HRMbyDesign*. MOTION PUT AND PASSED.

10.3 Members of Peninsula Community Council:

10.3.1 Councillor Blumenthal - Sidewalk Damage to Properties

This item was deleted during the Approval of the Order of Business

11. MOTIONS: None

12. ADDED ITEMS: None

13. NOTICES OF MOTION: None

14. PUBLIC PARTICIPATION:

No one came forward to address Community Council.

15. NEXT MEETING - January 12, 2008

16. ADJOURNMENT

The meeting adjourned at 7:56 p.m.

Sheilagh Edmonds
Legislative Assistant

The following information items were submitted:

1. Information Report: Case 00484 - Amendments to the Halifax Municipal Planning Strategy and Land Use By-laws Respecting through Lots
2. Information Report: Case 00930: Development Agreement - 6955 Bayers Road, Halifax