



**NORTH WEST COMMUNITY COUNCIL
MINUTES
May 16, 2016**

PRESENT: Councillor Steve Craig, Chair
Councillor Tim Outhit, Vice Chair
Deputy Mayor Matt Whitman
Councillor Barry Dalrymple
Councillor Brad Johns

STAFF: Mr. Randolph Kinghorne, Senior Solicitor
Ms. Krista Vining, 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 Community Council are available online: <http://www.halifax.ca/Commcoun/central/160516nwcc-agenda.php>

The meeting was called to order at 7:00 p.m. Community Council recessed at 8:09 p.m. and reconvened at 8:16 p.m. The meeting adjourned at 9:12 p.m.

1. CALL TO ORDER

Councillor Craig, Chair called the meeting to order in the Acadia Hall, 650 Sackville Drive, Lower Sackville.

2. APPROVAL OF MINUTES – February 29 (Revised), March 21 & April 11, 2016

MOVED by Councillor Outhit, seconded by Deputy Mayor Whitman

THAT the minutes of February 29th (Revised), March 21st and April 11, 2016 be approved as circulated.

MOTION PUT AND PASSED.

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

Additions:

16.1 Councillor Johns – Sackville Landfill Awards

MOVED by Councillor Johns, seconded by Deputy Mayor Whitman

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 - NONE**
- 6. MOTIONS OF RECONSIDERATION – NONE**
- 7. MOTIONS OF RESCISSION – NONE**
- 8. CONSIDERATION OF DEFERRED BUSINESS – NONE**
- 9. NOTICES OF TABLED MATTERS – NONE**

10. HEARINGS

10.1 PUBLIC HEARINGS – NONE

10.2 VARIANCE APPEAL HEARINGS

10.2.1 Case 18063: Appeal of Variance Approval – 6 Cummings Drive, Fall River

The following was before Community Council:

- Staff recommendation report dated April 12, 2016

Mr. Trevor Creaser, Development Officer delivered a presentation on the appeal of variance approval to permit an existing attached garage at 6 Cummings Drive, Fall River to remain closer to the right property boundary than permitted under the land use by-law. A copy of the presentation is on file.

Mr. Randolph Kinghorne, Senior Solicitor reviewed the rules and procedures for the variance hearing.

In response to questions raised, Mr. Creaser provided the following clarification:

- If the appeal is granted, the garage would have to be altered or removed to meet the setback requirements

- A six (6) foot error was made on 1976 location certification, which the property owner use to place their garage; upon further investigation through the variance application process the owner provided staff an updated location certificate in 2011 which identified a discrepancy from the original location certificate

The Chair opened the variance appeal hearing and invited the appellant to come forward.

Laurie Baker, appellant expressed concern with regard to the fairness and length of time it has taken for him to be able to make a presentation to Community Council on this matter and questioned why it has taken so long. He explained the process he undertook to file a request for presentation in 2005 and appealing this matter. Mr. Baker spoke to the building permit application made by Mr. White in 2005 to construct a 22 foot by 24 foot attached garage on the right side of the dwelling using the distances showed on the 1976 location certificate and disagreed that Mr. White would have no reason to question the certificates accuracy. He suggested that the construction of a 20 foot plus garage with an additional eight (8) foot setback requirement in the Planning Districts 14 and 17 Land Use By-law (LUB) would automatically put the location of the garage over the property line and on to his property. He could not understand how planning staff approved Mr. White's building permit and asked staff to provide an explanation.

In response, Mr. Creaser thought it may have been the angle in which the property lines were shown that Mr. Baker was referring to, but he explained that when Mr. White submitted the plan and information during the permit stage, it met the requirements of the LUB and the permit was approved. Mr. Creaser further advised that Mr. White had provided a sketch of the property, consistent with the 1976 location certificate, at the time he filed his permit application and certificate was provided after the permit had been approved.

Mr. Baker went on to speak to the numerous encroachments on Mr. White's property which have not been rectified (i.e. walkway and shed). Mr. Baker questioned the completeness of the April 12, 2016 staff report and asked what year Mr. White had applied for the addition to his home and asked for a copy of the location certificate that would have been used to complete the addition. He also asked if there was merit to question whether an error was made to the survey as he was unable to identify the error. He stated that he was advised by his legal counsel and his engineer company to oppose the variance request as it has negative impact on his property in regard to the loss of land use. Mr. Baker agreed that there is adequate separation to adjacent structures from the dwelling on the abutting property but noted that there are other lots that are closer to Cummings Drive (e.g. his brother's home is 200-250 feet away). He further explained that he would experience a financial loss based on lots generated from the property which is being determined by his engineering company and lawyer. Mr. Baker reiterated his concern regarding the length of time this matter has taken and how he had been unaware that Mr. White's variance request had been granted. Mr. Baker commented that the subsequent action of the development officer was a failure in judgement in decision when attempting to provide a solution by way of variance. He asked the Community Council to consider his request and examine all aspects of the HRM Charter, including but not limited to Section 250(3). In response to questions raised, Mr. Baker confirmed that a developer has offered to purchase his property and is projected to close before 2017.

Charles Baker, resident of Cummings Drive and brother of the appellant spoke to the location certificate that identifies the encroachments on Mr. White's property and how he had contacted Mr. Creaser to find out why the building permit was approved. Mr. Baker spoke to his discussions with Mr. Creaser and how he had been verbally told that Mr. White had provided the 1976 location certificate when he made his permit application. Mr. Baker referred to meetings held with Mr. Creaser, himself, his brother and the White's at his home to discuss the White's purchasing a piece of land from his brother. However, as his brother already had an offer to purchase his property, he was only willing to consider this in the future if the opportunity was there. Mr. Baker further spoke about discussions between his lawyer and the White's legal counsel respecting the encroachments. He did not agree that an error had been made in the 1976 location certification based on the comparison of the 2011 location certificate. He questioned the planning department issuing the permit based on the information Mr. White provided and suggested that the permit should not have been issued. In response to a question raised on the present encroachments,

Mr. Baker identified that there are portions of the cement walkway, which he explained had not been cut back far enough, and the shed.

Dawn White, applicant stated that she and her husband did not attempt to do anything illegal or fraudulent at any time and everything they did was done in good faith. She noted that they have been in their home for almost 40 years and take pride in their house and property. She spoke to the process they undertook to build their garage in 2005 and how they had provided their contractor, Graves Barns & Buildings with the 1976 location certificate and had no reason to doubt the certificate. She noted that they obtained a verbal estimate from Graves to reconfigure the garage which would cost approximately \$10,000, which was too much of a hardship. Ms. Baker further explained that she and her husband do not feel the garage has any detrimental effect on Laurie Baker's property or the proposed apartment complex, which is still in the purchase and sale negotiation stage. She confirmed that all the encroachments have been removed and commented that she has found this entire process very stressful and disheartening. In response to questions raised, Ms. White confirmed that the width of the garage from the street is 22 feet and setback approximately 10 feet from their house. She explained that prior to them cutting the cement walkway it encroached approximately 3 feet on Laurie Baker's property.

The Chair read the rules of procedure respecting variance appeal hearings and called for members of the public within 30 metres of the appellant property wishing to speak to come forward.

The Chair called three times for additional speakers. There being none, it was MOVED by Deputy Mayor Whitman, seconded by Councillor Outhit

THAT the variance appeal hearing close.

MOTION PUT AND PASSED.

Staff responded to questions of clarification respecting future development proposed for Laurie Baker's property. In addition, it was staff's observation that the variance would not impact any future extensions to Cummings Drive and/or to power and water lines. Staff explained that powerlines or waterlines would be situated in the street right of way and any private power poles or water lines would be situated on the individual homeowner's property.

In regards to concerns around the cement walkway, Mr. Randolph Kinghorne, Senior Solicitor advised that this was an issue for property owners and their legal counsels to work out.

MOVED by Councillor Dalrymple, seconded by Deputy Mayor Whitman

THAT North West Community Council allow the appeal of variance approval for 6 Cummings Drive, Fall River and overturn the decision of the Development Officer.

A brief discussion was held.

MOTION PUT AND DEFEATED.

11. CORRESPONDENCE, PETITIONS & DELEGATIONS

11.1 Correspondence – None

11.2 Petitions

11.2.1 Deputy Mayor Whitman

Deputy Mayor Whitman submitted a petition organized by Michelle Horne containing 704 signatures from the citizens of HRM requesting North West Community Council deny Case #19461, to amend the

Planning District 1 and 3 Land Use By-law to enable an asphalt plant or any industrial land use north of Highway 103 and west of Little Indian Lake, Head of St. Margaret's Bay.

Further, that the property designed RSC – Resource and zoned MR-2 (Mixed Resource 2) under the Municipal Planning Strategy and Land Use By-law for the Planning District 1 and 3 Municipal Planning Strategy remain unchanged indefinitely.

11.3 Presentation – None

12. INFORMATION ITEMS BROUGHT FORWARD – NONE

13. REPORTS

13.1 STAFF

13.1.1 Case 20290: Amending Development Agreement for Sobeys Food Store at 80 First Lake Drive, Lower Sackville

The following was before the Community Council:

- Memorandum from the North West Planning Advisory Committee dated April 6, 2016
- Staff recommendation report dated April 28, 2016

Mr. Nathan Hall, Planner delivered a presentation for Case 20290 and responded to questions of clarification regarding the May 26, 2011 North West Community Council meeting and the decision to exclude liquor store uses from the list of permitted uses under the development agreement.

Councillor Johns asked for a copy of the May 26, 2011 North West Community Council minutes respecting the Public Hearing as identified in the April 28, 2016 staff report.

MOVED by Councillor Johns, seconded by Councillor Outhit

THAT North West Community Council Give Notice of Motion to consider the proposed amending development agreement, as set out in Attachment A of the staff report dated April 28, 2016, to permit liquor sales within the Sobeys Food Store at 80 First Lake Drive, Lower Sackville and schedule a public hearing.

MOTION PUT AND PASSED.

Community Council recessed at 8:09 p.m. and reconvened at 8:16 p.m.

13.1.2 Case 18781: Development agreement for Bedford West Sub Areas 7 and 8, Hammonds Plains

The following was before the Community Council:

- Supplementary staff report dated April 28, 2016
- Staff recommendation report dated December 29, 2015

It was noted that Councillors Craig, Outhit and Johns were the only members able to deliberate and vote on this matter as Deputy Mayor Whitman and Councillor Dalrymple were not present for some or all of the public hearing process.

Ms. Thea Langille, Principal Planner delivered a presentation for Case 18781; speaking to the following points from the Public Hearing:

- proposed access points; in staff's opinion changes to the access points would result in new public hearing process
- changes proposed by application re: buffering, intensity and density

- Larry Uteck Boulevard upgrades
- Highway 103 update

It was noted that the proposed changes to the development agreement are consistent with policies in the Bedford West Secondary Planning Strategy. It is therefore recommended that North West Community Council approve the proposed development agreement as included in Attachment A of the supplementary staff report dated April 28, 2016.

The Community Council sought additional clarification based on the feedback received from the public hearing respecting the concerns of increased traffic on Bell Street in Phase 3, with staff responding to questions around options for access. Mr. Randolph Kinghorne, Senior Solicitor was unable to confirm whether an amendment to change the access on Bell Street would require a new public hearing process and that this would need to be reviewed by legal and planning staff if this was the desired outcome.

MOVED by Councillor Outhit, seconded by Councillor Johns

THAT North West Community Council:

- 1. Approve the proposed development agreement which shall be substantially of the same form set out in Attachment A of the supplementary staff report dated April 28, 2016 to develop a residential/commercial development at Bedford West Sub Areas 7 and 8, Hammonds Plains, with an amendment to remove the full access to Bell Street and replace it with partial access (bicycle and pedestrian) and an emergency gate access.**
- 2. Require the Development Agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.**

Members continued to discuss concerns around Phase 3 and the increase to traffic on Bell Street, with Ms. Langille responding to questions of clarification around options for access.

MOTION PUT AND PASSED.

13.2 MEMBERS OF COMMUNITY COUNCIL – NONE

14. MOTIONS – NONE

15. IN CAMERA (IN PRIVATE) – NONE

16. ADDED ITEMS

16.1 Councillor Johns – Sackville Landfill Awards

Councillor Johns spoke to the recent changes the Community Council made to the Sackville Landfill Awards in regard to increasing the awards from \$500 to \$1,000. In discussions with HRM staff and the Principal at Millwood High School, Councillor John explained that the school would like to have the discretion to award \$500 or \$1,000 to students, as awards under \$500 do not have to be claimed on taxes.

Following a brief discussion it was noted that Councillor Johns would bring forward a Notice of Motion to address this matter.

17. NOTICES OF MOTION

17.1 Councillor Johns

“TAKE NOTICE that, at the next regular meeting of North West Community Council to be held on June 13, 2016, I propose to move a motion to amend the Sackville Landfill Awards to allow schools to award students either \$1,000 or \$500 at their discretion.”

18. PUBLIC PARTICIPATION

In response to a question raised by **Reg Jones, Voyager Lakes**, it was confirmed that all members of the Community Council would be able to participate if a new public hearing process is held for Case 18781. Mr. Jones suggested that many residents did not attend the meeting as they were not permitted to speak to the matter.

Hany El Naggat agreed that many residents did not attend for Case 18781 as they were not invited and would not be able to speak to the matter.

Walter Regan, Sackville Rivers Association spoke to the proposed top soil by-law and encouraged members of Council to support. He thanked the Community Council and the charity groups for their support and involvement in the Sackville Rubber Duck Race.

Mr. Regan further commented on an issue regarding building inspector's not being qualified to make comment or inspect on sedimentation or erosion controls and that this is done by the engineering department. He explained that the engineering department is only onsite when there is a request or a problem and he asked if changes could be made so that the engineering department could inspect the sedimentation and erosion control devices periodically to ensure they are in place and working correctly. Councillor Craig asked Mr. Regan to provide him a detailed email regarding this issue and he would follow up on it.

19. DATE OF NEXT MEETING – June 13, 2016

20. ADJOURNMENT

The meeting was adjourned at 9:12 p.m.

Krista Vining
Legislative Assistant