



**APPEALS STANDING COMMITTEE
MINUTES
January 12, 2017**

PRESENT: Councillor Steve Adams, Chair
Councillor Russell Walker, Vice Chair
Councillor Sam Austin
Councillor Steve Streach
Councillor David Hendsbee
Councillor Lisa Blackburn

STAFF: Mr. Randolph Kinghorne, Senior Solicitor
Ms. Tanya Phillips, Manager, By-law Standards
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 the Appeals Standing Committee are available online: <http://www.halifax.ca/boardscom/SCappeals/170112asc-agenda.php>

The meeting was called to order at 10:01 a.m. The Standing Committee moved into an In Camera (In Private) session at 10:03 a.m. and reconvened at 10:17 a.m. The meeting adjourned at 11:36 a.m.

1. CALL TO ORDER

The meeting was called to order at 10:01 a.m.

2. APPROVAL OF MINUTES – December 8, 2016

MOVED by Councillor Walker, seconded by Councillor Blackburn

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

MOTION PUT AND PASSED.

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

Addition:

14.1 In Camera – Legal Advice (to be addressed as the first order of business)

Deletions:

12.1.3 Case 282201, 1268 Cole Harbour Road (rescheduled to February 9, 2017 at the request of staff due to weather conditions; property owner notified)

12.1.4 Case 283311, 137 Charles Road, Timberlea (rescheduled to February 9, 2017 at the request of staff due to weather conditions; property owner notified)

MOVED by Councillor Austin, seconded by Councillor Hendsbee

THAT the agenda be approved as amended.

Two-third majority vote required.

MOTION PUT AND PASSED.

MOVED by Councillor Streach, seconded by Councillor Blackburn

THAT the Appeals Standing Committee convene into In Camera (In Private) for legal advice.

MOTION PUT AND PASSED.

The Standing Committee recessed at 10:03 a.m. to convene into In Camera (In Private) and reconvened at 10:17 a.m.

4. BUSINESS ARISING OUT OF THE MINUTES

4.1 Request for Reconsideration

4.1.1 Case 229928, 32 Elwin Crescent, Dartmouth

The following was before the Standing Committee:

- Extract of Appeals Standing Committee minutes – October 6, 2016
- Supplementary staff report dated September 26, 2016
- Staff recommendation report dated July 21, 2016

- Submission from David Richey dated October 28, 2016

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

MOVED by Councillor Blackburn, seconded by Councillor Walker

THAT the Appeals Standing Committee suspend the provisions of Administrative Order One and convene a hearing to reconsider the appeal of the Order to Remedy issued by the Administrator against the property of Maurita Richey and David Richey located at 32 Elwin Crescent, Dartmouth, within the municipality.

Two-third majority vote required.

MOTION PUT AND PASSED.

Mr. Henry Boutilier, Compliance Office gave a brief presentation, showing photos of dwelling taken January 11, 2017. Mr. Boutilier spoke about his discussions with Mr. and Mrs. Richey on being able to complete the exterior painting by no later than April 2017 due to the current weather conditions. Mr. Boutilier noted his support if the Committee were to extend the compliance timeline to the end of April 2017 to complete the ten percent of exterior painting that remained.

Mr. Randolph Kinghorne, Senior Solicitor sought clarification from Mr. Richey on whether he was appealing based the dangerous or unsightly aspect or the timeline to comply.

Mr. David Richey, representing the appellant indicated that they were appealing staff's finding of dangerous or unsightly. Mr. Richey spoke to progress made to repair and paint the exterior of his house, and his objective to comply. He suggested if the painting was completed by the end of April or May 2017, the matter could be resolved by agreement without the requirement of a hearing. Mr. Kinghorne asked Mr. Richey if he was agreeable to waiving the right to argue that this property is not dangerous or unsightly and by consent, the Committee could bring a motion to allow the appeal in part and grant them until the end of May 2017 to comply with the order. Mr. Richey indicated that he was looking to reserve the ability to argue the order if for some reason they were unable to comply with the compliance officer's satisfaction. Mr. Kinghorne suggested the hearing proceeding and that the Committee consider the merits of whether this property is dangerous or unsightly, and that Mr. Richey make representation on those merits plus the compliance timeline if the appeal is not granted.

Mr. Richey made reference to his discussions with Mr. Boutilier, as outlined in an email sent to the Clerk's Office January 11, 2017 (a copy is on file) and asked that the matter be deferred to the Committee's May or June 2017 meeting.

In discussion with legal and clarification provided by Mr. Richey on the work completed to date and the percentage of painting remaining, it was MOVED by Councillor Hendsbee, seconded by Councillor Streach

THAT the Appeals Standing Committee defer Case 229928, 32 Elwin Crescent, Dartmouth to the June 8, 2017 meeting to allow the property owner addition time to bring the Order to Remedy dated June 6, 2016 into compliance.

MOTION TO DEFER 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 – NONE
9. NOTICES OF TABLED MATTERS – NONE

10. CORRESPONDENCE, PETITIONS & DELEGATIONS

10.1 Correspondence

The Legislative Assistant noted that correspondence was received for item 4.1.1. This correspondence was circulated to the Standing Committee.

10.2 Petitions – None

11. INFORMATION ITEMS BROUGHT FORWARD – NONE

12. REPORTS

12.1 DANGEROUS OR UNSIGHTLY PREMISES: APPEALS

12.1.1 Case 269605, 2043 Prospect Road, Hatchet Lake

The following was before the Standing Committee:

- Staff recommendation report dated December 30, 2016

The Chair confirmed the property owner was in attendance.

Mr. Randy Kinghorne, Senior Solicitor, HRM Legal Services provided clarification on the two (2) orders issued for Case 269605:

- Order issued by the Appeals Standing Committee October 6, 2016 directing the removal of the mobile home from the property of Sunrise Park Inter-faith Cemetery Ltd. located at 2043 Prospect Road, Hatchet Lake; and
- Amended Order to Remedy of the administration (staff) dated October 18, 2016.

Mr. Kinghorne clarified that both of these orders were valid but only the amending order issued by the administration (staff) is appealable. He explained the process needed in order for the Committee to convene a hearing for this case.

MOVED Councillor Walker, seconded by Councillor Blackburn

THAT the Appeals Standing Committee suspend the provisions of Administrative Order One and convene a hearing to reconsider the Order to Remedy issued by the Committee directing the removal of the mobile home from the property of Sunrise Park Inter-faith Cemetery Ltd. located at 2043 Prospect Road, Hatchet Lake, within the municipality.

Two-third majority vote required.

MOTION PUT AND PASSED.

MOVED by Councillor Blackburn, seconded by Councillor Austin

THAT the Appeals Standing Committee join the appeal of the Amended Order to Remedy of the administration (staff) dated October 18, 2016 with the reconsideration hearing.

MOTION PUT AND PASSED.

Mr. Mark Prosser, Compliance Officer gave a brief presentation providing background for the case and showed pictures of the property taken January 10, 2017.

Mr. Wayne Hatcher, appellant explained that he brought the mobile home above the standards asked by the building inspector and asked to have it remain on the property at 2043 Prospect Road, Hatchet Lake until he could make a decision to either sell or relocate it in the summer to a property he has in Fox Point.

Mr. Hatcher pointed out that his property on Prospect Road is zoned C-2 (Community Commercial), which allows him to have the mobile home on it and asked staff to confirm the permitted uses under the zoning.

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

- the mobile home is 35 years old and has a new roof, insulation, siding and windows
- moving the home would not be a problem as there is steel underneath and wheels
- some work has been done on the interior; still some finishing work to do, such as installing hardwood flooring and making changes to a master bedroom wall but the cabinets and ceiling are fine; he is not currently working on the interior due to the time of the year
- if he does not sell the mobile home by the summer he plans to relocate it to Fox Point and use it as a rental property

The Chair invited the development officer to come forward to provide clarification/confirmation on the permitted uses under the C-2 zoning and the permit issued to do the renovations.

Mr. Sean Audas, Development Officer advised that permit application #154748 for 2043 Prospect Road, Hatchet Lake was issued September 7, 2016 for renovations to a mobile home to: replace singles, two (2) doors and three (3) windows all the same size as existing. He highlighted that the permit had a special condition from the development technician to renovate and relocate the mobile dwelling, as it is not a permitted use on this property. Mr. Audas clarified that a development permit is valid for one (1) year from the date it is issued and a building permit is valid for two (2) years. He also mentioned that there was a note on the file signed by Mr. Hatcher on September 6, 2016 outlining that his plan to renovate the mobile home and move it to another property. The note also states that there is no one living in the home and there is no water or sewer hookup. Mr. Audas advised that C-2 zoning allows for an outdoor display court for the sale of goods (e.g. cars, mobiles, ATVs). He advised that a permit to have an outdoor display court had not been issued to date for 2043 Prospect Road, Hatchet Lake and that Mr. Hatcher would need to obtain a permit in order to place a for sale sign on the mobile home at this property.

The Chair clarified that the Committee could only consider the merits of the appeal under staff's finding of dangerous or unsightly.

MOVED by Councillor Walker, seconded by Councillor Streach

THAT the Appeals Standing Committee allow the appeal of Case 269605, 2043 Prospect Road, Hatchet Lake.

MOTION PUT AND PASSED. (with the effect that the order of the administration is overturned)

Mr. Kinghorne provided clarification on the process for canceling the order issued by the Committee October 6, 2016.

MOVED by Councillor Blackburn, seconded by Councillor Austin

THAT the order issued by Appeals Standing Committee October 6, 2016 for Case 269605, 2043 Prospect Road, Hatchet Lake be cancelled.

MOTION PUT AND PASSED.

12.1.2 Case 280988 and Case 282093, PID 00421842, and Case 281072, PID 00421834, Hammonds Plains

The following was before the Standing Committee:

- Staff recommendation report dated December 23, 2016

The Chair confirmed the property owner was in attendance.

Mr. Trevor Oliver, Compliance Officer gave a brief presentation providing background for the cases and showed pictures of the properties taken December 19, 2016 and January 10, 2017. Mr. Oliver explained that when he visited the site on January 10, 2017, approximately 90 percent of the debris was covered and not accessible due to heavy snow fall. Mr. Oliver added that throughout this process, starting in September 2016, the property owner has been working on the property with help from his family but that the work has been progressively slow.

Mr. Thomas Moore, appellant expressed concern with the compliance officer's expectation from previous orders issued for his property and having brought them into compliance and the expectation from the officer now. Mr. Moore commented that he continuously works on his property and pointed out that the officer did not have any concern with black vehicle or its location in past compliance cases. Mr. Moore spoke to his work schedule and renovating his house. He explained that the temporary garage he had erected had collapsed due to heavy snow fall and how he was working on a permanent solution. He clarified that one of the piles in question was the framing he had purchased for a shed he plans to build once the ground thaws. He also mentioned that a lot of work had been done in the backyard and that the piles of debris shown in the photos taken by staff in December and January did not match up. Mr. Moore explained that he had construction permits for his property and asked why he would not be allowed to have construction materials in his property. Mr. Moore also indicated that he had a permit for a storage container and spoke about his plans to purchase one and asked the Standing Committee for more time.

Mr. Moore responded to questions on the compliance timeline, indicating that he would have to stop construction on his house to clean up the property and projected having the building materials moved into the storage container by the end of May 2017. Mr. Moore commented on how he was collecting and holding onto the scrap metal so he could make one (1) large trip to dispose of it rather than several smaller trips.

Mr. Oliver responded to further questions respecting the how the complaint was made and history of past complaints made on the condition of the property. Mr. Oliver explained that Mr. Moore had been given some time to complete the work but that staff needed to see some movement on the property.

Committee members recognized the challenges of being able to work on the property during the winter months.

Mr. Randy Kinghorne, Senior Solicitor spoke to questioned raised on what is considered unsightly when a property is under construction, which he explained is for the Committee to determine.

MOVED by Councillor Austin, seconded by Councillor Streach

THAT the Appeals Standing Committee defer Case 280988 and Case 282093, PID 00421842, and Case 281072, PID 00421834, Hammonds Plains to the June 8, 2017 meeting to allow the property owner additional time to bring the Order to Remedy dated October 3, 2016 into compliance.

MOTION TO DEFER PUT AND PASSED.

12.1.3 Case 282201, 1268 Cole Harbour Road

This matter was deleted during the approval of the agenda.

12.1.4 Case 283311, 137 Charles Road, Timberlea

This matter was deleted during the approval of the agenda.

12.1.5 Case 283375, 6323 Liverpool Street, Halifax

The following was before the Standing Committee:

- Staff recommendation report dated December 30, 2016

The Chair confirmed the property owner was in attendance.

Mr. Mark Prosser, Compliance Officer gave a brief presentation providing background for the case and showed pictures of the property taken January 6, 2017.

Mr. Peter Melzer, appellant explained that the van was parked in the driveway while they were installing fire rated drywall in the garage. He commented that once the drywall was installed his plan is to move the van into the garage and work on it. He asked the Standing Committee to give him until July 2017 to complete the work and move the van.

In response to questions raised, Mr. Melzer provided clarification and confirmed the following information:

- he is the property owner of 6323 Liverpool Street, Halifax and the owner of the van in question but he does not reside at this property
- he rents out parking spaces at this property during the HRM Winter Parking Ban
- the van has been parked in the driveway for approximately a year and a half, has been drained of all liquids that could be environmental hazardous and is not driveable

The following information was provided by staff in response to questions from the Committee:

- the compliant was made through the HRM Call Centre from a resident
- the Order to Remedy issued November 7, 2017 identified two (2) derelict vehicles on the property; one (1) of those vehicles has been removed from the property
- as per the legislation, a derelict vehicle is something that is not licensed, not registered, has broken or missing parts and is not roadworthy

In response to a question raised, Mr. Melzer confirmed that no work had been done to the vehicle over the past year since it has been parked in the driveway.

Staff responded to questions from members around the process and the seven (7) day timeline to comply, as outlined in the order, if the appeal was not granted.

MOVED by Councillor Hendsbee, seconded by Councillor Walker

THAT the Appeals Standing Committee allow the appeal of Case 283375, 6323 Liverpool Street, Halifax.

Upon further discussion and clarification from staff around the Committee's options for extending the compliance timeframe, it was MOVED by Councillor Streach, seconded by Councillor Blackburn

THAT the motion be amended to allow the appeal in part and extend the timeline to comply to sixty (60) days.

Discussion was held on the amendment, and with the agreement of the mover and seconder, the motion was further amended to change the compliance timeline to thirty (30) days.

The motion to amend now reads:

MOVED by Councillor Streach, seconded by Councillor Blackburn

THAT the motion be amended to allow the appeal in part and extend the timeline to comply to thirty (30) days.

MOTION TO AMEND PUT AND PASSED.

The motion before the Standing Committee now reads:

MOVED by Councillor Hendsbee, seconded by Councillor Walker

THAT the Appeals Standing Committee allow the appeal of Case 283375, 6323 Liverpool Street, Halifax in part and extend the timeline of to comply to thirty (30) days.

MOTION PUT AND PASSED.

13. MOTIONS – NONE

14. IN CAMERA (IN PRIVATE)
14.1 Legal Advice

This matter was dealt In Camera (In Private), with no further action required.

15. ADDED ITEMS – NONE

16. NOTICES OF MOTION – NONE

17. DATE OF NEXT MEETING – February 9, 2017 10:00 a.m., Council Chambers, 3rd Floor, City Hall, 1841 Argyle Street

18. ADJOURNMENT

The meeting adjourned at 11:36 a.m.

Krista Vining
Legislative Assistant