



Location:	Committee Room C-11, Tom Davies Square
Commencement:	4:03 PM
Adjournment:	8:05 PM

Minutes

**For the Hearing Committee Meeting held
Wednesday, April 5, 2017**

Deputy City Clerk Brigitte Sobush, In the Chair

Present	Councillors Signoretti, Kirwan, Cormier, Reynolds
City Officials	Brendan Adair, Manager of Security and By-Law; Kyle Anderson, Former By-law Enforcement Officer; Melissa Laalo, By-law Coordinator - Animal Care and Control; Kristen Newman, Assistant City Solicitor; Andre Guillot, Manager of Building Inspection Services; Stephen Holt, By-law Enforcement Officer; Carmen Solowoniuk; Brigitte Sobush; Manager, Clerk's Services/Deputy City Clerk; Renee Stewart, Clerk's Services Assistant

Declarations of Pecuniary Interests and the general nature thereof

None declared

Appointment of Committee Chair and Vice-Chair

1. Appointment of Chair and Vice-Chair - Hearing Committee
Report dated May 11, 2016 from the Executive Director, Administrative Services/City Clerk regarding Appointment of Chair and Vice-Chair - Emergency Services Committee.

Nominations were held for the position of Committee Chair

Councillor Cormier nominated Councillor Signoretti.

There being no further nominations, nominations were closed by Councillor Cormier.

Councillor Signoretti accepted the nomination.

Nominations were held for the position of Committee Vice-Chair

Councillor Reynolds nominated Councillor Cormier.

There being no further nominations, nominations were closed by Councillor Signoretti.

Councillor Cormier accepted the nomination.

The following resolution was presented:

HC2017-01 Kirwan/Cormier: THAT the City of Greater Sudbury appoints Councillor Signoretti as Chair and Councillor Cormier as Vice-Chair of the Hearing Committee for the term ending December 31, 2017.

CARRIED

Councillor Signoretti, In the Chair

Public Hearings

1 . Order to Remedy Appeal, ACR 729525 - 633 Lavoie St., Sudbury

The Hearing Committee Adjourned and the Public Hearing was Opened to deal with the following application.

Report dated March 13, 2017 from the General Manager of Corporate Services regarding Order to Remedy Appeal, ACR 729525 - 633 Lavoie St., Sudbury.

Gloria and Marc Levasseur, the appellants, were present.

Brendan Adair, Manager of Security and By-Law, outlined the report.

Brendan Adair, Manager of Security and By-law, stated that this order and the order from Public Hearing two (2) are involved due to the location of the retaining wall in question. The retaining wall is on the property line. Therefore, orders were issued to both properties. He stated that the decision made on the Lavoie property will affect the Rideau property and vice versa.

Gloria Levasseur stated she provided a letter stating the retaining wall should be a shared responsibility. She is not disputing that the retaining wall needs to be repaired but how the cost is going to be divided. As per the survey, the retaining wall is on the property line. The letter from 1978, submitted by Ms. Levasseur, does not apply to her as it was before she was the owner of the property. Estimated costs for repairing the retaining wall are between \$36,000.00 to 50,000.00. Mr. Gratton lives at the bottom of the hill, the wall is creating flooding issues on both properties. She also stated that nature has caused the retaining wall to move. When she procured the house, she had no intention of fixing the backyard. Ms. Levasseur believes that Mr. Gratton has more use for the wall than she does. She further stated that, should there be repairs on the wall, it is going to affect the property beside her as well. She concluded by stating she does not want to incur the whole cost of the retaining wall.

Brendan Adair, Manager of Security and By-law, gave descriptions of the photos being displayed outlining the affected properties and where the wall is located. He further stated that he believes that Building Services did offer construction advice as an alternative to fixing the retaining wall.

Andre Guillot, Manager of Building Inspection Services, stated that he did an investigation of the structure of the wall but did not provide advice on how the wall is to be replaced. He clarified that it would be at the discretion of the appellant to determine what to do with the retaining wall.

Kristen Newman, Assistant City Solicitor, stated that if the parties involved consent to having both the appeals heard together it may ease the Committee in making decisions. She further stated that giving Mr. Gratton the opportunity to speak may help clarify the matter but they would need consent from both parties.

Rules of Procedure

Consent was given by both parties; Gloria Levasseur for Public Hearing 1, Order to Remedy Appeal, ACR 729525 - 633 Lavoie St., Sudbury; and Normand Gratton, Public Hearing 2, Order to Remedy Appeal, ACR 729526 - 1198 Rideau St., Sudbury so that the appeals may be heard simultaneously.

Normand and Denise Gratton, the appellants, were present.

Brendan Adair, Manager of Security and By-law, outlined the report.

Councillor Kirwan, Ward Councillor, stated that the Order to Remedy was initially ordered to Ms. Levasseur at the Lavoie property but further the letter from June 14, 2016, both properties where given orders. He further asked what made the By-law office change their mind.

Kyle Anderson, former By-law Enforcement Officer, stated that after his initial inspection and before any action was taken, he received the property survey given to him by Ms. Levasseur indicating that the wall was on the property line.

Councillor Kirwan, Ward Councillor, outlined various information on the property survey. He determined that the peg which identifies the property line is on the left hand side of the railway tie of the retaining wall. He further stated that the railway tie for the retaining wall is on the property at 633 Lavoie. Councillor Kirwan then reviewed the pictures provided in the Agenda and outlined his observations.

Andre Guillot, Manager of Building Inspection Services, stated that, upon review of the aerial photos

from 1970, there was no house or retaining wall built.

Councillor Kirwan, Ward Councillor, concluded that the retaining wall would have had to have been built between 1970-1978. He also stated that in the Lawyer's letter from Randall Lalande it is advised that the owner needs to address the water problem. The letter further stated that the retaining wall does not extend onto Mr. Gratton's property and although Mr. Gratton has no objections, he could take legal action. Councillor Kirwan stated that he would like to hear from Mr. Gratton to confirm his opinion on the wall.

Andre Guillot, Manager of Building Inspection Services, stated that it is difficult to determine when and under what circumstances the wall was built because it was built around 1975 and at that time, the owner did not require a building permit to build the retaining wall. He further stated that the standards of lot grading and permits were not the same as we have today.

Marc Levasseur, brother and consultant to the appellant, stated he is a consultant of architecture and has done many site plans. He further stated that when a survey is completed they do not need to specify on every side which part are on the property line. The peg that seems to be on the south side of the survey has a note indicating that the peg has been disturbed. He concluded that the peg would have been on the property line had it not been disturbed.

Councillor Kirwan, Ward Councillor, inquired as to who mentioned the peg had been disturbed.

Brendan Adair, Manager of Security and By-law, stated that it is indicated on the survey, on the south-west corner of the wall.

Andre Guillot, Manager of Building Inspection Services, stated the date of the survey is March 2, 1992 and he can not comment on how the peg was disturbed.

Councillor Kirwan, Ward Councillor, stated the peg could have been disturbed by the wall pushing over top of it. If the retaining wall was on the property line one would expect the peg to be right in the middle of the tie. He stated that evidence indicates that the retaining wall was for the benefit of the property owner of 633 Lavoie.

Normand Gratton, the appellant, stated he bought the house in 1974 and there was no wall on either property. After speaking to the surveyor and seeing where the pegs are placed, the surveyor advised Mr. Gratton that there was a house that was being built at 633 Lavoie. The owner built the wall because he raised the house up to have his house equal the Lavoie street. In 1976 the owner of 633 Lavoie decided to build the wall. Mr. Gratton came home one day and there where 2 ties on the ground. He made sure that the ties where on the property of the owner of 633 Lavoie. Mr. Gratton further stated that he spoke to the city about the retaining wall and was advised that he could not do anything due to it not being on his property. The section of railway ties was in fact property of 1198 Rideau. He stated that if he had seen that it was on his property back then he would have gotten the former owner to move his ties. Mr. Gratton stated that for over 40 years the wall has been neglected. The water from the eavesdrop comes into the backyard and along the wall, then when the water freezes it pushed the wall. He also stated that when the tree was still present, the roots would also push the retaining wall out. Over 40 years previous owners did not take care of the retaining wall. He stated that when the notice was given to Ms. Levasseur she did not fix the retaining wall. If the wall would have been taken care of over the years the wall would be in good shape. Before Ms. Levasseur became the property the owner, the previous owner had raised the retaining wall in certain areas in order to cover the stumps from the trees that were removed. He stated that the survey indicates that from 603 to 639 Lavoie, the railway tie retaining wall was on the line. If it was partially on his lot it would be indicated on the survey. He believes the pictures show that the wall is buckling but the peg has not moved.

Councillor Kirwan, Ward Councillor, stated that the Lawyer's letter from 1978 indicated that there was water problem but made mention that Mr. Gratton had no objection to the ties being on this property. And asked why Mr. Gratton did not object.

Mr. Gratton stated that the top of the wall was beginning to move, he tried to advise the previous owners of the issue but they were not responsive. He also stated that he would like to sell his house but is reluctant due to the poor nature of the retaining wall. He would like to resolve the issue prior to selling.

Ms. Levasseur stated there is nothing holding the wall anymore due to the construction of other walls in the surrounding area. The wall is on the property line, her property ends at the wall and it separates both lots.

Brendan Adair, Manager of Security and By-law, stated that determining ownership of the wall is not what the Committee must decide on. He advised that the owners have multiple options in regards to the retaining wall. The wall can be removed, replaced or repaired, in order to meet the order.

Mr. Gratton stated that when the first order to remedy was given to Ms. Levasseur to repair the wall, she advised them that the wall was hers.

Ms. Levasseur stated she was in constant contact with By-law officers. She had steady contact and

agreed to make the repairs but did not agree that it was her wall. She approached the Grattons and they insisted it was not their wall. She has been following up all along and wanted to comply but things continued to be pushed back. She did not appeal on the first notice because she was in constant contact with by-law officers. She asked that both parties be accountable.

The Chair asked whether there was anyone in the audience who wished to speak in favour or against this application and seeing none:

The Public Hearing concerning this matter was closed and the Hearing Committee resumed in order to discuss and vote on the application.

The following resolution was presented:

HC2017-02 Cormier/Reynolds: THAT the City of Greater Sudbury upholds Property Standards Order to Remedy ACR 729525 issued to the owner of 633 Lavoie Street, City of Greater Sudbury.

Councillor Kirwan presented the following amendment:

HC2017-02A Kirwan/Cormier: THAT the resolution be amended to include the following paragraph:

AND THAT the completion of the work be done by September 30, 2017.

YEAS: Councillors Signoretti, Kirwan, Cormier and Reynolds.

CARRIED

The resolution as amended was presented:

HC2017-02 Cormier/Reynolds: THAT the City of Greater Sudbury upholds Property Standards Order to Remedy ACR 729525 issued to the owner of 633 Lavoie Street, City of Greater Sudbury.

AND THAT the completion of the work be done by September 30, 2017.

YEAS: Councillors Signoretti, Kirwan, Cormier and Reynolds.

CARRIED

2 . Order to Remedy Appeal, ACR 729526 - 1198 Rideau St., Sudbury

Report dated March 13, 2017 from the General Manager of Corporate Services regarding Order to Remedy Appeal, ACR 729526 - 1198 Rideau St., Sudbury.

The following resolution was presented:

HC2017-03 Reynolds/Cormier: THAT the Property Standards Order to Remedy issued by By-Law Enforcement Officer Kyle ANDERSON to the owner of 1198 Rideau Street, Greater Sudbury, be upheld.

NAYS: Councillors Signoretti, Kirwan, Cormier and Reynolds.

DEFEATED

Recess

At 5:53 p.m. the Committee recessed.

Reconvene

At 632 p.m. the Committee reconvened.

3 . Order to Remedy Appeal, ACR 729974 - 946 Martindale Rd., Sudbury

The Hearing Committee Adjourned and the Public Hearing was Opened to deal with the following application.

Report dated March 13, 2017 from the General Manager of Corporate Services regarding Order to Remedy Appeal, ACR 729974 - 946 Martindale Rd., Sudbury.

Frank Aceti, the appellant, was present.

Brendan Adair, Manager of Security and By-law, outlined the report.

Mr. Aceti stated that the letter he submitted is fairly self explanatory. Primarily the blasting on Corsi Hill 15 years ago caused extensive damage to his house and surrounding houses. He feels it is the responsibility of the people in charge of the blasting to be held accountable for the damage to his home. The environmental assessment surveys of the ground have records of the blasting happening in the area. He believes that there are other individuals who think the blasting has caused the damage in the neighborhood. The street, sidewalks, retaining walls, foundations have all been affected. They managed to get the sidewalks fixed but as far as he knows the damage done to the homes has not been addressed. Whoever authorized the blasting possibly used too much dynamite and damaged the surrounding homes. He does not believe that the owners should be held accountable for the issues. He believes something should be done. The houses on Corsi Hill gave the

city money in way of taxes. Therefore, Mr. Aceti believes the city could help repair the damage caused due to that revenue. Whoever is responsible or authorized the blasting should be the one responsible for the repairs his home needs. Mr. Aceti further stated he spoke to a planner for the city concerning the damage and he got a petition signed with approximately 20 area residents. They repaired the sidewalk and the roads, some retaining walls and driveways. He stated he was not aware of the blasting company or Corsi Hill at the time and did not contact them.

Brendan Adair, Manager of Security and By-law, stated the situation was brought to light by a complaint of a resident of the structure of Mr. Aceti's house. Not being in compliance could result in fines and an impact on property taxes as well.

Stephen Holt, By-law Enforcement Officer, stated he would like an engineers report to state that the structure is sound.

Brendan Adair, Manager of Security and By-law, stated that he would expect a time limit of 6 months for the work to be completed as there is a safety concern of the structural soundness of the property.

Stephen Holt, By-law Enforcement Officer, stated that if no action is taken the order does not expire. However, there is a question as to the safety of the structure.

Mr. Aceti stated that he currently is the only one residing on the property. However, there were previous tenant that occupied the apartment a few months prior.

Brendan Adair, Manager of Security and By-law, stated that Officer Holt is trained as a property standards Officer but they brought in an individual from Building Control who did not believe that the building was structurally sound and suggested an engineer be brought in.

Stephen Holt, By-law Enforcement Officer, stated that Mr. Aceti does reside in the building and there is the potential for a tenant to also be living there. He further clarified that the "X" on the Order to Remedy shows that the building is in fact occupied.

The Chair asked whether there was anyone in the audience who wished to speak in favour or against this application and seeing none:

The Public Hearing concerning this matter was closed and the Hearing Committee resumed in order to discuss and vote on the application.

The following resolution was presented:

HC2017-04 Kirwan/Cormier: THAT the Property Standards Order to Remedy issued by By-Law Enforcement Officer Stephen HOLT to the owner of 946 Martindale Road, City of Greater Sudbury, be upheld.

YEAS: Councillors Signoretti, Cormier and Reynolds

NAYS: Councillor Kirwan

CARRIED

4 .

The Hearing Committee Adjourned and the Public Hearing was Opened to deal with the following application.

Report dated March 13, 2017 from the Executive Director, Legislative Services/City Clerk regarding By-Law Clearing of Lands Notice of Non-Conformity Appeal, ACR 731681 .

Michael Dempsey, the appellant, was present.

Brendan Adair, Manager of Security and By-law, outlined the report. He also stated that the Non-Conformity has been complied with. It was in consultation with the Legal Department that the appellant wanted the issue heard at the Hearing Committee meeting. The Notice has been complied with and no notice needs to be upheld.

Kristen Newman, Assistant City Solicitor, stated that the order of non-conformity has been rectified. The issue becomes moot in regards to the lilac bushes. Therefore, the Committee can choose to uphold the notice if they find that it was justly issued by the By-law Officer.

Councillor Cormier, Ward Councillor, asked if the \$100.00 fee was returned to Mr. Dempsey.

Brendan Adair, Manager of Security and By-law, stated that since the matter had been resolved the \$100.00 would have been returned, however, as the appellant wanted to bring the matter to the Hearing Committee the \$100.00 user fee was collected.

Mr. Dempsey stated that he is asking that the Notice of non-conformity be revoked. He would also like the \$100.00 refunded. He stated that in earlier discussions there was mention of a complaint driving process. Mr. Adair commented that he tried to resolve the matter. He does not agree and feels like he has been brushed off and people have not answered his questions. In regards to the notice of non-conformity, he would like to ask a few questions, present his case and wants the Committee to be aware of the situation. He asked what date did the by-law officer receive the

complaint.

Brendan Adair, Manager of Security and By-law, stated that the complaint was received on October 12, 2016 at 9:25 a.m.

Mr. Dempsey stated that October 19, 2016 at 2:55 p.m. was the inspection. He then asked if the home owner was present.

Brendan Adair, Manager of Security and By-law, stated the home owner was not home at the time of inspection.

Mr. Dempsey asked if they discussed the issue or the action for the notice with the home owner.

Carmen Solowoniuk, By-law Enforcement Officer, stated that she was on site with Officer Holt, the home owner was not present but they did knock on the door. They did not discuss required action with the home owner.

Mr. Dempsey asked if they discussed the action or the issue prior to the notice being issued.

Carmen Solowoniuk, By-law Enforcement Officer, stated that they did not.

Mr. Dempsey stated that the date the notice was served was October 20, 2016. He then asked if it was personally served on that date.

Carmen Solowoniuk, By-law Enforcement Officer, stated that it was not.

Mr. Dempsey stated that he was not made aware of the notice or the opportunity to resolve the matter prior to its issuance therefore on this basis it should be revoked. He also stated that the date of service noted as October 20, 2016 is incorrect. He indicated that he has the registered letter he received on October 26, 2016. He sent an email in regards to the date of services but felt as if he was brushed off. He then stated it took two (2) days for the letter to be mailed out and it got to him on the Wednesday. He was not aware the inspection took place and read in the letter that he would appeal the order but then realized that his right to appeal was lost due to the date he got the letter. He would like to understand why the issue could not be resolved before the order was given.

The Chair asked why the order was given without mediation attempt.

Brendan Adair, Manager of Security and By-law, stated that they attempted to contact the home owner on that day, however, they do not have resources available to continuously go back to each home owner on each matter. The process in place is to ask that the work be done through way of the notice. The notice allowed for work to be completed by November, and if need be, extend that time period. He also stated that it is upon receipt of the document that they have to time appeal the notice.

Kristen Newman, Assistant City Solicitor, stated section 20 of the By-law provides the provision in respect to the receipt of notice. This permits time for mailing and receipt of the notice.

Mr. Dempsey stated that when he received the notice in the mail he was not aware of the information provided this evening. He stated he was under the impression that he only had 5 days to respond. He also stated he doubts that many homeowners would understand this information.

Brendan Adair, Manager of Security and By-law, stated that there were issues in regards to this case which caused it to be escalated to him. He stated that he asked Mr. Dempsey to call in order to clarify the situation but a response was not received and Mr. Dempsey requested to speak at the Hearing Committee.

Mr. Dempsey stated that it is incorrect that he chose not to speak to Mr. Adair. He stated that multiple emails were sent in regards to this issue and he feels his questions were not answered. He also stated that in an email Mr. Adair indicated that there are currently no formal policies, procedures or standards related to the By-law.

Motion to Proceed past 7:30 p.m.

Cormier/Kirwan: THAT this meeting proceeds past the hour of 7:30 p.m.

CARRIED BY TWO-THIRDS MAJORITY

Mr. Dempsey stated that Mr. Adair's statement ignores the Citizen Survey Policy. He does not believe it was met when he was not informed of the problem or how to remedy it.

The Chair stated that the issue at hand is the notice regarding Mr. Dempsey's lilac bushes. The issue Mr. Dempsey is referring to is a complaint to be brought up in a different setting. The Chair asked Mr. Dempsey if he had any relevant information relating to the lilac bushes.

The Chair asked whether there was anyone in the audience who wished to speak in favour or against this application and seeing none:

The Public Hearing concerning this matter was closed and the Hearing Committee resumed in order to discuss and vote on the application.

The following resolution was presented:

HC2017-05 Reynolds/Kirwan: THAT the City of Greater Sudbury upholds the Notice of Non-Conformity #731681, issued to 357 Marion Street, City of Greater Sudbury.

YEAS: Councillors Signoretti, Kirwan, Cormier and Reynolds.

CARRIED

Addendum

No Addendum was presented.

Civic Petitions

No Civic Petitions were submitted.

Question Period and Announcements

No questions were asked.

Notices of Motion

No Notices of Motion were presented.

Adjournment

Kirwan/Cormier: THAT this meeting does now adjourn. Time: 8:05 p.m.

Brigitte Sobush, Deputy City Clerk