



| | |
|---------------|---|
| Location: | Committee Room C-12, Tom Davies Square |
| Commencement: | 4:03 PM |
| Adjournment: | 7:55 PM |

Minutes

**For the Hearing Committee Meeting held
Wednesday, September 21, 2016**

Councillor Signoretti, In the Chair

| | |
|----------------|--|
| Present | Councillors Signoretti, Kirwan, Jakubo (D 6:54 p.m.), Cormier, Reynolds (A 4:08), |
| City Officials | Brendan Adair, Manager Security & By-law Services; Kristen Newman, Assistant City Solicitor; Guido Mazza, Director-Building Services/Chief Building Official; Tina Whitteker, By-law Enforcement Officer; Kyle Anderson, By-law Enforcement Officer; Tanya Thompson, Deputy City Clerk; Nataly Wissell, Clerk Services Assistant; April Antoniazzi, Clerk Services Assistant |

Declarations of Pecuniary Interests and the general nature thereof

None declared

Public Hearings

1 . Vicious Dog Appeal, ACR #718312 - Florrie Bursey

Report dated August 23, 2016 from the Executive Director, Administrative Services/City Clerk regarding Vicious Dog Appeal, ACR #718312 - Florrie Bursey.

Florrie Bursey, the appellant, was present.

Jeannine Guilbeault, the complainant, was present.

Brendan Adair, Manager of Security & By-law Services and By-law officer, Tina Whittaker, outlined the report.

Brendan Adair stated that by paying the fine it shows an admission of guilt.

Florrie Bursey stated that her dog is not a vicious dog. The incident is on video with Greater Sudbury Housing and the complainant stated she did not see me but in the report filed she did say she saw me. I was told I had no choice but to pay the fine or the dog would be taken away. It is in writing that dogs can not be off leash as per Greater Sudbury Housing. She stated that because of this order my dog is on a leash and muzzled for several hours throughout the day. I have brought with me evidence of being a good owner; I have receipts for the muzzles and all registrations since moving to Sudbury in 2012. This year, my animal is almost the only animal registered in the building. In regards to the second complaint, I had to almost call the police as the complainant was following me with a video camera. Mrs. Bursey went on to read the report submitted to the police SU#16031727. My dog D2137 is neutered and vaccinated. I am asking to have the condition modified as my dog is not vicious. She had lived with three (3) cats, she is not just my dog she is my kid and we live like

prisoners in our own home.

Mrs. Bursey responded that the witnesses that were present during the incident are not present.

Mrs. Bursey responded that there was never an incident like this in the past. This was the first time in her life that she has had to deal with this. Mrs. Bursey said when the incident occurred, the provocation had been happening for a while. People were going under the balcony with toys similar to those of other dogs. She stated that she was sorry and so is Zena, but she is not a vicious dog and it is unfair that she can not eat grass and be a dog and is stuck like a prisoner in our home. She does not agree with the order.

At 4:08 p.m. Councillor Reynolds arrived

Julie Paquette, an area resident, has known Florrie for many years. Their dogs play together all the time. She stated that she walks her dog, and Florrie has problems with people here because Zena because she is a big dog. She stated that Florrie ran into a problem when she first moved in, and had a problem with one resident. She informed that every time Zena is approached by other dogs she seems defensive. That day, Jack came outside with a ball in his mouth, that was when Zena went after her. She also believes that if Zena was leashed that day the incident would have never happened, when Zena is on her leash she is great. This was a situation that was unfortunate and Florrie tried to deal with it on her own, but the by-law officers did not see it the same way. Florrie was then followed with a video camera. Florrie takes Zena to the park and plays with her but she has not been able to do this all summer. She stated that there were numerous times that she has seen the people that accused Zena of not being tied who are letting their dogs in the backyard playing loose. She stated that she has three (3) children who grew up with Zena and have never been bit; they play with her and love her. This dog should not have to wear a muzzle all the time. She thinks it is not fair and people are trying to be vindictive. She stated that she, as a regular person, did not know that paying a fine was admitting to fault. She thinks Florrie is a good person and she tried to do what was right by paying the fine, and does not think that means admitting to guilt.

Officer Mills of Rainbow District Animal Control responded that the officer goes to the complainant and makes sure they get sufficient evidence at which point the ticket is issued to them. They are given three (3) options: Pay the fine; Early Resolution; and Trial option.

Officer Whitteker responded that it explains everything on the back of the ticket. It is very clear if you pay you are admitting to guilt so there should be no miscommunication.

Derisee Venne, daughter of the victim in this appeal, was not present at the time of the event but the description of what happened is what was also explained to her at the time. The dog Jack was just urinating in the back yard, the victim was not in anticipation of the attack. There was mention of a previous event but the appellant, when asked if there was prior incident, had responded no. Dog owners should be responsible to manage dogs appropriately. The worry is that this could potentially happen again, or a worse circumstance with a small child.

Tina Whitteker, By-law Enforcement Officer, responded that Animal Control listed one incident of a dog attack against a domestic animal 3606D on March 24, 2014. Therefore, there was definitely a previous incident on file and it was a complaint made against Zena.

Desiree Venne responded that she was notified the evening of the incident. The next day, she advised her mother that she would meet her at the vet where they found two (2) puncture wounds to the abdomen and one (1) on the hind quarter. The vet agreed that it could have been worse with his small size. There was an inspection at the vet and pain medication administered and more given to take home for the next few days. She advised that she would like to see a clarification made on the definition of provocation.

Jeannine Guilbeault, the complainant, said that in regards to if my dog was provoked; I can clarify it by saying that this was not the first incident. When we first met, the dogs got along just fine. Zena would just stick around and stick to herself. Over time Zena would start growling at Jack. One day I sent Jack to the front of the building towards the yellow door. Zena came, and pinned Jack to the corner of the cement wall and yellow door. The next time I met up with Zena with my dog it was the same situation. Going into same doorway Jack had his ball in his mouth and out of nowhere, Zena's head was in between the door, and all of a sudden she put her head on my dog as we were inside the hallway, and slammed Jack against the corner and pinned him there. Florrie was in the glass window with a smile on her face, she came in and I noticed that Jack was pinned by the neck, the dog had a muzzle on. She stated that she did not talk to the lady she just wanted to make sure Jack was okay. The next time she had Jack's leash on and he went pee. She noticed Nick at the picnic table with a leash, which meant that Zena was around, and I told him that Jack was around. The dog attacked Jack, I got to Jack he growled and had his teeth out and did not let me touch him. Florrie came to see if Jack was okay. I tried to figure out how he was, but I could not touch him. There is a history with that dog and my dog. Zena wears a muzzle sometimes but not always. When I tried to get her information, the people at the picnic table did not say anything. I do not like confrontation. I have no problem with Florrie, but I wondered why Zena always had a muzzle. In a high rise like that there always rumors and someone said Zena had hurt someone before.

My main reason for reporting the incident was because if another dog, child or adult gets hurt, my conscious would be guilty. Lately, I have been letting Jack loose in the backyard again. He is very high energy, he is no longer sore, he jumps in the air to grab a ball and he is playful with children. As for Zena, I can only speak to what I have experienced.

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 Planning Committee resumed in order to discuss and vote on the application.

The following resolution was presented :

Kirwan/Cormier: THAT the City of Greater Sudbury upholds the Vicious Dog Notice #718312, issued to Florrie Bursey of 1920 Paris Street, Unit D306, City of Greater Sudbury.

The following amendment was presented:

HC2016-03A1 Cormier/Kirwan: Subject to the following:

- i) Delete Condition 5(b) of the Notice
- ii) Add the address of 1920 Paris Street to condition 4 of notice.

CARRIED

The following motion, as amended, was presented:

HC2016-03 Kirwan/Cormier: THAT the City of Greater Sudbury upholds the Vicious Dog Notice #718312, issued to Florrie Bursey of 1920 Paris Street, Unit D306, City of Greater Sudbury; Subject to the following:

- i) Delete Condition 5(b) of the Notice
- ii) Add the address of 1920 Paris Street to condition 4 of notice.

PROCEDURAL NOTE:

4:08 PM Councillor Reynolds arrived and will abstain from voting on this Public Hearing.

YEAS: Councillors Signoretti, Kirwan, Jakubo, Cormier
CARRIED

RECESS

At 5:47 p.m. the Planning Committee recessed.

RECONVENE

At 5:54 p.m. the Planning Committee reconvened.

2 . Denial of Public Hall Licence Appeal - Guy & Michael Carpentier

Report dated August 24, 2016 from the Executive Director, Administrative Services/City Clerk regarding Denial of Public Hall Licence Appeal - Guy & Michael Carpentier.

Guy Carpentier, the appellant, was present.

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

Guido Mazza, Director-Building Services/Chief Building Official stated that he believes the first zoning by-law for the City of Sudbury was written in 1984.

Mr. Carpenter noted that the property is an old church build in 1949 prior to any zoning restrictions. Since it was built, there has been many zoning laws passed, and the allowed uses were in place long before the by-laws were created. There was no issue that the church was here before the by-law. The by-law is not very clear, and this place was used as a public hall before the change of ownership, I am continuing the use. He stated that he took steps to get the proper paper work to do so. There are pictures on the internet, showing that this was always a public hall and it was treated that way by the city. The church has since sold the property and the city has twisted the wording. He is simply asking for the license of legal non-conforming as it has been for the past 70 years. The by-law said if the use changes, but the use has not changed.

Mr. Carpenter stated that he has not applied for re-zoning on this property. It is quite possible that in the future he will look into it but for now to get things rolling and to get an income he chose to proceed with the current use.

Mr. Carpenter explained that he did a lot of research online as to what by-laws or hurdles can be

foreseen. With regards to the private versus non-profit use of a building, he stated he has never read about such things.

Kristen Newman, Assistant City Solicitor, advised that legal non-conforming or legal existing does not change with the title, it runs with the land. It refers to the institutional use.

Mr. Carpenter says that he has not determined what he wanted to do with the balance of the building space, whether it will be apartments or offices, but at the end of the day the building does cost money to maintain.

Mr. Carpenter responded that no one lives at this building but he is on the property on a regular basis.

Kristen Newman, Assistant City Solicitor, responded to a request for legal advice outside of general advice and suggested moving to closed or legal privilege being waived.

The Committee waived solicitor-client privilege

CARRIED

Kristen Newman, Assistant City Solicitor, explained that it is not a question of legal non-conforming because the institutional use no longer exists.

Guido Mazza, Director-Building Services/Chief Building Official, advised that there is no legal non-conforming status on this property. This would have to had been privately owned and kept in private hands until the time Mr Carpenter acquired the property. The primary problem here is that it has moved from an accessory use and institutional use to a commercial endeavor which not institutional use, therefore it to be rezoned. C-2 general commercial, and M1 light industrial zoning would need to be obtained.

Mr. Carpenter noted that once an institutional property is sold, MPAC classifies it as a commercial use. It is, as far as taxes go, a commercial property and he pays the commercial taxes.

Mr. Carpenter continued to say that under the Business License Act, a public hall is defined. It cannot be used as an accessory use. If in fact they were using this, it is a legal non-conforming use.

Guido Mazza, Director-Building Services/Chief Building Official advised that the church was licensed. The licensing by-law deals with certain items as we see a public hall to be. It was licensed and met certain requirements. They would have a regulatory burden, it does not mean that the use in place was not an accessory to the institutional use.

Mr. Carpenter stated that this was his first ever real estate acquisition and he has never went through a rezoning.

Mr. Carpenter advised that he was never made aware of this previous license. The city licensed a hall in an institutional zoning. They did allow a public hall, the health unit was there and occupancy permits were issued. He just want to, as a new owner taking over, extending that license issued by the city.

Guido Mazza, Director-Building Services/Chief Building Official, stated that the public hall license is different. The zoning by-law allows for recreational use and to ensure it is properly zoned. He also confirmed, that a non-profit could have purchased it and continued the use.

Andrew Bialck, a direct neighbor to the address in question, objects to the use that is proposed. We get a feel for what it will be like. One, there will be an impact on the quality of life. We suffer from the noise when the property is in use. Being two doors down we hear the music, and the noise, and experience the spillover of people standing on our front lawn. We have had the police come as well. The second issue is the impact on the property value of the neighborhood, as the state of the facility requires repair. We are directly suffering as a result as it depreciates our homes value. The difference being that a church is where people come together to build a strong bond in the community whereas the commercial use is to the benefit of one individual. Before the private use, when the church would host events there was never any issue with noise compared to the birthday party we experience with Mr. Carpenter. He stated he has spoken to the by-law department already. Mr. Carpenter returns home with two large trucks, normally twice a day. I have mentioned it to by-law, in fact just last night when he came home at 10 p.m., we asked him to be quite and in response he revved the engine. A commercial grade dump truck gets fired up twice a day (morning and night) these large trucks are used for hauling. In my opinion, there is probably a good chance he is staying there.

Mrs. Margeret Niemczyk, neighbour, said she has spoken to Mr. Carpenter face-to-face, and he stated that he and his 21 year old son live at the property in question.

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 recommendation was presented:

HC2016-04 Cormier/Kirwan: THAT the City of Greater Sudbury upholds the denial of the Business Licence for a Public Hall to MC Services, Guy and Michael Carpentier, owners of 131 Regent Street, City of Greater Sudbury.

YEAS: Councillors Signoretti, Kirwan, Jakubo, Cormier, Reynolds

CARRIED

PROCEDURAL NOTE:

6:54 PM Councillor Jakubo departed

Proceed Past 7:00 p.m.

Kirwan/Cormier: THAT this meeting proceed past the hour of 7:00 p.m.

CARRIED BY TWO-THIRDS MAJORITY

3 . Property Standards Appeal, ACR #691251 - Peter Skura

Report dated August 23, 2016 from the Executive Director, Administrative Services/City Clerk regarding Property Standards Appeal, ACR #691251 - Peter Skura.

Peter Skura, the appellant, was present.

Brendan Adair, Manager of Security and By-law Services & Kyle Anderson, By-law Enforcement Officer, outlined the report.

Kyle Anderson, By-law Enforcement Officer, advised that engineer reports are expensive and that is why he did not ask for one, as it would impose high costs on the residents.

Mr. Skura, stated that both his house and the house next door were built by J. Tripodi Ltd. The contractor put in a pool on both properties to help the homes sell. The condition of the fence and the wall looks like it did when we bought the property 14 years ago. The previous owners declared at the time of sale that there were no encumbrances on the property. So I was quite surprised in the summer of last year, when By-Law Officer Anderson came by and asked to look at property and when I received the ACR #691251. I told officer Anderson that the property line looks like it runs up the middle based on the survey received at the time of purchase. Mr. Anderson came to the same conclusion. The complainant had another 1985 survey, which Mr. Anderson reviewed.

Mr. Anderson cautioned me to ensure that the water be directed away from the neighbour's property. At this point, I questioned Kyle on about the work done at the neighbour's house which altered the flow of water onto my property and the encroachment by my neighbour onto my property. The response was that the concerned parties are left to work it out.

Mr. Skura stated that if you look at the building permit 80-6453, you see that it clearly shows the fence is on his property and the pool is 4 feet away from the lot line. The issue now is that four (4) people sold that property and each one had an encumbrance. The neighbour built a deck, as you can see on page 52& 58 and the deck railing is running straight along the property line and the downspout of that building is not supposed to be there. With that, I now have encumbrances that are going to devalue my property. He seems to have very little concerns about the By-Laws on his side. You can see the pool is slanted to my side on the wall.

Guiddo Mazza, Director-Building Services/Chief Building Official, stated that pool permits are to ensure security of the area and not for the actual building of it. The shed on the neighbours property also does not require a building permit as it is within the size limits.

Mr. Skura stated that he does not have a great deal of objection with removing the fence. There is part of the fence on posts and part of it on the wall, which supports the end on the posts and keeps it private from the street. Mr. Skura stated that he did not know if the wall was his, if it is he will take the appropriate steps. He has no problems and have talked to friends with construction companies. Essentially the worse of the problem is the top layer. The bulk of what is happening is expansion and contraction of aluminum post so the repair on the fence can be done relatively easy.

Kyle Anderson, By-Law Enforcement Officer, stated that he has not been back to inspect the property since the spring and has not seen any differences from the previous time he inspected.

Guiddo Mazza, Director-Building Services/Chief Building Official, stated that fences and retaining walls are never put in crooked so there is movement and weather plays a vital role in that movement. This falls within the property standards by-law where the retaining wall was not properly maintained.

Mr. Skura advises that he was going to hire a contractor to come do the work.

Brendan Adair, Manager of Security & By-law Services, stated that there were no concerns of holding off until after winter.

Ginnette Skura, area resident, stated that the reason we do not talk with the neighbours is because he insisted on having a huge motor home in the front of property. If he is 5" into our property I do not think he should be able to put the new fence on the wall. If we re-do the wall and he puts the fence on the wall, we will just be back here in 20 years from now.

Guido Mazza, Director-Building Services/Chief Building Official stated that the fence can go wherever the two (2) property owners see fit. There is no obligation on Mr. Skura to put up a new fence.

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:

Kirwan/Cormier: THAT the City of Greater Sudbury upholds Property Standards Order to Remedy #691251 issued to Peter Skura and Jeanette Skura, owners of 743 Grandview Blvd, City of Greater Sudbury.

The following amendment was presented:

Cormier/Kirwan HC2016-05A1: AND extend the compliance date to September 21, 2017.

YEAS: Signoretti, Cormier, Kirwan, Reynolds

CARRIED

The following motion as amended reads:

HC2016-05 Kirwan/Cormier: THAT the City of Greater Sudbury upholds Property Standards Order to Remedy #691251 issued to Peter Skura and Jeanette Skura, owners of 743 Grandview Blvd, City of Greater Sudbury.

AND extend the compliance date to September 21, 2017.

YEAS: Councillors Signoretti, Kirwan, Cormier, Reynolds

CARRIED

Addendum

No Addendum was presented

Question Period and Announcements

No questions were asked.

Notices of Motion

No Notices of Motion were presented.

Civic Petitions

No Civic Petitions were presented.

Adjournment Cormier/Kirwan: THAT this meeting does now adjourn. Time 7:55PM

CARRIED

Tanya Thompson, Deputy City Clerk