



TO: Mayor Kogon and Members of Amherst Town Council

FROM: Jason MacDonald, LPP, MCIP, Deputy CAO

DATE: February 20, 2019

RE: 196 East Victoria Street – Demolition Order APPEAL

Issue

An appeal by the property owner of a November 13, 2018 motion of the Planning Advisory Committee to accept the recommendation of the Dangerous and Unsightly Premises Administrator and order the buildings on the property located at 196 East Victoria Street be demolished:

That the Planning Advisory Committee order the buildings at 196 East Victoria Street be demolished, and back fill the hole within 30 days from the date of this Committee meeting, with all work to be done by the property owner. Failure by the property owner to do the work will result in the Town completing the work and send all contents of the building to the Cumberland Joint Services Management Authority land fill with all costs charged to the property owner's tax account.

Process

The meeting of February 20, 2019 is a hearing on the appeal of the PAC decision to order the demolition of the buildings located at 196 East Victoria Street. The process for the hearing is as follows:

- a) The report of the Administrator will be summarized;
- b) Council members may ask questions of staff;
- c) The owner or representative may address Council;
- d) Council members may ask questions of the owner;
- e) The complainant may address Council;
- f) Council members may ask questions of the complainant;
- g) Upon motion, Council may make any decision that the PAC could have made



History

A complete history of Dangerous and Unsightly Premises issues is attached. In summary, various complaints have been received on this property since 2013. A number of orders have been issued as have a number of fines.

While a number of the issues have been in regard to garbage and derelict vehicles, the current issue is in regards to the two buildings on the site. Notwithstanding numerous orders to address the structural integrity of the buildings, the owner of the property has not addressed any of the concerns of the Administrator or PAC.

A January 24, 2018 inspection by a Building Official with the Municipality of the County of Cumberland identified the following issues:

- 1 - Front and side exterior columns and porches are in threat of failure.
- 2 – Exposed soffit and roofing
- 3 – Exposed and compromised foundation at rear and side of structure
- 4 – Compromised and exposed electrical system throughout
- 5 – Compromised and modified plumbing throughout
- 6 – Evidence of structural rot in the basement
- 7 – Structural failure of the attic floor and roof in at least two locations
- 8 – Illegal storage throughout the structure posing a fire hazard
- 9 – Open flame heaters operating while unoccupied
- 10 – Illegal use of extension cords throughout structure to the extent that they are uncountable
- 11 – Significant signs of possible mould growth
- 12 – Water accumulation and standing water in the basement
- 13 – Various signs of possible structural failure throughout the structure
- 14 - The large shed at the end of the driveway is structurally compromised

Section 346 (1) of the Municipal Government Act states:

Where a property is dangerous or unsightly, the council may order the owner to remedy the condition by removal, demolition or repair, specifying in the order what is required to be done.

Municipal Government Act Definition of Dangerous or Unsightly

“dangerous or unsightly” means partly demolished, decayed, deteriorated or in a state of disrepair so as to be dangerous, unsightly or unhealthy, and includes property containing

- (i) ashes, junk, cleanings of yards or other rubbish or refuse or a derelict vehicle, vessel, item of equipment or machinery, or bodies of these or parts thereof,
- (ii) an accumulation of wood shavings, paper, sawdust, dry and inflammable grass or weeds or other combustible material, is stockpiled, hidden or stored away and is dangerous, unsightly, unhealthy or offensive to a person, or
- (iii) any other thing that is dangerous, unsightly, unhealthy or offensive to a person, and includes property or a building or structure with or without structural deficiencies**
- (iv) that is in a ruinous or dilapidated condition,**
- (v) the condition of which seriously depreciates the value of land or buildings in the vicinity,**



(vi) that is in such a state of non-repair as to be no longer suitable for human habitation or business purposes,
(vii) that is an allurement to children who may play there to their danger,
(viii) constituting a hazard to the health or safety of the public,
(ix) that is unsightly in relation to neighboring properties because the exterior finish of the building or structure or the landscaping is not maintained,
(x) that is a fire hazard to itself or to surrounding lands or buildings,
(xi) that has been excavated or had fill placed on it in a manner that results in a hazard, or
(xii) that is in a poor state of hygiene or cleanliness;

Given the size of the building and the deficiencies listed above and the likely cost of remedying those deficiencies; combined with the owner's unwillingness or inability to address the deficiencies, the Administrator has recommended demolition as the remedy to address the dangerous and unsightly condition of the property. The PAC, in their motion of November 13, 2018 also chose demolition as the method to remedy the situation.

Correspondence

It is important for Council to understand the correspondence that the Town has had with the property owner regarding the condition of this property.

The Town has given the property owner every opportunity to remedy the structural deficiencies listed above. Since 2013 the Town has sent no less than six letters requesting compliance and five orders of the Administrator ordering compliance. Three fines have been issued. To date, the owner has not addressed any of the structural issues of the buildings on the property. In addition, the Town has hired contractors to clean up the interior of the building and surrounding yard / driveway. Four vehicles have been towed from the property. Furthermore, the property owner has received numerous letters indicating that the cost of work undertaken by the Town has been charged to his property tax account. To say the least, various Administrators have had face to face discussions with Mr. Wells regarding this property.

Recommendation

Council can make any decision that the Planning Advisory Committee could have made. The options are:

1. Uphold the recommendation of the Administrator and order of the Planning Advisory Committee and order that the buildings on the property be demolished.
2. Order the property owner to undertake repairs to both buildings to bring them into compliance with all relevant provisions of the National Building Code and Minimum Standards for Residential Occupancy Bylaw.

Given the long history of non-compliance the option to repair the buildings will likely result in further deterioration of the buildings over time and a continued dangerous and unsightly condition on the property.



It is my recommendation that Council uphold the order to demolish the buildings on the property.

Motion:

That the property owner be ordered to remove the contents of and demolish the buildings located at 196 East Victoria Street within 30 days of this meeting. Both foundations are to be backfilled. Failure by the property owner to do the work will result in the Town completing the work and sending all contents of the buildings to an appropriate solid waste disposal facility with all costs charged to the property owner's tax account.

