



TO: Mayor Kogon and Members of Amherst Town Council

FROM: Jason MacDonald, LPP, MCIP, Deputy CAO

DATE: February 19, 2018

RE: 59 Church Street – Demolition Order APPEAL

Issue

An appeal by the property owner of a January 18, 2019 motion of the Planning Advisory Committee to accept the recommendation of the Dangerous and Unsightly Premises Administrator and order the building on the property located at 59 Church Street be demolished:

That the Planning Advisory Committee order the property owner of 59 Church Street to remove all contents from the building, demolish the building and backfill the property within 45 days from the date of this committee meeting.

Failure by the property owner to do the work will result in the Town completing the work and sending all contents of the building to the land fill, with all demolition and landfill 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 building located at 59 Church 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, 12 complaints have been received on this property since 2011.

While the majority of the complaints have been in regards to garbage and rodents, the current issue is in regards to the condition of the building on the site. Notwithstanding that the property was ordered to be vacated in 2016 due to the condition of the building, the property owner has not made any progress to remedy the deficiencies and return the property into a usable condition.

An October 2, 2018 inspection by a Building Official with the Municipality of the County of Cumberland identified the following issues:

- 1- Collapse of several portions of the foundation with openings to the exterior.
- 2- Structural fatigue and partial structural support failure in basement.
- 3- Façade compromised and at places open to exterior, weather and wear.
- 4- Structural failure shown at several locations throughout structure.
- 5- Partial collapse of foundation interior.
- 6- Electrical shock risk due to exposure of wiring, disarray of utility in basement, degradation of panel and entrance, and water penetration.
- 7- Collected pools of water in basement. Exposed plumbing issues and multiple signs of water damage.
- 8- Signs of wildlife penetration and several carcasses located on site.
- 9- Debris and garbage located throughout structure.
- 10- Compromised building envelope to the point of being a health risk.
- 11- It is in the opinion of this inspector that the building site be secured and marked for demolition or major restoration. This building poses an imminent risk to transients, as well as threatens the safety of the public in its present state.

In January of 2019 the property owner hired a professional engineer to assess the basement and main floor structure of the building. This report was read into the minutes of the January 18, 2019 PAC meeting. In his report to the property owner John Green, P. Eng., stated;

“Given the extent of the deterioration and deficiencies, complete replacement of the floor system would be required including the wood sills and foundation upgrades. With the poor condition of the overall building, it is my opinion, this level of investment would not be justified.”

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



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- (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 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 January 18, 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(s) regarding the condition of this property.

The Town has given the property owner(s) every opportunity to remedy the structural deficiencies listed above. Since 2011 the Town has sent no less than 15 letters requesting compliance and two orders of the Administrator ordering compliance. Six times the Town hired a contractor to clean up the solid waste on the property. In 2016 the Provincial Fire Marshal ordered that the building be vacated and not inhabited until it is brought into compliance with applicable codes. To date, the owner has not addressed any of the electrical, plumbing, or structural deficiencies of the building. In addition to the above, 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.



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 building on the property be demolished.
2. Order the property owner to undertake repairs to the building to bring it 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 building will likely result in further deterioration of the building over time and a continued dangerous and unsightly condition on the property.

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

Motion:

That the property owner be ordered to remove the contents of and demolish the building located at 59 Church Street within 45 days of this meeting. The foundation must 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 building to an appropriate solid waste disposal facility with all costs charged to the property owner's tax account.

