

Town of Amherst Planning Advisory Committee Minutes

Date of Meeting: Monday, February 19, 2019
Location: Council Chambers, Town Hall

Members Present: Deputy Mayor Sheila Christie
Councillor Terry Rhindress (Vice Chair)
Councillor Jason Blanch
Citizen Appointee Gordon Goodwin
Citizen Appointee Ronald Wilson

Members Absent: Citizen Appointee Larry Pardy

Staff Present: Deputy CAO, Jason MacDonald
Unsightly Premises Administrator, Marc Buske
Manager of Planning and Strategic Initiatives, Andrew Fisher
Municipal Clerk Kimberlee Jones
Administrative Assistant Emily Wainwright

Others Present: Town Solicitor, Terry Farrell

1. Call to Order

Vice-Chair called the meeting to order at 12:17 p.m.

1.1. Approval of Agenda

Moved By: Deputy Mayor Christie
Seconded By: Citizen Appointee Wilson
That the February 19, 2019 agenda be approved.

Motion Carried

1.2. Approval of Minutes

Moved By: Citizen Appointee Goodwin

Seconded By: Councillor Blanch

That the minutes of the February 4, 2019 PAC meeting be approved.

Motion Carried

2. Recommendation for Demolition – 1 Spring Street

2.1. Staff Report

Mr. MacDonald reviewed the staff report as included as part of the agenda package.

2.2 Owner Questions / Comments

The owner was not in attendance. Mr. Jim O'Neill, attorney representing the property owner, Walter Wells, spoke regarding the current situation with the property owner. "There is a problem as some of you may know. Mr. Wells was beaten badly, and the people have been charged with assault. He was in hospital for a while. I have had a hard time getting a hold of him. The last time I spoke with him he was still in the hospital and was in pretty bad shape. He was unable to come to the last meeting and I still cannot get him by phone, and I've tried three or four times today, and I have even checked the hospital with a follow up investigation trying to find out what is going on. So, I did note one thing, and correct me if I am wrong, I think the Town engineer indicated it's not in imminent danger now and therefore action could not be taken without the committee. Am I right about that?" Mr. MacDonald replied that he was correct. If it is in imminent danger to the public, the Town engineer could order to demolish with almost no notice. Mr. O'Neill stated "That is an important point in my presentation to you today. I am here without instructions so I will do the best I can under the circumstances. A good point, the building will eventually fall down anyways, as will all buildings, and this has been a slow-moving situation. In the circumstances, and I know it is inconvenient, but I am going to move for an adjournment. In this case where I cannot get a hold of the owner, and he has some serious problems, I would like to determine what is going on. Because I can't make a motion or to make a recommendation on whether it is even possible to repair it, so that is all I can really do. If you decline my request, I cannot really argue anything substantial without contacting Mr. Wells."

2.3 Committee Questions / Comments

Councillor Blanch stated that “we have adjourned once for the exact same reason, and I do not feel as though you are giving me confidence that any timeline or anything that we would not come here and sit again and hear the exact same request. It is a mirror of what we heard two weeks ago and I’m wondering if you have more to offer if we were to accept your recommendation, or your appeal. If you had more to offer that would offer some piece of mind that we would come and actually have a reason to be here. Mr. O’Neill replied that “I would say the same thing if I were in your position. What I would recommend is that it be put over to an indefinite date, I guess I call it sudden death, so at that point if I can find out what is going on and if we do not have a medical report or something, then at that point I think it would be fair game to go ahead. These kind of proceedings or adjournments are not unusual. I know in court, cases get adjourned all the time. There has to be some care to make sure that the owner, because what is recommended is equivalent to the death sentence, it is demolition, and those are very difficult orders to deal with and maybe that is appropriate, but I don’t know. Until I find out if my client has a view of repairs, given the drastic nature of the recommendation I think an adjournment would not be too much for the Town to bear in the circumstances given what you have been asked to decide.”

Deputy Mayor Christie stated “the letter had gone out on November the 28th giving notice of this hearing. We are now in February the 19th. As well as, the first complaint on the property was in 2015, so there has been ample time to have this addressed, and like my fellow Councillor, I do express the same concern that we will be in the exact same situation. If this committee decides to proceed and go ahead, there are other avenues of appeal that are open, so there really isn’t an issue for us to postpone it because those avenues are there. So, I would be inclined to say we need to move forward based on the history of the dates and the letter that was sent from this office on the 28th of November.”

Citizen Appointee Wilson stated “I concur with the opinions expressed by the other committee members. I think what we should also recognize is certainly the rights of your client in respect to the matter before us, but we also have an obligation to the community, to the citizens of Amherst, in that it has been identified that there are inherent safety issues related to the condition of the building. At a previous meeting we saw photographs, not only of condition of the exterior of the building as Mr. MacDonald alluded to in his report, but there appears to be, based on the report given by the building inspector, what appears to be considerable issues structurally on the interior of the building. Given the weather conditions that we have, and the fact there are opportunities for people within the community to access that building I think that it has come upon this group to address the issues, and then the property owner has opportunities to take recourse.” Mr. O’Neill replied “I am not sure if that is a question or if I should comment, but I can’t disagree with anything that you are saying. I am not an engineer, or even a carpenter, but I am relying completely on the Town engineer who said it was not in imminent danger when I made the request for adjournment. I just wanted to clarify.” Mr. Wilson stated that “your point about the recommendation of the engineer with respect to imminent danger of collapse, the

fact that it has been brought to the attention of this committee by the building inspector who has a fairly significant degree of expertise in the matter at hand. He has made the recommendation that identified issues of safety that would be concerning to us and I think that as a result of that, we have an obligation to move forward and let the process take its course.”

Citizen Appointee Goodwin address Mr. O'Neill and asked, “is there any feedback to you from the medical people as to when Mr. Wells would be well enough to give proper instruction so that you can go forward?” Mr. O'Neill replied “no, I don't. In fact, the last time I spoke to anyone was when he was in the hospital, so he has not provided me with anything.” Mr. Goodwin asked, “is he still in the hospital now?” Mr. O'Neill replied “no, he is not. I am not even sure who his personal doctor is, I do not have that kind of rapport with Mr. Wells. I can only provide you with what I have, which is not very much.”

Councillor Blanch stated that “we have two reports, one from the building inspector and one from the Town engineer. It seemed as if the Town engineers report showed less concern than the building inspector. That is in my reading, and I only have the skills I come with. I guess I really want to echo what you're saying in that not having great expertise and having one report that says it is in imminent danger of collapse and having one say that it's not quite so bad, but definitely in a bad way, makes me feel, based on a precautionary principle I would go with the assessment that says it is in the worst condition. I was young, and I would not have thought twice about climbing into an old building to look around and I can just imagine if we postpone and something terrible were to happen, then we would have some responsibility in those events for postponement.”

Citizen Appointee Goodwin stated “I understand that the building is fenced now to prevent pedestrians and traffic from getting too close. If the front wall collapsed, depending on which way it goes, it will be on the street. The other thing is that Ben has already said that maybe it will not collapse all that quickly. As from my experience around buildings, if the roof is overloaded then the collapse is always inward. If it is subject to a collapse by wind forces, then it is probably going to be outward. The big danger really is the house immediately adjacent on the South Albion Street side. If that building is going down, it will impact the house.”

Deputy Mayor Christie added that “when we all see the pictures, it is definitely collapsing inside. There has been some collapse happened already and this has been ongoing since 2015. There has just been delay after delay with some of these things, and it is time we take safety ahead of other things and with the house being so close and the street being so close, I think that it is due diligence on our part to make sure it is no longer a safety hazard, because it is going to come down, and it has already proven that. It is just a matter of when and how fast and what damages is it going to cause.”

Vice-Chair Rhindress added that he is very worried about the house next door and asked if the Town would be liable if something happened. Mr. MacDonald replied "I do not have a comment on whether we are liable. We've received a complaint, done our investigation, the Town engineer said it is not in imminent danger to the street, we have fenced off the property to make sure that people can't get at the property. So we believe we have taken all the steps that we should have in order to ensure public safety and that the Town is following the rules set out in the Municipal Government Act."

3. Adjournment

Citizen Appointee Goodwin motioned to adjourn the meeting at 12:37p.m.

Motion Carried

Kimberlee Jones, Municipal Clerk

Vice Chairman Terry Rhindress