



CITY OF WELLAND

Planning and Development Services
Planning Division
60 East Main Street, Welland, ON L3B 3X4
Phone: 905-735-1700 Fax: 905-735-8772
E-mail: devserv@welland.ca
www.welland.ca

HEARING

Monday, September 28, 2009 10:00 a.m.
City Hall – Room 109
Log File No. 2009-01

MINUTES

Committee Members: Margaret Hudak
Gary Galambos
Don Belanger

Staff Present: Rick Goupil – By-Law Enforcement/Licensing Officer
Dave Ferguson – Manager, Parking and Traffic Operations/By-Law
Enforcement
Jennifer McRae – Building Services Technician/Property Standards Secretary

Others in Attendance: Rob Lucchetta – Appellant
Ed Lucchetta – Appellant's brother
Brenda Carter – Complainant
William Carter - Complainant

1. Committee Members met at approximately at 10:00 am.
2. Hearing called to order at 10:10 am by the Chair and all present introduced themselves.
3. Chair explained the purpose of the Committee and Format of Hearing.
4. Appeal of Mr. Rob Lucchetta begins. Chair asks the By-law Officer for his input on situation.
5. Discussion took place on the issues regarding why the Order was made. The By-law Officer verifies that there were two formal complaints on the property, and stated that after investigation, he determined that the property was in violation of the Property Standards By-law. He also stated that the pile was located on a vacant lot on the road allowance, but not owned by the City. The Chair inquired about the dates of the Order, the deadline to comply, and what was asked of the Appellant for compliance. The By-law Officer stated that he issued the Order on August 28, 2009, with the Comply date being September 17, 2009. For compliance, the Appellant was to have the dirt removed.
6. Discussion continued regarding the reasons for the Appeal:
 - The Appellant explains that a City Official gave him authority to place the dirt in that spot. He explained that the NPCA is in the process of approving the temporary storage of material in the back of the lot.
 - The Appellant then states that he called the NPCA and no approval had been given yet because another approval from another authority, the MNR, also is required and he cannot move the pile until all approvals are given.

7. Topic regarding the drainage implications was discussed:
 - The Chair addresses the By-law Officer and asks about variances required for flattening the pile. The By-law Officer states the intent of the By-law is that surface drainage is not to affect adjacent properties, or put other properties in violation of other by-laws, such as the standing water By-law.
 - The Chair asks if the swales can be looked at to provide direct drainage. The Appellant states that yes, they can take a look at the swales.
 - The Complainant (Mrs. Carter) spoke and stated that the pile of dirt is about five feet from her fence. She then read the e-mail that was sent to a City Official regarding the timeline and sequence of events that she had documented. She went on to explain that an employee of the NPCA sent her an e-mail that stated that the NPCA cannot address the problem because they do not have any legal mechanism to give the authority to move the pile of dirt to the proposed location at the back of the property. She explains that the NPCA is telling them that they do not have approval to move it to the bush (in the rear of the property) but is not advising them that they cannot touch it.

8. More conversation regarding the existing swales, the impact filling them in has had on drainage, and a possible solution:
 - The Complainant (Mr. Carter) states that he knows the property well, and states that the swales are located in the back. There are swales that are not sodded, but they are low spots intended for drainage that run parallel to the fence.
 - Committee Member (Don) asks if a swale could be built alongside the pile of dirt, to which the Complainant (Mrs. Carter) replies yes
 - Conversation continues with the Chair explaining that a swale could help in the short term, but the pile should be moved to help the residents and the lack of communication with the NPCA makes it difficult to wait for approvals. The By-law Officer informs the Committee that if an extension is given, other properties could possibly become in violation of the standing water By-law as well. It was also determined that since a similar situation on the other side of the pile exists, a swale should be built on both sides.
 - Committee Member (Gary) asks the Appellant if there is another spot the dirt could be placed. The Appellant answers that it depends on the time of year, more rain could mean a wait, and his intent is to move it to the back of the property. He says he is willing to help with the new swale.
 - The Complainant (Mrs. Carter) states that the solution presented does not rectify what it looks like, and it is affecting them because they are trying to sell their home. The By-law Officer explains that the By-law does not deal with appearance.
 - Committee Member (Don) explains that a compromise should be met to avoid a lengthy court case, and asks a reasonable date to move the pile. The Appellant explains that the material is for the road, and required for the site. He states that some things and some procedures that may affect where and when he can move the pile, such as weather and times of the year.
 - A timeline of January 15th was discussed to remove the dirt. This was based on discussion that the dirt should be moved as soon as possible, yet also taking into consideration that current rainy and wet weather conditions make it difficult for the access of vehicles needed to move the pile. Frozen ground will make the move possible according to the Appellant.

9. The Committee went into deliberation, in public, to render a decision based on the information heard.

10. A decision was passed based on unanimous decision.

11. All parties present were informed of the decision orally and agreed upon.

DECISION:

- Lucchetta Homes is to develop drainage solution so it does not damage or impact abutting residences – this is to be done immediately.
- Lucchetta Homes is to remove the soil pile as soon as feasible, with the latest date being January 15, 2010.
- Regarding communications – there has been miscommunication between departments and appellants. Better communication is necessary between clients as well as the Committee.

12. Minutes approved from last meeting.

13. Adjournment