



The Corporation of the Town of Essex

Appeals Meeting Minutes

July 16, 2024, 5:00 pm

Location: Essex Municipal Building, 33 Talbot Street South

Present: Eric Florjancic, Chair
Jessica Paglia, Member
Christopher Cowell, Member
Christopher Ortner, Member
Christopher Waters, Members

Also Present: Shelley Brown, Deputy Clerk, Legal and Legislative Services
Joseph Malandrucolo, Director, Legal and Legislative Services/Clerk
Cassandra Lauzon, Legislative Clerk
Kevin Carter, Manager, Building Services/Chief Building Official
Mike Diemer, By-Law Enforcement Officer
Rene Tamminga, By-Law Enforcement Officer
Jeff Crowley, By-Law Enforcement Officer

Accessible formats or communication supports are available upon request. Please contact the Clerk's Office at clerks@essex.ca or 519-776-7336 extension 1100 or 1101.

1. **Call to Order**

Eric Florjancic, Chair, called the meeting to order at 5:00 PM,

2. **Land Acknowledgement**

We acknowledge that this land is the traditional territory of the Three Fires Confederacy of First Nations (comprised of the Ojibway, the Odawa, and the Potawatomi Peoples), and of the Huron-Wendat Peoples. We value the significant historical and contemporary contributions of local and regional First Nations and all of the Original Peoples of Turtle Island who have been living and working on the land from time immemorial.

3. **Declarations of Conflict of Interest**

There were no declarations of conflict of interest noted at this time.

4. **Adoption of Published Agenda**

4.1 **Appeals Committee Meeting Agenda for July 16, 2024**

AP24-07-001

Moved By Christopher Cowell, Member

Seconded By Christopher Ortner, Member

That the published agenda for the July 16, 2024 Appeals Committee be adopted with the following amendments:

1. That Agenda Item 6.2 be withdrawn; and
2. That Agenda Items 6.4, 6.6, 6.11 and 6.12 be deferred to a future Appeals Committee Meeting.

Carried

5. **Adoption of Minutes**

6. **Hearing of Appeal**

6.1 **4965 4th Concession - Wendy Kelley and Gerard Bernauer**

Wendy Kelley explained her purpose for requesting the appeal and stated that the by-law only allows for 3 dogs. Ms. Kelley was advised that, due to zoning restrictions, she was not eligible for a kennel licence. Ms. Kelley provided her reasons for the appeal.

Shelley Brown, Deputy Clerk, provided information regarding the appeal on behalf of the Town. Ms. Brown explained that, due to zoning requirements, the residents were not eligible for a kennel licence. She advised that historically Council has granted exemptions to the 3-dog limit until such time as one of the dogs is deceased. Ms. Brown stated that she had objection to the exemption.

The Appeals Committee provided their decision.

AP24-07-002

Moved By Christopher Cowell, Member

Seconded By Jessica Paglia, Member

That Wendy Kelley and Gerard Benauer, 4965 4th Concession, be granted an exemption from Section 3.4.1 of By-Law 1966 to permit 4 dogs until such time that 1 of the dogs are deceased.

Carried

6.2 **1045 Snake Lane - Danne and Robert Whitehead**

Agenda Item 6.2 was withdrawn during the adoption of the published Agenda.

6.3 **942 Twin Gables - Donna and George Grant**

AP24-07-003

Moved By Jessica Paglia, Member

Seconded By Christopher Cowell, Member

That the matter relating to 942 Twin Gables be deferred to allow for the submission of evidence by Donna Grant.

Carried

6.4 **4896 4th Concession - Zubair Shakeel**

Agenda Item 6.4 was deferred during the adoption of the published Agenda until the next Appeals Committee Meeting.

6.5 **583 Pigeon Beach Road - Lucas Tourangeau and Lauren Dewar**

Lauren Dewar explained her purpose for requesting the appeal and stated that she was in the process of obtaining her short-term rental licence. Ms. Dewar

advised that she has paid her licence fee and completed a fire inspection on March 8, 2024, on same day she received an administration penalty for advertising a short-term rental without a licence. She explained that she never relisted and Airbnb automatically relisted her property.

Rene Tamminga, By-Law Officer, explained that the appellant is requesting an appeal in accordance with By-Law 2025 as it relates to short-term rentals in Town of Essex and provided the details regarding the issued administrative penalty.

After reviewing the evidence, the Appeals Committee provided their decision.

AP24-07-004

Moved By Christopher Ortner, Member

Seconded By Christopher Cowell, Member

That the Committee move into Closed session to discuss advice that is subject to solicitor-client privilege, including communications necessary for that purpose as permitted to do so by Section 239 (2)(f) of the *Municipal Act*, 2001.

Carried

AP24-07-005

Moved By Christopher Ortner, Member

Seconded By Christopher Cowell, Member

That Council move out of Closed session and move back into an Open Meeting.

Carried

AP24-07-006

Moved By Christopher Cowell, Member

Seconded By Jessica Paglia, Member

That the appeal by Lucas Tourangeau and Lauren Dewar relating to the property known as 583 Pigeon Beach Road be denied and dismissed and that the administrative penalty dated March 8, 2024, be due immediately.

Carried

6.6 9939 9th Concession - John LeBlanc

Agenda Item 6.6 was deferred during the adoption of the published Agenda until the next Appeals Committee Meeting.

6.7 108 Adelaide Street - Devon Elaine DeVogelaere

Devon DeVogelaere explained her purpose for requesting the appeal and stated that she was not aware of these administrative penalty notices until her tenant provided her with an issued administrative penalty in April. She explained that the notices were returned to sender in January, February and March. She further explained that the rental was listed as unavailable as she had a long-term tenant from the end of 2023 until June 2024 and her listing on Airbnb was listed as unavailable. She stated that since that time, she has

completed the licence application process and will relist the property when she receives her licence.

Rene Tamminga, By-Law Officer, stated that the appellant is requesting an appeal in accordance with By-Law 2025 as it relates to short-term rentals in Town of Essex and provided the details of the issued administrative penalties.

Considering the delivery of the three administrative penalties the Appeals Committee made the following motion:

AP24-07-007

Moved By Christopher Cowell, Member

Seconded By Christopher Ortner, Member

That the Committee move into Closed session to discuss advice that is subject to solicitor-client privilege, including communications necessary for that purpose as permitted to do so by Section 239 (2)(f) of the *Municipal Act, 2001*.

Carried

AP24-07-008

Moved By Christopher Cowell, Member

Seconded By Christopher Ortner, Member

That Council move out of Closed session and move back into an Open Meeting.

Carried

AP24-07-009

Moved By Christopher Ortner, Member

Seconded By Christopher Cowell, Member

That the appeal by Devon DeVogelaere relating to 108 Adelaide Street for February 2 and March 8, 2024 be accepted and that the corresponding administrative penalties be withdrawn; and

That the appeal for the administrative penalty dated April 11, 2024, be denied and dismissed and that the administrative penalty be due immediately.

Carried

6.7.1 February - Administrative Monetary Penalty

6.7.2 March - Administrative Monetary Penalty

6.7.3 April - Administrative Monetary Penalty

6.8 123 Howe Avenue - Jaime and Ryan Patillo

Jamie and Ryan Patillo explained the purpose for requesting the appeal and stated that with their jobs and operating a farm they do not visit their property in Colchester often in the winter. Ms. Patillo stated that she had received the formal notice on her door in April and after speaking with Rene Tamminga, By-Law Officer for the Town of Essex, she unlisted it from the online advertising platform.

Rene Tamminga, By-Law Officer, stated that the appellant is requesting an appeal in accordance with By-Law 2025 as it relates to short-term rentals in Town of Essex and he provided details regarding the issued administrative penalties.

After discussing the evidence presented, the Appeals Committee provided their decision.

AP24-07-010

Moved By Eric Florjancic, Chair

Seconded By Christopher Ortner, Member

That the Committee move into Closed session to discuss advice that is subject to solicitor-client privilege, including communications necessary for that purpose as permitted to do so by Section 239 (2)(f) of the *Municipal Act*, 2001.

Carried

AP24-07-011

Moved By Eric Florjancic, Chair

Seconded By Christopher Ortner, Member

That Council move out of Closed session and move back into an Open Meeting

Carried

AP24-07-012

Moved By Christopher Ortner, Member

Seconded By Christopher Cowell, Member

That the appeal by Jaime and Ryan Patillo relating to the property at 123 Howe Avenue be denied and dismissed and that the administrative penalties dated February 2, March 8, and April 11, 2024, be due immediately.

Carried

6.8.1 February - Administrative Monetary Penalty

6.8.2 March - Administrative Monetary Penalty

6.8.3 April - Administrative Monetary Penalty

6.9 687 Sunset Avenue - Jolanta Banasiak and John Gallo

John Gallo explained the purpose for requesting the appeal and stated that he was unaware of the short-term rental by-law or the requirement to obtain a licence. He explained the administrative penalty notices were sent to his former property in Hamilton and never received them. He noted that his daughter resided at 687 Sunset since January 15, 2024 and there were no attempts to bring these letters to the property until the notice was left onsite in April. He stated that once he received the administrative penalty notice he removed the listing.

Rene Tamminga, By-Law Officer, stated that the applicant is requesting an appeal in accordance with By-Law 2025 as it relates to short-term rentals in Town of Essex and he provided details regarding the issued administrative penalties.

After discussing the evidence presented, the Appeals Committee provided their decision.

AP24-07-013

Moved By Christopher Ortner, Member

Seconded By Christopher Cowell, Member

That the appeal by Jolanta Banasiak and John Gallo relating to the property at 687 Sunset Avenue be denied and dismissed and that the administrative penalty dated February 2, March 8, and April 11, 2024, be due immediately.

Carried

6.9.1 February - Administrative Monetary Penalty

6.9.2 March - Administrative Monetary Penalty

6.9.3 April - Administrative Monetary Penalty

6.10 13083 13th Concession - Waseem Ali and Kanwal Abbas

Kanwal Abbas explained the purpose for requesting the appeal and stated that neither of them received the order to remedy in January noting that the first time a notice was received was in February. He stated that when they received this notice he spoke with Rene Tamminga, By-Law Officer of the Town of Essex who stated that the initial notice was returned to the sender. He explained that upon meeting the by-law officer, he was informed that they require a licence for their short-term rental and that is when it was unlisted. Waseem Ali added that during the winter months they do not frequent this property as they reside in Windsor and that they are fairly new to the Town of Essex. He noted that there were no bookings during time.

Rene Tamminga, By-Law Officer, stated that the applicant is requesting an appeal in accordance with By-Law 2025 as it relates to short-term rentals in Town of Essex and he provided details of the issued administrative penalties.

After discussing the evidence presented, the Appeals Committee provided their decision.

AP24-07-014

Moved By Christopher Ortner, Member

Seconded By Jessica Paglia, Member

That the appeal by Waseem Ali and Kanwal Abbas relating to the property at 13083 13th Concession be denied and dismissed and that the administrative penalty dated February 2, 2024, be due immediately.

Carried

6.11 3464 3rd Concession - Semmour Holding Inc.

Agenda Item 6.11 was deferred during the adoption of the published Agenda until the next Appeals Committee Meeting.

6.12 993 Kenshore Lane - Krzysztof Gajowski and Nicole Gajowski

Agenda Item 6.4 was deferred during the adoption of the published Agenda until the next Appeals Committee Meeting.

6.13 147 Allison - Valerie Lynne and Benny Thomas Neilipovitz

Benny Neilipovitz explained the purpose for requesting the appeal and stated that the light in his backyard is to deter trespassing and damage to his property. He stated that due to a complaint regarding the light Rene Tamminga, By-Law Officer, attended his property and asked him to point the light in a downward direction which he complied, however, Mr. Tamminga returned to the property as the light was still illuminating onto the neighbouring property. Mr. Tamminga suggested moving the light to a tree or fence and he stated that would not serve the purpose of protecting the property. He explained that there was a flag in the proximity of the light for his grandkids that was causing the light to turn on.

Rene Tamminga, By-Law Officer, explained that Property Standards By-Law 936 and Section 15 of the Building Code Act permits him to enter onto the property. He stated that he spoke with Mr. Neilipovitz to provide a solution as this light illuminates the property at 142 Maple Lane. Mr. Tamminga spoke with the resident and provided him with various options such as directing the light further down, shielding the light, relocating the light, or removing the light which was requested verbally and Mr. Neilipovitz did not abide to any of the suggestions.

After discussion and reviewing the evidence, the Appeals Committee provided their decision.

AP24-07-015

Moved By Christopher Ortner, Member

Seconded By Christopher Cowell, Member

That the Appeals Committee allow for Valerie Lynne and Benny Thomas Neilipovitz to present evidence regarding their property municipally known as 147 Allison Avenue, Harrow Ontario.

Carried

AP24-07-016

Moved By Christopher Ortner, Member

Seconded By Christopher Cowell, Member

That the Committee move into Closed session to discuss advice that is subject to solicitor-client privilege, including communications necessary for that purpose as permitted to do so by Section 239 (2)(f) of the *Municipal Act*, 2001.

Carried

AP24-07-017

Moved By Christopher Ortner, Member

Seconded By Christopher Cowell, Member

That Council move out of Closed session and move back into an Open Meeting

Carried

AP24-07-018

Moved By Christopher Ortner, Member

Seconded By Eric Florjancic, Chair

That the Appeals Committee extend the adjournment of the meeting for an additional 15 minutes.

Carried

AP24-07-019

Moved By Christopher Cowell, Member

Seconded By Christopher Ortner, Member

That the appeal by Valarie and Benny Neilipovitz at the property known as 147 Allison be denied and dismissed and that the order to remedy be upheld and complied with to the satisfaction of the By-Law Enforcement Officer no later than July 30, 2024.

Carried

7. **Adjournment**

AP24-07-020

Moved By Christopher Ortner, Member

Seconded By Jessica Paglia, Member

That the meeting be adjourned at 8:10 PM.

Carried

Chair

Recording Secretary