

MEETING MINUTES

MEETING	Property Standards Committee Meeting	
DATE	February 9, 2015	
LOCATION	Committee Room 112	
TIME	7:00 PM	
PRESENT	Committee members Present	D. Smith, B Foster, J Hebden, K. Lammer
	Committee member regrets	R Gibson
	Property Standards Officer	Rob Reynen,
	Property Standards Inspector:	Jason Lapier
	Secretary-Property Standards Committee	Christine Lalonde
	Legal Representative of The City of Guelph	Susan Smith <i>Note-present to provide information on case law only</i>
	PSC-15-001 Appellant:	Alex Perez representative of Cliffwood Plaza Corp.
	PSC-15-002 Appellant	Tad Malak representative of 17 Cork West Ltd
	PSC-15-003 Appellant:	Syed Danyal Hyder, Syed Ijlol Hyder and Munira Hyder

DISCUSSION ITEMS

ITEM #	DESCRIPTION
1	J. Hebden was appointed Chairperson There were no declarations of pecuniary interest.
2	Approval of minutes from January 5, 2015 – approved by KL and seconded DS. KL – minutes Paragraph 4 to 8, 5 -9, 8 to 4 and 9-5 need to be switched.
3	Meeting called to order at 7:00PM Meeting attendees and City staff was invited to join the meeting. Introductions of the Committee, City Staff and the appellant of PSC-15-001 were made
4	414 Stone Road West – PSC 15-001 Chair asked City to present its case. <u>Background:</u> Sept. 24 inspection regarding complaint regarding concrete entrance slabs. Unit's #'s 37, 38, 39, 40 and 41. Notice issued Sept. 30 to owners Clifford Corp. Part of the remedial work requires was to retain a structural engineer to provide report of structural integrity of slabs. Compliance date Sept 30, 2015. JL gave out copy of Engineering Report to committee Oct. 23 confirmation from plans examiners that a permit is required for the remedial work. Dec. 3, followed up on the notice and no repairs had been completed. Order issued December 9 th , 2014 with a compliance date of February 3, 2015. Dec. 12 email from owner saying working on drawings and would submit building permit app but looking to refrain from work until spring. They then appealed the order. JL showed pictures of the concrete that has deteriorated.

During inspection last week JL noticed that some of the painting had been completed as requested by the engineer.

The chair (JH) asked the committee for questions for the City:

DS –personal safety issue? JL replied based on Engineer’s report not at this time, however further deterioration will occur during the winter, especially with salt use over the winter.

DS are guards pulling away? JL, only what was shown in the pictures.

Question about usage – JL, they could be secured so not used.

DS permit applied? JL- No

BF – how old is this project – Rob Early 90’s

BF how did we get involved in the first place? JL – there was a complaint

DS – clarification on how many units – JL – 5-walled shared and a standalone.

Chair (JH) asked the appellants to present their case:

AP- Engineer returned on January 6 (See attached copy of the letter). They plan to do the work but would like to wait for spring.

The chair (JH) asked the committee for questions for the Appellants:

BF – Does the city of have issue with waiting to April? RR/JL – in regards to the first line of the letter, regarding temporary supports with steel beams, JL does not believe any more supports have been added. AP says that they will be locking up the 5 unit storage areas so they cannot access and will send letters to the tenants. RR would like to see condition on decision about supporting all 5 porches and possibly lock them up for access.

JH – There are temporary supports in two? AP, not sure, did not inspect himself, just went by the engineer. RR – Engineer’s letter a little vague on which units were inspected.

JH-when did you go and look last. AP, hasn’t been there for over a month and is not sure. He would have to go and look.

KL – Can we anticipate temperatures over 5 degrees by April 30? BF, yes

DS – what type of compliance date are you looking for. AP– end of April, says the Engineer is asking for the end of Spring.

KL – can you pour in the winter with a chemical added? RR – work can be done in the winter, but usually spring is preferable.

DS – whole job to be done or just partial. AP, yes the whole job, the engineer is looking for end of Spring. This would be June 21. BF – that seems a little long.

JH – Condition of supports put in? KL yes, support under each unit and entrances

	<p>blocked. June 21 is a little late (KL). April 30 should be fine but can extend it to May 15. DS – include the whole job complete. RR – permit required you might want to word decision with this in mind.</p> <p>The chair asked for anymore questions from the committee to any of the parties:</p> <p>None.</p> <p>The chair closed the meeting and let the attendees know they were welcome to stay while the committee deliberated and reached a decision.</p> <p>-Committee deliberated the wording of the decision and compliance dates.</p>
5	<p>DECISION PSC 15-001 (414 Stone Road W) Item # Completed by May 15th as per permit requirements – KL, DS – all in favour. Item 2 February. 17, with addition of blocking public access ways, KL, DS – all in favour.</p>
6	<p>PSC-15-001 Adjourned at 7:34 pm Chair called a 10 minute recess.</p>
7	<p>Meeting called to order by Chair at 7:41pm Introductions of the Committee, City Staff and the appellant of PSC-15-002 were made</p> <p>JH – explained procedure to appellant for the appeal.</p> <p>Appellant feels that he should go first as he is the appellant. He’s also just been handed 14 pages that he has not read. Wants to ask for adjournment as he was taken by surprise over the documents.</p> <p>Committee not sure what the way to go. BF – question about agenda circulation.</p> <p>SS- asked to speak. Said that one of the cases she has provided Mr. Malak, he has seen and the other is a two page document that may be irrelevant if the other appellant brings to their appeal.</p> <p>Mr. M. saying that he’s being caught by surprise. Saying the officers are disclosing information he should have had prior.</p> <p>Chair asked Mr. M. how long it will take him to read the two pages he was given.</p> <p>Motion to suspend until after PSC 0-15-003 is heard.</p> <p>Mr. M. has returned to say he cannot deal with this today, he needs time to adjourn.</p> <p>JH – asking if MR. M. will defer until after the other case is heard. He says yes but he is still not prepared to present.</p>
8	<p>17 Cork Street West - PSC 15-002 Re-convened – 9:01pm</p> <p>Mr. M. saying hearing not good and he did not hear everything SS said. Still feels that he needs an adjournment.</p>

JH – Descion will say if adjourned.

Chair asked City to present its case.

Background:

- Explained retaining wall issue, and the dimensions of the wall.
- Oct. 31, visited the property and took measurements and by what he saw on survey. He could not determine ownership so he issued notice to both parties.
- JL read notice. Compliance. Date Dec. 3, 2014, noting ownership cannot be determined and notice to both owners.
- Returned December 4, 2014 for a follow up inspection, noted on wall but stakes with orange tape noted there now.
- JL Issued order December 8, 2014.
- Received request of appeal December 22, 2014.
- JL showed pictures of retaining wall

The chair (JH) asked the committee for questions for the City:

None.

Chair (JH) asked the appellants to present their case:

-Mr. M. does not know where to begin, so he will be jumping from topic to topic.
-First thing he wants to say that there is a law (support of land) and a British law book And says the book is straightforward and common sense. On page 811 of this book and he provided to the city, he said the legal department treated him like dirt. Jason and Rob have been fair. Said he provided the survey when he purchased the property and that the wall was already standing. And was a well-built wall. He says the law is simple. He read from the book, (passage regarding man's right to support). He is amazed in the City of Guelph with all the retaining walls that the there is no standard for retaining walls and the city guys have admitted to not knowing the law. Said he went to the GPL yesterday and took out another text – read again from text of the book. Text talks about land owner's absolute right of support by his neighbors.

Asked the committee to picture the land originally before the retaining wall and how they cut the land to make it flat. Says that it makes no difference if the wall was put in the wrong space, and it indicates clearly that the owner of the land had the right to support and it cannot now be taken away by anything.

JH- says the goal tonight is to determine whose land the wall is on. Mr. M – it is irrelevant.

JH – said that according to the order, bylaws and case law we need to determine who owns the wall. Mr. M. said he disagrees.

KL – do you have anything that shows the ownership? Mr. M. says that survey he has shows the retaining wall on 80-84 Norfolk. KL- who produced the survey? Mr. M – no, just found it recently. KL – Do you know when it was done? JH – showed how on the survey does not show the retaining wall but a three story building. JH – says we need to find out who owns the wall. MR. M – said no – he has the right of support.

BF – asked if MR. M has had legal advice. Mr. M said no he can do himself.

BF is saying that the law quoted as bylaws currently are what we are going by. Mr. M. said no it's not right.

JH – are you asking for the order to be rescinded? Mr. M. – said no I want the responsibility of the wall to be on the neighbor. JH – said we do not know where the wall is at and before we can rescind an order we need to have something that would show which property the wall is on.

KL – asked if when the property was purchased in 1973 was the wall on your property. Mr. M. says he does not know. KL confirming he does not know where the wall is. Mr. M. says there is a fixation on who owns the wall but it's on 80-84 Norfolk. Mr. M asked Jason to go thru all the pictures. JL showed pictures again.

BF – asking when accessory building was constructed. Mr. M. said 10-15 years ago and they had building permit. BF – do you see the downspout, do you think it's contributing to the erosion. Mr. M said no its weather, etc.

KL and BF how long has the rear yard been a parking lot? Mr. M. 1973.

The chair (JH) asked the committee for questions for the Appellants:

JH – we are dealing with two orders for same issue but we do not know who is responsible, we need to find out ownership.

Mr. M saying we are fixated with ownership and it's not right it's the support of the property. Asking Jason to go thru pictures again.

JH – if we obtain documentation and it shows the lot line is on the other side of the 3 feet of the supporting wall? Mr. M says we are denying outright the right of support.

KL can legal tell us about what MR. M is speaking about.

SS – said she did not speak to MR. M before tonight. Does not know if he spoke to someone else. Explained that the right of support is regarding two owners and he may or may not have a right in this case and in SS opinion this is a private issue between the two owners and the Badenhurst decision, paragraph 33 talks about the argument made that the wall was constructed on one property but migrated on to both properties. The court ruled that it was on both properties and both are responsible; however there may be a civil matter between the two property owners. Right of support in SS's opinion Right of Support does not pertain. MR. M says SS is completely wrong. JH – if it's a civil matter that is not for this committee to decide. In order to rescind the order we need to have documentation from a land surveyor before we can determine and move forward with one order or the other. Mr. M. – the way this is developing will go to court. Mr. M asked are you going to obtain a surveyor report. JH, no we are not but the onus of proof is on whoever wants to have the order rescinded. Mr. M does not understand what SS is saying, he is asking if the laws go to everyone or just property owners. Common sense says that JL and RR should know the law and right of support and should not have put an order on him.

KL – trying to explain that as a committee, they are limited on what they can rule on that we are a quasdi-judicial and we have the order that we have to rule on. Asking Mr. M if he is willing to get a survey or letter from a surveyor? Mr. M said he will answer if KL will

	<p>answer his question. Says there are three possible answers that the surveyor can give, 1. Wall on 17 but sidewalk on 80-84. 2nd, side walk is 100% clear on 80-84, or can say standing wall is half and half. Third answer is all on 17 Cork. KL would be happy to answer if you can provide the surveyor. Mr. M says we are not answering. BF asked if MR. M would be willing to pay half if it is determined it should be half. He said that he had quote to repair the retaining wall. KL – why did you get quote? Because you thought it was your property? Mr. M. No. – said he had altercation with owners of 80-84 Norfolk about whose responsibility to repair wall. Said he was willing to go 50-50 but they did not want to. Now he does not want to be imposed upon and bamboozled. Said committee doesn't know what Quasi juridical is and not using their powers to make decision. JH – we do not have enough information to make decision.</p> <p>KL – asking are you asking for the order to be rescinded. Mr. M yes. KL are you willing to provide further further info. Mr. M will not provide answer so KL says that she will take that as a no.</p> <p>Mr. M. cited previous case law.</p> <p>JH – we have determined we do not have enough info and unless you have further info showing on ownership. Mr. M – said he will answer if we answer JH – cannot answer. Mr. M says its baloney and we know it.</p> <p>KL – any further info?</p> <p>Mr. M requesting adjournment.</p> <p>The chair closed the meeting and let the attendees know they were welcome to stay while the committee deliberated and reached a decision.</p> <p>-Discussion of wording of decision</p>
9	<p>DECISION PSC 15-002</p> <p>Confirm order pending a report from an Ontario Land Surveyor determining the location of the retaining wall by March 9th, 2015. Motion JH, seconded BF.</p> <p>Unanimous.</p>
10	<p>JH explained decision to Mr. MM. So we are denying adjournment? BF – yes. Giving hard time regarding the decision. JH decisions will be posted on the internet in a couple days</p> <p><i>Meeting adjourned 9:49pm</i></p>
11	<p>Meeting called to order by Chair at 8:00 pm</p> <p>JH gave appellants how the hearing will work.</p> <p>Introductions of the Committee, City Staff and the appellant of PSC-15-003 were made</p>
12	<p>80-84 Norfolk Street - PSC 15-003</p> <p>Chair asked City to present its case.</p>

Background:

JL gave background of complaint of the structural stability of a retaining wall at 80-84 Norfolk St.

Spoke of the condition of the wall, the variant height of the wall. Unable to determine the ownership of wall. He looked at a survey we had and took measurements from this survey (17 Cork ST. W.). JL brought up survey on screen. Showed how he made his measurements. Based on the measurements it appeared the property line could be on the retaining wall or slightly over. However could not be 100% sure of accuracy. Issued a notice, prior to issuance met with owner's sons and using the measurements notices were being issued to both 17 Cork St. W and 80-84 Norfolk St. There was a survey for 80-84 Norfolk; however there were not any measurements that could be used to determine ownership of retaining wall. JL read out the notice, noting similar notice issued to 17 Cork St. W.

Follow up inspection on December 4th, 2014 did not appear that there were any work done on the wall other than orange tape, order was then issued and appeal received.

JL showed pictures of retaining wall, starting with the aerial view from goggle maps. JL pointed out the properties of 17 cork and 80-84 Norfolk. He pointed out the accessory building noted in his notice. Then showed pictures from 80-84 Norfolk looking south to 17 cork St. w. Showed pictures showing loose stone and how the wall has deflected. Also showing picture towards the west end where it is 2 feet or less but increases in height as you go to the east (picture – showing voids and gaps and the chain link fence deflected). This is adjacent to a parking lot used by occupants of 80-84 Norfolk. Showed picture of accessory building very close to edge of retaining wall, also show picture of bar that is being bent. RR explained that the bar may not be right at the edge of the property as they cannot always put one on the corner. Also showed pictures of the wall collapsing, and showed how cars park right up to the wall. Showed picture from December where he noticed a bar had been placed in the corner and painted that was not there before, as well as spray paint stake that was not painted and marked on first inspection.

JL read out content of order Dated December 8, 2014. Again noting that property line was unable to be determined and similar order sent to 17 Cork St. W.

The chair (JH) asked the committee for questions for the City:

DS – this wall is an L shape? JL – yes on one corner, JL brought up picture showing the L shape. DS who owns the Accessory building – JL – 17 Cork St. w.

KL asking for clarification of where the wall is. JL explained how the wall of the area that is in the L section and showed it on the survey for 17 Cork St. W.

BF – appears there are three different construction materials for the wall, (RR – yes)
BF – Was there was a permit for garage. RR explained surveys years ago surveys did not include information.

Chair asked the appellants to present their case:

Danyal Hyder –son of the owners spoke on their behalf - They noticed late last year that the wall was deteriorating. They wanted to converse with the neighbor. They had a

conversation with Mr. M. where he said the wall is on his property, and had quotes, but that the law did not make sense. They have an interim survey by Black, Shoemaker & Donaldson. They also inquired as to whether the shed had a permit and does not believe it did. The shed is illegally constructed and in violation of the city by-laws. Said the parking lot was paved over the retaining wall, making it a load bearing wall. BF – interim survey done when? Answer 2005. Gave out copies of the survey to the committee to review (see attached). Showed where the property line is, and also gave pictures of the wall (see attached). Says the shed weight is shifting the wall, as well as the down spouts of the shed, causing deterioration of the wall. Said this was not done correctly for the drainage and the pictures show that. When the parking lot was constructed, and paving over the retaining wall, it caused issues as it became a load bearing wall, which was never its intent. Also cars park right up to the edge of the wall, causing more weight, which is pushing the wall. KL – the surveying bar was bowing out towards Norfolk? JL bar was out, KL wanting to know if it was the wall doing so. JL said he cannot comment. Saying you can in the pictures how the wall is shifting. He says with logic and reason you can show how the wall has moved from 17 Cork to their property. Indicated the picture that shows the stones that come out from the parking lot. That they also cannot control the weight that 17 cork puts on the property. DS –what is the distance from the wall to the shed? Less than 2 feet. Also showed how the downspouts are aimed wrong.

The chair (JH) asked the committee for questions for the Appellants:

JH – the preliminary survey done in 2005? What was the purpose of the survey? For purchase? No, purpose was to get proper boundaries, they were considering more building. JH is this as far as you went? Yes, we did not get the final survey.

JH – what are you looking for in regards to the order? – They want a stone wall that will not come down and cause issues. Saying it is not on their property and should not be their issue to repair and would like repaired to today's standards and get down spouts moved.

BF – asking legal who is responsible for the retaining wall. SS can give information on the case law. Gave case from 2002 of a retaining wall where ownership could not be determined. The current position of the structure on who should be responsible. Dispute of ownership/property line would be a civil issue and not under the Property Standards Bylaw. If the location is clear, to make determination but if it is not clear on whose property it is on, then you could say it's the responsibility of the two property owners would be responsible.

BF – if we had a letter from surveyor showing the wall on 17 Cork St. W. would that be accepted by the City? RR – yes we would and would rescind the order.

KL – asking about the responsibility of causing the wall to shift, and questioning if the committee should not wade into the situation between the two property owners. SS explained in greater detail the case that she cited from 2002. Figuring out who is responsible during their dispute is not the committee's function. KL asking if there is any other case law in regards to the fault of the structure, SS says this is not the central issue that the committee needs to decide, and who is responsible for the repair. SS spoke about another case from the City of Hamilton (that Mr. M. is reviewing) explained the dispute was on who owned the property and the court said the onus is on the person asking to have the order rescinded, however there was enough evidence for this case to show ownership of the wall.

	<p>KL – this survey from 2005 – clearly puts the retaining wall on 17 Cork W. (RR asked to review survey), BF – it is field notes drawing. DS, how accurate, BF – very accurate. RR says reviewing the prelim. survey shows the wall is right on the property line. KL – said it shows clearly the retaining wall is on 17 Cork St. She feels it is pretty clear that the retaining wall is on 17. BF – thinks it would be good to have a letter from the survey company verifying the accuracy of the prelim. Survey.</p> <p>DS does the City have anything in this detail? RR – no we do not have anything.</p> <p>KL – wondering the role of the committee and what their role is and amount of evidence.</p> <p>Asked for further questions and is confirming the request of the appellants.</p> <p>I.e.; rescind order and have put to other owner.</p> <p>The chair closed the meeting and let the attendees know they were welcome to stay while the committee deliberated and reached a decision.</p> <p><i>JH asked if they would be willing to get a completed survey. DH said yes they could. (added from notes to clarify adjournment)</i></p> <p>Discussion of adjourning until further proof of ownership.</p> <p>Adjourned 855</p> <p>Five minute recess.</p>
<p>13</p>	<p>DECISION PSC 15-003</p> <p>Motion – KL – to adjourn meeting and ask owners of 80-84 to provide a confirmation of where the retaining wall from a surveyor. Jon H. Seconded. With 4 weeks. March 9, 2015.</p> <p>Unanimous.</p> <p>Meeting adjourned 8:55pm Called 5 minute recess</p>
<p>14</p>	<p>Other Matters</p> <p>Remove registered by regular – vote approved by committee. Time of meeting? – Discussed changing time of meeting. Decision to leave meeting time as is but try to avoid booking meeting on council nights.</p>
<p>15</p>	<p>KL move to adjourn meeting 10:06</p> <p>Meeting adjourned at 10:06 pm.</p>

Engineering Services
Design
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January 6, 2015

Re: 414 Stone Road West, Guelph

Dear [REDACTED]

Further to our inspection performed on October 9, 2014 this is to confirm that the stairway entrance slabs that are deteriorated have been temporarily supported using steel shores.

The deterioration of the exterior brick and partition concrete block walls, separating the storage areas beneath the stairs, does not reduce the structural integrity of the stairway entrance slabs.

As there are no present structural safety concerns, the proposed repairs can be scheduled to start around the end of spring 2015, as temperatures above 5°C is required to complete this work correctly and effectively.

We trust that this is sufficient for your needs. If any questions arise, or if more information is required, please do not hesitate to contact us.

Yours truly,



Mark Krantzberg, P.Eng



PSC-15-003 - 80-84 NORFOLK



PSC-15-003 - 80-84 NORFOLK



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