

# Meeting Minutes



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Meeting	<b>Property Standards Committee</b>
Date	March 6, 2019
Location	City Hall, Meeting Room C
Time	7:00p.m.
Present	Jon Hebden, Katharine Lammer, Bob Foster, David Wiedrick, Stephen Jamieson, Rebecca Smith, Kevin Thompson, Dominic Bombino, Marion Gruner and William Whitehead
Regrets	

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## Discussion Items

### 1. Appointment of Chair

K. Lammer appointed Chairperson for the 2019 year

### 2. Disclosure of Pecuniary Interest

There were no declarations of pecuniary interest.

### 3. PSC 19-001 – 364 Stevenson Street N

Meeting called to order at 7:00 pm

Introductions of the Committee, City Staff and the appellant of PSC-19-001 were made

#### **Chair (K. Lammer) asked City to present its case.**

Background:

D. Wiedrick – the City is looking for the committee to confirm the order with an extension to the conclusion of the appeal by 44 Terry Boulevard as there are ongoing civil matters and the previous order has been appealed to the Superior Court.

S. Jamieson – 364 Stevenson Street N and 44 Terry Boulevard are connected at the retaining wall. The wall is failing, presenting a safety concern and not being used for its intended use. As per section: 3.1 Every property shall be kept free of any: 3.1.1 object or condition that may create a health, fire, or accident hazard; 3.1.3 dilapidated or collapsed structure; and 3.3 Every accessory building, fence, sign, retaining wall and other structure shall be maintained in a structurally sound condition, and have all exposed surfaces maintained in good repair by the use of paint, stain or the like, so as to prevent deterioration due to weather conditions, insects or other damage.

Attended June 16, 2017 and noted a conflict with the City easement and were looking to return with the City engineer as a survey could not be found on file.

Only July 12, 2017 – an inspection was completed with Jason Lapier and Mario Martinez to see if there was a conflict with the city easement. The engineers grading plan showed a proposed slope of the land and did not indicate the wall and there was no concern with the easement as it was for access. Connection with the owners of 44 Terry Boulevard was also made to discuss concerns and options.

July 26, 2017 – went to take measurements of the location of the wall. When it was measured it appeared the wall was on the property at 44 Terry Boulevard and a notice was issued to 44 Terry Boulevard. Follow-up inspection were completed with no progress.

An order was issued on July 4, 2018 to 44 Terry Boulevard and was appealed September 26, 2018.

Order for 44 Terry Boulevard quashed by the Committee and appealed by the City to the Superior Court.

The City went and obtained a survey and engineers report for the wall.

October 18, 2018 - onsite with Jason Lapier and Tacoma Engineers for engineering assessment, inspected from 364 Stevenson Street. Received survey from Van Harten Directed to issue order immediately for 364 Stevenson Street as part of shared wall.

The owner of 364 Stevenson Street says the neighbor has the history on the wall and he believed the wall was built by the previous owners at 44 Terry Boulevard

Tacoma report supports that the wall is failing, "It appears that the wall has shifted over time. The lower portion of the wall appears to have shifted towards Stevenson Street. There is a noticeable slope in the wall. The face of the wall at the low grade is approximately 0.5m offset from the face of the wall at the high grade. The exterior wall surface is not in plane and the face meanders along the length of the wall." The report also noted concerns with the lack of guards, "There is no guard in place to protect people for the 1.8m grade difference. Based on the survey markings, there have been loose stones, concrete blocks, and bricks that have fallen and landed onto the property at 364 Stevenson Street. There is an immediate concern for more loose materials falling off the wall. The steel channels and angles are fully exposed with surface corrosion and sharp edges."

Recommendations from the report state, "Based on our visual observations, it is our opinion that the existing retaining wall is not structurally adequate due to excessive movement and collapse of materials. The wall has immediate safety concerns for falling and other potential injuries. It is our opinion that the wall be removed and replaced with a proper retaining wall meeting the loading and safety requirements of the Ontario Building Code."

B. Foster – The building code would not require guards, but would need a permit

S. Jamieson – The other options would be to return it to its original slope

S. Jamieson – An order was issued December 4, 2018 with a compliance date of January 4, 2019

D. Wiedrick – The City is just looking to have the wall repaired as it s a safety concern. The ownership of the wall is a civil issue. We would like the order upheld as the wall is in a poor state of repair.

**The chair (K. Lammer) asked the committee for questions for the City:**

J. Hebden – Is the City looking for an extension until after the appeal to the Superior Court?

S. Jamieson – Yes

K. Lammer – You were onsite and had a conversation with the owner of about the ownership of the wall?

S. Jamieson – The owner of the neighbour at 364 Stevenson Street stated that the previous owner of 44 Terry Boulevard created the wall and when it failed they shored it up.

K. Lammer – So the owner did not know if there was any agreement when the wall was built?

S. Jamieson – They did not know.

**Chair (K. Lammer) asked the appellants to present their case:**

K. Thompson – Survey of property provided by appellant. Shows that a small portion of the bottom of the wall is on 364 Stevenson Street, which indicates there could be a mistake with the location of the property line or that wall was all installed at 44 Terry Boulevard and it crept onto the property at 364 Stevenson Street over time. The report from Tacoma also indicated the wall has shifted.

There is no way of knowing as the wall was built so long ago, although the wall is of no benefit to the owner at 364 Stevenson Street.

The owner at 364 Stevenson Street agrees that the wall needs to be fixed, however they cannot return it back to the intended slope and does not have access to most of the wall, and is being sued by the owner of 44 Terry Boulevard.

Initially the City only served 44 Terry Boulevard, which was rescinded by the committee. As 364 Stevenson Street does not benefit from the wall, the committee could not rescind the order for 44 Terry Boulevard and uphold the one for 364 Stevenson Street. We agree with the report from Tacoma that the rubble is spilling onto the property at 364 Stevenson Street and as the wall is not on Mr. Bombino's property he cannot gain access to the wall.

We ask that you treat both parties equally and provide us with the same outcome as 44 Terry Boulevard by rescinding the order and allowing the parties to resolve the matter through the court system. There is no other option from an equity standpoint than to rescind the order.

**The chair (K. Lammer) asked the committee for questions for the Appellants:**

K. Lammer – Were you the owner when the wall was built?

D. Bombino – No

K. Lammer – Do you have the ability to find out when the wall was built and who the owner is?

D. Bombino – The property was purchased from a couple who bought it from the original owner who is now deceased.

**The chair (K. Lammer) asked for any more questions from the committee to any of the parties:**

D. Wiedrick – The City has done its due diligence and provided a report to state the wall is unsafe and the City would just like to see it repaired.

B. Foster – There is concerns because the wall crosses both properties, which we did not have a survey for at the appeal for 44 Terry Boulevard. The City, if they wanted have the choice to re-issue the order for 44 Terry Boulevard, but have decided to appeal the decision. We could look at extending the Order for 364 Stevenson Street until the superior court trail is done and the wall could be dealt with in civil court.

K. Thompson – That is not to be decided until July and we cannot be guaranteed the City will win. As it stands both properties need to be treated in the same manner.

**The chair (K. Lammer) closed the meeting and let the attendees know they would be called in after the committee deliberated and reached a decision**

**4. DECISION PSC 19-001**

Motion by K. Lammer carried unanimously.

In the matter of the Appeal of the Order of the Property Standards Officer issued on December 4, 2018 regarding 364 Stevenson Street North, being PLAN 265 PT LOT 32 PT LOT 31. It was determined by the Committee that a decision regarding Order 18-008066 be adjourned until a resolution of the related court proceeding has been made by the Ontario Superior Court of Justice for the property at 44 Terry Boulevard.

**5. PSC 19-002 – 549 Woolwich St**

Introductions of the Committee, City Staff and the appellant of PSC-19-002 were made

## **Chair (K. Lammer) asked City to present its case.**

Background:

J. Lapier – Attended April 20, 2017 with the zoning and fire department and noted the following:

- Basement unit with a bedroom and living room combined with kitchen and bathroom off to the side.
- Ceiling height in living room was approximately 76 7/8"
- Window in living room was approximately 15.5" x 11.5"
- Half of the kitchen ceiling height approximately 74 3/4", other half approximately 67"
- Ceiling height over part of the washroom was approximately 75 1/4 to 75 3/4"
- Ceiling height over toilet in washroom was approximately 74 1/4"
- Ceiling height in interior stairway to basement unit was 73" at top and 71" at bottom
- There is a door in the basement unit that leads directly to the exterior

As per the property standards bylaw section 5.16 All habitable rooms shall have a minimum ceiling height of 1.95 metres (77 inches), unless otherwise authorized by the Ontario Building Code. 5.17 Section 5.16 does not apply where the original roof construction has created a lesser ceiling height and, in such event, a minimum of one-half of such room area shall have a ceiling height of 1.95 metres (77 inches).

During the inspection the owners were present and were told of the requirements.

As the result of those inspections a notice was issued to:

- 1) Increase the ceiling height in the kitchen and washroom to a minimum height of 1.95 metres / 77 inches, as per section 5.16.
- 2) Install a larger exterior window in the living room - bedroom combination room or install a second window in this room to provide a minimum glass area equal to 2.5% of the floor area of that room for natural light, as per section 5.13.

A building permit may be required for the above noted remedial work. Please contact Building Services at 519-837-5615 for permit requirements

The above noted infractions shall be complied with by JUNE 01, 2017, or further action will be taken.

NOTE: This inspection report does NOT recognize the accessory / basement apartment as being legal / registered. It has been determined the accessory / basement apartment is not legal / registered and this Notice is only being issued due to the fact that the accessory / basement apartment is currently being occupied as a dwelling unit.

May 2017 - received an email from the owner requesting information on applying to the committee and getting an exception

June 2017 – owners indicated they were not renting the basement space as a separate unit and wanted to know what their options were

August 2017 – completed follow-up inspection confirming basement was only being used for storage and retook measurements. It was determined that under the bulkhead would require 6 ft. 1 inch. As the space was only being used as storage agreed to work on timeline with owner.

Sept 2018 – received email from owner asking about their options and how to proceed with taking the notice to the Committee

In January 2019 a follow-up inspection was completed to confirm measurements. As there was no change an Order was issued to

1. Increase the ceiling height in the kitchen and washroom areas to a minimum height of 1.95 metres / 77 inches or remove / eliminate the basement apartment.

This was issued on January 18, 2019 with a compliance date of March 15, 2019.

**The chair (K. Lammer) asked the committee for questions for the City:**

J. Hebden – If it is not rented as a separate unit then is it a non issue?

J. Lapier – Correct the order was to fix the ceiling height or remove the apartment

J. Hebden – Are the owners looking to rent in the future?

M. Gruner – Yes, maybe in the future

B. Foster – What does the building code say about height?

J. Lapier – We can only enforce the property standards bylaw, which allows for a lower option under the bulkhead

B. Foster – There is no building code appeal process, what's in the building code is what's required. You cannot give a variance to ceiling height

**Chair (K. Lammer) asked the appellants to present their case:**

M. Gruner – It was explained us by Bruce (zoning) they we needed to bring in fire and property standards approvals. Fire said it was fine that we may need a fire door and potentially a window. Jason indicated the ceiling height needed to be increased. An engineer came to look at the unit and said they could install a low profile beam but it may not meet the requirements and the cost was very high. We were looking at section 5.17 as consideration as the ceiling here is not able to be raised and we are looking for a way to forgo that part of the bylaw as there are low vacancy rates.

**The chair (K. Lammer) asked for any more questions from the committee to any of the parties:**

M. Gruner – The unit has a full kitchen and washroom, just the ceiling height is too low, which is not a safety concern.

W. Whitehead – We did not realize there was no leniency on ceiling height.

K. Lammer – Is the egress of the apartment fine?

J. Lapier – Yes, there is a door to the outside.

**The chair (K. Lammer) closed the meeting and let the attendees know they would be called in after the committee deliberated and reached a decision**

## **6. DECISION PSC 19-002**

Motion by B. Foster carried unanimously.

In the matter of the Appeal of the Order of the Property Standards Officer issued on January 18, 2019 regarding 549 Woolwich Street, being PLAN 389 LOT 2, it is the decision of the Committee that the Order 17-002615 CM be confirmed.

## **7. Approval of Minutes:**

Pervious approved by committee

## **8. Adjournment**

Meeting adjourned at 8:31 pm