

Property Standards Committee

Meeting held February 10, 2022

A meeting of the Property Standards Committee is held this day commencing at 4:00 o'clock p.m. via Zoom video conference, there being present the following members:

Councillor Rino Bortolin, Chair
Councillor Ed Sleiman
Darrel Laurendeau
Matthew Wachna

Regrets received from:

Councillor Holt (due to work conflict)

Delegations in attendance:

Robert Redmond and Jocelyn Quenneville, regarding *Item 5.1*
Alberto and Maria Folino, regarding *Item 6.1*

Also present are the following resource personnel:

John Revell, Chief Building Official
Rob Vani, Manager Inspections, Deputy Chief Building Official
Mark Nazarewich, Senior Legal Counsel
Wira Vendrasco, Deputy City Solicitor
Kevin Alexander, Planner III
Mike Arthur, Supervisor, Inspections
Armando Cala, Building By-law Enforcement Officer
Nicole Brush, Building By-law Enforcement Officer
Dante Lapico, Building By-law Enforcement Officer
Karen Kadour, Committee Coordinator

1. Call to Order

The Chair calls the meeting to order at 4:02 o'clock p.m. and the Committee considers the Agenda being Schedule A attached hereto, matters which are dealt with as follows:

2. Disclosure of Interest

None disclosed.

3. Adoption of the Minutes

Moved by D. Laurendeau, seconded by Councillor Sleiman,
That the minutes of the Property Standards Committee of its meeting held October
6, 2021 **BE ADOPTED** as presented.
Carried.

4. Request for Deferral, Referral or Withdrawal

None.

5. Appeals

5.1 Robert *Redmond* and *Jocelyn* Quenneville appear before the Property Standards Committee via Zoom video conference regarding property at 3139 Loebach Drive.

Officer Dante Lapico provides the following Presentation entitled “3139 Loebach Drive – OTR 21- 333990” **attached** as Appendix “A”:

- On October 28, 2021, he attended the property to investigate a complaint concerning the removal of a noise barrier wall.
- Observed all portions of the required noise barrier wall had been removed.
- Shows a photo illustrating what the wall looked like prior to being removed.
- The owner levelled the ground and added grass and seed as the berm was quite high.
- A legal Title Search of the property was requested to determine if the berm was mandatory and required. During the investigation of the Title Search, there were three notice agreements documented in 1993 on the property title registration.
- In terms of the notice of agreements, this was agreed upon by Remax Construction (developer) and the City of Windsor as part of a subdivision agreement, the developer agrees to install a 3.5-metre high acoustic barrier and earth berm, and registered property owner(s) must maintain the earth berm and barrier per the agreement registered on title and municipal bylaw.
- This berm was a combination of earth berm and barrier.
- The earth berm shall not be altered or removed and shall be maintained by the owner at their entire expense (from the Title Search).
- A permit was issued on March 8, 1994 for the construction of the required noise barrier wall and earth berm.

- In speaking with the owners, advised it is required and that the wall be put back.
- Order to repair issued December 3, 2021 with a deadline of May 2, 2022
- A follow-up investigation was completed on February 9, 2022 and the three defects noted in the Order to Repair are not in compliance as of this date.

In response to a question asked by the Chair regarding what the sound barrier backs onto, D. Lapico responds it backs onto CN Rail.

Robert *Redmond* and *Jocelyn* Quenneville, appellants provide the following background information and comments:

- Purchased the house in August 2019. Nothing in the mortgage documents referred to the berm.
- The berm had been removed from the neighbours to the left and right 25 plus years ago by the original owner.
- The cement wall was removed initially due to safety issues and was followed by the removal of the berm.
- Hired a person to remove the berm. No difference in sound was observed.
- Received a notice of a complaint and thought perhaps that CN Rail had made the complaint.
- Correction in the Order to Repair indicated the need for a professional sound engineer and have had great difficulty in receiving calls back from someone qualified to do the work.
- Received a quote of \$45,000 for the material for an eight-foot sound wall.
- This is a train yard; the trains park there.

The Chair asks Administration to explain what the purpose of the sound wall is; is it for the residents to mitigate against the rail corridor.

J. Revell responds that the sound wall protects both parties. When the subdivision, was planned out, CN Rail would have been consulted on its proximity. The sound barrier protects the residents who live in that subdivision and protects CN Rail from future complaints or issues arising from noise.

D. Laurendeau asks if the Title on the land has expired and if the requirement to maintain the berm or the wall is still applicable.

R. Vani responds that the only time it would be removed from the Title is if the municipality agrees to remove it. It is our understanding that it is still registered on the Title.

W. Vendrasco responds that in order to develop these lands, the original developer had to put up that noise barrier wall. If that noise barrier was not put up, then these lands could not have been developed. The developer had to attenuate the noise, so without the noise barrier, lands within 300 metres of the railway could not be developed. As a condition of subdivision approval, the developer has to enter into an agreement with the

municipality to address various conditions and this is one of the conditions - that the agreement is registered on title and remains on title. There is a reason why it is placed on title so when people purchase the lands in the future they have notice of that. Whether or not their lawyers pay attention to it is an issue between the purchaser and their lawyer. As a general proposition, subdivision agreements are never removed from title.

In response to a question asked by the Chair regarding if it is on title currently, W. Vendrasco responds it is put on title prior to the developer receiving any building permits.

M. Wachna asks what would be a reasonable timeframe, given the cost and the difficulty in finding a sound engineer to comply with the Order.

D. Lapico responds that a reasonable timeframe in putting up a sound barrier, obtaining an engineer, design and permit process would be from six months to a year if an aggressive approach is taken to comply with our Order and to comply with the Registered Title.

M. Wachna asks if there are any immediate health hazards associated with the sound wall being down.

D. Lapico responds that immediate hazards would be issues regarding noise, vibrations and sleep issues.

D. Laurendeau indicates that the owners referred to a chain link fence at the back of the property, and asks if it is still standing and would it prevent anyone from crossing over the tracks into their property.

Mr. Redmond responds that the chain link fence was removed and they built a six-foot privacy fence with plans to plant trees in front of the wall.

In response to a question asked by Councillor Sleiman regarding what the appellant is looking for, R. Redmond responds that the cost to comply with the Order will range from \$60,000 to \$80,000 and they are not able to afford this at this time.

Councillor Sleiman asks Administration to comment on if there is any immediate danger.

W. Vendrasco responds there are two components to this – one is the earth berm and the second is the noise attenuation wall. The reason for the earth berm is to protect in the event of a train derailment. The noise attenuation wall is designed by an acoustical engineer to attenuate the noise. The other aspect to this is that when the City wants to develop lands, i.e. rezoning that abut a railway, we are required to consult with the railway to find out what their requirements are. If we do not comply with their requirements, they will appeal the rezoning, and the lands cannot be developed.

Councillor Sleiman asks if the berm is restored, will that solve the problem.

W. Vendrasco responds that would address the issue of derailment but the other issue is the noise. The City has had litigation with CN over those issues.

M. Wachna indicates that the owner stated that other owners in that cul-de-sac had removed sound barriers and asks if that has been confirmed by Administration.

D. Lapico responds that during his investigation, at some point in time the neighbours' noise barrier walls were removed, which did not extend to the entirety of the property as per the original drawings that were retrieved. He adds that when their Department receives a complaint, an investigation is undertaken.

M. Wachna suggests an extension of time from one to two years.

R. Vani advises that the Property Standards Committee has the authority to confirm, modify, rescind the Order or extend the compliance date.

Moved by M. Wachna, seconded by D. Laurendeau,
That the Order to Repair VY 21-333990 regarding property at 3139 Loebach Drive, Windsor, Ontario **BE CONFIRMED AND DEADLINE EXTENDED** for one year from the deadline date on the Order.

Carried.

6. Business Arising from the Minutes

6.1 Alberto and Maria Folino – 280 Aylmer – Violation Number VY 20-240559

Officer Nicole Brush, provides the following Presentation entitled "280 Aylmer Avenue – OTR 20-240559", *attached* as Appendix "B" that illustrates the current condition of the property:

- At front of the building - falling eaves troughs along with missing handrails on the front porch and deteriorating wood elements on the front porch.
- North side of building – broken glass in the windows along with soffits and fascia along the roofline consistent all around the building.
- South side of building – deteriorating asphalt shingles. Side porch is in disrepair, rotting wood, missing balusters and no eaves trough in this section.
- Rear of the building – continues to have rotting fascia, boarded windows, broken glass, (when inspected, homeless person was sleeping in a metal shed).
- The owner has since removed all sheds (three to four) from the property.
- Boarding on the rear door was not completely removed, unsecured and squatters were getting in.
- The condition as of February 7, 2022 – the building is still boarded up, no repairs to the building have been done. The roof is collapsing, and loose materials could fly off.

- In summary, the building is vacant, deteriorating and attracting wildlife and the homeless. At this time, the building is secured.

Moved by D. Laurendeau, seconded by M. Wachna,

That the Decision of the Property Standards Committee issued to Alberto and Maria Folino, 280 Aylmer Avenue on November 30, 2021 **BE RECONSIDERED** as they did not receive proper notification of the October 6, 2021 meeting.

Carried.

K. Alexander advises in order to obtain a demolition permit, there is a requirement for a redevelopment plan to be approved by City Council before a demolition permit can be issued.

Councillor Sleiman asks the appellants to elaborate on their plans for the property.

Maria and Alberto Folino, appellants provide the following background and comments:

- In 2014, they applied for a demolition permit and the city contacted the utility company who disconnected the utilities.
- In 2015, they followed up with the demolition and city staff advised that they were waiting for confirmation from the utility company regarding the utilities disconnection.
- In 2016, received a letter from the city stating that the demolition permit application had expired; and confirmed that the utilities disconnection had not been received and suggested that they reapply.
- In 2018, the demolition company applied and the city requested that they have the pest control attend to the property to ensure there were no rodents. There was no indication that this property could not be demolished.
- In 2018, received a letter stating that this property falls into a demolition control area and that they could not proceed with the demolition.
- Adds that if the initial application had been denied back in 2014, they would have kept up the property and the utilities would not have been disconnected.
- Asks why it took so long to notify them that they resided in a no demolition area.
- They could have been collecting rent on the property.
- Looking to demolish the building as it is beyond repair.

The Chair clarifies that the city allows the demolition of an existing building only if there is a redevelopment plan to rebuild because of the issues of lingering properties or demolition from neglect, which become “missing teeth” in neighbourhoods.

M. Wachna asks the appellants if they have submitted a development plan to the city.

M. Folino responds that they have the intention to develop at some point, but with the times as they are and the astronomical prices, they do not want to commit to anything-short term. A. Folino adds that he would like to build a twenty unit building.

The Chair asks Administration to clarify what happened in 2014 and 2016 that lead up to the 2018 Order to Repair.

R. Vani responds that an application was made in 2014 for the demolition. Normal practices for the Building Department to request from the utility companies, notification when the disconnections are made. The Building Department does not order disconnections. No formal communication was sent out on that application until sometime later and essentially sat there with no action. The appellants made another application in 2018 concerning demolishing the same building. At that point, the appellants were issued a letter indicating that it is in a demolition control area and that a permit could not be issued without an approved redevelopment.

D. Laurendeau asks for the deadline to comply noted in the Order to Repair.

N. Brush responds that at the time she spoke with the owners, she gave them thirty days to clear out the sheds and to board the building and provided an additional six months to make repairs to the building. She adds that the owner thought he had six months to decide what to do with the building, and following that applied for a Notice of Appeal.

M. Wachna asks if this property is developable.

The Chair responds that the property is developable, i.e. a four storey building especially if they have a few lots accumulated. The City does provide incentives for this area so they can tap into the CIP.

D. Laurendeau asks Administration that if the committee's decision was to order a demolition of the house, would this put the city at risk.

R. Vani responds that only Council can waive the Demolition Control Bylaws so this Committee would not be able to do that. He adds that the condition of the building is not in an emergency condition that would warrant a demolition order and waiver of the demolition bylaw.

Moved by Councillor Sleiman, seconded by D. Laurendeau,

Whereas the matter relating to Alberto and Maria Folino, appellants for property at 280 Aylmer, Windsor, Ontario, Violation Number VY 20-240559 was discussed at the Property Standards Committee held October 6, 2021; and

Whereas a decision was made by the Property Standards Committee to Confirm the Order; and

Whereas, the decision was issued to the appellants on November 30, 2021 and;

Whereas, the appellants did not receive proper notification of the meeting held October 6, 2021,

Therefore Be It Resolved that the Order to Repair VY 20-240559 regarding property at 280 Aylmer Avenue Windsor, Ontario **BE CONFIRMED AND DEADLINE EXTENDED** six months from the date of this decision to repair the building **OR** to execute and register on title a redevelopment plan with the City of Windsor.

Carried.

The Chair states that this problem has been festering for eight years. Currently, there is a great housing shortage and adds that this is an opportunity for the appellants to do something to his property. The Building and Planning Departments are looking to expedite all development applications. If something that cannot be done, then the property should be sold to someone who is looking to develop it. By allowing it to languish, the neighbourhood suffers.

7. Adjournment

There being no further business, the meeting is adjourned at 5:46 o'clock p.m.

CHAIR

COMMITTEE COORDINATOR