



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 7.1.1
Appeals Standing Committee
July 8, 2021

TO: Chair and Members of Appeals Standing Committee

- ORIGINAL SIGNED -

SUBMITTED BY: _____
Conor O'Dea, Director, Buildings and Compliance

DATE: June 24, 2021

SUBJECT: Order to Demolish – Case #340499, 954 North Preston Road, North Preston

SUPPLEMENTARY REPORT

ORIGIN

Staff, pursuant to the *Halifax Regional Municipality Charter* (the “Charter”).

LEGISLATIVE AUTHORITY

Sections 355, 356 and 3(q) of the *Halifax Regional Municipality Charter*, S.N.S., 2008 C.39.

RECOMMENDATION

It is recommended that the Appeals Standing Committee:

Find the property to be dangerous or unsightly as per section 3(q) of the Charter and as per section 356 of the Charter, **orders demolition** of the accessory structure including but not limited to, the removal of all demolition debris, backfilling of any foundation or crawl space, and disconnecting any and all utility connections to the standard set by each respective utility service provider, so as to leave the property in a neat, tidy, environmentally compliant and safe condition within thirty (30) days after the Order is posted in a conspicuous place upon the property or personally served upon the owner. Otherwise, the Municipality will exercise its rights as set forth under Part XV (15) of the Charter.

BACKGROUND:

In addition to this case, there is one additional dangerous or unsightly case at the property for debris violations. The debris violations are being managed by the Compliance Officer under a separate case.

The property is zoned RS (Rural Settlement) and a review of the Hansen database system shows that demolition permit 146092 was issued to the property owner and expired on July 31, 2015 for another structure that was previously on the property, and construction permit 180817 was issued to the property owner to renovate the building and replacing cement blocks.

This case is a result of a service request received on May 2, 2019. The complainant noted debris at the property.

The Compliance Officer is bringing this case forward to the committee to request a Demolition Order for the accessory structure known as the barn (Case # 340499) located at 954 North Preston Road, North Preston.

CHRONOLOGY OF CASE ACTIVITIES:

- 08-May-2019 The Compliance Officer conducted a site inspection at 954 North Preston Road, North Preston, hereinafter referred to as “the Property” (attached as Appendix B). The Compliance Officer noted a deteriorated accessory structure that appeared to be used as a barn.
- 19-Dec-2019 The Compliance Officer conducted a site inspection and noted a cinder block structure with failing roof and walls and large holes in the cement cinder blocks. In addition, the Compliance Officer noted debris violations.
- The property owner was onsite during the site inspection. The property owner advised the Compliance Officer that they were aware the debris needed to be removed and that the bulk of the debris resulted from the collapsed barn. The property owner further advised the Compliance Officer that they wanted to keep the current accessory structure to house chickens.
- 9-Jan-2020 The Building Official submitted a structural integrity report for the structure (attached as Appendix C).
- The overall comments regarding the structure are: “Observations of this structure were made from the exterior as the building was deemed unsafe to enter and to not upset the owner any more than necessary. The building is in an advanced state of decay and there is little, or nothing left to renovate as lack of maintenance has allowed climatic elements to penetrate the buildings envelope.”
- 18-Jan-2020 The Compliance Officer tried to contact the property owner by telephone but was unable to leave a message as the voice mail was full.
- 28-Jan-2020 The Compliance Officer posted the Notice to Appear (attached as Appendix D) at the property.
- 29-Jan-2020 The Compliance Officer spoke with the property owner to advise that the Notice to Appear had been posted and explained the process for the Appeals Standing Committee. The Compliance Officer also advised that they would be on site next week for the debris violations and could speak directly with the property owner if they had further questions.

- 13-Feb-2020 The case was heard at the Appeals Standing Committee and was deferred to May 31, 2020 to allow the property owner time to obtain the appropriate permit to repair the building.
- 14-Feb-2020 The Clerk's Office sent a letter (attached as Appendix E) to the property owner explaining the outcome of the Appeals Standing Committee and noted the case would return to Appeals Standing Committee on June 11, 2020 if the permit had not been obtained.
- 07-May-2020 Site inspections held over due to Covid.
- 09-Jul-2020 The Compliance Officer phoned the property owner to check on progress and did not receive an answer and was not able to leave a message as the mailbox was full.
- 24-Jul-2020 The Compliance Officer phoned the property owner to check on progress and did not receive an answer and was not able to leave a message as the mailbox was full.
- 24-Aug-2020 The Compliance Officer phoned the property owner and spoke with their spouse who advised that the property owner was actively working on the building and removing debris.
- 30-Sep-2020 The Compliance Officer phoned the property owner to check on progress and did not receive an answer and was not able to leave a message as the mailbox was full.
- 05-Nov-2020 The Compliance Officer conducted a site inspection with the property owner who was on site. The Compliance Officer noted some progress on the building including repointing on the back of the building and also noted that new materials were on site.
- 10-Dec-2020 The Compliance Officer conducted a site inspection and noted no significant change since the last site inspection.
- The Property Owner phoned the Compliance Officer and advised that weather had prevented their progress. The Compliance Officer advised the property owner they would re-inspect in 30 days.
- 14-Jan-2021 The Compliance Officer phoned the property owner and left a voice message requesting a return call with an update.
- 25-Feb-2021 The Compliance Officer conducted a site inspection with the property owner who was onsite. The property owner advised that weather had prevented progress and they would resume the work when the weather warmed up. The Compliance Officer explained that significant progress was required by early spring or the case would be returned to the Appeals Standing Committee.
- 08-May-2021 Site inspections held over due to Covid.
- 07-Jun-2021 The Compliance Officer conducted a site inspection and noted no progress and the property remained in violation.
- 23-Jun-2021 The Compliance Officer posted a Notice to Appear (attached as Appendix F) at the property and noted 2/3 of the structure had been demolished and resulting debris remained on the property. The Compliance Officer hand delivered a copy of the Notice to the property owner's spouse who advised that the property owner was at work but had started the demolition. The Compliance Officer asked the property owner's spouse to have the property owner call the Compliance Officer.

The Compliance Officer left a voice message for the property owner requesting a return call.

24-Jun-2021 The Compliance Officer sent a copy of the Notice to Appear to the property owner through registered mail.

FINANCIAL IMPLICATIONS

There are no financial implications if the owner complies with the Order. If the Municipality is required to complete the work, the costs will form a debt against the property which may be collected in the same manner as taxes pursuant to the Halifax Regional Municipality Charter, S.N.S., 2008, C.39.

ALTERNATIVES

The state of the property suggests no viable alternative to the recommendation by Staff.

RISK CONSIDERATIONS

The risk consideration rates moderate. The building presents an allurements and due to the advanced state of deterioration, the building poses a safety risk to individuals if they were to enter.

ENVIRONMENTAL IMPLICATIONS

No environmental impact identified.

ATTACHMENTS

Appendix A: Copy of the Legislative Authority – Halifax Regional Municipality Charter
Appendix B: Copy of the Nova Scotia Property Records Map
Appendix C: Copy of the Building Official's Report December 20, 2019
Appendix D: Copy of the Notice to Appear dated January 28, 2020
Appendix E: Copy of the Clerk's Letter dated February 14, 2020
Appendix F: Copy of the Notice to Appear dated June 23, 2021

A copy of this report can be obtained online at Halifax.ca or by contacting the Office of the Municipal Clerk at 902-490-4210.

Report Prepared For: Steve Boutilier, Compliance Officer II, By-law Standards, 902.240.4935

Appendix A

Halifax Regional Municipality Charter (“HRM Charter) Subsection 355, 356 and 3(q)

HRM Charter, subsection 355 (1) (2) as follows:

- 355 (1) The Council may, by policy, delegate some or all of its authority pursuant to this Part, except the authority to order demolition, to the Administrator.
- (2) The Council may, by policy, delegate its authority pursuant to this Part, or such of its authority as is not delegated to the Administrator, to a community council or to a standing committee, for all or part of the Municipality.

HRM Charter, subsections 356(1)(3), as follows:

- 356 (1) Where a property is dangerous or unsightly, the Council may order the owner to remedy the condition by removal, demolition or repair, specifying in the order what is required to be done.
- (3) Where it is proposed to order demolition, before the order is made not less than seven days notice must be given to the owner specifying the date, time and place of the meeting at which the order will be considered and that the owner will be given the opportunity to appear and be heard before any order is made.

HRM Charter, subsection 3(q) as follows:

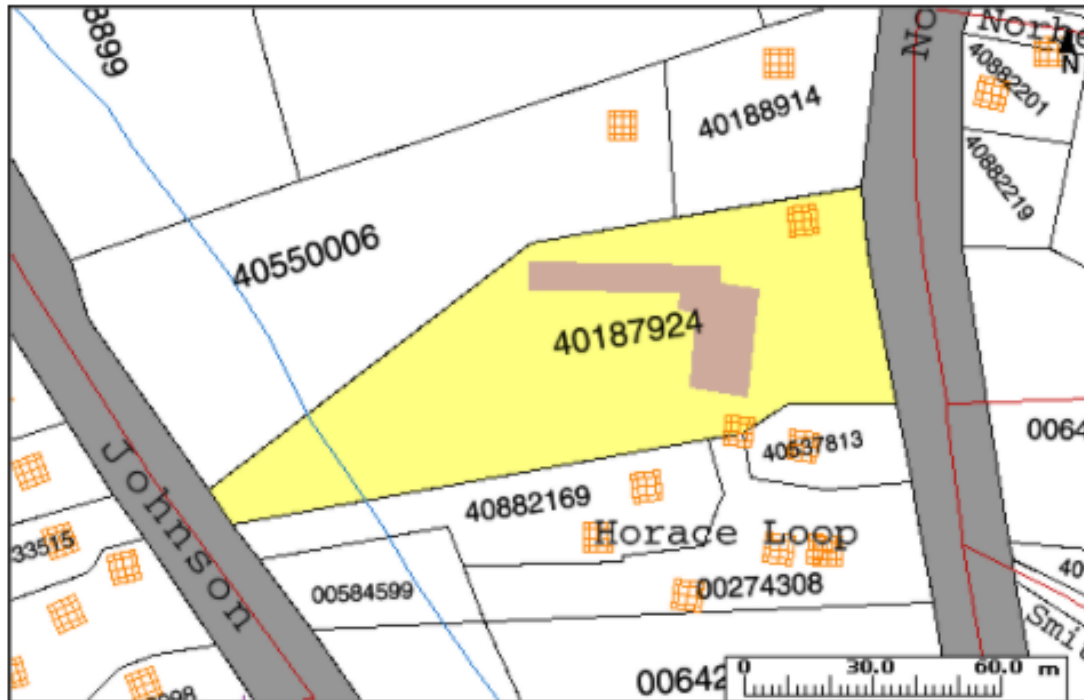
- (q) “dangerous or unsightly” means partly demolished, decayed, deteriorated or in a state of disrepair so as to be dangerous, unsightly or unhealthy, and includes property containing
- (i) ashes, junk, cleanings of yards or other rubbish or refuse or a derelict vehicle, vessel, item of equipment or machinery, or bodies of these or parts thereof,
 - (ii) an accumulation of wood shavings, paper, sawdust, dry and inflammable grass or weeds or other combustible material,
 - (iia) an accumulation or collection of materials or refuse that is stockpiled, hidden or stored away and is dangerous, unsightly, unhealthy or offensive to a person, or
 - (iii) any other thing that is dangerous, unsightly, unhealthy or offensive to a person, and includes property or a building or structure with or without structural deficiencies
 - (iv) that is in a ruinous or dilapidated condition,
 - (v) the condition of which seriously depreciates the value of land or buildings in the vicinity,
 - (vi) that is in such a state of non-repair as to be no longer suitable for human habitation or business purposes,
 - (vii) that is an allurement to children who may play there to their danger,
 - (viii) constituting a hazard to the health or safety of the public,
 - (ix) that is unsightly in relation to neighbouring properties because the exterior finish of the building or structure or the landscaping is not maintained,
 - (x) that is a fire hazard to itself or to surrounding lands or buildings,
 - (xi) that has been excavated or had fill placed on it in a manner that results in a hazard, or
 - (xii) that is in a poor state of hygiene or cleanliness;

Appendix B



Property Online Map

Date: Jun 21, 2021 12:38:01 PM



PID:	40187924	Owner:	PRISCILLA SMITH	AAN:	04326245
County:	HALIFAX COUNTY		CHERNESTE NEANTRECE SMITH	Value:	\$56,900 (2021 RESIDENTIAL TAXABLE)
LR Status:	LAND REGISTRATION		ELSON VANNIE SMITH		
			BERNESTA ROBERTA SMITH		
		Address:	954 NORTH PRESTON ROAD NORTH PRESTON		

The Provincial mapping is a graphical representation of property boundaries which approximate the size, configuration and location of parcels. Care has been taken to ensure the best possible quality, however, this map is not a land survey and is not intended to be used for legal descriptions or to calculate exact dimensions or area. The Provincial mapping is not conclusive as to the location, boundaries or extent of a parcel [*Land Registration Act* subsection 21(2)]. THIS IS NOT AN OFFICIAL RECORD.

Property Online version 2.0

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Pursuant to Part XV of the Halifax Regional Municipality Charter

As requested by the By-Law Compliance Officer, an inspection of the property located at:

Property Address	PID	Inspection Date
954 North Preston Road, North Preston	[REDACTED]	20/12/2019

Building Feature	Condition Relative to Habitability and Structural Integrity
Main Structure	<ul style="list-style-type: none"> Single storey masonry accessory building. Owner says was previously used a "Pig Barn". Cinder blocks are decaying, cracked and have many holes throughout. Building is used as storage shed/work shop says owners' son
Foundation	<ul style="list-style-type: none"> Foundation is undetermined
Heating Appliances	<ul style="list-style-type: none"> Oil heat source is undetermined. Tank located on right side of structure The tank is empty Oil tank is in fair condition, has minor rust spots.
Chimney	<ul style="list-style-type: none"> Metal chimney is in place, this chimney is not capped or in good repair.
Roof	<ul style="list-style-type: none"> Stick framed shed (slant) roof Wood members are rotted or broken. Asphalt flat roof, un able to determine condition due to snow coverage. Soffit coverings have fallen from all eaves on structure.
Building Services	<ul style="list-style-type: none"> Owner says building is wired, unable to locate any hook ups.

Public Safety Considerations

The building does pose a danger to the public as portions of the masonry construction are in a state of collapse and the wooden elements of the structure show evidence of rot. The building should be secured immediately to prevent access.

Comments Regarding Repair or Demolition

Observations of this structure were made form the exterior as the building was deemed unsafe to enter and to not upset the owner any more than necessary. The building is in an advanced state of decay and there is little, or nothing left to renovate as lack of maintenance has allowed climatic elements to penetrate the buildings envelope.

<i>Brandon Clarke</i>	[REDACTED]	[REDACTED]
Building Official (please print)	Signature	Supervisor's Initials

NOTICE TO APPEAR

IN THE MATTER OF: Section 356 of the Halifax Regional Municipality Charter, S.N.S., 2008, C.39
Hereinafter referred to as the "Charter"

-and-

IN THE MATTER OF: 954 North Preston Road, North Preston; Nova Scotia;
Case # 340499;
Hereinafter referred to as the "Property"

-and-

IN THE MATTER OF: **Deteriorated and decayed structure**
Hereinafter referred to as the "Building"

TO: **Prescilla Smith**
Cherneste Smith
Bernesta Smith
Elson Smith

WHEREAS you are the owner of the Property;

AND WHEREAS situated on the Property is the Building identified as dangerous or unsightly as per section 3(q) of the Charter;

TAKE NOTICE that you are hereby requested to appear before the Appeals Standing Committee ("Committee") at 10:00am on February 13, 2020 in the Council Chambers, 3rd Floor, City Hall, 1841 Argyle Street, Halifax, Nova Scotia, a copy of the report can be found on Halifax.ca;

At which time the Committee will consider the following application:

APPLICATION by Staff for an Order pursuant to section 356 of the Charter, to require demolition of the accessory structure, removal of all demolition debris, backfilling of any basement or crawl space and the disconnection of any and all utility connections to the standard set by the service provider within thirty (30) days of the date of the Order.

SECTION 356(3) OF THE CHARTER provides the opportunity for the owner of the Property to appear and be heard by the Committee;

DATED at Halifax, Nova Scotia this 28th of January 2020

Steve Boutilier
Compliance Officer
902.240.4935


Scott F...
Administrator
Halifax Regional Municipality

Appendix E

REGISTERED MAIL

February 14, 2020

c/o Elson Vannie Smith
[REDACTED]

RE: Case 340499: 954 North Preston Road, North Preston

This letter confirms that the Appeals Standing Committee considered the application by HRM staff for an Order pursuant to section 356 of the Charter, to require demolition of the building at 954 North Preston Road, North Preston on February 13, 2020.

The Appeals Standing Committee **deferred** the application to **May 31, 2020**, to allow you time to obtain the appropriate permits to repair the building.

If permits have not been obtained by May 31, 2020, the request for a Demolition Order would be heard by the Appeals Standing Committee **June 11, 2020** at 10:00 a.m. in the Council Chamber, 3rd Floor City Hall, 1841 Argyle Street, Halifax.

If you are unable to attend, you may have a representative attend on your behalf. Please note that your representative is required to have a letter signed by you giving permission. You or your representative will be permitted up to 10 minutes to make a verbal submission. If neither you nor a representative appears, the hearing will proceed and you will be advised of the Committee's decision.

If you have any questions regarding this decision, please contact Steve Boutilier, Compliance Officer at 902-240-4935.

Sincerely,

Krista Vining
Legislative Assistant
Office of the Municipal Clerk

cc: Tanya Phillips, Manager, By-law Standards
Scott Hill, Administrator, Regional Compliance
Natalie Matheson, Supervisor, Support Services
Laurie Lauder, Adjudication Clerk
Steve Boutilier, Compliance Officer
Karen MacDonald, Senior Solicitor, HRM Legal Services

NOTICE TO APPEAR

IN THE MATTER OF: Section 356 of the Halifax Regional Municipality Charter, S.N.S., 2008, C.39
Hereinafter referred to as the "Charter"

-and-

IN THE MATTER OF: 954 North Preston Road, North Preston; Nova Scotia;
Case #340499;
Hereinafter referred to as the "Property"

-and-

IN THE MATTER OF: **Deteriorated and decayed accessory structure**
Hereinafter referred to as the "Building"

TO: **Prescilla Smith** **Cherneste Smith**
Elson Smith **Bernesta Smith**

WHEREAS you are the owner of the Property;

AND WHEREAS situated on the Property is the Building identified as dangerous or unsightly as per section 3(q) of the Charter;

TAKE NOTICE that you are hereby requested to appear before the Appeals Standing Committee ("Committee") at 10:00am on July 8, 2021.

At which time the Committee will consider the following application:

APPLICATION by Staff for an Order pursuant to section 356 of the Charter, to require demolition of the accessory structure, removal of all demolition debris, backfilling of any basement or crawl space and the disconnection of any and all utility connections to the standard set by the service provider within thirty (30) days of the date of the Order.

SECTION 356(3) OF THE CHARTER provides the opportunity for the owner of the Property to appear and be heard by the Committee;

DATED at Halifax, Nova Scotia this 23rd of June 2021

Original Signed

Steve Boutilier
Compliance Officer
902.240.4935

Scott Hill
Administrator
Halifax Regional Municipality