



## **MINUTES / PROCÈS-VERBAL**

June 26, 2014 @ 6:00pm / 26 juin 2014, 18h

### **Westmorland-Albert Planning Review and Adjustment Committee Meeting/ Réunion de Comité de Révision de la Planification du Westmorland-Albert**

1222, rue Main Street, Unit/Unité 4000, Moncton, NB

#### **Committee Members Present / membres du comité présents:**

Audbur Bishop	Committee Member / membre du comité
Ricci Archibald	Committee Member / membre du comité
Heather Keith	Committee Member / membre du comité
Andy St-Amand	Committee Member / membre du comité

#### **Staff Present / Staff présents:**

Jeff Boudreau	Mgr. of Subdivision Approval / Gestionnaire d'approbation des lotissements
Bill Wright	Development Officer / Agent d'aménagement
Denis Frenette	Building Inspector / Inspecteur des constructions
Tracey Wade	Planner / Urbaniste
Tracey McDonald	Recorder / rapporteuse

#### **Regrets:**

Pascal Ferron	Acting Chairperson / président par intérim
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**As the Acting Chairperson is not in attendance, it was moved by Committee Member Audbur Bishop and seconded by Committee Member Ricci Archibald that Committee Member Heather Keith preside over the meeting as Acting Chairperson.**

**MOTION CARRIED - UNANIMOUSLY**

The meeting was called to order at 6:05 pm. by Acting Chairperson Heather Keith.  
Acting Chairperson Heather Keith stated for the record that the meeting was being recorded.

### **1. ADOPTION OF THE MEETING AGENDA / ADOPTION DE L'ORDRE DU JOUR**

**It was moved by Committee Member Ricci Archibald and seconded by Committee Member Andy St-Amand to adopt tonight's Agenda as presented.**

**MOTION CARRIED - UNANIMOUSLY**

### **2. ADOPTION OF MINUTES OF THE REGULAR MEETING OF MAY 29, 2014 / ADOPTION DU PROCÈS-VERBAL DE LA RÉUNION ORDINAIRE DE 29 MAI 2014**

Committee Member Ricci Archibald expressed concern that in section 4(c) of the minutes of May 29 it appeared that the Committee had accepted the staff recommendation to deny the variance request of applicant John Bos/Salisbury Home Hardware. The Committee had, in fact, voted to accept the variance, voting against staff recommendation. Acting Chairperson Heather Keith read the motion as recorded confirming that it was recorded correctly.

**It was moved by Committee Member Andy St-Amand and seconded by Committee Member Ricci Archibald to adopted the Minutes of the Regular Meeting of May 29, 2014 as presented.**

**MOTION CARRIED - UNANIMOUSLY**

### **3. BUSINESS ARISING FROM THE MINUTES / AFFAIRES DÉCOULANT DU PROCÈS-VERBAL**

None / aucune

#### 4. VARIANCE REQUESTS / DEMANDES DE DÉROGATIONS

- (a) Michael Clavet, 2996, rue Main Street (PID/NID #949578), Salisbury - to allow an accessory building within the required front yard/*afin de permettre un bâtiment accessoire dans la cour avant obligatoire (File/Dossier # 14SV-346)*

Staff member Bill Wright presented the request on behalf of the applicant Michael Clavet but stated that staff was not recommending this variance.

Staff member Bill Wright informed the Committee that, at 1.1 acres, the property at 2996 Main Street, Salisbury has ample space to situate the accessory building in a more appropriate location and has the ability to meet the intent of the by-law. The proposed variance would allow the accessory building to be placed at a 0.6 meter setback instead of the required 12.0 meter setback for a front yard or a 5 meter setback for a flankage yard. It is, therefore, the professional opinion of staff that this variance requested is not minor in nature and should be denied.

Views and recommendations were sought from Internal and External Departments. Jason Coyle, Manager of Public Works in Salisbury concurred that, due to the size and location of this property, it could meet the intent of the by-law and consequently was recommending denying the variance application.

Committee Member Ricci Archibald mentioned that he had visited this site and proceeded to offer a bit of background. He felt that the proposed location for the storage shed would be favorable as it would be slightly hidden and further indicated that if the Village had to perform any work in this area the applicants could be accommodating. Staff member Bill Wright indicated that the location would have a visual effect on the neighbours and that, given the amount of land available on the property, it was not necessary to place the proposed building on this location.

Committee Member Ricci Archibald inquired as to the definition of a variance. Staff member Jeff Boudreau explained the definition of a variance according to the Community Planning Act.

Committee Member Ricci Archibald questioned if it should be an issue since there is no basement to the accessory building and is thereby movable. Committee Member Andy St-Amand questioned if it would be on concrete blocks. Staff member Bill Wright responded that whether the structure was movable or not was not of issue. The applicant has a large piece of land and it causes no hardship to situate the structure elsewhere. He went on to state that if the intent of the by-law can be met then the staff cannot recommend the variance. Committee Member Andy St-Amand asked for confirmation as to whether or not the shed would be on concrete. Staff member Bill Wright confirmed that Techno posts would be used.

Acting Chairperson Heather Keith thanked Staff member Bill Wright for his report and asked if the Committee Members had any further questions.

Committee Member Audbur Bishop questioned if it was a private well and where the septic system was in comparison to the shed. The applicant, Shelley Wilson, answered that the location was adequate. Committee Member Audbur Bishop questioned the Main Street address. Staff member Bill Wright clarified the address.

Acting Chairperson Heather Keith then invited Shelley Wilson, on behalf of the applicant, to speak. Shelley Wilson explained that this was the only spot on the property to place the shed. Locating it elsewhere would involve building a road to access the shed.

Committee Member Andy St-Amand questioned how far from the house the shed would be. Committee Member Ricci Archibald questioned if there are setbacks required from the house in the by-law. Committee Member Andy St-Amand questioned if there was room to bring the shed ahead more? Shelley Wilson indicated that it was a possibility that they could move the shed a bit. Staff member Bill Wright informed the Committee that without an accurate site plan he couldn't comment on this but that it is still an encroachment.

Committee Member Ricci Archibald stated that although he respects the opinion of Bill Wright and Jason Coyle, the Salisbury Manager of Public Works, he felt that this variance should be approved.

The applicant Shelley Wilson interjected that this was the only place they felt the shed could be located citing that although the property was large it was swampy and hilly.

**It was moved by Committee Member Ricci Archibald and seconded by Committee Member Audbur Bishop to reject the staff's report and recommendations and APPROVE the variance request application from Michael Clavet, 2996 Main Street (PID/NID# 949578), Salisbury with a 2'-0" setback where the accessory building was designed to go.**

**MOTION CARRIED**

1 Nay vote - Acting Chairperson Heather Keith

- (b) Colin Mattson, 1745, Route 112 (PID / NID #5001151), Upper Coverdale, comté d'Albert Co., Unincorporated Area / région non-incorporée - to exceed the gross floor area requirement for an accessory building / afin de dépasser l'exigence relative à la surface de plancher brute (File/Dossier #14UV-613).

Staff member Bill Wright presented the request on behalf of the applicant Colin Mattson to exceed the gross floor area of an accessory building from 100 square meters to 104 square meters. This would be a 4% variance which would be considered minor and is therefore within the general intent of the Greater Moncton Planning Area Rural Plan Regulation.

**It was moved by Committee Member Rici Archibald and seconded by Committee Member Andy St-Amand that the variance request application from Colin Mattson, Route 112 (PID# 5001151) Upper Coverdale, Albert Co. Unincorporated, to exceed the gross floor area requirement of an accessory building from 100 m<sup>2</sup> to 104 m<sup>2</sup> (File #14UV-612) BE APPROVED MOTION CARRIED - UNANIMOUSLY**

## **5. TEMPORARY APPROVALS, CONDITIONAL USES, RULINGS OF COMPATIBILITY AND NON-CONFORMING USES / APPROBATIONS TEMPORAIRES, USAGES CONDITIONNELS, DÉTERMINATIONS DE COMPATIBILITÉS ET USAGES NON-CONFORMES**

None / aucune

## **6. TENTATIVE SUBDIVISIONS / LOTISSEMENTS PROVISOIRES**

None / aucune

## **7. BY-LAW AMENDMENTS, ZONING AND MUNICIPAL PLAN MATTERS / QUESTIONS DE ZONAGE ET QUESTIONS RELATIVES AUX PLAN MUNICIPAUX**

- (a) Shirley and/et Lee Murray, 249 ch. Indian Mountain Road (PID/NID 370429865), Indian Mountain, comté de Westmorland Co., Unincorporated Area / région non-incorporée - to rezone a portion of the said lands from A Agricultural to C2 Commercial-Industrial Zone, to operate a warehouse or storage facility, along with a secondary use / afin de rezoner une partie des terrains ci-dessus de la zone A Agriculture à la zone C2 Commerciale et Industrielle, pour permettre un entrepôt ou une installation de stockage, ainsi qu'un usage secondaire. (File/Dossier #14UZ-123)

Staff member Tracey Wade presented the request on behalf of the agent Lee Murray and owner Shirley Murray to rezone a portion of their property from A (Agriculture) Zone to C2 (Commercial-Industrial) Zone in order to permit a storage facility and an entertainment venue as a secondary use on the site. Staff member Tracey Wade explained that neither of these uses are permitted in the current zone. She then went on to present photos of the site and the proposed fence while providing a background to the property.

Views and recommendations were sought from External Departments. The Department of Environment and Local Government had no concerns. The Department of Transportation commented that all new accesses or change in use of existing access must be approved by DTI and that the location of all buildings on the property must comply with the Provincial Set-back Regulation. A permit was issued at DTI when the buildings were constructed in 2013. The Department of Agriculture, Aquaculture and Fisheries (DAAF) commented that a subdivision of this property would be allowed without a penalty to the owner with regard to FLIP. According to the DAAF the building cannot be used for livestock as it is too close to the road and neighbouring residences.

Although the Rural Plan Regulation does allow some flexibility and a reasonable amount of land use impact is expected in the rural area staff member Tracey Wade pointed out that many concerns arise from permitting a event venue in this location. The nearest residence is located 50 meters from the proposed site with 2 others being 75 meters. The applicant is intending to rent the space for weddings, music concerts, private gatherings and weekend events. The Fire Marshall has approved a holding capacity of 400 people in the proposed venue. Some of the foreseeable concerns for such a use would include Health and Safety (there is no septic system or well on the site and temporary facilities would have to be brought in), parking (the space does not provide adequate space for parking), traffic generation (inevitability of people parking on Indian Mountain Road which presents not only an inconvenience to local landowners but a danger to pedestrians), and noise (from the venue as well as the people coming and going from the event).

A public hearing was held on Thursday June 19th. Staff member Tracey Wade stated that the concerns raised by those present included the buildings being constructed before approval and the current use of the storage units despite a stop work order and the potential of excessive noise, traffic congestion, public safety,

lights from traffic leaving the venue, decreased property value and lack of monitoring and accountability in rural areas.

Staff member Tracey Wade read the following recommended motion advising the Committee that the event venue has been completely removed from the original motion included in the staff report.

WHEREAS THE PROPOSAL SUBMITTED BY LEE AND SHIRLEY MURRAY TO PERMIT A WAREHOUSING FACILITY AS A PRIMARY USE AND AN EVENT VENUE IN INDIAN MOUNTAIN HAS BEEN CONSIDERED BY PLANNING STAFF;

AND WHEREAS, FROM A PLANNING PERSPECTIVE, THE PROPOSAL TO USE THE BUILDINGS AS WAREHOUSING AND STORAGE FACILITIES ALONG WITH PROPOSED TERMS AND CONDITIONS, IS DEEMED TO BE ACCEPTABLE;

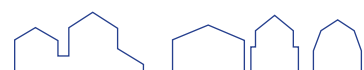
AND WHEREAS, FROM A PLANNING PERSPECTIVE, THE PROPOSAL TO USE ONE OF THE BUILDINGS AS A SUMMER EVENT VENUE FOR CONCERTS AND PRIVATE FUNCTIONS, IS NOT DEEMED TO BE ACCEPTABLE;

THAT THE SERSC WESTMORLAND-ALBERT PLANNING REVIEW AND ADJUSTMENT COMMITTEE RECOMMENDS TO THE PROVINCIAL MINISTER OF ENVIRONMENT AND LOCAL GOVERNMENT THE ADOPTION OF MINISTERIAL REGULATION 14-MON-019-22, INCLUDING MODIFIED TERMS AND CONDITIONS AS PER THE FOLLOWING:

1. THAT THE RE-ZONED LANDS, AS SHOWN ON ATTACHED SCHEDULE S-2, BE CREATED BY WAY OF SUBDIVISION;
2. THAT THE PERMITTED USES BE CONFINED TO ONE OR MORE OF THE FOLLOWING:
  - (I) AS A MAIN USE, A WAREHOUSE OR STORAGE FACILITY,
  - (II) ANY ACCESSORY BUILDING, ACCESSORY STRUCTURE OR ACCESSORY USE;
3. THAT THE MAIN USE BE LIMITED TO THE THREE BUILDINGS OR STRUCTURES AS SHOWN ON ATTACHED SCHEDULE S-2;
4. THAT A CHAIN LINK FENCE AT LEAST 1.5M IN HEIGHT BUT NOT EXCEEDING 2M IN HEIGHT BE CONSTRUCTED ALONG OR NEAR THE RE-ZONED LAND'S SOUTHWESTERLY LIMIT, OR AS SHOWN ON ATTACHED SCHEDULE S-2, AS TO PREVENT TRESPASS UPON ADJACENT LANDS AND TO BE COMPLETED WITHIN ONE YEAR OF THE RE-ZONING COMING INTO EFFECT;
5. THAT EXTERIOR LIGHTING ILLUMINATE ONLY THE LANDS RE-ZONED AND NOT UPON NEIGHBOURING LANDS;
6. THAT NO OUTDOOR STORAGE OF WASTE OR CONSTRUCTION MATERIAL BE PERMITTED ON THE REZONED LANDS; AND
7. THAT, PRIOR TO ANY OPERATION, THE NECESSARY PERMITS BE OBTAINED FROM DEPARTMENT OF TRANSPORTATION AND INFRASTRUCTURE.

IN THE EVENT OF ANY BREACH OF THESE TERMS AND CONDITIONS, OR OF ANY AMENDMENTS MADE TO THEM, OR OF THE APPLICABLE PROVISIONS OF THE GREATER MONCTON PLANNING AREA RURAL PLAN REGULATION – COMMUNITY PLANNING ACT, OR OF ANY AMENDMENTS MADE TO THEM, BY SHIRLEY MURRAY OR LEE MURRAY, THEIR HEIRS, ASSIGNS OR SUCCESSORS, OR ANY OTHER OWNER OR OPERATOR ON THE LANDS HEREIN IDENTIFIED, THE SAID SHIRLEY MURRAY AND LEE MURRAY, THEIR HEIRS, ASSIGNS OR SUCCESSORS, OR ANY OTHER OWNER OR OPERATOR OF THE SAID LANDS SHALL LOSE THE RIGHT TO USE THE SAID LANDS AS HEREIN SPECIFIED BY THIS REGULATION, NAMELY MINISTERIAL REGULATION 14-MON-019-22, AND THE USE OF SAID LANDS SHALL REVERT TO THOSE OF THE PREVIOUS ZONE, NAMELY, AGRICULTURAL – A ZONE OF THE GREATER MONCTON PLANNING AREA RURAL PLAN REGULATION – COMMUNITY PLANNING ACT.

Committee Member Ricci Archibald questioned how many of the conditions are both sides in favour of and against. Staff member Tracey Wade informed the Committee that the neighbours are completely against the event venue.



Committee Member Ricci Archibald questioned the proximity to the Pope Site (Magnetic Hill). Staff member Tracey Wade was unsure of the distance.

Acting Chairperson Heather Keith opened the floor to the public.

Dale Briggs, acting as legal council to Mr Murray, addressed some of the concerns brought forth. He stated that although the Fire Marshall had set an occupancy capacity of 400 people this was in excess of what the owners wanted. The owners would limit the capacity to 200 people which will reduce parking requirements. He determined that all parking could be provided on the site eliminating the need for parking on Indian Mountain Road. He felt the noise concerns were a bit of a red herring indicating that as it was a new structure the building was sound proof and was of superior construction with a Building Permit. Staff member Tracey Wade interjected that a Development Permit for an accessory building to an agricultural use that was issued, and not a Building Permit. Dale Briggs addressed the issue of light shining in the neighbours windows by explaining that a designated in/out access would restrict or negate this issue. He stated that the Department of Health had no concerns with the owner's solution of a trailer lavatory system as opposed to the use of port-a-potties. Dale Briggs concluded that, as this was a seasonal operation, the application was a reasonable request and that all concerns of the neighbours could be addressed and alleviated.

Committee Member Ricci Archibald questioned the original purpose of the building, was it intended to store hay. Dale Briggs responded that this was perhaps not the original intent but he couldn't answer that for Mr Murray. Committee Member Ricci Archibald questioned if there was a noise by-law. Staff member Tracey Wade responded that there are no noise regulations in the rural area. Committee Member Ricci Archibald questioned if the Committee is not allowed to regulate noise that should the Committee be allowed to comment on or consider the issue of noise. Staff member Tracey Wade suggested that it would be difficult for the Minister to build this into future regulation to enforce.

Committee Member Andy St-Amand questioned Dale Briggs with regards to how the parking could be provided completely on site. Dale Briggs explained at a 200 person capacity assuming there are 4 people to a car that would translate to 50 cars. He felt there was adequate space on the site to accommodate 50 cars. Staff member Tracey Wade countered that taking into consideration turn around space and a sanitary trailer on site it would be difficult to accommodate 50 cars. Staff member Jeff Boudreau clarified that the three buildings in the image shown were outside the area being rezoned. Committee Member Ricci Archibald questioned if the same owner owned all the land could not an agreement be put in place to use that land for additional parking.

Committee Member Andy St-Amand questioned the square footage of the proposed building. Dale Briggs could not provide the actual square footage but stated that the second floor of the proposed building would not be used for the event venue.

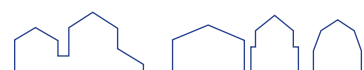
Neighbouring landowner Lynn Turner commented that all the activity would not be inside the venue, that there will be noise outside as well as the issue of 200 people all leaving at the same time. The lights from departing cars will shine directly into the windows of neighbouring houses. Neighbouring landowner Joan Gallant supported the complaint of car headlights.

Committee Member Ricci Archibald questioned what the permitted uses are in the Agricultural Zone. Staff member Tracey Wade read the permitted uses as per the Rural Plan Regulation.

Neighbouring landowner Dave Gallant voiced his concerns regarding noise, lights, traffic, security and the fact that there are no regulations to control this.

Committee Member Ricci Archibald reminded the public that the Committee is only here to make a recommendation to the Minister. Neighbouring landowners Dave Gallant, Joan Gallant, Peter Stackhouse and Donald Corbin indicated that they would have fewer issues with the proposed building being used for storage purposes but felt the event venue should be denied. Acting Chairperson Heather Keith stated that the question to the Committee was to accept or deny the staff recommendations that storage be allowed and the event venue denied. Dale Briggs reiterated that the event venue was not an unreasonable request and that it is compatible with uses that are permitted in the A zone citing restaurants and parks/playgrounds as being similar to the event venue. Staff member Tracey Wade stated that storage was compatible with agricultural and rural residential uses in this area and that the rezoning would rectify the fact that storage is not permitted in the Agriculture zone. However, in her professional opinion, an event venue was not an acceptable use in the proposed location.

**It was moved by Committee Member Andy St-Amand and seconded by Committee Member Audbur Bishop to accept the staff recommendation that the rezoning request of**



**Shirley and Lee Murray, 259 Indian Mountain Road (PID/NID# 70429865) Indian Mountain, Westmorland Co, Unincorporated Area BE RECOMMENDED to the Minister with revised terms and conditions as presented.**

**MOTION CARRIED**

1 Nay vote - Committee Member Ricci Archibald

## **8. OTHER BUSINESS**

None / *aucune*

## **9. ADJOURNMENT / CLÔTURE DE LA SÉANCE**

On a motion by Committee Member Andy St-Amand the meeting was adjourned at 7:36 PM

**MOTION CARRIED - UNANIMOUSLY**

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Heather Keith - Acting Chairperson