

SPECIAL COUNCIL

A Special Session of the Municipal Council of the Municipality of the County of Colchester was held in the Court House, Truro, Nova Scotia on Thursday, December 9, 2004 at 7:00 p.m.

Roll Call

The roll was called with the following Councillors in attendance:

Mayor Mike Smith, Chair	
Councillor Bob Taylor	District #1
Councillor Bill Masters	District #2
Deputy Mayor Hugh Matheson	District #3
Councillor Mike Cooper	District #4
Councillor Ron Cavanaugh	District #6
Councillor Jimmie LeFresne	District #7
Councillor Bob White	District #9
Councillor Doug Cooke	District #10

Absent

Councillor Glen Edwards	District #5
Councillor Soley Lynds	District #8
Councillor Terri Mingo	District #11

Variance Hearing - Lands of Canadian Tire Corporation Ltd., Budget Kiosk, 106 Robie Street, Lower Truro

Councillor Cooper declared a conflict of interest and removed himself from the table.

Mayor Smith called the public hearing to order respecting a refusal to grant a variance by the Municipal Development Officer, Pam Macintosh. The variance request was to construct a building, used by Budget Car and Truck Rentals, below the required flood proofing elevation on Robie Street in Lower Truro. The applicant has appealed this refusal so Council becomes the decision-making body and will decide to either uphold or overturn the decision of the Development Officer.

Mr. MacIsaac, advised that all guidelines of the Municipal Government Act regarding advertising of the public hearing have been followed.

Mayor Smith reminded Council that this public hearing is Council's opportunity to hear the variance decision and concerns of the applicant and property owners so notified.

Mrs. Macintosh reported that the variance request was for permission to construct a Budget Kiosk building below the required flood proofing elevation. The applicant is proposing to maintain the finished floor elevation of the building at 10.58 metres instead of the required 10.69 metres. Contractor error was cited as the reason for the discrepancy in elevation.

The application was refused as it violates the intent of the Central Colchester Land-Use By-law. Section 14.2.1 of the By-law addressed the need to flood proof buildings to an elevation of 0.09 metres above the established 1:100 year flood elevation. The By-law clearly states that the Development Officer shall not grant a variance that would interfere with the intent of Part 14, Environmental Zones.

Mr. David Turner, Operations Manager for Budget Car and Truck Rentals, stated that they interpret the By-law as applying to the main buildings on a given piece of property which, in this case, is the Canadian Tire Corporation. In their opinion, the Budget Kiosk is an accessory building and therefore would not fall under the By-law. He indicated that all electrical and plumbing components are set well above the floor elevation and if it flooded, it would just be a matter of water going in and water going out. Effectively there would be no damage to the Kiosk and they would be open for business the next day. No claim would be made to the County for flood relief.

Mr. Turner stated that they do not believe the variance application is necessary at this point as the Budget Kiosk is not the main building. Budget is a tenant of the Canadian Tire Corporation.

The County Solicitor advised that Budget's interpretation of the term "accessory building" is a very liberal one and that he disagrees with this interpretation. He sees Canadian Tire and Budget as two separate businesses.

There were no additional presentations regarding this variance request.

Moved by Deputy Mayor Matheson
Seconded by Councillor Cooke

“That Council uphold the decision of the Development Officer that the variance request to construct a building used by Budget Car and Truck Rentals below the required flood proofing elevation on Robie Street in Lower Truro be denied.”

Motion Carried Unanimously.

As there was no further business, Mayor Smith declared the variance hearing closed.

At this point, Councillor Cooper returned to the table.

Adjournment

Moved by Councillor Cooke
Seconded by Councillor White

“That the meeting be adjourned at 7:45 p.m.”

Motion Carried Unanimously.

Sheila Arsenault
Deputy Clerk