

Minutes
Resort Municipality Monthly Council Meeting
September 20, 2021
5:00 p.m.

The Monthly Council Meeting of the Resort Municipality was held on September 20, 2021 at the Resort municipality Office and electronically with Zoom.

PRESENT: In Person: Mayor Matthew Jelley. Deputy Mayor Linda Lowther, Councillor: George Clark Dunning and Kay Hryckiwi. Zoom: Councillors: Lee Brammer, Bill Drost and Chris Robinson. In Person: CAO: Brenda MacDonald and Administrative Assistant: Heather Hay.

VISITORS: In Person: Jim Brown and Stig Andersen. Zoom: Sandra and Ron LeBlanc, Shari MacDonald, Eddie MacKenzie and Lloyd Adams joined the meeting at 6:08 p.m.

1. CALL TO ORDER:

Mayor Jelley called the meeting to order at 5:02 p.m.

2. APPROVAL OF AGENDA:

It was moved by Councillor Drost, seconded by Councillor Hryckiwi that the agenda be adopted as presented. All in favor 6, 1 non-voting. Motion Carried.

3. APPROVAL OF MONTHLY COUNCIL MEETING MINUTES AUGUST 16, 2021:

It was moved by Deputy Mayor Lowther, seconded by Councillor Clark Dunning that the Monthly Council Meeting Minutes of August 16, 2021 be adopted as presented. All in favor 6, 1 non-voting. Motion Carried.

APPROVAL OF PUBLIC MEETING MINUTES SEPTEMBER 1, 2021:

It was moved by Councillor Clark Dunning, seconded by Deputy Mayor Lowther that the Public Meeting Minutes of September 1, 2021 be adopted as presented. All in favor 6, 1 non-voting. Motion Carried.

4. DECLARATION OF CONFLICTS OF INTEREST:

Deputy Mayor Lowther declared a Conflict of Interest under Section 5.A.3 - 8 for Planning Board.

Mayor Jelley advised that if anyone has a conflict of interest during the meeting to declare it and then remove themselves from the meeting.

5. COMMITTEE REPORTS:

Follow Up Permits:

Swept Away Cottages – (PID # 624379 - Cavendish Road) – an application was received to construct 1, 1 bedroom cottage, 7, 2 bedroom cottages and 3, 3 bedroom cottages, 1 laundry facility, a pool, a water building and a pool equipment building. Awaiting information from the owner and the Department of Health on the pool permit, development agreement and performance bond.

Anne's Windy Poplars - PID # 232215 (7195 Route 13) – an application was received to enclose the pool with a building on the site of 50'x 40'. Awaiting comments from the Department of Health and Wellness, the Provincial Fire Marshal's office and stamped drawings to be provided.

Change of Use – Special Permit Use:

Anne's Windy Poplars - PID # 232215 (7195 Route 13) – an application was received to change the use of the

property to a vacant land condominium. Awaiting information from the Department of Transportation, Infrastructure and Energy, Provincial Fire Marshal's office and the Department of Environment.

Subdivision Application:

Estate of Brian Stevenson – PID # 729087 (Cavendish Road) – an application was received to subdivide 17.96 acres off of the main property. Awaiting comments from the Department of Transportation on Access, that the perc tests be completed for the property to meet the requirements of the Zoning and Subdivision Control (Development) Bylaw and that a final survey plan be completed.

Signage Permit Applications:

Parks Canada – PID # 232405 (Cavendish Grove) – an application was received to construct a sign of 20' W X 7' 2 9/16" at the front of the property. The Council approved signage up to a maximum of 80 sq. ft. only on the site.

Official Plan and Bylaw Review:

A public meeting was held on September 13, 2021 at the North Rustico Lion's Club.

The public has until September 20, 2021 to send in any written comments and that includes the Council.

A draft document has been sent to the planning board for their review and a meeting will be set up with the planner between September 21 - 24 to discuss the draft and the next steps.

A letter was received from Judy Gallant as well as and Sandy MacKay on the Official Plan and Bylaw Review. Deputy Mayor Lowther advised that she would provide comments on the document by September 22, 2021.

Development Permits:

Eddie MacKenzie (PID # 694745) (1805415) (8420 Cavendish Road) – an application was received for a special permit use for a multi-family dwelling at PID # 1805415, as well as to amend the plans for the vacant land condominium development (original parcel # 694745). A new survey plan and site plan were received along with the declaration and bylaws. It was moved by Councillor Clark Dunning, seconded by Deputy Mayor Lowther that the Council approve the application in principle subject to: 1) the development agreement being completed, 2) payment of legal fees and 3) payment of registry fees. All in favor 6, 1 non-voting. Motion Carried.

Mayor Jelley advised that the Council will have to discuss "*In Camera*" about the work that has happened on the property without a development permit.

Marco Polo Land Inc. – PID # 232298 (7406 Route 13) – an application was received to remove the old train station from the property. It was moved by Councillor Clark Dunning, seconded by Councillor Hryckiwi that the Council approve the application in principle subject to: 1) clarification on what is happening with the train station and how it is being removed from the site.

Discussion:

Council had concerns over the fact that the application was applied for and the train station was removed prior to getting approval from the municipality, so the application was tabled and will be discussed under "*In Camera*" at the end of the meeting.

Marco Polo Land Inc. – PID # 232298 (7406 Route 13) – an application was received to locate three yurts on the property. It was moved by Councillor Clark Dunning, seconded by Councillor Drost that the Council approve the application in principle subject to: 1) that a comprehensive site plan be provided for the property, 2) meets the requirements of the Provincial Fire Marshal's office, 3) meets the requirements of the Department of Tourism and 4) meets the requirements of the Building Codes Act. All in favor 6, 1 non-voting. Motion Carried.

Marco Polo Land Inc. – PID # 232298 (7406 Route 13) – an application was received to change 11 sites from 2

way sites into 3 way sites. It was moved by Councillor Clark Dunning, seconded by Councillor Hryckiwi that the Council approve the application in principle subject to: 1) that a comprehensive site plan be provided for the property, 2) that meets the requirements of the Provincial Fire Marshal's office, 3) meets the requirements of the Department of Tourism, 4) meets the requirements of the Department of Environment and 5) meets the requirements of the Building Codes Act. All in favor 6, 1 non-voting. Motion Carried.

Marco Polo Land Inc. – PID # 232298 (7406 Route 13) – an application was received to locate a tarp building on the property of 70' X 30'. It was moved by Councillor Clark Dunning, seconded by Deputy Mayor Lowther that the Council approve the application in principle subject to: 1) that a comprehensive site plan be provided for the property, 2) meets the requirements of the Provincial Fire Marshal's office, 3) meets the requirements of the Department of Tourism and 4) meets the requirements of the Building Codes Act. All in favor 6, 1 non-voting. Motion Carried.

Deputy Mayor Lowther left the meeting due to a conflict of interest.

Councillor Drost was not in attendance for the meeting when the vote on the motion was completed.

Temporary / Transient Use Permits:

Government of Canada – PID # 232405 (7591 Cawnpore Lane) – an application was received to have a temporary / transient use permit on October 9, 2021 from 7:00 a.m. – 10:00 a.m. It was moved by Councillor Clark Dunning, seconded by Councillor Hryckiwi that the Council approve the application in principle subject to: 1) meets the requirements of the Provincial Fire Marshal's office and 2) meets the requirements of the Department of Health and Wellness. All in favor 4, 1 non-voting, 2 absent. Motion Carried.

Deputy Mayor Lowther returned to the meeting.

Permits issued by the CAO:

John Doyle – PID # 233510 (508 Gulf Shore Highway) - To locate an accessory building on the property of 20' X 12' on the property for storage only.

Councillor Drost returned to the meeting.

Subdivision Application:

Alex Gallant – an application was received to subdivide 0.04 acres from PID # 999052 and consolidate it with PID # 999060 on Angus Campbell Lane. It was moved by Councillor Clark Dunning, seconded by Councillor Hryckiwi that the Council recommend approval in principle subject to: 1) that the survey plan be provided showing the measurements between the new property line and Alex Gallant's cottage to ensure that it meets the setback requirements. All in favor 6, 1 non-voting. Motion Carried.

Major Variance Request:

Ron and Sandra LeBlanc – PID # 403956 (20 Isidores Lane).

Councillor Clark Dunning advised that there were twelve letters received on the major variance request, the public meeting minutes of September 1, 2021 and the planning board minutes of September 15, 2021 were provided to the Council for the meeting as part of the information.

Page Four

Dear Brenda

Thank you for bringing this to our attention regarding the issue diagonally across the intersection from our cottage, as we see the owners are requesting a major variance of the foot print of their new build.

As you Brenda, are aware when we put an addition on our cottage several years ago you informed us of the rules of set back and our plans were simply not approved to go ahead. Therefore we had to redesign thru our architect to conform with the rules of the municipality. This was quite a time delay and considerable expense but we were told we must follow the rules so we did. We are very pleased with the result and thank you for your guidance.

This building has a large footprint .I hear its two storey high which is blocking our view which we used to have so with the addition of a major variance even more of my view is gone. So I strongly encourage you to not give permission for this variant. I simply say we all follow the rules.

Say No to any variance not a reduced one -none.

Peter and Noreen Heighton (2 letters) – 17 Isidores Lane

September 2, 2021

This is a letter regarding a new addition to the cottage community of Trim Acres in Cavendish. The property is a summer cottage being built by Ron & Sandra LeBlanc on a half-acre lot on the north side of Isidore's Lane, and on the east side of Trimmin's Lane in Trim Acres Subdivision. Our property is across the lane from their property. It has been determined that part of the foundation of the new-build, is in contrast to the acceptable space between the summer cottage and the road, Trimmins Lane. The acceptable space has been determined has been determined by the Resort Municipality.

It would appear that part of the wall of the garage is much closer to Trimmins Lane than the bylaw allows. In his defence of this issue, Mr. LeBlanc contacted me when he realized the base of his new build, notably the garage was 5 or 6 feet beyond the acceptable boundary. He told me that his contractor made the mistake while Ron was not in the province, due to work, during the early stages of the build. A compromise might be to extend the northwest corner of the build to fit in the garage. Then they would be within the proper boundary. This would not be necessary if the base already established on the property, would be acceptable to the municipal office.

We welcome Ron & Sandra and their family to Trim Acres Subdivision.

Submitted by Peter Heighton

September 7, 2021

To Whom It May Concern:

Across Isadore's Ave. from our cottage, the foundation for cottage/house has been built by Bernmar Construction. Unfortunately it did not meet the boundary for construction.

Ron & Sandra LeBlanc own this property. They wish to build a two storey cottage on this foundation. They believe the construction company or employee is at fault. They believe an exception be made so they can continue building the cottage/house.

Neighbors here were asked to give feedback on this request. If the Fault was not theirs then I would support them. If this was not the case then I would support their request. The Powers-To-Be should have that information either

Page Five

by Ron or the construction company.

Either way Noreen and I welcome Ron & Sandra to Trim Acres – God bless you.

Josh Leon – 8 St. Lawrence Avenue

September 2, 2021

I have reviewed the LeBlanc variance submission and see no reason why it should not be approved. The approval will not impact any of the neighboring properties. Or use of Trimmings Lane.

As the foundation is already in, though in the wrong location due to no fault of the LeBlanc's, it would be a waste of time, material and money to have them scrap it all and start over when there is no impact in approving the variance. My major concern is that there would be more disruption for the community in having additional heavy construction equipment coming in to demolish the existing foundation and then pour a new foundation. Overall it is far better for the environment and the neighbors to leave the existing foundation and allow the LeBlanc's to continue as they started.

I strongly support approval of the variance.

Michel Dupuis – 3 St. Lawrence Avenue

September 2, 2021

nous comprenons tres bien les nombreux devoirs que cela leur ont occasionnes ce project, nous considerons qu'il peut y avoir entente avec le contracteur decidant de refaire le salage sans etre obliger de completer la construction de la maison et en profiter pour reduire sans cout, cela conviendrait mieux a son confort financier; si non il y aura toujours le recours a la federation des constructeurs en batiments de l'ile du Prince Edward, ou lire un avocats pour faire reconnaitre ses droits a l'erreur de des contracteur mais vouloir a tout prix continuer le project qui n'est pas reglementaire pourrait occasionner des precedents facheux dans le futur aux residents actuels et futures

Translated: We understand very well the many setbacks that this has caused them on this project. We are also considering that there could be an agreement with the contractor to redo the footings without having to complete the construction of the house. This would give him (the contractor) the opportunity to reduce his cost. That would give him more financial comfort.

If not, there would always be recourse to the federation of builders of buildings of Prince Edward Island, or to hire a lawyer to have his rights restored because of the contractor's errors.

But wanting at all costs to continue the project which is not regulatory could cause annoying precedents in the future to current and future residents.

Lynda Ozere – 17 St. Lawrence Avenue

September 2, 2021

Comments: I do not think there is a need to deny the variance application for the LeBlanc's. Approval will not impact any of the neighbors in a negative way.

It is unfortunate that the contractor placed the foundation in the wrong position, but overall it is minor with no negative impacts. The LeBlanc's are trying to do what is right (such as applying for the variance) and making the best of a bad situation.

I encourage you to approve this variance.

Page Six

Concerns: None at all.

Richard Moore – 8371 Cavendish Road
September 3, 2021

No 30% variances should be allowed on what is a dispute between a contractor & owner.

If granted it sends a dangerous precedent. If you start something & say it was an honest mistake you should not be rewarded!

Tobi Grosman – 20 Isidores Lane – Wind Breeze Estates Inc.
September 4, 2021

Dear Ms. Brenda MacDonald,

We are owners of 47 Isidores Lane, Cavendish and have been for 30 plus years. I thank you for sending us the letter with regard to the build at 20 Isidores Lane, Cavendish.

We are against the variance because it will impact negatively on the visual lines of the intersection of Trimmings Lane and Isidores Lane and encroach on the natural and Country feeling that is so important to our community. We also object to the requested variance because it sets a precedent that will encourage others to make similar requests.

The required 25 foot setback under Zoning and Subdivision Control (Development) Bylaw should stand.

Johanne Gallant – 40 Isidores Lane
September 6, 2021

Dear Brenda,

With regard to the request for variance for the building at 20 Isidores Lane I do not agree with allowing the variance.

I have seen some drawings of the intended structure (which I realize is not being discussed here). The inclusion of a garage (for a summer cottage?) along with the fact that this building is, for all intent and purpose, two stories high, suggest that there are several aspects to this building that don't really comply with the covenants in this subdivision of summer cottages.

My objection will not have an impact on the design but I think we should give a nod to the fact that there are bylaws and keep this bylaw regarding flankage intact.

Thank you for the opportunity to comment on this matter.

Please let me know if you have any questions about these comments or if there's more information I can provide.

Wendy MacGregor – 40 St. Lawrence Avenue
September 6, 2021

Dear Cavendish Resort Municipality,

I am writing to express lack of support for the major variance application regarding the LeBlanc property on Isidore's Lane. As I understand it, the foundation currently violates the existing set back rules. It seems evident

Page Seven

that setback rules are essential to protect all home and cottage owners. This new construction will directly impact many neighbours who have invested in their properties and carefully followed subdivision building rules. The subdivision regulations protect all of us and when they are not followed, particularly when it is such a major violation, I believe it sets a problematic precedent.

Yours Sincerely, Wendy

Tom Andrew – 49 St. Lawrence Avenue
September 6, 2021

We are cottage owners @at 49 St. Lawrence Avenue, Cavendish responding to a review of a variance request for the above PID.

Our thought is that there should be no variances allowed within the area. When too many variances are allowed, then what is the point of the rule? Sticking to the rule prevents owners from "pushing the limits" and keeps the integrity of what the development was intended for.

Kathy and Will Winter – Town of North Rustico
September 2, 2021

Hello,

I am writing in response to your request for feedback for a major variance at 20 Isidores Lane, Ron and Sandra LeBlanc's property.

After hearing the facts, that the foundation was already built too close to Trimmings Lane, through no fault of the owners, but of their contractor, who then up and quit leaving them to deal with his mistake, I know it was never their intention to have it place where the foundation was built. I believe we need to show some Island compassion here and good old North Shore hospitality. The LeBlanc's purchase this property years ago and wish to retire in a community that is warm and inviting. Sandra was born and raised on PEI, by a hardworking Islanders who made their living on sea. The LeBlanc's would be wonderful residents to any community.

We often beach walk and swim in that area, in all four seasons and I can't see how that private road, Trimmings Lane, would be impact by the incorrect position of the house; the current road access is not impacted at all, you can still get large equipment or emergency vehicles down that road, if need be.

As far as someone's view being impacted, a house is going to be built there, it actually could have taken up more of their lot. If your land is further from the water, and you don't own the land in front of your house, at some time, someone will build on that land in front of yours, as is their right to do so. We also live in an area with a beach view and at some time I am sure our view will be impacted and we understand that. It is unreasonable to think otherwise. Relocating the house a few feet to square it up with the East border will not change anyone's view lines significantly from where it is currently placed. As likely the only year-round resident in that area, their house location won't be an issue for the majority of the year, when seasonal residents return to their regular homes, often outside PEI.

People can't be upset if a property owner decides to build a two-storey house there, there are other two-story homes already in that subdivision.

We can't punish the LeBlancs because other people didn't get their requested variance, perhaps years ago; again, it was never their intention to build where it is located. It's different to ask for a variance before a project is

started, and be refused, than to find yourself in this unfortunate situation, we can't judge it based on the fact someone else didn't get theirs before construction. This was contractor's human error. The meeting last night was to discuss the LeBlanc variance, not to bring forward past variance refusals.

Our communities need good year-round professional tax paying people, who will use our community services year-round. That is how our communities will grow and prosper. The LeBlanc's will be a great addition to our area, and are known for various volunteer work, their love of the outdoors and will be great ambassadors for our area. We have personally known the LeBlanc's for years and we can say they will be a welcomed addition to our north shore area.

We have no objection, as a resident of North Rustico and a business owner to having another year-round resident in the exact location the house is already started.

Thank you for your time.

Ken Sampson - Town of North Rustico
September 2, 2021

Address: 50 Grand View Lane, North Rustico

Comments:

I discussed the variance request with an individual who attended the meeting on September 1, 2020 and became familiar with the details of the project. The LeBlanc's are in this predicament through no fault of their own, this unfortunate situation is clearly the fault of the contractor. The error was reported when discovered and the LeBlanc's have been open and transparent regarding this matter.

It does not appear that the approval of the variance requested will negatively impact neighbors, denying the variance will be wasteful and require the unnecessary consumption of additional materials and resources with no perceived benefit. For these reasons, construction should be permitted to continue.

I support approval of this variance.

Concerns: None

It was moved by Councillor Clark Dunning, seconded by Councillor Robinson that the Council deny the Major Variance Request based on the Zoning and Subdivision Control (Development) Bylaw provisions and for the following reasons:

- 1) no compelling reason was provided based in the information submitted by the property owner to allow a major variance;
- 2) the precedent that would be set by the municipality to allow a major variance on the front yard setback; and;
- 3) the feedback that was received from property owners within the municipality. All in favor 3, 1 non-voting, 1 against. Motion Carried.

Discussion:

Mayor Jelley read out the letter for the record from Ron and Sandra LeBlanc dated September 16, 2021.

Ronnie and Sandra LeBlanc, 47 Duntara Crescent, St. John's NL A1E5Z2 (20 Isidores Lane, PE)

We are reaching out to you today, as it is still within your ability to help solve an unfortunate situation that, through no fault of our own, we have found ourselves in. Our foundation was constructed in the wrong spot and our contractor quit.

We followed all the rules and requirements to build our new home in Cavendish; it was never our intention not to. We obtained a development permit as required, and we hired a large reputable Island contractor BernMar Construction to build our new home. We communicated the permit's setback guidelines and requirements to our contractor in two separate emails. It was outlined in red ink on the diagram with the house placement. We relayed the importance of the setbacks and the importance of the house placement from east to west verbally to them as well. Unfortunately, with COVID restrictions not allowing us to travel to PEI, we were not there when the foundation was measured and poured in November 2020. We put our trust in the professionals that we hired that they would do it correctly and as instructed.

We first visited the site on July 23, 2021, and immediately noticed something was not right, as the driveway did not line up the house. We contacted our architect, and through him, we reported the error to the Resort Municipality. We did the right thing by bringing it forward immediately – we were not caught, nor reported by a neighbour. We could have kept building and perhaps no one would have been the wiser, but being honest, law-abiding citizens, we came to you for help. We applied for a variance, as suggested by CAO Brenda MacDonald, and as outlined in your Development Bylaws.

Your Bylaws allow you to grant major variances. We would like to point out Section 15:1.3 gives the Council the authority to consider a major variance application given that the general intent of the Bylaw is upheld, neighbouring properties will not be significantly or permanently injured, and the applicant has been able to document a compelling reason why the requirements of the bylaw cannot be precisely met. Considering our situation and the reasons we have provided, we believe we meet all these requirements to be granted a variance. As these are reviewed on a case-by-case situation, the granting of a particular one should not become "precedent setting." This seems to be a major concern of the Planning Board with granting this variance. We realize you do not grant them lightly or often, but this is not your typical situation either. This is trying to fix something after the fact, not getting a variance to build something in advance. We wanted the house where it was designed on the plans, not where the foundation currently is.

Council would not be bending or breaking any rules to assist us in solving this situation, as it is within your power to grant a variance. And a variance is the fix for when something like this does happen – it is not the norm. We were stuck in Newfoundland, hoping it all went smoothly with our foundation and doing everything within our power to ensure the development permit was followed.

When we look at the logical options for this situation, we look at the pros and cons of leaving the house 6.7 feet too close on one corner of Trimmings Lane. What are valid reasons to grant a variance and what are not? It should not be based on written submission numbers alone, on who can lobby the most people in a large area. The responses need to be considered as to whether they are relevant, logical and represent valid concerns. We have concerns this may not have been done in good faith by Planning Board based on the Planning Board meeting we witnessed on September 15th. Not all the resident submissions were read. We believe at least one submission of support from Mr. Craig, who lives in front of the foundation (as Brenda had indicated to our Architect, it was submitted in time) was not read. Then, when a Planning Board member made a motion to approve the variance, another Planning Board member's immediate reaction was to swear. As no one seconded the motion, the motion died, and no discussion occurred. The motion could have been seconded, discussed in good faith then voted on, but this did not happen. It appeared to those watching remotely (the public was finally granted video and audio well into the meeting, around Agenda item number 6) that most of the Planning Board members had their mind made up in advance. This issue was not given any due diligence at the public Planning Board meeting. After

paying \$1000 to host a Public Meeting, with half a dozen in attendance, we expected some discussion to weigh the pros and cons, and to determine the relevance of written submissions. What actually did go into making their recommendation to Council? We think Council needs to take into account that the majority of the town was silent on this issue, and most of the homes closest to us were supportive or silent.

Neighbours

The majority of the immediate neighbours directly affected by the current house position (beside us, behind us and in front of us) were in favour of the variance. This decision will affect them more than it will for others located further from our house within the subdivision or not even in that area of the community.

The house foundation is totally located on our land, so we are not on anyone else's property, nor too close to anyone else's house. One corner of the house is too close to Trimmings Lane. Any time a home is constructed in a subdivision, it will impact someone's view; however, provincial legislation does not generally allow viewscapes to be considered as a detrimental reason to deny permits. By shifting the house to make it parallel to Trimmings will not improve the view significantly, if at all, for that neighbour who brought forward that concern. That area is zoned R1, Residential, therefore, it is as-of-right to have a two-storey house with a garage on the lower level, if so desired, as it has been granted on our development permit. We were building mostly in the off-season, to reduce the impact on the neighbours. These delays might now push us to major construction next summer, prime vacation time.

It is noteworthy that the foundation has been in this current position for nearly 10 months and not one neighbour or resident complained about the foundation location, until we brought it to your attention. This location may not impact them directly, but your decision this evening will have a huge impact on us, financially and emotionally.

Road Access

Trimmings Lane has no impedance to it. Traffic can flow as usual, traffic sight lines are not affected. We believe the current location still meets the provincial setbacks for a private road. Very few homes use that road. Many of those who must actually drive by that section daily (in the summer only) wrote support letters. There are signs posted stating no access to the beach, the traffic is local, and limited.

Environmentally

Currently, the footings and frost wall which are filled with concrete are attached as one unit, as the ICF blocks interlock on the corners. To correct the intrusion into the flankage yard, the entire foundation would need to be removed. This would cause numerous dump trucks on that road, excess noise, dust, and will put perfectly good building material into our landfills unnecessarily. PEI prides itself on being the "green" province. Pulling up a perfectly good foundation and disposing of it in a landfill would not look good to most Islanders.

Financially

If this has to go to court, no one wins, except lawyers. We were trying to avoid this significant time and expense, by applying for the variance. No one likes to sue anyone; no one wins, financially or emotionally.

Digging up a new foundation that cost \$32,000 to place, and hauling it away, and rebuilding will likely cost another \$45,000. We plan to return to live on PEI in May 2022. We have waited two months for a decision and our new Contractor has already told us we will not be moving here come May into a finished house. Renting a place to live in the spring and moving twice will also add to the costs we are facing.

We know we have the ability to appeal a denied variance to the Island Regulatory & Appeals Commission (IRAC) as we have been in contact with them. We also know that both sides usually need to hire a lawyer, and

then it would become a costly battle between the municipality and us. We are sure no one wants that, as we all could put the required time and money to better use; therefore, we are reaching out one last time, to ask

Page Eleven

Councillors to show compassion in a difficult, unusual situation. We ask for you to reconsider the recommendation of Planning Board, while it is still within your ability to grant a variance. This will not be a precedent setting case. It is a one-off situation due to an error by our contractor. We are sure not one family would want to go through what we have gone through since July 23rd .

Please look closely at our compelling reasons for this variance. Please view this as what would you want to have happen, if this happened to you, your child or family member? Please help us solve this problem, which was not of our making, while still abiding by the rules and regulations of the community.

Our entire family is from PEI; Sandra's elderly parents still live in the family home in New Annan, our three children and their spouses live in Grahams Road and Stratford, Sandra's siblings, aunts and uncles, and cousins all live throughout the Island. Sandra's first summer job was at Sunset Campground, our children had a yearly pass to Rainbow Valley until it closed, we buy a National Park Pass yearly, even this year. We are not strangers to Cavendish or this Island, Sandra was born and raised here. The Resort Municipality wants to encourage year-round residents, and we were so looking forward to living here permanently.

In a year's time, this decision will likely not impact anyone but us. We believe situations such as this are the reasons Council's ability to grant a variance was established and are asking Council to please grant a major variance to allow construction to continue.

Thank you for considering our request; we also want to acknowledge your service to your community, and your commitment to your Resort Municipality.

Mayor Jelley advised that the Planning Board Meeting was held over zoom and the planning board became aware of some issues with the Zoom feed just after the agenda was approved at the meeting and the meeting was paused. The issue was resolved and the meeting proceeded on the full agenda items prior to this matter being taken into consideration. Planning Board did consider a motion and it did not have a seconder. A second motion was made and was carried by the planning board and their recommendation was made to the Council for the meeting tonight. All information other than the letter from Ron and Sandra LeBlanc were at the planning board meeting and were read out for the record.

The CAO advised that a revised letter was received from Sandra LeBlanc on September 17, 2021 following the first letter that she submitted on September 16, 2021 and she apologized for her comments as every letter was submitted for the record that was received on the matter up until the deadline date of submissions on the variance request. Mr. Craig was referenced in her letter as sending in a letter to the municipal office and he did not submit anything before, during or after the meeting to the Resort Municipality.

Mayor Jelley outlined the test of the bylaw under Section 15 Variance Provisions.

- 15.1. Council may authorize a minor variance to a maximum of 10% from the requirements of this Bylaw provided that in the opinion of Council the general intent of the Bylaw can continue to be upheld, Council is assured that the variance being sought is merely minor in nature, and the applicant for the permit has been able to document a compelling reason why the requirements of this Bylaw cannot be precisely met.
- 15.2 Council may authorize a variance of more than 10% from the requirements of this Bylaw, provided that in the opinion of Council the general intent of the Bylaw continues to be upheld, neighbouring properties

will not be significantly or permanently injured, and the applicant for the permit has been able to document a compelling reason why the requirements of the Bylaw cannot be precisely met.

15.3 Variance applications shall be considered against the following tests for justifying a variance:

- (a) the Lot in question has peculiar physical conditions, including small Lot size, irregular Lot shape, or exceptional topographical conditions, which make it impractical to develop in strict conformity with Bylaw standards;
- (b) strict application of all Bylaw standards would impose undue hardship on the applicant by excluding the applicant from the same rights and privileges for reasonable Use of the applicant's Lot as enjoyed by other Persons in the same Zone;
- (c) the variance is of the least magnitude required to enable reasonable Use of the Lot; and
- (d) the proposed variance would not impact unduly on the enjoyment of adjacent properties, or on the essential character of the surrounding neighbourhood.

Mayor Jelley commented on the fact that the bylaw does not advise the Council on how they weigh the information from the public.

Council provided input on the major variance request.

Mayor Jelley advised that there was nothing in the bylaw to prevent the house from being in the location that had been approved.

Amended Motion:

It was moved by Councillor Drost, seconded by Councillor Robinson that if the proponent is able to bring unanimous written support to the municipality from the owners immediately adjacent to them including the road owner then he would be willing to entertain this issue brought forward to the next regular Council meeting and if they are unable to do that, than his decision would stand with the rest of Council. All in favor 4, 1 non-voting, 2 abstaining. Motion Carried. Amendment accepted.

Discussion on the amendment:

Councillor Drost advised that the PID #'s he is referring to are 881169, 232751 and 440321.

Mayor Jelley confirmed that the PID #'s and information will need to be checked with the taxation office by the property owners to ensure that the information and numbers have not changed and are correct.

Councillor Clark Dunning confirmed that Councillor Drost is looking to the adjacent landowners on all four sides of the property.

Councillor Drost confirmed that the owner of the road is on two sides of the property.

Mayor Jelley confirmed that it may be the heirs, successors and assigns for the properties as well.

Mayor Jelley advised that all information is the responsibility of the LeBlanc's to track down and find out the property identification information, names and owners and contact information.

Councillor Clark Dunning advised that he wanted to confirm that any and all expenses incurred for finding the adjacent landowners to the LeBlanc property would be at the expense of the applicant including lawyers, private investigators, etc.

Mayor Jelley confirmed that all information and expenses would be up to the applicant to pay for.

Mayor Jelley confirmed the Motion on the floor is to deny the major variance request subject to but for unanimous written approval from the three neighboring properties of record by the LeBlanc property by October 18, 2021 at 5:00 p.m. Atlantic time in writing.

All in favor 6, 1 non-voting. Motion Carried.

E-mail is okay with Councillor Drost.

Jim Brown left the meeting at 6:51 p.m.

Other:

Planning Board Members:

Councillor Clark Dunning advised that Jeff Squires and Linda Young are no longer sitting on the planning board so two members will be required to fill the positions.

John Brewer will be discussed "*In Camera*" at the end of the meeting.

NEW APPLICATION RECEIVED AFTER PLANNING BOARD MEETING:

AMD PEI Grown Inc. – 8572 Cavendish Road (PID # 232413) – a temporary / transient use permit was received following the planning board meeting for an event on September 25, 2021 from 2:00 to 4:00 p.m. for a Sip, Sample and Shop. It was moved by Councillor Clark Dunning, seconded by Councillor Hrycki that approval be granted in principle subject to: 1) meets the requirements of the Department of Health and Wellness, 2) meets the requirements of the Provincial Fire Marshal's Office and 3) meets the requirements of the Liquor Control Commission. All in favor 6, 1 non-voting. Motion Carried.

5.A.1. CBMF Bond Release:

It was moved by Councillor Clark Dunning, seconded by Deputy Mayor Lowther that the \$5,000.00 bond be released to CBMF for the 2021 event as all conditions had been met. All in favor 6, 1 non-voting. Motion Carried.

5.A.2. 2021 Official Plan Review Background Report:

The 2021 Official Plan Review Background Report was in the meeting package from Samantha Murphy for information.

Deputy Mayor Lowther left the meeting due to a conflict of interest.

Stig Andersen left the meeting at 6:59 p.m.

Councillor Drost left the meeting.

5.A.3. Second Reading Official Plan Amendment:

Official Plan Amendment Resolution:

Whereas an application was received from the Estate of Brian Stevenson to amend the Resort Municipality Official Plan General Land Use Map to change the designation of a 17 acre portion of PID # 729087 from Rural and Open Space to Accommodations use;

And whereas Council has considered the following general criteria:

- Conformity with applicable legislation;
- Community objectives;
- Changes in technical content; and
- Water and sewer and other infrastructure plans;

Be it resolved that the official plan amendment 21-2, to amend the 2017 Official Plan General Land Use Map be hereby approved.

It was moved by Councillor Clark Dunning, seconded by Councillor Drost that the Council amend the Official Plan General Land Use Map to change the designation of a 17 acre portion of Provincial Parcel # 729087 from Rural and Open Space to Accommodations use. All in favor 5, 1 non-voting, 1 absent. Motion Carried.

It was moved by Councillor Clark Dunning, seconded by Councillor Brammer that the second reading of the Official Plan amendment 21-2 be adopted as presented. All in favor 4, 1 non-voting, 1 absent, 1 nay. Motion Carried.

Councillor Drost returned to the meeting.

5.A.4. Approval of Second Reading Official Plan Amendment:

It was moved by Councillor Clark Dunning, seconded by Councillor Drost that the second reading be approved as presented. All in favor 4, 1 non-voting, 1 against, 1 absent. Motion Carried.

5.A.5. Adoption of Official Plan Amendment:

It was moved by Councillor Clark Dunning, seconded by Councillor Hrycki that the Official Plan Amendment be adopted as presented. All in favor 4, 1 non-voting, 1 against, 1 absent. Motion Carried.

5.A.6. Second Reading Rezoning Amendment:

Zoning Amendment – Estate of Brian Stevenson (Cavendish Road) – PID # 729087:

Whereas an application was received from the Estate of Brian Stevenson for Cavendish Road, PID # 729087 for a zoning amendment from the Rural (RR) Zone to RD2 (Resort Accommodations) Zone under the Resort

Municipality, 2017 Zoning and Subdivision Control (Development) Bylaw to change a 10 acre portion of land on the zoning map from (RR) Rural Zone to (RD2) Resort Accommodations Zone;

And whereas zoning bylaw amendment, a bylaw to amend the 2017 Zoning and Subdivision Control (Development) Bylaw be approved.

Be it resolved that zoning bylaw amendment 21-3, a bylaw to amend the 2017 Zoning and Subdivision Control (Development) Bylaw be approved.

It was moved by Councillor Clark Dunning, seconded by Councillor Drost that the Council approve a bylaw amendment 21-3 to amend the Zoning map to show a 10 acre portion of Property # 729087 from the current Rural (RR) Zone to RD2 (Resort Accommodations) Zone be approved as presented. All in favor 4, 1 non-voting, 1 absent. Motion Carried.

5.A.7. Approval of Second Reading Rezoning Amendment:

It was moved by Councillor Clark Dunning, seconded by Councillor Hryckiw that the Second Reading of the Rezoning Amendment be approved as presented. All in favor 4, 1 non-voting, 1 against, 1 absent. Motion Carried.

5.A.8. Adoption of Rezoning Amendment:

It was moved by Councillor Clark Dunning, seconded by Councillor Drost that the Rezoning Amendment be adopted as presented. All in favor 4, 1 non-voting, 1 against, 1 absent. Motion Carried.

Deputy Mayor Lowther returned to the meeting.

5.B. Monthly Finances:

Councillor Brammer presented the monthly Finances August 31, 2021. The revenues were \$257,546.19 and the expenses were \$212,981.25. It was moved by Councillor Brammer, seconded by Councillor Hryckiw that the monthly finances for August 31, 2021 be adopted as presented. All in favor 6, 1 non-voting. Motion Carried.

5.C. Emergency Services Committee:

5.C.1. Emergency Plan:

Bradley MacIsaac is reviewing the plan and is expected to have his review completed within the next two weeks.

Tanya Mullally is now the Acting Director with the EMO Office.

5.D. Trails and Paths Committee:

Mayor Jelley met with Parks Canada.

Cavendish Grove Signage is still being looked at by Parks Canada.

The old sign standard at Green Gables Golf Course has been removed.

Parks will also be removing the old sign standard on the site from 1988 as well one of the Parks Signs stating golf course.

There has been some staffing changes with Parks.

Tara McNally MacPhee was Acting Field Unit Superintendent in Newfoundland for the summer.

Bill Courtney is on a secondum for 2.5 years and he believes that Peter Murphy will be filling in for him in his absence.

Chris McCourt is acting in Joe Trainor's position with Parks.

5.D.1 Cawnpore Lane Trail – Active Transportation:

Department of Transportation Staff have been on site.

Work is expected to be started over the next couple of weeks.

The tender was awarded by the Province to Island Construction.

Stanley Bridge Trail Project:

The Department of Transportation is still working on some ideas for this portion of the project.

Route 6 East to MacCoubrey Lane and Cawnpore Lane:

Municipal maintenance staff have removed the bench along the walkway at the request of the Department of Transportation. Work is expected to start over the next couple of weeks on the trail.

Work has been started on the shoulder widening and is expected to be completed with the seal by September 20, 2021.

5.D.2. Swimming Rock Steps:

Steps were completed on September 3, 2021.

The rock in the cribbing was not the correct size and the contractor is waiting for the R25 rock to come in and be installed.

There were some issues with the railing and that is being taken off and secured again on the patio stones.

5.D.3. Speed Signs:

The speed sign stats are in the package.

5.D.4. Picnic Shelters:

Engineers are working on the tender to be finalized to go out sometime next week and to close in early October.

6. Cavendish Sewer Utility:

6.A. Cavendish Sewer - Monthly updates and engineering:

IRAC is expecting a decision on the Rate increase before the end of September.

Engineers are working on run times and information on LS # 4.

7. Business Arising from Minutes:

7.A. MCH Day:

Event was held on September 4, 2021.

Property owners enjoyed the event and thought it was wonderful to be recognized by the Lieutenant Governor as part of the COVID Warrior Award for the community.

Award recipients were quite pleased to be recognized by the Community for the volunteer and beautification awards.

Community Navigators:

MRSB is working on a new website for the program and is expected to be operational this fall.

They will have community profiles on the site for people moving to the Island to be able to access and gather information.

Kellie Mulligan has a wage subsidy program available to people for 14 weeks as part of a rural job initiative.

7.C. Eastlink Servicing – North Rustico:

Preston Llewellyn is working on funding approval for the project with the Department of Innovation for the municipality.

7.D. Canada Post Reply:

A letter was received from Canada Post with the updates on the Green Gables Post Office.

The plan is that the Post Office will open in spring 2022 unless there is any changes to International Travel.

The property had work completed this summer at the site and will continue to be monitored in 2022.

7.D. Japanese Proofreading:

An e-mail was received from Patricia Diaz that she is no longer assist the Resort Municipality with translation.

Deputy Mayor Lowther is now working with another company on the translation.

8. New Business:

8.A. Hunter / Clyde Watershed Group:

It was moved by Councillor Brammer, seconded by Deputy Mayor Lowther that \$100.00 be donated to the Hunter / Clyde Watershed Group. All in favor 6, 1 non-voting. Motion Carried.

8.B. Run 4 Wishes:

Run 4 Wishes with HMCS Charlottetown is coming through the area in October and is looking for donations. Information was sent out in the municipal newsletter. If anyone would like to donate, please do so.

8.C. Ron and Sandra LeBlanc:

A request was received from the property owners wanting recordings of the Planning Board Meeting on September 15, 2021 as well as the recordings of the meeting.

The bylaw was not yet signed by the Minister so the request came forward to the Council for a decision.

The planning board meeting recording was corrupted based on issues with zoom and the recordings of meetings are not released as they are for office use only.

Minutes of the meeting can be provided once they have been approved by the Planning Board Committee. Council Meeting minutes can be provided once they are approved by the Council at the next meeting.

It was moved by Councillor Clark Dunning, seconded by Deputy Mayor Lowther to release the minutes of the meetings once they have been approved by the committees. All in favor 6, 1 non-voting. Motion Carried.

8.D. Municipal Election Regulations Amendment.

Deputy Mayor Lowther wanted Section 12 and 26 of the amendment clarified with the province. The CAO will contact the province.

9. Concerns:

9.A. Councillors:

Councillor Robinson sent a letter to the Guardian on the view planes and green space along the shorelines as well as about subdivision fees and using the fees towards the purchase of a fire truck.

Mayor Jelley advised that if Council is speaking to the media they should do it on their own behalf and not as a Council unless the Council has agreed to make a statement on a matter that has been brought to and discussed with the Council first.

Councillor Brammer commented on bringing information forward as the budget process moves on and this will take place over the coming months.

9.B. Residents:

Darrell Doucette sent in an e-mail regarding the garbage truck dumping garbage at 2:37 a.m. The owners of Cavendish Country Inn will be contacted regarding the concerns.

Shirley Campbell sent an e-mail thanking for the opening of the Swimming Rock Municipal Park.

10. "In Camera" Matters:

John Brewer – Subdivision Request:

It was moved by Councillor Clark Dunning, seconded by Councillor Hryckiwi to go "In Camera" under section 119(1)(e) of the Municipal Government Act. All in favor 6, 1 non-voting. Motion Carried.

It was moved by Councillor Clark Dunning, seconded by Deputy Mayor Lowther that the meeting come out of "in camera" under section 119(2)(e) of the Municipal Government Act. All in favor 6, 1 non-voting. Motion Carried.


John Brewer – The CAO will follow up with the municipal Council on the legal review process with the subdivision request.

11. ADJOURNMENT:

Mayor Jelley adjourned the meeting at 8:42 p.m.



Mayor, Matthew Jelley



Brenda MacDonald, CAO