**MINUTES OF THE**

**PROPERTY STANDARDS/ANIMAL SERVICES APPEAL COMMITTEE**

**MEETING HELD IN THE COUNCIL CHAMBERS, AJAX TOWN HALL**

**At 7:00 p.m. on Thursday, September 8, 2016**

Present: Members - K. Barrett

- A. Bridgeman

- S. DeSouza

- D. Jean

Absent - O. Lambert

Staff - K. Little, Secretary

- D. Hannan, Staff Resource

- R. Vokey, MLEO

- J. Lang, MLEO

1. **Call to Order**

Chair Barrett called the meeting to order at 7:05 p.m. She then explained the process of the meeting, the order of evidence being given and that the Committee will make a decision at the end of the proceedings. She explained that the appellants could either appeal the decision to the General Government Committee, including the appropriate fee and/or to the Superior Court of Ontario, if they do not agree with tonight’s outcome. She also asked that everyone turn their cell phones off.

1. **Adoption of Minutes**

Moved by: Member Jean

That the Minutes of the Property Standards Appeal Committee held on August 11, 2016, be adopted.

Carried.

1. **Public Meeting Appeals**
   1. Property Standards Appeal Committee

Simpson Appeal – 19 Baker Road

Member Bridgeman raised a Motion to Suspend the Rules of Procedure for the Bylaw Officer to give a statement and then Mr. Baker can speak.

Chair Barrett asked Officer Vokey give his statement. He said that he has spoken to Mr. Simpson for a time extension and that the Town has no objection to giving him until November 1, 2016 to finish the work outlined in the Order.

Chair Barrett then asked Mr. Simpson to come up to the podium. He said that he had asked Officer Vokey for the end of September, 2016 to finish the work He said it has been difficult to get quotes.

Member Jean raised a Motion to extend the date for compliance of the Order to November 1, 2016.

SCHEDULE “A”

ITEM PARTICULARS OF REPAIRS TO BE EFFECTED

1. Remove the wooden studs that are located on the exterior of the garage door and ensure that the garage, garage door and all structurally affected areas are

structurally sound and in a good state of repair.

*Please Note: As per previous conversations, it has been indicated that the studs were used to support the garage door frame. Should the garage be in an unstable condition, you must ensure that all necessary repairs are made. Furthermore, you should also consult with the Town’s Building Department to determine if you require building permits.*

2. Repair the exterior brickwork and masonry and ensure that it is free from damage, gaps, holes, cracks or other signs of deterioration; is replaced with an appropriate similar material, and is in a good state of repair.

*Please note: The area of concern is located on the north side of the garage. There are signs of cracks and damage to the masonry and brick work.*

3. Remove all chipping and peeling paint on the garage door and re-paint it with an appropriate weather proof paint.

4. Remove and legally dispose of all debris, garage and refuse on the property.

*Please Note: Debris, garbage and refuse includes, but is not limited to: dead branches and yard waste, old yard waste bag(s), scrap lumber, plastic buckets, plant pots and containers, scrap particle board and plywood, miscellaneous wooden boxes/containers, wooden laundry rack, old tire, plastic bags, old tarpaulins and covers, etc. Furthermore, this will include any debris that is created through the required work in items 1, 2 and 3.*

All in favour.

Carried.

This portion of the meeting was finished at 7:11 p.m.

* 1. Animal Services Appeal Committee

3.2.1 Webster – 65 Roberson Drive

Chair Barrett asked Officer Lang to give a synopsis of the events that occurred regarding a dog bite incident he investigated. He explained that on July 5, 2016, he received a complaint of a dog on dog bite that had occurred earlier in the day in the walkway between Freeston Crescent and Roberson Drive. When he spoke with Mr. Brill, the appellant, he explained that he had been walking his 2 Bernese Mountain dogs on leash through the walkway between Freeston and Roberson, when one of his dogs was attacked by a Great Dane. He had earlier observed a young female walking a large Great Dane on a leash through the walkway and about half way down, while the Great Dane was about 15-20 feet in front of Mr. Brill and his 2 dogs, the Great Dane turned around, got out of the control of the young female and lunged and bit Harmony, one of Mr. Brill’s dogs.

A scuffle ensued and Mr. Brill was able to separate the dogs from each other. One of his dogs ran towards Roberson Drive and the dog that got bit, Harmony, ran away to Freeston and back home. Once home, he discovered that Harmony had bite marks on her neck/chest area that were bleeding and he decided to take her to the animal hospital for treatment.

Harmony was still at the vet being treated for her injuries when Officer Lang attended and took a few pictures of them. He was able to narrow down where the Great Dane lived to 65 Roberson Drive.

He spoke with Mr. Webster who lived at 65 Roberson who said that his 11 year old daughter had been walking the family dog at the time the incident occurred. He believed that Mr. Brill was following his daughter too closely and that is why the Great Dane ran away from his daughter and bit Harmony. He said that his daughter told him she had an uneasy feeling right before the attack took place. Officer Lang told Mr. Webster that he would be issuing an Order to Restrain with a muzzle requirement because of this.

Officer Lang asked the Committee members to look at page 42 of the agenda, where the picture shows the back seat of Mr. Brill’s car with Harmony’s blood on it. He then asked them to look at page 43, where there was a picture of a large puncture wound and he explained that it was a pre-operation picture. On page 44 of the agenda, the picture shows the same injury, with the puncture being approximately 2 cm. in length. On page 45 of the agenda, the picture is showing the front of Harmony and her injuries and page 46 shows her with multiple stitches. The injury on the left side of Harmony is the larger wound showing 4 stitches, as the vet had to cut through some muscle and fibre . There was also a drainage tube in Harmony shown in the picture.

Officer Lang went through the Order to Restrain with the Committee members. He explained that a dog did bite another dog on July 5, 2016.

There were no questions from the Committee or the appellants.

Chair Barrett then asked Officer Lang’s witness, Mr. Brill, to tell the Committee what happened that day. He explained that he is a dog lover and is the owner of 2 Bernese Mountain Dogs. He wants them to have a happy life. Mr. Brill explained that he is disturbed and questioned the lack of responsibility Mr. Webster showed on the day of the attack. He stated that Mr. Webster thought the incident was a “shared” responsibility and that Mr. Brill was walking too close to his 11 year old daughter on the day in question. Mr. Brill estimates he was about 15-20 feet distance away from the dog and girl. The walkway where the attack took place is a very public place. He believes that Mr. Webster showed an unwillingness to accept responsibility for an unprovoked attack and that it could happen again in the future. Mr. Brill told the Committee that he was quite aggressive with getting the Great Dane off his dog, but that even after falling on top of the dog, he did not try to attack Mr. Brill and he is very grateful for that.

Member DeSouza asked Mr. Brill how Harmony is doing now. He explained that she is still physically and emotionally ill and shy of other dogs. He tries to limit contact with any unfamiliar dogs when they are out walking.

Chair Barrett asked Mr. Brill when he was approaching the walkway, did you sense anything? He said he didn’t notice anything, but did know that the young girl and the Great Dane were in the walkway

Chair Barrett asked if there were any questions from the appellants for Mr. Brill and they replied that they did not have any.

Chair Barrett then asked the appellants to speak to the Committee, explaining to them that only one person at a time could speak. Mr. Webster explained that he wants to appeal the Order to Restrain, especially the muzzle section. He has no problem with the rest of the Order. He does understand for health and safety reasons why the muzzle requirement was part of the Order and he is doing research on muzzles for large dogs, as his Great Dane gets very hot and pants a lot. He won’t be able to give him water on their walks and can’t walk him from mid spring to mid fall, if he has to wear a muzzle. The winter is also too cold for a short haired dog to be out too long.

The attack has had a psychological effect on his dog and his daughter feels really bad about what happened. She has also learned a lot from it, as it is a constant reminder for her. The kids in the neighbourhood love his dog and call him the “horse”. He is afraid that people may wonder what is wrong if his dog has to wear a muzzle. He explained that he has paid all of Harmony’s medical bills and that Mr. Brill appeared on his front porch on the day of the attack with demands, but no cost of the vet bill at that time. He believes he has taken a fair bit of responsibility for what happened that day. He explained to the Committee that his daughter is 5’4”, 115 pounds and 11 years old. He taught her when you see other dogs, to be alert. She tried to avoid the situation by turning down the walkway, and then Mr. Brill went down it, too. The Websters have pictures in the agenda of the walkway. Mr. Webster told the Committee that his daughter could feel Mr. Brill behind her and this made his daughter nervous. She tightened up on the leash at this time, as the situation caused anxiety in his daughter and their dog. He told the Committee that he is happy to hear that Harmony is recovering, at least physically. He doesn’t know if the injuries were caused by Mr. Brill, as his Great Dane had never attacked another dog. The boarding locations where he takes him have never had any issues with his dog, either. Kids, including his, crawl all over him. He believes his dog put his mouth around Harmony, not intending to bite her and that there was no fierce mauling. In regards to any future occurrences, he agrees with the section in the Order that only someone over 18 should walk his dog. The odds of it happening again is very unlikely.

Mrs. Webster then spoke to the Committee, explaining that both her and her husband were responsible dog owners and brought the leashes tonight that they use on Merlin, ensuring that they use a short leash to have the dog under their control. They have ordered a double handled leash to have more control when walking their dog. She explained that she only walks the dog with running shoes on or support sandals, ensuring she has full control as her dog outweighs her by more than 50 pounds. Her daughter won’t be walking him, ever. She has walked down the pathway with her daughter and it made her very nervous as this was the place where the attack occurred. She said her daughter is only 11, but looks 14. The path is only 8’ wide. She would appreciate the muzzle restriction being taken off.

Member DeSouza asked Mr. Webster how old Merlin is and he explained that he is 4 years old. She then asked Mrs. Webster about the fact that her daughter was concerned with walking down the path. Mrs. Webster explained that she had offered to go with her the day of the attack, but she wanted to go by herself. This was the first time she felt threatened, as she had walked the dog down the path before. How old was she when she first walked the dog, and Mrs. Webster replied that she walked with her.

Member Jean asked if Merlin had ever put his mouth on any other dogs. Mr. Webster said that he has never bit anyone. He may have bit on the day of the incident, but doesn’t know for sure.

Mrs. Webster told the Committee that she appreciates Mr. Brill saying Merlin was easy to get off his dog during the attack.

Member Bridgeman asked Mr. Webster what research he had done for the muzzle, and he told the Committee that it was internet research only, as no stores carry muzzles for large dogs. He is very concerned about his dog’s ability to breathe if he has to wear one, so he has not bought a muzzle yet. He has also done some obedience training. Member Bridgeman asked Mr. Webster since the incident, have you done any more training? He replied that he has not, but has talked to the breeder and has done some internet research on dog behaviors.

Member Bridgeman confirmed that a short leash was being used that day and Mrs. Webster showed the Committee a prong collar that they use, saying that she can stop him at any moment. It fits just below the jaw and when she uses it, the dog goes nowhere. She asked him if he had asked his breeder about muzzles. He explained that she wouldn’t have any and that she has strong views on muzzle use. Mrs. Webster said that the breeder has never had issues before and would take the dog back for more training if they wanted her to.

Member DeSouza asked if Merlin had ever lunged at any other dogs and Mr. Webster replied that when they walk him, he pushes up against him when they pass other dogs.

Chair Barrett asked Officer Lang if he had any questions and he said he didn’t and then she asked him to give his summary. He explained that the evidence he was given during the initial investigation and since then, caused him to issue the Order to Restrain in respect of Town safety. The muzzle precautions ensure an opportunity to protect and prevent attacks. The Town feels that the Order should stand as written.

Mr. Webster wants the muzzle restriction taken off as he feels it is a punishment for his daughter. There have been no other incidents or issues and that Merlin is a peaceful dog. He just believes that it was close proximity and that his daughter gave off nervousness.

The Committee then went into deliberations.

Member DeSouza said that there were concerns from the Websters about a muzzle impeding breathing for his dog, but he has not tried any.

Chair Barrett said that in previous incidents, they were told by the Animal Officers that there are humane muzzles.

Member DeSouza said in sweltering heat, wearing a muzzle for an extended period of time could be hard on the dog.

Member Bridgeman said the bite could have been a reaction to anxiety, but anyone walking the dog could become anxious. No one on the Committee likes muzzling a dog. She has a 9 year old daughter and does not feel that Mr. Brill was too close.

Member Jean explained that he has a friend with a Great Dane named Zeus and he can knock Member Jean off his feet. His friend had a previous Great Dane who bit someone and it had to be put down. You can ride Zeus, as he is 250 lbs. Believes that dogs are inherently protective. He has walked down paths where dogs are also walking and he does sometimes feel weird.

Member Bridgeman confirmed Member Jean’s statement saying that he has described his friend’s dogs and that one bit someone and one clamped down on the arm. The appellant says his dog doesn’t clamp down. If this was the first instance, what would happen in the second instance.

Member DeSouza understands having a muzzle for public safety, but based on size of the dog and Mr. Brill holding it down, does not feel it could have caused the bite.

Chair Barrett asked was the dog clamping down or actual bite? The photos in the agenda suggest an actual bite. A muzzle is simply a precautionary measure and that it was a very unfortunate incident. The Websters have a good understanding of their dog, but their daughter had no experience. If the dog had been walked by them, the bite may not have happened. She has no evidence if it was an attack or a bite, however, believes the Order should stand as is.

Member Bridgeman asked Mr. Brill if he had come across any other situations. He explained that since this happened, his dog is feeling “strange” and he keeps dogs away from Harmony now. Member Bridgeman said that Mr. Brill felt so strongly that he had to jump on the other dog during the attack. Mr. Brill said he remembered the dog breaking free and turning and the next thing he remembers is lying on top of the dog. He says it happened too fast and couldn’t say precisely what happened.

Member DeSouza said when she approaches a large dog, she will either go onto the other side of the street or waits until it sits down.

Member Jean said if this dog was in attack mode on the day in question, you couldn’t have stopped it.

Mr. Webster told the Committee that when he told Mr. Brill an Order to Restrain was coming with a muzzle requirement, Mr. Brill told him he didn’t believe the muzzle was required.

Mr. Brill told the Committee that he thinks Mr. Webster misunderstood when he said that he was sorry his dog would have to wear a muzzle, but didn’t say his dog shouldn’t have to wear a muzzle. Mr. Brill hates to see a dog not enjoying life.

Chair Barrett asked Officer Lang if he had met Merlin and he said he hasn’t.

Member Bridgeman said that the Order needs to stand as is. She understands Member Jean feeling that the dog was not in attack mode. However, she believes that for a grown man to have to get involved, an attack occurred.

Member Jean understands why Mr. Brill had to jump in, but he is not comfortable saying it was an attack.

Chair Barrett agrees with the By-law section that states aggressive behavior as it describes an attack.

Member Bridgeman made a Motion to uphold the Order as is.

Chair Barrett asked if there were any comments.

2 in favour. Motion Lost.

D. Hannan, Staff Resource, raised a Point of Order in that if there are only four Committee Members, having two in favour in a vote, it ends up being in the negative. The Committee also can’t reintroduce the Motion as is.

Member Jean has an issue with the muzzle requirement, as the daughter should not walk it. It was unfortunate, but the fact that the daughter was walking the dog was more of the problem, not the muzzle. He would take out the muzzle requirement from the Order.

Member DeSouza also would take out the muzzle part, based on all the evidence.

Member Bridgeman said that the muzzle has to be humane. A dog must be able to breathe, drink water and pant while wearing it. She believes the Websters should have at least purchased one muzzle and tried it and asked dog behaviourists how to prevent another attack. It was the second time for her daughter walking it. She will not agree with taking out the muzzle requirement, but wondered if there was any compromise.

Chair Barrett said that the muzzle requirement is for on and off the property in the Order.

Member Bridgeman asked if the muzzle should be off when on the property of the dog owner.

Chair Barrett says she agrees with the muzzle requirement.

Member Jean asked where they put the dog when it is outside and Mr. Webster replied that they have an enclosed fence in the backyard and if the dog is on the front lawn, it is kept back the minimum distance of three (3) meters from the property line. Member Jean said that there is no muzzle requirement in Section 2 if the dog is in a backyard with a fence.

Chair Barrett said if the dog is in the front yard, it should be muzzled.

Member Bridgeman asked Officer Lang to explain Item 2 of the Order to the Committee. He explained that it is broken up into two sections, where the first section states that the dog must be kept back a minimum of 3 metres and the dog must be muzzled. Section two says if the dog is in an enclosed yard, it does not need a muzzle.

Chair Barrett said Mr. Webster is not upset with having to muzzle the dog in the front yard, but only have it on when walking the dog.

Member Bridgeman asked for a Point of Order confirming that the Chair only votes in the event of a tie. D. Hannan, Staff Resource, explained that when only four members are available, the Chair has a vote.

Member Jean made a Motion to eliminate Item 3 from the Order. If there is a tie, they can’t go back and discuss it.

Member Bridgeman believes the Committee will be split on this.

Chair Barrett wants the muzzle on only when the dog is being walked on a leash. No real issue in the front yard, as the Websters only put the dog in the backyard.

Member Jean disagrees, that saying that a person walking the dog has more control over it than when it is the yard. He believes the dog was being dominant over the daughter and now it is out of the equation due to her age.

Member Bridgeman asked how do we know that the dog is only dominant over the daughter? Mrs. Webster weighs the same and is the same height as her daughter.

Chair Barrett stated someone should only walk the dog if they are 18 or older and believes that anyone can get anxious.

Member DeSouza asked if the Order could be amended to ensure that only Mr. and Mrs. Webster would walk the dog.

D. Hannan, Staff Resource, told the Committee that the Order can be amended to only allow Mr. and Mrs. Webster to walk the dog.

Member Bridgeman said she is ok with no muzzle on the dog when being walked by the Websters, anyone else over 18 needs to walk the dog with a muzzle. She asked the Websters if anyone else walked the dog and they said the dog was only their responsibility.

Member DeSouza asked Mrs. Webster why she only wears running shoes when walking the dog and she said she was taking precautions When he was younger, she wore flip flops and now realizes she needs full control, but that he is not a dog that pulls. He bumps against her when he sees another dog. Member DeSouza asked if the collar they use is like a choke chain. She replied that it was. Does it give him a zap? No, the prongs are there just to apply pressure. Mr. Webster said it doesn’t choke the larynx of the dog. How does a muzzle compare? Mrs. Webster explained that this collar gets their attention and changes the direction of the dog. The prong collar is approved by the breeder.

Member DeSouza asked that only the Websters walk the dog.

Member Bridgeman says she is uncomfortable with taking out Item 3 of the Order. She believes that the mzzle must be on the dog, but will agree with taking out Item 3.

Member Jean agrees with taking out Item 3 and amending Item 4 to walk the dog without a muzzle and make sure it is only in the control of Sheldon and Kristi Ann Webster.

Chair Barrett asked if perhaps they could amend the Order, including items such as someone else walking the dog must be 18 or over and the dog must be wearing a muzzle.

Member Bridgeman agreed that she is fine with that.

Chair Barrett believes the leash length should stay in Item 3 and would like the Committee to take a recess to go over all the sections of the Order.

At 8:23 p.m., the Committee took a 5 minute recess.

The Committee agreed to keep Items 1 and 2 in the Order.

The Committee finished the recess at 8:27 p.m.

Member DeSouza asked how long will your dog live. Mrs. Webster replied about 9 years. She said it could be up to age 13, but it would be pretty unlikely.

D. Hannan, Staff Resource, raised a Point of Order, and said to the Committee that only having the Websters walk the dog and amending Item 3, “unless being walked under the full control of Sheldon Webster and Kristi Ann Webster” and striking out Item 4 would fulfill the intent of what they are trying to accomplish.

For a point of clarification, Chair Barrett said they would amend Item 3, ensuring only Mr. and Mrs. Webster can walk the dog and take out Item 4 altogether.

Member Bridgeman said they would agree to amend the original Order and Chair Barrett said they would amend Item 3 and take out Item 4.

Member DeSouza raised a Motion to amend the Order to Restrain to strike out Item 4 and amend Item 3, with the words “unless being walked under the full control of Sheldon Webster and Kristi Ann Webster”.

**ORIGINAL ORDER**

You shall:

1. Ensure the dog is licensed with the Town of Ajax as per the Town of Ajax Dog and Cat By-law and that the said licence is renewed on an annual basis.
2. Keep the dog restrained on a chain or cord of sufficient strength to prevent any further attack while the dog is on the property of its owner. The dog must be kept back a minimum distance of three (3) meters from any property line, and the dog must be muzzled using a humane muzzling device to prevent biting.

OR

In the alternative the dog shall be kept in a secured and fenced yard, which fence

shall be of sufficient height and strength to adequately prevent the dog from

escaping. In addition, where a gate forms a part of the fence, the gate shall have

a self-closing and self-latching device, both of which shall be kept in good

working order. All fences on private property must comply with the Town’s Zoning

By-law and the Town’s Fence By-law.

1. When the dog is off the property of its owner, the dog shall be on a leash of no more than 1.8 metres in length and of sufficient strength to prevent an attack. The dog shall also be muzzled using a humane muzzling device to prevent the dog from biting.
2. Keep the dog under the full control of a person of at least eighteen years of age while the dog is away from the owner’s property.
3. Notify the Town of Ajax, Animal Services, in the event the dog is sold or ownership of the dog is otherwise transferred to any other person, or the dog is relocated to any other address besides the address referred to in this Order, of the new owner’s name and address within 5 days.

**AMENDED ORDER**

You shall:

1. Ensure the dog is licensed with the Town of Ajax as per the Town of Ajax Dog and Cat By-law and that the said licence is renewed on an annual basis.
2. Keep the dog restrained on a chain or cord of sufficient strength to prevent any further attack while the dog is on the property of its owner. The dog must be kept back a minimum distance of three (3) meters from any property line, and the dog must be muzzled using a humane muzzling device to prevent biting.

OR

In the alternative the dog shall be kept in a secured and fenced yard, which fence

shall be of sufficient height and strength to adequately prevent the dog from

escaping. In addition, where a gate forms a part of the fence, the gate shall have

a self-closing and self-latching device, both of which shall be kept in good

working order. All fences on private property must comply with the Town’s Zoning

By-law and the Town’s Fence By-law.

1. When the dog is off the property of its owner, the dog shall be on a leash of no more than 1.8 metres in length and of sufficient strength to prevent an attack. The dog shall also be muzzled using a humane muzzling device to prevent the dog from biting, unless being walked under the full control of Sheldon Webster and Kristi Ann Webster.
2. Notify the Town of Ajax, Animal Services, in the event the dog is sold or ownership of the dog is otherwise transferred to any other person, or the dog is relocated to any other address besides the address referred to in this Order, of the new owner’s name and address within 5 days.

All in favour.

Carried.

This portion of the meeting ended at 8:32 p.m.

1. Verbal Update
   1. Property Standards Committee
      1. Whilby – 90 Church Street South

D. Hannan, Staff Resource, told the Committee that he had no update on the property, but the homeowners have until October 14, 2016 to achieve final compliance.

* + 1. Endless Fun Inc. – 400 Monarch Avenue, Unit 14

D. Hannan, Staff Resource, told the Committee that the business owner has not yet complied with the Order as of today’s date, but that there was no specific date in the amended Order for compliance. He told the Committee that Town staff will handle it accordingly.

1. New Business

There was no new business from the Town.

1. Adjournment

Chair Barrett made a Motion to Adjourn the meeting at 8:35 p.m.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Chair