



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Chebucto Community Council
February 1st, 2010

TO: Chairman and Members of Chebucto Community Council

SUBMITTED BY:

A handwritten signature in black ink that reads "Andrew Faulkner". The signature is written in a cursive style and is positioned above a horizontal line.

Andrew Faulkner - Development Officer

DATE: January 19, 2010

SUBJECT: Appeal of the Development Officer's decision to deny an application for a
Variance # 15727, 5 Prince's Walk, Halifax

ORIGIN

This report deals with an appeal of the Development Officer's decision to deny a variance for the front yard setback of the Halifax Mainland Land Use Bylaw to permit a front sundeck and pergola to a single unit dwelling.

RECOMMENDATION

It is recommended that Council uphold the Development Officer's decision to deny the variance.

BACKGROUND

The subject property is located at 5 Prince's Walk, Halifax, and Zoned R-1 under the Halifax, Mainland Land Use By-law.

On November 18, 2009 the applicant applied for a variance to vary the front yard setback in order to construct a front deck with an attached pergola. The land use bylaw requires a minimum of 20 ft setback from the front property boundary. The applicant has proposed a 2ft 5" setback from the front property boundary.

When standing at the corner of Prince's Walk and Kent Ave, looking north, all properties appear to be set back the minimum of 20 ft., as required by the land use bylaw. To permit the construction of a sundeck and pergola, 2 ft 5 inches from the property line would be of significance to this street and not within the standards now existing. What the applicant is requesting, is inconsistent with the existing neighbourhood.

The variance application was denied by the Development Officer. An appeal was received by the applicant

DISCUSSION

The *Halifax Regional Municipal Charter* sets out guidelines under which the Development Officer may consider variances to Land Use Bylaw requirements. Those guidelines are as follows:

"A variance may not be granted where the:

- (a) variance violates the intent of the land use bylaw;*
- (b) difficulty experienced is general to the properties in the area;*
- (c) difficulty experienced results from an intentional disregard for the requirements of the land use bylaw."*

In order to be approved, the proposed variance must not conflict with any of the above statutory guidelines. An assessment of the proposal relative to these stipulations is set out below.

Does the proposed variance violate the intent of the land use bylaw ?

The intent of the bylaw is to keep buildings 20 feet from the front property line. The request is to reduce the minimum requirement to 2 ft 5 inches. This proposal will result in a property that is out of character with the other properties in the area. By circumventing the requirement, there is the potential that the existing street scape could be altered by the approval of this structure.

Therefore, staff believe the proposal violates the intent of the bylaw.

Is the difficulty experienced general to the properties in the area ?

The difficulty experienced is general to the properties in the area..

Is the difficulty the result of intentional disregard for the requirements of the land use bylaw?

There is no intentional disregard.

BUDGET IMPLICATIONS

None

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES


1. Council could uphold the decision of the Development Officer to deny the variance. This is the recommended alternative.
2. Council could overturn the decision of the Development Officer and approve the variance.

ATTACHMENTS

1. Location Map
2. Appeal letter
3. Site Plan
4. Elevations

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun//cc/agenda.html>, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by :


Brenda Seymour - Development Technician (490-4046)

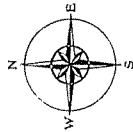
Report Approved by:


Andrew Faulkner - Development Officer (490-4402)

Attachment #1



**Variance
15727, 5
Prince's
WIK**



1:2,000

User: Brenda Seymour
Print Date: Jan 19, 2010

This map was produced for the internal use of Halifax Regional Municipality (HRM). HRM takes no responsibility for errors or omissions.

For further information on civic address, street, street name or community (GSA) data please contact HRM Civic Addressing at 490-5347 or email civcad@halifax.ca.

For further information on sewer infrastructure please contact Halifax Water Engineering at 490-6204 or email engineering_dept@halifaxwater.ca.

For further information on zoning data please contact HRM Planning & Development Services at 490-4494 or email zoninginquiries@halifax.ca.

For further information regarding any other aspect of this plot please contact HRM Geographic Information Systems & Services at 490-6666 or email geoinfo@halifax.ca.

Date of map is not indicative of the date of data creation. Scale of map is valid only if printed at 11x8.5 inches.

Projection is Modified Transverse Mercator Zone 5.

Dec. 17th 2009 Variance App. # 15727
5 Prince's Walk, Hfx.

Att: Andrew Faulkner, Development Officer
Halifax Regional Municipality

Dear Sir, Please consider the letter to be notice of appeal. The intention of building
The deck in question is not to violate the Land Use Bylaw. The edge nearest the street
Would be 15' from the pavement of Prince's Walk and 10' from the gravel shoulder
Of the street.

The driveway in front of the house is elevated and constructed of reinforced
Concrete retaining walls. Attached to the south wall is a landing and exterior stair
That leads to the basement and garden area. We have given much thought and
Consideration to the neighborhood and Heritage of Princes Lodge while designing
And constructing Our Home. I can assure You & Development Services, if we attach
A small deck to the north retaining wall that it will; be done very tasteful and will
Not be offence to the neighbors or their surroundings.

There has been no intentional disregard for the requirements of the Land Use
By-law. I invite You and, or your colleagues(s) to visit the property and meet with me
To review the situation.

Thank You for your attention to this matter. Best Regards, Brian Cooper

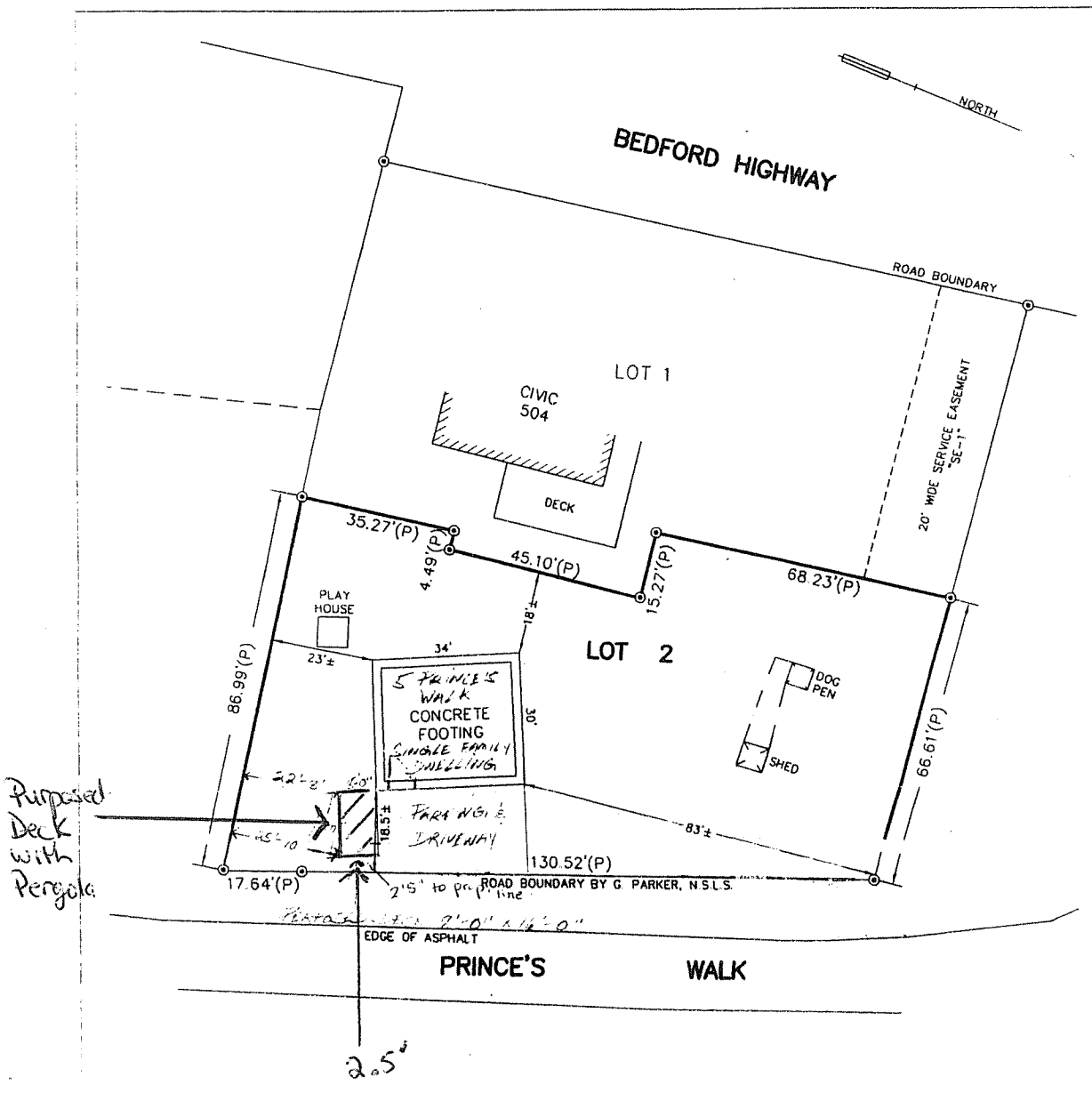


DATE: January 13, 2010

SUBJECT: Variance Case No. 15727 - 5 Prince's Walk, Halifax

SITE PLAN

To vary front yard setback from 20 ft to 2.5 ft.
Proposal to construct a front deck with pergola



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ELEVATION

To vary front yard setback from 20 ft to 2.5 ft.
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Nov. 18th 09

North elevation

