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Chebucto Community Council  
April 4, 2011

TO: Members of Chebucto Community Council

SUBMITTED BY:

  
Trevor Creaser, Development Officer

DATE: March 31, 2011

SUBJECT: Appeal of the Approval of Variance #16746 – 3617 Deal Street, Halifax

**SUPPLEMENTARY REPORT**

**ORIGIN**

Variance Report dated March 23, 2011 regarding the Development Officers decision to approve a variance to the left side yard of an existing single unit dwelling to permit a four unit dwelling.

**RECOMMENDATION**

It is recommended that Council uphold the decision of the Development Officer to **Approve** the request for a variance.

**Community Council Report**  
**Appeal of Approval of Variance # 16746**

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**BACKGROUND**

Legal services has requested clarification of Section 253(3)(b), ...*difficulty experienced is general to properties in the area*, of the Halifax Regional Charter from the staff report dated March 23, 2011. The purpose of this report is to provide Council with additional information for their consideration.

**DISCUSSION**

The *Halifax Regional 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.

***(b) Is the difficulty experienced general to the properties in the area?***

Within the general area, most of the residential lot sizes range between 2,500-6,000 square feet. The lot size of this property is 8394 square feet which meets the lot size requirements of the R-2 Zone for a four unit building. The owner wishes to maintain the location of the existing dwelling as the home is over 50 years of age.

**Further, side yard setbacks within the general area appear to be somewhat inconsistent as the lot size, configuration and building size and placement do vary. Given the placement of this existing dwelling, only a small portion will be within the required 6' setback.**

It is the opinion of the Development Officer that the *difficulty experienced is not general to properties in the area.*

**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.

**Community Council Report  
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**COMMUNITY ENGAGEMENT**

Community Engagement as described by the Community Engagement Strategy is not applicable to this process. The procedure for public notification is mandated by the *HRM Charter*. If the Variance request is appealed a public hearing is held which is the opportunity for residents (within 30 meters) to speak to staff's recommendation.

**BUDGET IMPLICATIONS**

None

**ALTERNATIVES**

1. Uphold the decision of the Development Officer to approve the application for variance. **This is the recommended alternative.**
2. Overturn the decision of the Development Officer, thereby not permitting the reduction of the setback.

**ATTACHMENTS**

None

Additional copies of this report and information on its status can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.  
Report prepared by: Trevor Creaser, 869-4235.