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8.2.1

Peninsula Community Council
February 7, 2011

TO: Chair and Members of Peninsula Community Council

SUBMITTED BY: Andrew Faulkner
Andrew Faulkner – Development Officer

DATE: January 31, 2011

SUBJECT: Appeal of the Development Officer's decision to approve an application for Variance #16522 - 5643 Fenwick St., Halifax

ORIGIN

This report deals with an appeal of the Development Officer's decision to approve a variance of the Halifax Peninsula Land Use Bylaw for the conversion of a single unit dwelling to a five-unit dwelling.

RECOMMENDATION

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

BACKGROUND

The subject property is located on the north side of Fenwick Street in the south end of the Halifax Peninsula. The zone is R-2A (General Residential Conversion Zone) in the South End Secondary Plan. Fenwick Street is a mix of residential uses ranging from single-unit dwellings to apartment buildings. Properties in the immediate neighbourhood are predominantly multi-unit dwellings of 3 to 12 units.

The application proposes a four unit rear addition to a single-unit dwelling. The variance is to allow the frontage requirement of 40 feet to be reduced to 34.5 feet and a right side yard setback reduction from 6 feet to 5'-7". The existing dwelling, and the proposed rear addition, consists of 3 storeys plus a basement (see attachment 1 and 2).

The application for variance was received October 7, 2010 and the applicant was notified in a letter dated January 4, 2011 that the variance was approved. A letter from a neighbour appealing the Development Officer's decision to approve was received prior to the January 21, 2011 deadline (refer to attachment 4).

DISCUSSION

The application is for a four-unit rear addition to an existing single-unit dwelling. The R2-A, a medium density zone, allows 5-14 unit. After several revisions the proposed addition now meets the requirements of the Peninsula Land Use By-Law except for the frontage and right side yard setback (refer to attachment 3).

In review of permit and property records the majority of dwellings in the immediate neighbourhood have a similar lot frontage. Within the immediate neighbourhood there are two single-family dwellings, while other dwellings have 3 to 12 units. Four properties have 40 or more feet of frontage (1 is a single-unit dwelling, and the other 3 have eight or more units), while the remaining lots have less than 40 feet of frontage.

The required sideyard setback in the R-2A zone is six feet for an R-2A use. The proposed right sideyard setback for the balconies on the addition is 5'-7". The existing house and the proposed foundation of the addition meet the setback at 9'-6" feet; however, because the balconies extend into the setback by a few inches the setback is not met. Providing balconies to a unit allows for outdoor living, and an additional exit in case of an emergency.

The *Halifax Regional Municipality 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 if:

- (a) the variance violates the intent of the land use bylaw;*
- (b) the difficulty experienced is general to the properties in the area;*

(c) the difficulty experienced results from an intentional disregard for the requirements of the land use bylaw."

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

This application does not violate the intent of the Peninsula Land Use By-Law. The R-2A permits 5-14 units. The proposed variance is a very minor relaxation of setbacks and lot frontage to permit a density (5 units) at the low end of permitted uses.

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

What the applicant is requesting is consistent with the makeup of the existing neighbourhood. Most of the existing multiple-unit dwellings have less than 40 feet of frontage.

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

There was no intentional disregard for the Peninsula Land Use By-Law.

BUDGET IMPLICATIONS

None.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

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

ALTERNATIVES

1. Council could uphold the decision of the Development Officer to approve the variance.
2. Council could overturn the decision of the Development Officer and refuse the variance.

ATTACHMENTS

1. 5643 Fenwick Elevations (Proposed)
2. 5643 Fenwick Elevations (Proposed)
3. 5643 Fenwick Site plan (Proposed)
4. Appeal letter

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by:


Stephanie Norman, Development Technician, 490-4046

Report Approved by:


Andrew Faulkner, Development Officer, 490-4402

Financial Approval by:

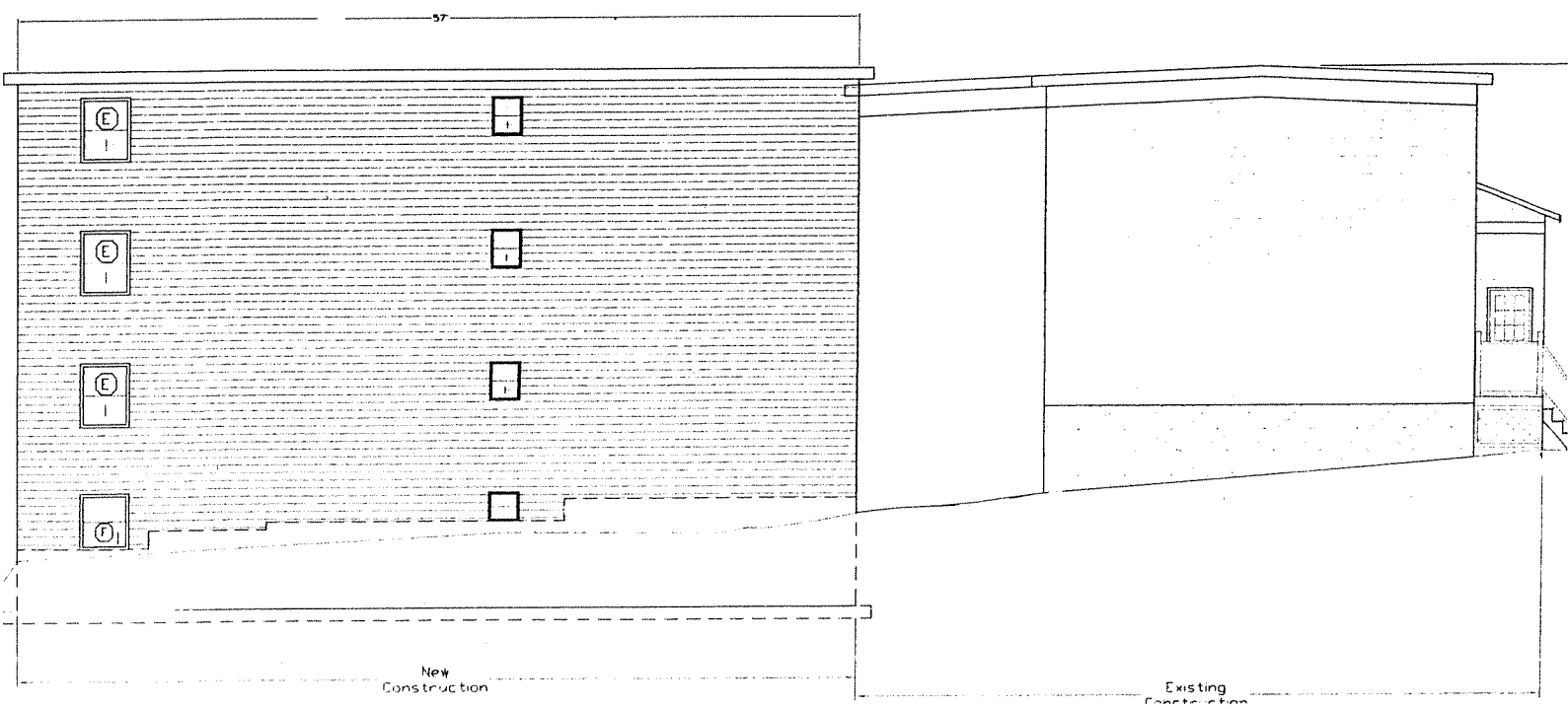
Cathie O'Toole, CGA, Director of Finance, 490-6308

ATTACHMENT #1

DATE: February 7, 2011

SUBJECT: Development Officer's decision to approve an application for a variance - 5643 Fenwick Street. The applicant is proposing to convert single unit dwelling to five unit dwelling.

ELEVATIONS

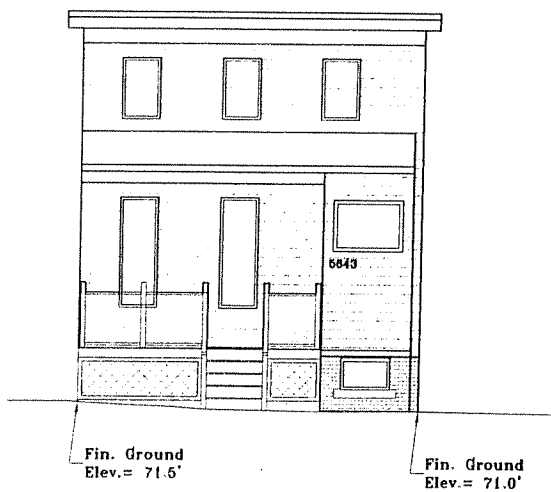


ATTACHMENT #2

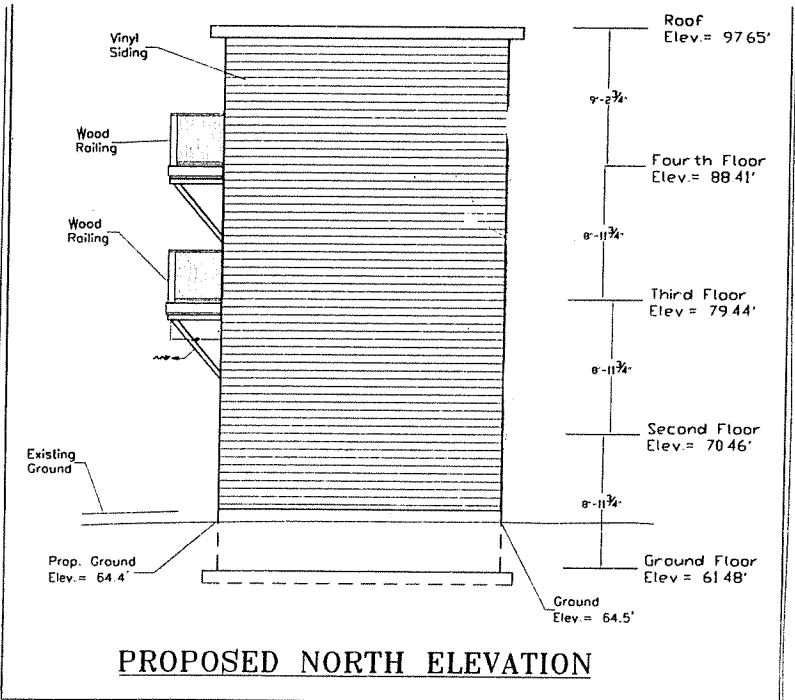
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ELEVATIONS



PROPOSED SOUTH ELEVATION
(Unchanged)



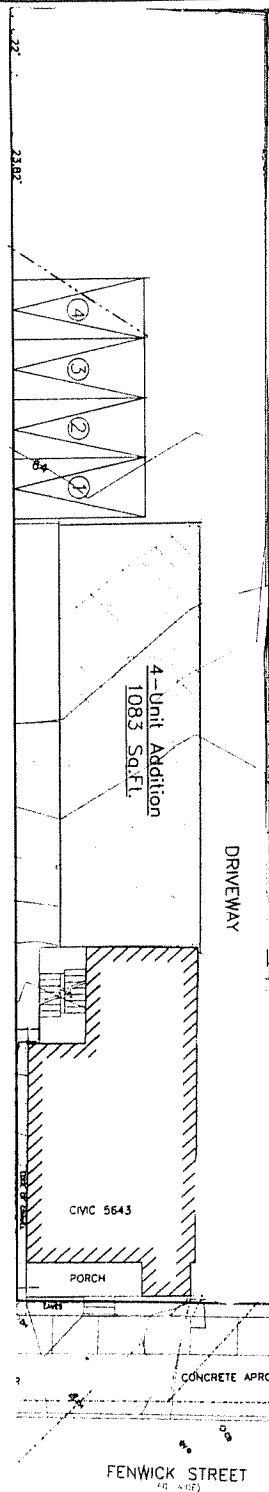
PROPOSED NORTH ELEVATION

ATTACHMENT #3

DATE: February 7, 2011

SUBJECT: Development Officer's decision to approve an application for a variance - 5643 Fenwick Street. The applicant is proposing to convert single unit dwelling to five unit dwelling.

SITE PLAN



ATTACHMENT # 4

Andrew Faulkner, Development Officer
c/o Municipal Clerk
Halifax Regional Municipality
Planning and Development - Western Region
P.O. Box 1749, Halifax, NS
B3J 3A5


January 7, 2010

Re: Variance Application #16522, 5643 Fenwick Street, Halifax, NS

Dear Mr. Faulkner:

As homeowners of 5630 Fenwick Street, we are appealing the proposed conversion of the single unit dwelling of 5643 Fenwick Street to a 5-unit dwelling. We strongly oppose the project proposal, as there are currently at least 3 other similar multi-unit dwellings within a short distance of our single-family dwelling. As a result of all of these multi-unit dwellings, there have been problems with noise level and parties at night involving students who are transiently occupying these units. We prefer to see maintenance of single unit dwellings, which will encourage occupancy by families.

Regards,

Lori McDonald 

Dr. Lori McDonald,
Dr. Colin Audain
Occupants, 5630 Fenwick Street
Halifax, NS
B3H 1P8