

**Halifax Peninsula Community Council
November 14, 2011**

TO: Chair and Members of Halifax Peninsula Community Council

SUBMITTED BY:



Sean Audas, Development Officer

DATE: November 4, 2011

SUBJECT: **6529 Young Street, Halifax- Appeal of the Development Officer's
decision to refuse an application for a Variance**

ORIGIN

This report deals with an appeal of the Development Officer's decision to refuse a variance from the lot frontage requirements of the Halifax Peninsula Land Use Bylaw to permit the construction of a two unit dwelling.

RECOMMENDATION

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

BACKGROUND

The subject property is located at 6529 Young Street in Halifax (see Map 1 - Location). The property is zoned R-2 (General Residential Zone) under the Halifax Peninsula Land Use By-law.

The applicant is proposing to demolish the existing single family dwelling on the property and construct a two unit dwelling (See Attachment 1- Site plan).

The site plan submitted and Provincial record confirm the frontage of the property to be 37.8 feet. The requirement under the Land Use Bylaw is 50 feet for a two unit dwelling.

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 by-law;*
- (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 by-law."*

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 by-law?

The Land Use Bylaw requires 30 feet of frontage for a single unit dwelling on a lot that predates the Bylaw, as the subject property does, and 50 feet of street frontage for a two unit dwelling. The intention of the increase to 50 feet of required frontage for a two unit dwelling is to provide a larger lot for a more intense use, to provide ample room for parking and access and to separate the two unit buildings and spread them out. In some cases, a two unit dwelling may require a second driveway, and the 50 feet of required road frontage is meant to allow room for such requirements. The requested reduction in the requirement from 50 feet to 37.8 feet provides less space for the increased intensity of the use of the property, and as such, the reduction violates the intent of the Land Use Bylaw.

Is the difficulty experienced general to properties in the area?

There are 20 properties in the notification area. 17 of these have similar frontage as the subject property; the three corner lots would appear to meet the frontage requirement for a two unit dwelling. It appears that there are 3 other existing two unit dwellings on the undersize lots, leaving 17 existing lots with insufficient lot frontage for a two unit dwelling. The difficulty experienced in regards to the lot frontage is general to the area.

Is the difficulty experienced the result of an intentional disregard for the requirements of the land use by-law?

There is no intentional disregard for the requirements of the land use bylaw. The applicant has applied for a Development Permit and the variance prior to commencing construction on the property, and is proceeding with the proper process.

As the application to decrease the frontage requirement violates the intention of the Land Use Bylaw, and the difficulty experienced is general to the area, the application has been **refused**.

The applicant filed an appeal of the refusal on October 3, 2011 (see Attachment 2 -Appeal Letter).

BUDGET IMPLICATIONS

There are no budget implications related to this variance.

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.

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


There are no implications on the Capital Budget associated with this report.

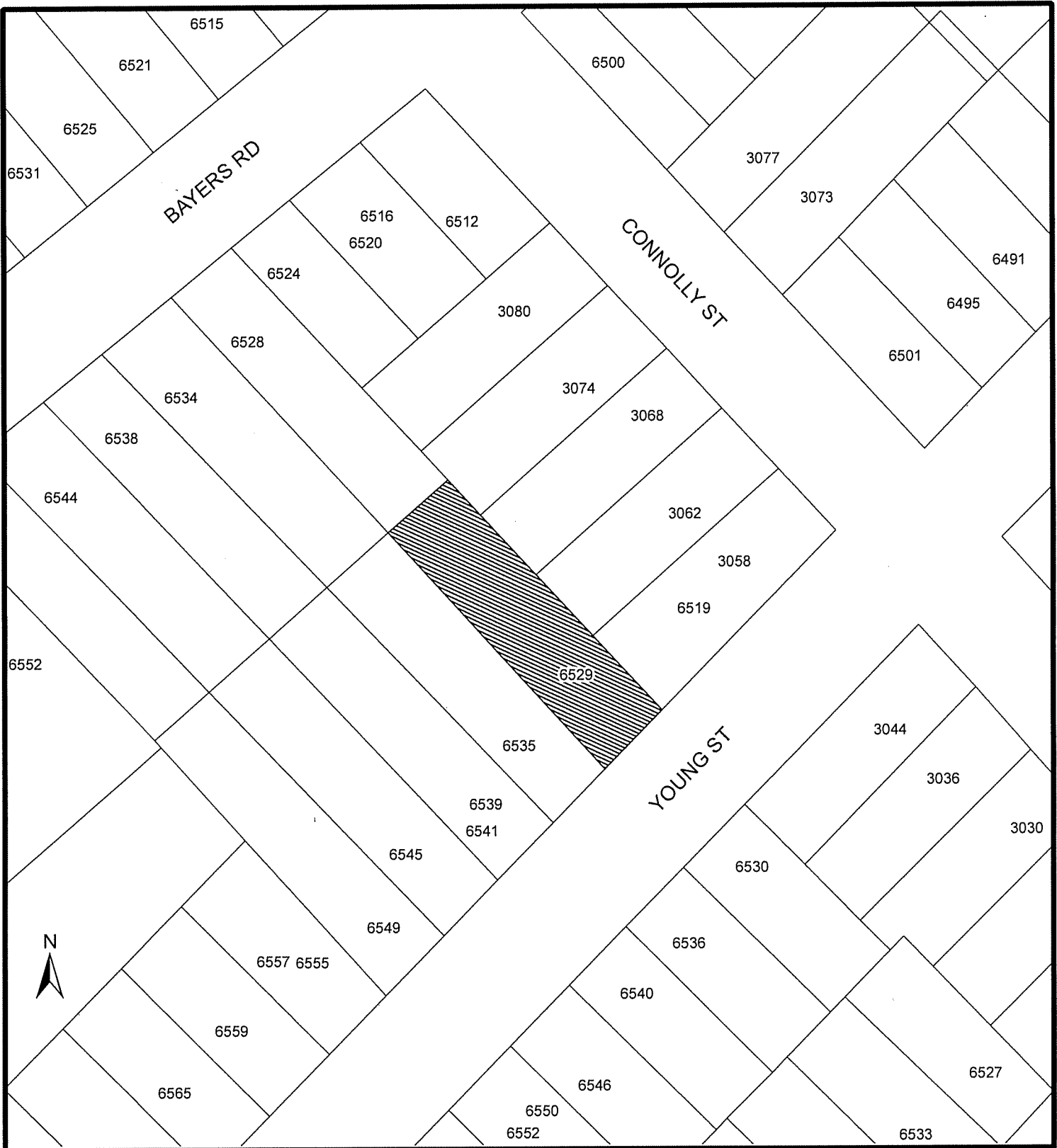
ALTERNATIVES

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

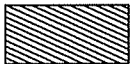
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by : [Erin MacIntyre, Development Technician, 490-4338]

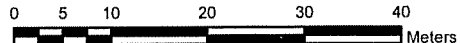
Report Approved by:  [Sean Audas, Development Officer, 490-4402]



Map 1 - Location
 6529 Young Street, Halifax



Subject Property



COMMUNITY DEVELOPMENT
 & RECREATION
 DEVELOPMENT SERVICES

HRM does not guarantee the accuracy of any base map information on this map



Attachment 1 Site Plan

6529 Young Street, Halifax



COMMUNITY DEVELOPMENT
& RECREATION
DEVELOPMENT SERVICES

HRM does not guarantee the
accuracy of any base map
information on this map.

Doriano Sablone
Sabione Designs
8 Brockhurst Ct.
Hfx, NS, B3M 3V4

October 3, 2011

Municipal Clerk

c/o Sean Audas, Development Officer
Halifax Regional Municipality
Development Services – Western Region
P.O. Box 1749
Halifax, NS
B3J 3A5

Fax: 902-490-4645

**Re: Case No. 17197-Variance at 6520 Young Street, Halifax, NS, PID 00058917
Appeal**

Sean Audas,

Thank you for reviewing the above application for the purpose of replacing the 80 year old dilapidated home with one to accommodate two units.

We find it most unfortunate that the internal decision was negative due to the following notes: a) the proposed variance violates the intent of the Land Use Bylaw and the official plan as intended to protect an area.

There was also a small discrepancy with the lot coverage of 37.5% which the client Trevor Wheatley has agreed to reduce the size of the rear garage to fall within the allowable lot coverage of 35%.

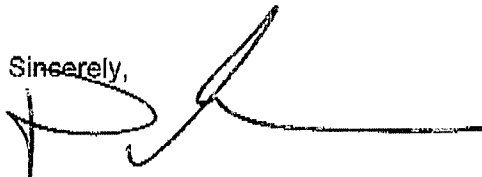
The said site is zoned R-2 which clearly allows for a two unit building and are conforming to all requirements except for the front lot frontage of which we fall short. This is where the perplexity of the decision comes to a head. The Land Use Bylaw currently states that we are in violation of the lot frontage by 12.2 feet, however all the homes within that block from Connolly St. to Connaught Av. have a similar lot frontage or less. The point being is that out of 24 homes located in that block to the intersection south, there are currently 10 homes which are two units, one of which is a four unit. Directly behind the said property on Bayers Rd. there are 7 homes of which 4 are two units. To qualify our numbers we simply observed houses with two or more electrical meters and had two civic addresses on the property. We can also confirm that the lot is 110' wide.

Clearly we have close to 50% of the surrounding homes which have two or more units, so obviously the client feels personally discriminated against by the planning departments initial decision on why half of his other neighbors are able to exercise their right to a two unit under the same Land Use Bylaw, all in direct violation of the required lot frontage.

Furthermore the two adjacent properties are both two units, one of which requires access to his parking area by sharing the applicant's current driveway. Our client did not purchase this land without some preliminary investigation into the surrounding neighbors. He also has a personal vested interest in the area due to owning three other properties within a one kilometer radius in which he plans on raising his children in. The aesthetics, character and careful planning are all something the client feels will generate a high respectable tenant and continue to promote the rising property values on the street.

We thank you in advance for revisiting the proposal based on the Land Use Bylaw in conjunction with the current street context.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Sablone', with a long horizontal flourish extending to the right.

Doriano Sablone
Sablone Design and
Consulting Limited