

Variance Appeal - 1211 Queen St, Halifax

Council Report

- 1 -

December 28, 2006



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Peninsula Community Council
January 8, 2007

TO: Chairman and Members of Peninsula Community Council

SUBMITTED BY:

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Andrew Faulkner - Development Officer

DATE: December 29, 2006

SUBJECT: Appeal of the Development Officer's decision to approve an application for a Variance - **1211 Queen Street, Halifax**

ORIGIN

This report deals with an appeal of the Development Officer's decision to approve a variance from the side yard and lot area requirements of the Halifax Peninsula Land Use Bylaw to permit a conversion from a single family dwelling to a duplex.

RECOMMENDATION

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

BACKGROUND

The subject property is located at **1211 Queen Street** in Halifax. The property is zoned R-2A (General Residential Conversion Zone) under the Halifax Peninsula Land Use Bylaw. The property currently contains a single unit dwelling and the applicant has proposed to convert into a duplex dwelling. The change from a single unit dwelling constitutes a change in use. As a result, the entire structure must meet the bylaw requirements for a duplex. The applicant, as of right, could have the two units as he meets the internal conversion requirements. The internal conversion clause does not allow for any increase in volume to the existing dwelling, but the applicant has also applied for an addition as he needs more space for his personal residence, therefore eliminating his eligibility for the internal conversion clause. A variance would be required to permit the proposed duplex. The proposal does not meet the following requirements.

Peninsula Centre and South End Area Requirements		Proposed / Existing	Requirements Met?
Min Lot Frontage	33 ft	33 ft	Yes
Min Lot Area	3,300 sq ft	1,855 sq ft	No
Side Yards	5 ft	0 ft (Left)	No
Lot Coverage	35 %	32%	Yes

The property owner applied for the variance and the application was approved by the Development Officer. Notification in accordance with the Municipal Government Act was sent to the surrounding affected property owners. Staff received two appeals of the approval. Copies of the letters are attached.

- 1) Carol Cassidy, property owner of a two unit dwelling at 1220-1222 Church St.
- 2) David Marsh, Marilyn McAvoy, property owners of a two unit dwelling at 1224 Church St.

DISCUSSION

The *Municipal Government Act* 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?

Setbacks from property lines are intended to provide adequate building separation to maintain access, safety and privacy. As this setback will not change the existing site conditions, staff do not consider that the proposal represents a level of departure from the intent of the bylaw that justifies refusal.

One of the goals in planning policies adopted for the established neighbourhoods of the Halifax Peninsula is to maintain the character and stability of these areas through Municipal Planning Strategy (MPS) policies such as Policy 2.4 which states:

"... the City encourages the retention of the existing residential character of predominantly stable neighbourhoods, and will seek to ensure that any change it can control will be compatible with these neighbourhoods."

The following is a list of properties within the surrounding area, detailing use of the dwellings.

Address	Use (as per our records)
1215/1217 Queen St	2 unit dwelling
1223 Queen St	was a 2 unit dwelling converted to SUD
1225 Queen St	2 unit dwelling
1229 Queen St	3 unit dwelling
1233 Queen St	8 unit dwelling
1239 Queen St	2 unit dwelling
5307 South St	3 unit dwelling
5308 South St	2 unit dwelling
5312 South St	Single unit dwelling
5317 South St	Rooming House (10 room)
5321/5323 South St	4 unit dwelling
1216/1218 Church St	5 unit dwelling
1220/1222 Church St	2 unit dwelling
1221 Church St	2 unit dwelling
1224 Church St	2 unit dwelling
1227/1229 Church St	8 unit dwelling
1230 Church St	Rooming House (9 room)

The properties in the buffer area show a mix of land uses. The applicants are proposing a two unit dwelling and are in keeping with the character of the neighbourhood. Based upon this, staff believe that the proposed variance meets the intention of the LUB.

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

There is a range of low and medium density residential land uses in the area. Of the sixteen properties within the notification area, only two are single unit dwellings and one of those is a converted duplex. The difficulty experienced is unique to this property and the variance was approved.

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

No works have been undertaken and there is no intentional disregard.

BUDGET IMPLICATIONS

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

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.

REGIONAL PLANNING IMPLICATIONS

There are no implications on the Regional Planning process associated with this application.

ALTERNATIVES

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

ATTACHMENTS

1. Location Plan
2. Notification Letter
3. Site and Elevation Plans.
3. Appeal Letter

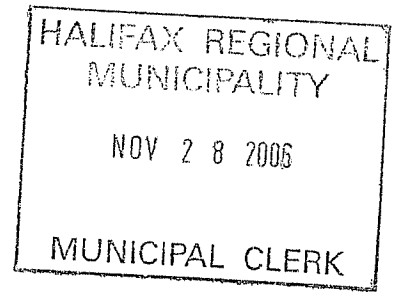
INFORMATION BLOCK

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: Brenda Seymour - Development Technician (490-7455)

Ms Jennifer Weagle

JA



November 20, 2006

c/o Andrew Faulkner
Development Officer
Halifax Regional Municipality
Planning and Development – Western Region

Dear Sir:

We are writing to you in regards to the application for Variance, file no. 13422-1121 Queen Street, Halifax. We wish it to be known that we oppose this application. We feel that our neighbourhood is under enough high density pressure. Specifically, our block which has seen numerous family properties bought and converted into multi-unit tenant houses in the last five years. Also, specifically in regards to this particular variance application, it seems the necessary square footage as per R2A zoning for a two unit dwelling is not met by half; 1650 sq ft. vs 3,300 sq ft. required. As well, the Surveyors Location Certificate accompanying the application appears to be in error as per lot size.

Yours sincerely,

David Marsh, Marilyn McAvoy

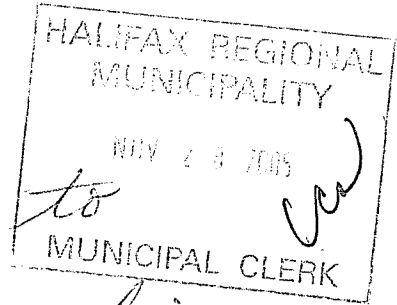
A handwritten signature in cursive script, appearing to read "David Marsh" and "Marilyn McAvoy". The signature is written over a horizontal line.

Ms Jennifer Waqle.

JK

called me

Nov 27 2006



To Andrew Faulkner,
Greetings. I am writing to
express my disapproval regarding
the variance request file # 13422
re 1211 Queen Street.

The property is actually 1650 sq ft
(not the 1855 sq ft. stated on the
mailout). This is half the
required size for 2 units.
(according to the South end develop-
ment area plan)

As one who resides in this
area I can testify to the resulting
noise from the density we already
"enjoy".

I respectfully request this
application to convert 1121 Queen
St from one to two units be denied.
Thank you Carol Cassidy

Outside Buffer Area

28 November 2006

Andrew Faulkner
Brenda Seymour
HRM Planning and Development Department

RE: Case number 13422-1121 Queen Street

I understand from my neighbours who have received letters from HRM Planning and Development Department that Bruno Elliott MacNeil is applying for a Zoning Variance for an internal conversion from one to two units at 1211 Queen Street. I believe I'm correct in pointing out that this property is located at 1211 Queen, not 1121, as is stated on the cover letter.

Looking at the plot plan drawing, it is indicated that this lot is only 33 feet by 50 feet, a square footage of 1650 square feet. Yet the cover letter states that his lot is 1855 square feet. Brenda Seymour has indicated to me that this figure is in error, and she will not be correcting it.

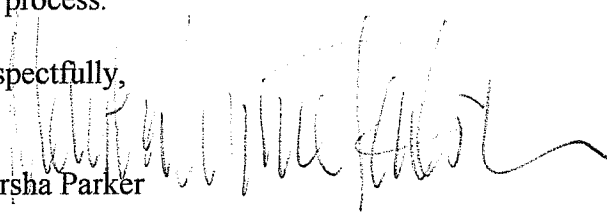
Under our SEDAP plan, in order to convert from one unit to two, minimum lot size must be 3300 square feet, as is stated on the cover letter. Mr. MacNeil's lot is only half that size, a very large discrepancy.

I know that the other half of Mr. MacNeil's co-joined property has been two units for several decades, so it's grandfathered, as are a few rooming houses in the neighbourhood. I see that as no reason to grant this variance. As an owner-occupant, I feel we do not need more density, which is destroying the fabric of our neighbourhood.

Since the square footage figures on this application are in error, I feel that residents are unable to accurately assess the merits of this Request for Variance. Further, that since the address is incorrect, residents are likely completely confused. I question the validity of the process.

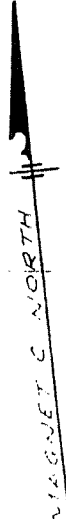
Respectfully,

Marsha Parker

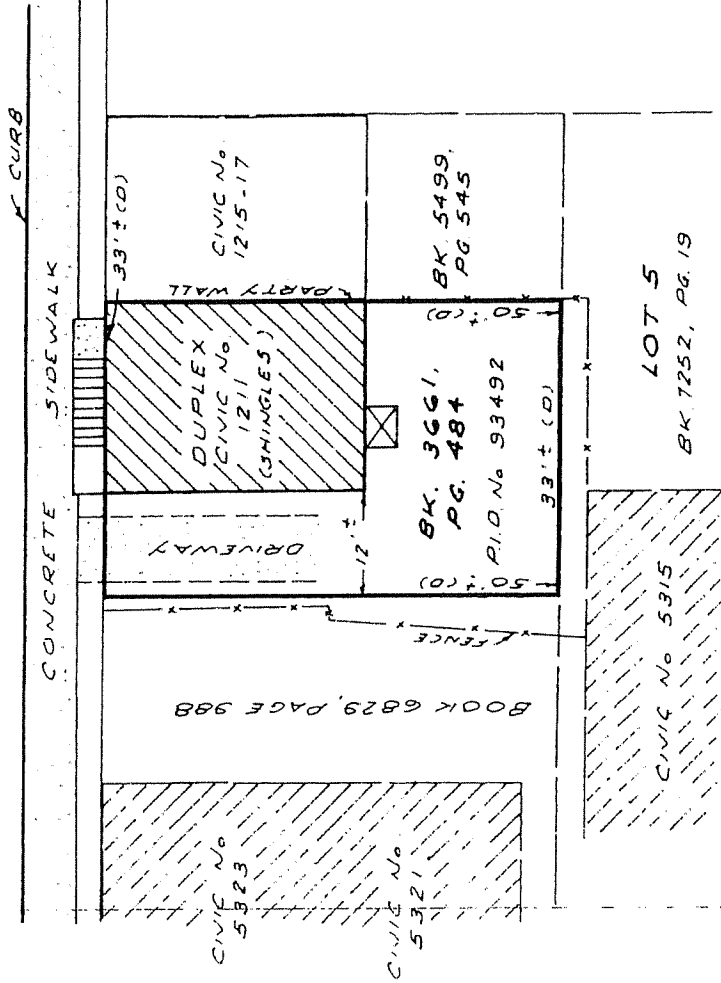


RECEIVED NOV 28 2006

SURVEYOR'S LOCATION CERTIFICATE



QUEEN STREET (60')
(HALIFAX)



LEGEND:

- (O) DEED
- (P) PLAN
- (M) MEASURED
- SURVEY MARKER
- IRON BAR
- FOUND
- P.I.D. No. PROPERTY IDENTIFICATION NUMBER

SCALE: 1 INCH = 20 FEET

FIELD SURVEYS WERE CARRIED OUT ON OCTOBER 24th, 2006

CERTIFIED TO: BRUNO ELLIOT MACNEIL
C. O. BLOIS, NICKERSON & BRYSON
BARRISTERS & SOLICITORS, HALIFAX, N.S.