

Halifax Regional Council
July 9, 2002

Aug. 20, 2002

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:

P. Halliday
for

Allan MacLellan, Chair, Heritage Advisory Committee
Regional Heritage Advisory Committee

DATE: July 3, 2002

SUBJECT: **Case H00090 - Request by Marijke Simons to Deregister 22 Edward Street, Dartmouth**

ORIGIN

Application by Marijke Simons to deregister her home at 22 Edward Street, Dartmouth.

RECOMMENDATION

The Heritage Advisory Committee **recommends** that Regional Council:

- (a) Set the date of August 20, 2002 for a Public Hearing to consider the application for deregistration of 22 Edward Street, Dartmouth; and,
- (b) Approve the deregistration of 22 Edward Street, Dartmouth, as shown on Map 1 of the staff report dated June 5, 2002; and,
- (c) Advise the Heritage Advisory Committee and staff to initiate a dialogue with the Insurance Bureau of Canada and the Province of Nova Scotia with reference to insurance of municipal heritage properties.

BACKGROUND

See attached staff report dated June 5, 2002.

DISCUSSION

This matter was discussed at the June 26, 2002 meeting of the Heritage Advisory Committee. (See attached draft minute extract.)

ATTACHMENTS

- 1) Staff report to the Heritage Advisory Committee dated June 5, 2002.
- 2) Extract from draft June 26, 2002 Heritage Advisory Committee minutes
- 3) Submission to the Heritage Advisory Committee on June 26, 2002, from Marijke Simons regarding her request for deregistration of 22 Edward Street, Dartmouth

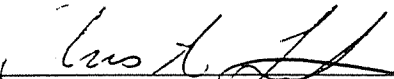
Additional copies of this report, and information on its status, can be obtained by contacting the office of the Municipal Clerk at 490-4210, or Fax 490-4208.


Report Prepared by: Patti Halliday, Assistant Municipal Clerk

Report Approved by: Allan MacLellan, Chair, Heritage Advisory Committee

Heritage Advisory Committee
June 19, 2002

TO: Heritage Advisory Committee

SUBMITTED BY: 
Austin French, Manager, Community/Regional Planning


Kevin Barrett, Planner

DATE: June 5, 2002

SUBJECT: **Heritage Case H00090 - Request by Marijke Simons to deregister 22 Edward Street (a municipal heritage property), Dartmouth, NS.-**

STAFF REPORT

ORIGIN:

Marijke Simons has made an application requesting consideration to deregister her home at 22 Edward Street.

RECOMMENDATION:

It is recommended the Heritage Advisory Committee recommend to Regional Council that:

- (a) a public hearing be set to provide consideration for the deregistration of 22 Edward Street, Dartmouth;
- (b) that Regional Council NOT approve the deregistration of 22 Edward Street, Dartmouth, as shown on Map 1; and
- (c) advise the Heritage Advisory Committee to initiate a dialogue with the Insurance Bureau of Canada and the Province of Nova Scotia with reference to insurance of municipal heritage properties.

BACKGROUND:

On May 24, 2002, Marijke Simons made an application to have her home at 22 Edward Street deregistered. The request was made as per the rising insurance costs associated with her heritage property (see Attachment 1). Under the Heritage Property Program, all applications for deregistration are made as per a Level 3 Design Review Process. Before such consideration be given, the Municipality's Heritage By-law (H-200), Section 4(1) requires the Heritage Advisory Committee (HAC) to review the application and make a recommendation to Regional Council. This process requires the proposal be reviewed by staff with a recommendation from the Heritage Advisory Committee (HAC). To provide a basis for the review, a staff report is developed that evaluates the proposal and provides a recommendation to the HAC.

As per Section 16(2) of the Heritage Property Act, before Council can consider the deregistration request from the property owner, a public hearing shall be held not less than thirty (30) days after notice of the hearing is served on the registered owner of the municipal heritage property and published in a newspaper circulating in the area.

22 Edward Street

This 2 ½ storey wood frame building was built c. 1918 (see Attachment 2). Since that time, several additions have been made, including the front sunroom/verandah. The wide eaves detailing and window design are indicative of the early 20th century period. In mid December of 2001, the property was damaged by fire, which was focussed to the sunroom/verandah on the front facade. Since that time, the property was repaired/restored, and new vinyl windows have been installed.

DISCUSSION:

By-Law Number H-200

As defined in the Municipality's By-Law Number H-200, the Heritage Advisory Committee shall advise Council on the deregistration of heritage properties.

Policy Analysis: Section 16, Heritage Property Act - Deregistration of Municipal Heritage Property

- 16 (1) On the application of an owner of a municipal heritage property or on its own motion, the council may deregister a municipal heritage property where
- (a) the property has been destroyed or damaged by any cause; or
 - (b) the continued registration of the property appears to the council to be inappropriate,

after holding a public hearing to consider the proposed deregistration.

While the property was damaged by fire in December, 2001, the extent of the damage was minimal and no applications to deregister the property were made at that time. Heritage staff and the Heritage Advisory Committee provided advice to restore the building, and approved the installation of vinyl replacement windows that matched (in appearance) the original wooden windows. As such, consideration cannot be provided under provision (a).

Under provision (b), consideration to deregister may be granted if Council feels the registration is inappropriate. This provision is vague, and provides Council opportunity for discretion. If the cost associated with a registered property became the rationale to deregister a property, our heritage property program may be significantly compromised. Issues ranging from the cost to maintain a property to other civil issues, such as insurance, should not compromise the historic integrity of a property nor a municipal registry.

The purpose of the Heritage Property Act is to provide for the identification, designation, preservation, conservation, protection and rehabilitation of buildings, structures, streetscapes, areas and districts of historic, architectural or cultural value, in both urban and rural areas, and to encourage their continued use.¹ To remove a building from a municipal registry on the basis of a civil issue between a home owner and their insurance company would not maintain the spirit of the Heritage Property Act.

While the issue of insurance for heritage properties is significant for some property owners, HRM may find more appropriate methods to respond to this issue.² In speaking with the Insurance Bureau of Canada, heritage staff were told that the issue of higher premiums is not because a property is registered, but rather older properties are more expensive to rebuild.² However, heritage staff were informed by some insurance agents that the reason insurance is either expensive or not provided by some underwriters is that the property is registered. Heritage staff feel that HRM should facilitate a positive discussion with the Bureau to ensure that appropriate insurance can be offered to any property, registered or not.

In addition, HRM could ask the Province of Nova Scotia to comment on this issue. The Heritage Act permits municipalities to establish Heritage Property Programs, and provides the scope of Council's role in heritage issues. The Act has not been revised since it was enacted in 1991. Discussions between the Province and HRM to address this and other issues, such as demolitions, could occur.

¹Excerpt from the Heritage Property Act, Nova Scotia - Section 2.

²As per a conversation with Marlene Landry, Insurance Bureau of Canada, May 29, 2002.

Summary

While the concern of the property owner over inflated insurance rates is a significant issue, it is not one that should support the deregistration of 22 Edward Street, Dartmouth at this time. Staff are hopeful that a more effective solution can be reached with the aid of Regional Council, the Insurance Bureau of Canada and the Province of Nova Scotia. To permit a deregistration of a municipal home over a civil issue would be an extreme precedent that HRM should not establish.

BUDGET IMPLICATIONS:

There are no budget implications.

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:

Staff recommend the Heritage Advisory Committee provide a negative recommendation to Regional Council. However, should the Heritage Advisory Committee recommend the deregistration request, the Report will be forwarded to Regional Council for review.

ATTACHMENTS:

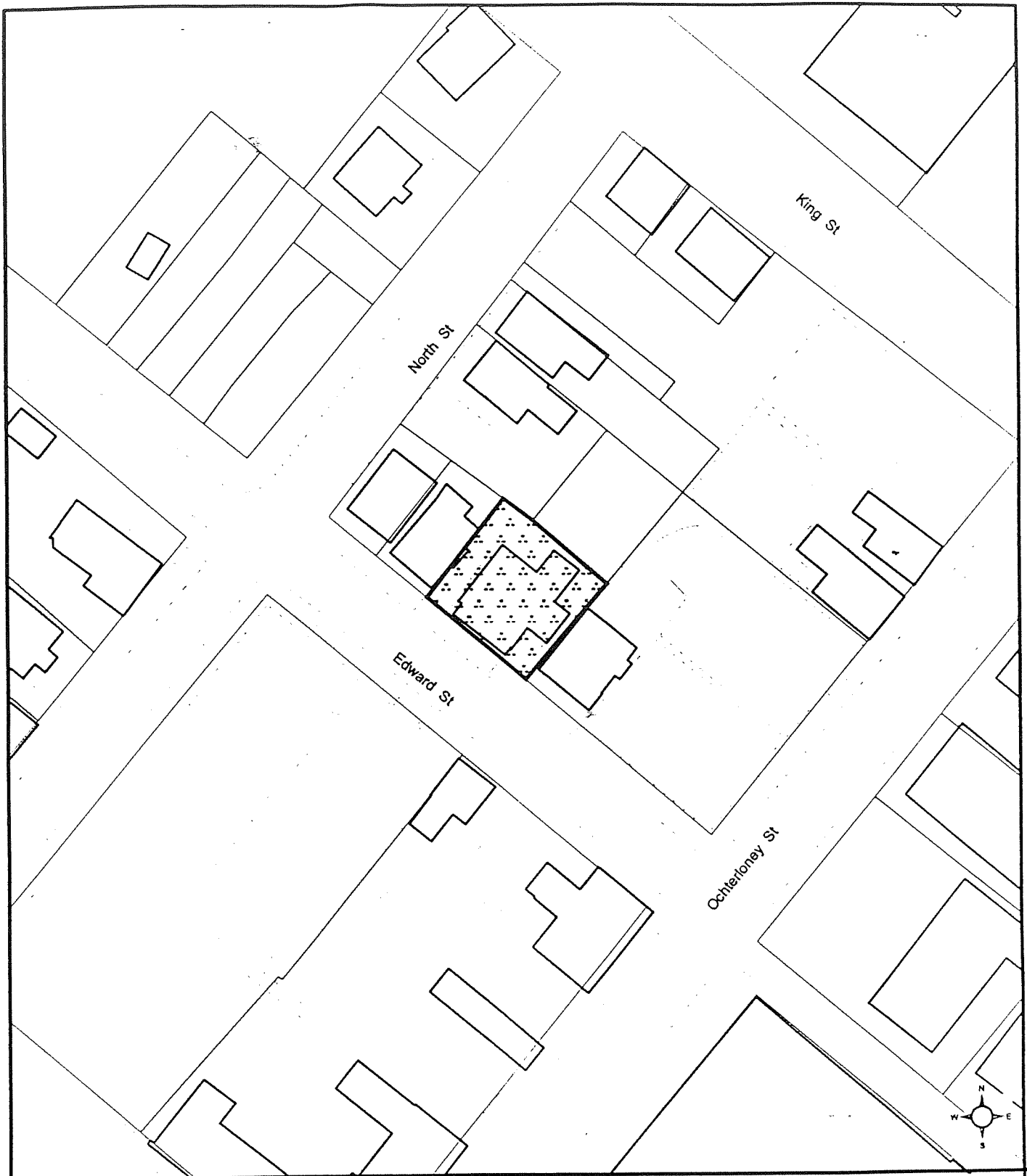
Map 1: 22 Edward Street, Dartmouth, NS.

Attachment 1: Letter from property owner, dated May 22, 2002.


Attachment 2: Photo - 22 Edward Street.

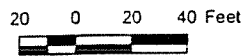
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Report prepared by: Kevin Barrett, Planner, 490-4419



Map 1 - Location Map
 22 Edward Street
 Dartmouth
 Dartmouth Plan Area

 Subject area under consideration
 for heritage de-registration



HALIFAX
 REGIONAL MUNICIPALITY
 PLANNING AND
 DEVELOPMENT SERVICES

HRM does not guarantee the accuracy
 of any representation on this plan

Halifax Regional
Municipality

MAY 24 2002

Planning Services
Heritage Property Program

May 22, 2002

Kevin Barrett, Heritage Planner
West End Mall, 6960 Mumford Road
Suite R19, PO Box 1749
Halifax, Nova Scotia
B3J 3A5

Dear Kevin Barrett,

I am requesting an application to have my home at 22 Edward Street deregistered as a municipal heritage property.

The reason for this request is the enormous increase in insurance rates that I am facing.

My insurance agent has informed me that all but one of the underwriters she called refused to insure the house based mainly on the fact that it is a registered heritage home.

Insuring with this underwriter has increased my rate to \$2,750 for this year's coverage from last year's rate of \$642. As well this new rate does not include content coverage or theft. It covers the replacement of the house.

I have phoned other insurance agents who have told me to phone back once the property is deregistered and they will give me a better rate. I need to reduce my insurance costs and obtain better insurance coverage. Regretfully to accomplish this I must deregister the house. I appreciate your attention to this matter. Please do not hesitate to call if you require any additional information.

Yours sincerely,

Marijke Simons

466-4823

Cc: City Councillor; John Cunningham



22 Edward Street
Dartmouth, NS

EXTRACT FROM DRAFT JUNE 26, 2002 HERITAGE ADVISORY COMMITTEE MINUTES:

3.1 H00093 - Request by Marijke Simons to De-register 22 Edward Street, Dartmouth

- A staff report prepared for Austin French, Manager, Community/Regional Planning, regarding the above, was before the Committee for its consideration.
- Correspondence from the applicant, Ms. Marijke Simons, regarding the above, was circulated to the Committee.

Mr. Paul Morgan, Planner, presented the staff report to the Committee. The report recommended the following:

That the Heritage Advisory Committee recommend to Regional Council that:

- A public hearing be set to provide consideration for the deregistration of 22 Edward Street, Dartmouth.*
- That Regional Council NOT approve the deregistration of 22 Edward Street, Dartmouth, as shown on Map 1 of the staff report dated June 5, 2002; and,*
- Regional Council advise the Heritage Advisory Committee to initiate a dialogue with the Insurance Bureau of Canada and the Province of Nova Scotia with reference to insurance of municipal heritage properties.*

Councillor Uteck noted that she raised the issue of insurance for registered heritage properties at Council a couple of weeks ago to have a meeting arranged with the insurance companies.

Mr. MacLellan noted this application for de-registration is a unique case which could become much more prevalent in the future, and stated he was unsure as to how the Committee should proceed with it.

Ms. Marijke Simons, applicant, addressed the Committee stating she supported heritage, but she could not financially carry the high insurance premium for her property as a result of the heritage designation. Ms. Simons stated she believes her situation fits into the de-registration process because her property was damaged by an arson fire and the high insurance rate is an inappropriate burden.

Councillor Uteck suggested the Committee should permit the applicant to de-register her property at this time, and if the Municipality puts assistance programs in place for registered heritage properties in the future, the applicant may consider re-registering her property. The Councillor stated she is not willing to penalize someone because the Municipality was not aware of the insurance problem.

Mr. Creighton suggested the Municipality should confront the insurance industry regarding

this issue, stating he believes the insurance industry has a misunderstanding of what municipal heritage entails. Mr. MacLellan stated it was his understanding that Legal Services was looking into this matter to determine the reason for the high insurance rates. Ms. Morris stated she was advised the main reason for the higher insurance cost was due to the additional documents, drawings, etc., for restoration work that are required by heritage advisory committees. Mr. MacLellan suggested that Planning staff should meeting with the insurance industry to discuss this issue.

MOVED by Councillor Uteck, seconded by Tom Creighton, that the Heritage Advisory Committee recommend to Regional Council that:

- (a) A public hearing date of August 20, 2002, be set to provide consideration for the deregistration of 22 Edward Street, Dartmouth.
- (b) That Regional Council APPROVE the deregistration of 22 Edward Street, Dartmouth, as shown on Map 1 of the staff report dated June 5, 2002; and,
- (c) Regional Council advise the Heritage Advisory Committee and staff to initiate a dialogue with the Insurance Bureau of Canada and the Province of Nova Scotia with reference to insurance of municipal heritage properties. MOTION PUT AND PASSED UNANIMOUSLY.

RE: Deregistration of 22 Edward Street

Page 1 line 7-© *advise the Heritage Advisory Committee to initiate a dialogue with the Insurance Bureau of Canada....*

This is a commendable recommendation. When the dialogue and commentary between the city and the insurance companies are successful in lowering my insurance rate I will consider reregistering at that point.

Page 2 line 23-*policy analysis...-Deregistration of Municipal Heritage Property'*

The Edward Street situation fits within the deregistration process

- a) My home was **damaged** by an arson fire.
- b) Council may consider the exorbitant insurance rate I have to carry {\$642incl. Contents which jumped to \$2,750 excl. contents after the fire} as an **inappropriate** burden.

Page 3 line 1-*'the extent of the damage was minimal'*

1-Insurance companies view a claim over 15,000 as a major claim. My claim totaled \$52,000.

2-The firemen told me the house came within 15 minutes of being completely destroyed.

3-The repair work that began in the beginning of January is almost completed now the last part of June.

4-My daughter was not able to return home for 4 months.

5-I moved into the top floor of my house for the duration of the construction. I am still there.

6-I had to close my business indefinitely.

Page 3 line 3-*'Heritage staff ..provided advice to restore the building...'*

I was explained the procedure for the approval of vinyl windows however I can not recall any advice given on the restoration of the building in terms of structural or architectural advice. I relied entirely on the expertise of the contractor.

-Page 3 line 7- *'If the cost associated with a registered property became the rationale to deregister a property., our heritage property program may be significantly compromised'*

M Weeks of 24 Tulip Street Dartmouth deregistered a property in order to side it. Reshingling was too expensive.

Page 3 Line 16- *' To remove a building....would not maintain the spirit of the Heritage Property Act'*

A component of the **spirit** of the Heritage Property Act is its voluntary nature. It is with great reluctance that any heritage committee or council would force a heritage designation on any building without the owner's co-operation. This voluntary co-operation is essential for the success of heritage designation. I entered into this agreement voluntarily. I have never benefited financially in any way only in the pride of owning this home. In fact the designation has become a drag on my financial resources. It actually impedes my financial ability to maintain my home. I therefore want to voluntarily withdraw from my designation.

Submitted respectfully,

