

8.2.1



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Chebucto Community Council
April 6th, 2009

TO: Chairman and Members of Chebucto Community Council

SUBMITTED BY:


Andrew Faulkner - Development Officer

DATE: March 26, 2009

SUBJECT: Appeal of the Development Officer's decision to approve an application for a Variance, File No. 15176 - 3 Sylvia Ave, Halifax

ORIGIN

This report deals with an appeal of the Development Officer's decision to approve a variance from the left sideyard setback from 20 feet to 6 feet and to vary front yard setback from 20 feet to 11 feet from the Halifax Mainland Land Use By-law to accommodate the siting of an existing building and re-zoning of the lands from R-4 Multiple Dwelling Zone to P Park and Institutional Zone.

RECOMMENDATION

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

BACKGROUND

The subject property is located at 3 Sylvia Ave, Halifax (see Attachment 1), Zoned R-4 under the Halifax Mainland Land Use ByLaw.

The property is currently owned by HRM, but it is in the process of being sold to the Home of the Guardian Angels, a not for profit organization providing social services to single mothers and their children. The Home of the Guardian Angels (Home) have operated from the property for well over a decade and intend to continue operation, build a second storey on the building, and expand their services to the community. To accommodate the sale of the lands and the Homes' expansion plans, the lands were re-zoned to Park and Institutional in March of 2009.

In anticipation of the sale and re-zoning, the Home made application for a development permit to construct a second storey addition on the building. Review of the application was under the Institutional zone and there were two deficiencies in setbacks for the existing building (front and side). The Home made application for a variance in January 2009 and approval was granted. There has been one appeal of the approval.

It should be noted that the one appeal received is regarding the potential for an increase in on street parking in the neighbourhood. This is not a consideration in this variance as the land use by-law has no parking requirement for this use.

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 ?

The building has existed on this property for many years. At the time of sale of the lands by HRM to the Home, an existing encroachment on the property is going to be resolved. This will result in a street setback which does not comply with the new P Zone. The sideyard setback does not change, however the P Zone requires a greater setback than the existing zone. It is in the opinion of the Development Officer that the variance does not violate the intent of the Land Use Bylaw for Halifax Mainland.

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

The situation experienced on this property is not typical for the neighbourhood.

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

There is no intentional disregard for the requirements of the land use bylaw.

BUDGET IMPLICATIONS

None.

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

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

ATTACHMENTS

1. Location Map
2. Site Plan
3. Elevation Plan
4. Appeal Letter

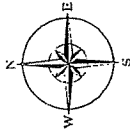
Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Brenda Seymour, Development Technician, 490-4046

1



ReGIS Property Map



1:1,000

User: Brenda Seymour
Print Date: Mar 26, 2009

This map was produced for the internal use of Halifax Regional Municipality (HRM). HRM takes no responsibility for errors or omissions.

For further information on civic address, street, street name or community (CSA) data please contact HRM Civic Addressing at 490-5347 or email alvcadd@halifax.ca.

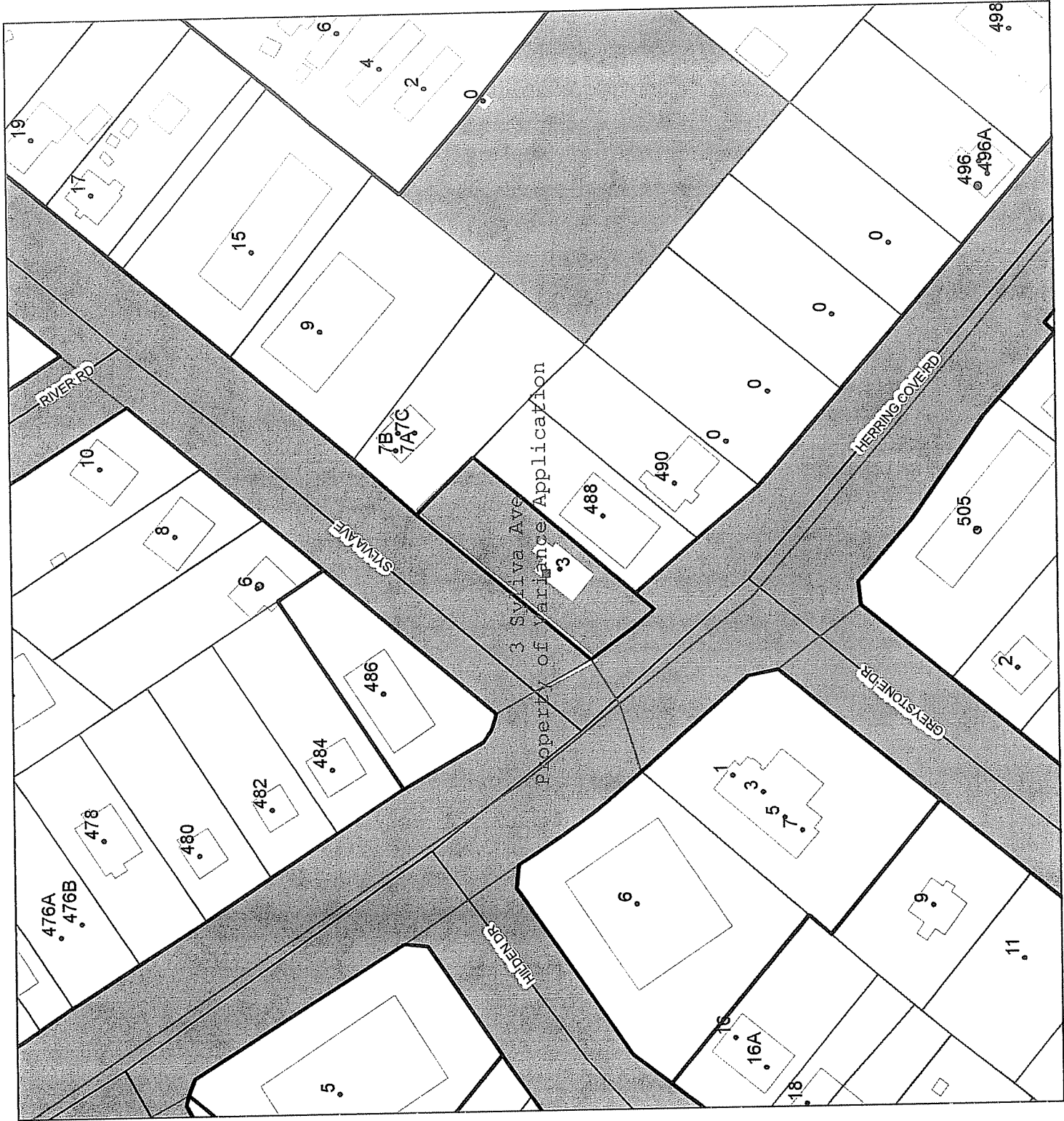
For further information on sewer infrastructure please contact Halifax Water Engineering at 490-6204 or email engineering_dept@halifaxwater.ca.

For further information on zoning data please contact HRM Planning & Development Services at 490-4494 or email zoninginquiries@halifax.ca.

For further information regarding any other aspect of this plot please contact HRM Geographic Information Systems & Services at 490-6568 or email geotinfo@halifax.ca.

Date of map is not indicative of the date of data creation. Scale of map is valid only if printed at 11x8.5 inches.

Projection is Modified Transverse Mercator Zone 5.



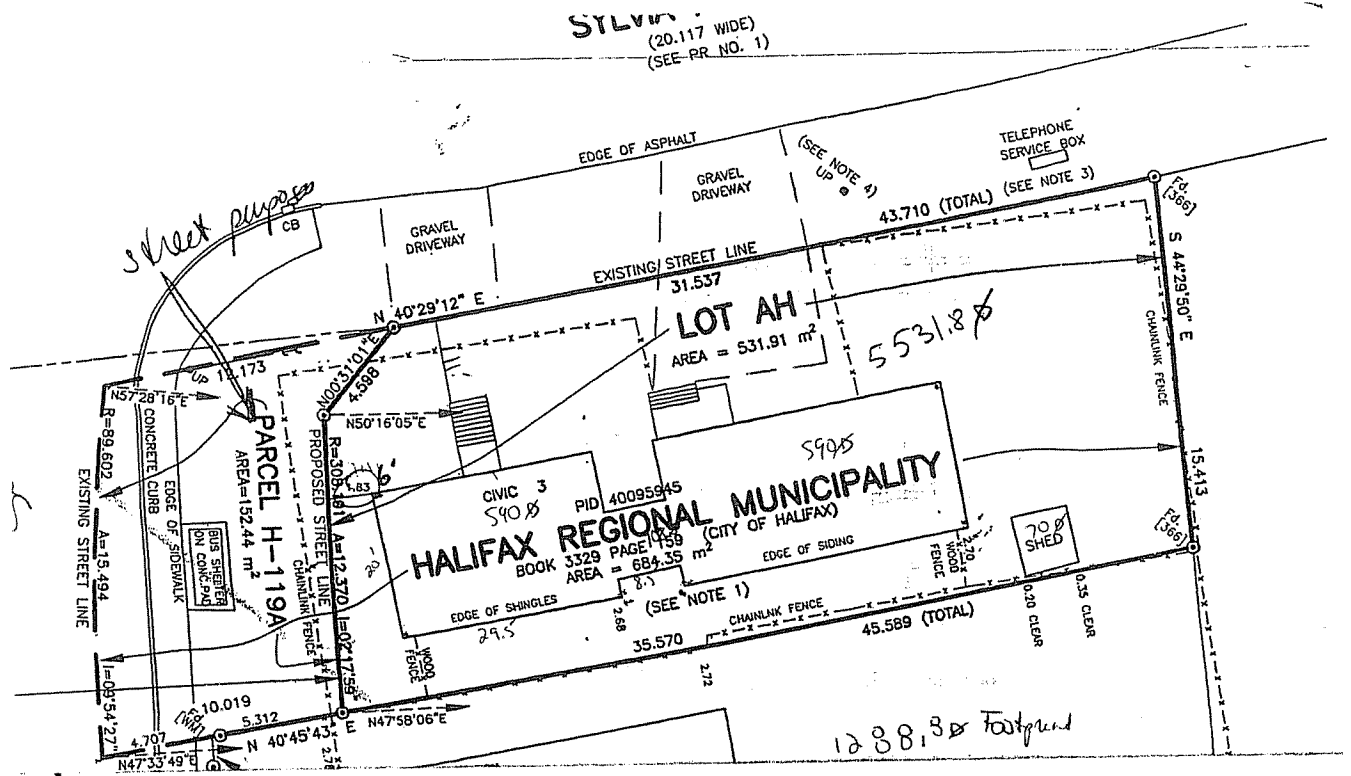
2

DATE: February 2, 2009

SUBJECT: Application for Variance, File No. 15176 - 3 Sylvia Ave, Halifax

SITE PLAN

Variance: Vary left sideyard setback from 20 feet to 6 feet as a result of subdivision of lands for street purpose.
Vary front yard setback from 20 feet to 11 feet as a result of rezoning requirements.



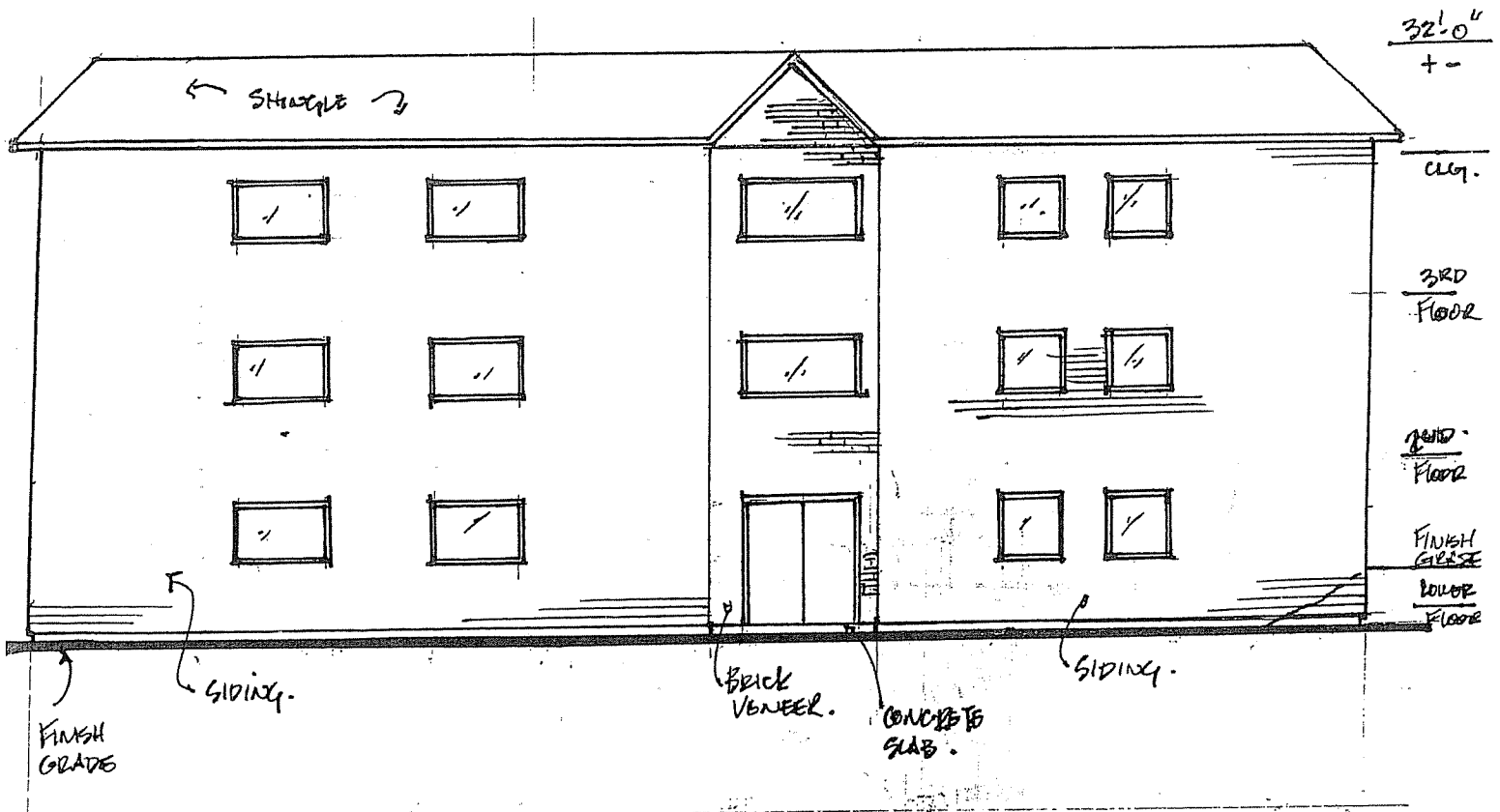
3

DATE: February 2, 2009

SUBJECT: Application for Variance, File No. 15176 - 3 Sylvia Ave, Halifax

Elevation

Variance: Vary left sideyard setback from 20 feet to 6 feet as a result of subdivision of lands for street purpose.
Vary front yard setback from 20 feet to 11 feet as a result of rezoning requirements.



PROPOSED EXTERIOR ELEVATION.

HOME OF THE GUARDIAN ANGEL
SINGLE PARENT CENTRE (SYLVIA AVE.)
ADDITION/RENOVATION
NOVEMBER 2008.

4

HALIFAX REGIONAL
MUNICIPALITY
FEB 10 2009
S.G.
MUNICIPAL CLERK

February 11, 2009

Municipal Clerk

c/o Andrew Faulkner , Development Officer, Halifax Regional Municipality

Planning and Development, Western Region

PO Box 1749 Halifax, NS

B3J 3A5

Re Variance File No. 15176-3 Sylvia Avenue

Thank you for the notice of the proposed change to our street. I am not in favor of allowing this variance and will explain why.

Having lived at 8 Sylvia Avenue for 27 years I feel I am able to comment on the changes I have noticed to access to my property and general movement up and down Sylvia Avenue when the daycare is open, that being the business conducted at 3 Sylvia. The number of cars parked on the side road makes it very difficult to drive to my house, they are parked on both sides of the street and with the traffic coming to and from the high school, it can be very difficult to get to my driveway. Furthermore, many times I have to go outside and tell the owners of the vehicles to clear my driveway as they park across it.

This is all the more difficult in the winter when there is snow banks and only one "lane" for traffic to move; parked cars make it very difficult to access my driveway.

I wonder how much more parked cars we will have on our street if this business is allowed to expand their operations. I have expressed my concerns to the policemen who seem to frequent my street but nothing has changed.

I am not in favor of having our street filled with more cars coming to and from 3 Sylvia Avenue and register my appeal to the variance for the above reasons.

Peter Larade

8 Sylvia Avenue

Halifax