



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Chebucto Community Council
October 5th, 2009

TO: Chairman and Members of Chebucto Community Council

SUBMITTED BY: 
Andrew Faulkner - Development Officer

DATE: September 23rd, 2009

SUBJECT: Appeal of the Development Officer's decision to approve an application for
a Variance - 21 Crescent Ave, Halifax, Case 15554

ORIGIN

This report deals with an appeal of the Development Officer's decision to approve a variance for the side yard setback of the Halifax Mainland Land Use Bylaw to permit an addition to a single unit dwelling.

RECOMMENDATION

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

BACKGROUND

The above noted application proposes an addition to a single unit dwelling. This property is regulated under the *Halifax Mainland Land Use By-Law* and is zoned R-1 (Single Family Dwelling Zone). On July 23, 2009, the applicant applied for and received a variance approval of 7 ft side yard setback. There were no appeals of this approval and subsequently, a construction permit was issued. As construction began, it became apparent to the applicant, that the approved variance would not be sufficient. For design purposes and economic reasons the applicant needed to extend the addition a further 1 foot into the side yard.

The applicant applied for a second variance to accommodate the design change in August, 2009. That application was approved and the neighbours notified in accordance with the Charter. As a result, one appeal was received.

In response to questions arising in the appeal letter, please note the following:

- 1) The height of the proposed addition is 31.5 ft. The maximum permitted height is 35 feet.
- 2) Section 21(e) of the Halifax Mainland Land Use Bylaw states:

every building shall be at least 12 feet from any other building.

As per plans submitted (See site plan attached) The proposed setback between dwellings (Civic 19 and 21) is 13.5 feet. (Proposed 6 ft sideyard setback for Civic 21 and existing 7.5 ft for Civic 19 for a total of 13.5 ft)

- 3) The proposed deck is under 2 feet in height from grade. As a result, by longstanding policy, it is considered landscaping, requiring no setbacks from the property boundaries.

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 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 variance does not violate the intent of the land use bylaw. The reduction from eight feet to six feet still provides the 12 foot separation distance required between main buildings on abutting lots. The proposed work is 13.5 ft from the adjacent building, allowing for access to rear yards and achieving the aesthetic separation distance desired in the by-law.

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

As shown on the location plan, side yard setbacks vary in this neighbourhood from near zero to the by-law standard. The difficulty experienced is not general to the area.

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

There is no intentional disregard. The property owner immediately applied for the variance once it became apparent the existing variance approval would not be sufficient to complete the project.

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 Map
2. Appeal letter
3. Site Plan

INFORMATION BLOCK

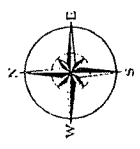
Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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

Attachment #1



**Variance
for 21
Crescent
Ave**



1:1,000

User: **Brenda Seymour**
Print Date: Sep 24, 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(GSA) data please contact HRM Civic Addressing at 490-5347 or email civicadd@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 490-4484 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 geoinfo@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.

19 Crescent Avenue
Halifax, Nova Scotia
B3N 1T4

Municipal Clerk
c/o Andrew Faulkner, Development Officer
Halifax Regional Municipality
Planning and Development – Western Region
PO Box 1749
Halifax, Nova Scotia
B3J 3A5

September 1, 2009

RE: Application for Variance, File No. 15554-21 Crescent Avenue

I would like to appeal the application for variance listed in the file quoted above.

The variance asks for the side yard set-back to be reduced from 8 feet to 6 feet. This would allow a proposed extension to the existing residential home to be substantially closer to my home than the current set-back of 12 feet. The homes are quite small in this neighbourhood (24x24), and the land equally small. I am concerned that the set-back will cause the extension to dwarf and crowd my home. The proposed extension will also be higher than the existing building (raising concerns again of the extension looming over my home).

In addition to these two concerns (the proposed set-back of 6 ft, and a bigger, higher extension right next to my house), I am concerned that the entire set-back (right to the property line) will become a high traffic area. The plans indicate a set of double doors will be built on the side of the house closest to my home. The owners plan to place a deck right up to the property line, and intend to use this as an entertaining area. My master bedroom and window is on this same side of the house and is the closest window to the set-back. I am therefore gravely concerned that this proposed set-back is going to have a major impact on my quiet and peaceful enjoyment of my home. I am therefore appealing the variance.

Thank you for hearing my point of view.

Sincerely,



Jayn Ritchie.



COMMUNITY DEVELOPMENT

PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

August 20, 2009

Dear Assessed Owner:

RE: Application for Variance, File No. 15554 - 21 Crescent Ave

As you have been identified as a property owner within 30 metres of the above noted address you are being notified of the following variance as per requirements of the Section 250 of the Halifax Regional Municipality Charter

As the Development Officer for the Halifax Regional Municipality, I have approved a request for a variance from the requirement(s) of the land use bylaw as follows:

Location: 21 Crescent Ave
Project Proposal: construct an addition to a single unit dwelling
Approved Variance: Vary side yard setback from 8 ft to 6 ft.

Pursuant to Section 250 of the **Halifax Regional Municipality Charter**, assessed property owners within 30 meters of the above noted address are notified of this variance. If you wish to appeal, please do so in writing, on or before **4:30 p.m. September 7th, 2009** and address your appeal to:

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

If you have any questions or require clarification of any of the above, please contact Brenda Seymour at 490-4046.

Sincerely,

Andrew Faulkner
Development Officer

cc. Julia Horncastle, Acting Municipal Clerk
Councillor Linda Mosher (District 17)

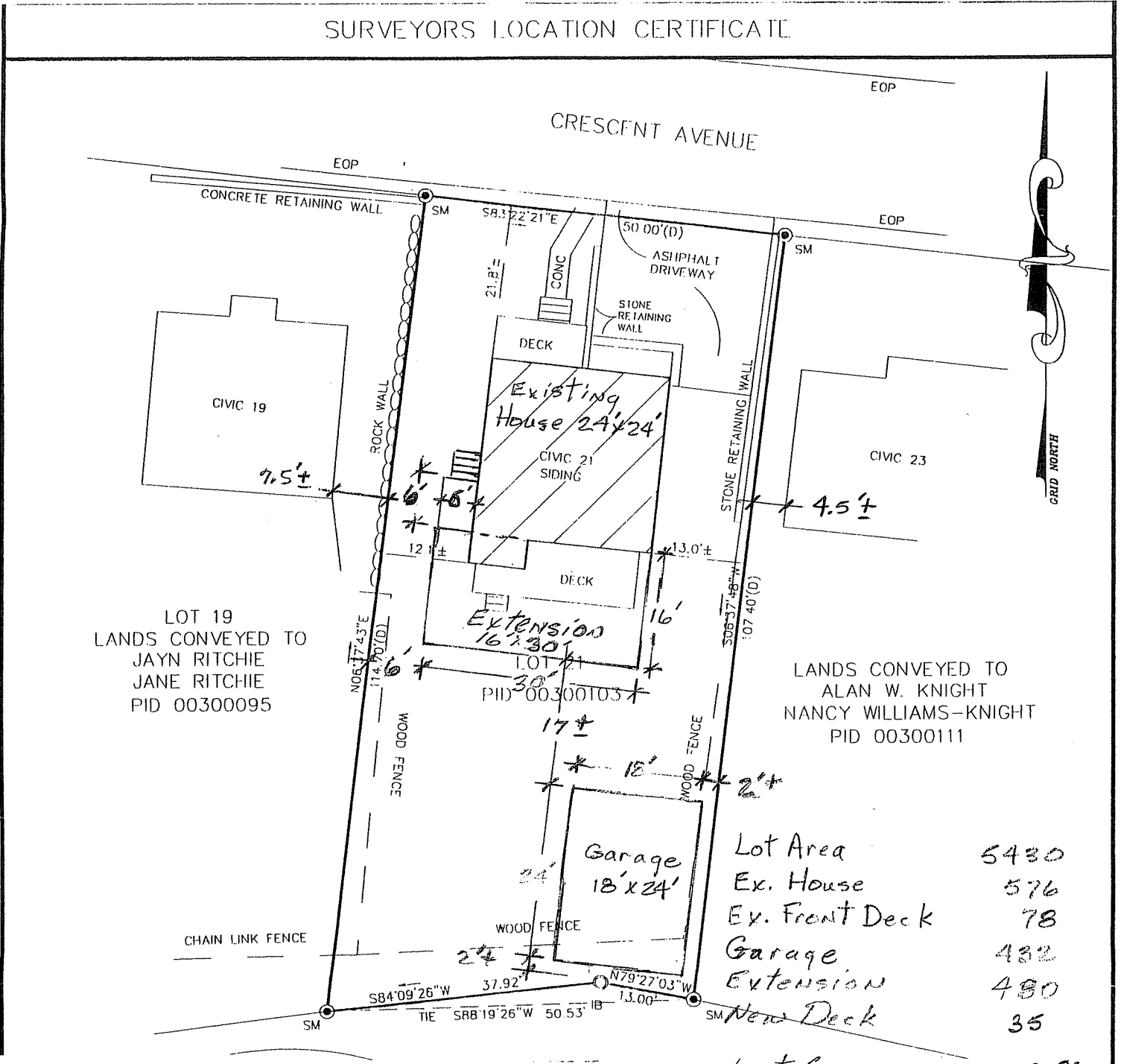
DATE: August 20, 2009

SUBJECT: Variance, File No. 15554 - 21 Crescent Ave

SITE PLAN

Vary side yard setback from 8 ft to 6 ft.

SURVEYORS LOCATION CERTIFICATE



LOT 19
LANDS CONVEYED TO
JAYN RITCHIE
JANE RITCHIE
PID 00300095

LANDS CONVEYED TO
ALAN W. KNIGHT
NANCY WILLIAMS-KNIGHT
PID 00300111

Lot Area	5430
Ex. House	576
Ex. Front Deck	78
Garage	432
Extension	480
New Deck	35

1 + 1

2009