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Halifax, Nova Scotia
B3J 3A5 Canada

Chebucto Community Council
May 3rd, 2010

TO: Chairman and Members of Chebucto Community Council

SUBMITTED BY: 
Andrew Faulkner - Development Officer

DATE: April 26, 2010

SUBJECT: Appeal of the Development Officer's decision to deny an application for a
Variance # 16003 - 39 Wyndrock Drive, Halifax

ORIGIN

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

RECOMMENDATION

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

BACKGROUND

The subject property is located at 39 Wyndrock Drive, Halifax and Zoned R-1 under the Halifax, Mainland Land Use By-law. A variance application was received on March 23, 2010 for a proposal of an attached garage in the front yard of the existing single unit dwelling..

The land use bylaw requires a minimum of 20 ft setback from the front property boundary. The applicant proposed a 9ft 2 inch setback and the application was refused..

The variance application was denied by the Development Officer on March 31, 2010. Subsequently, an appeal was received on April 9th, 2010.

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 ?

One of the goals in planning policies adopted for the established neighbourhoods of the Halifax Mainland 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 predominately stable neighbourhoods, and will seek to ensure that any change it can control will be compatible with these neighbourhoods,"

Secondly, **Policy 2.10** states:

"...For low and medium density residential uses, controls for landscaping, parking and driveways shall ensure that the front yard is primarily landscaped..."

The intent of Policy 2.10 is carried out through the requirement for a 20 foot setback from the front property line. By relaxing the requirement, the majority of the front yard is proposed as parking and driveway which would defeat the intent of the bylaw.

There are neighbouring properties that have existing front yard garages, however, they appear to meet the front yard setback required under the land use bylaw. To permit the construction of a garage 9 ft 2 inches from the property line would be of significance to this street and not consistent with the standards now existing.

Therefore, the proposal violates the intent of the bylaw.

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

During a site visit on March 29, 2010, neighbouring properties were examined to determine whether a variance of the front yard setback would be required for similar construction. It was determined that the difficulty experienced would be general to the properties in the area, therefore, the variance was refused.

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

There is no intentional disregard.

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

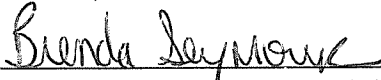
1. Council could uphold the decision of the Development Officer to deny the variance. This is the recommended alternative.
2. Council could overturn the decision of the Development Officer and approve the variance.

ATTACHMENTS

1. Location Map
2. Appeal letter
3. Site Plan
4. Elevations

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc/agenda.html>, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by :

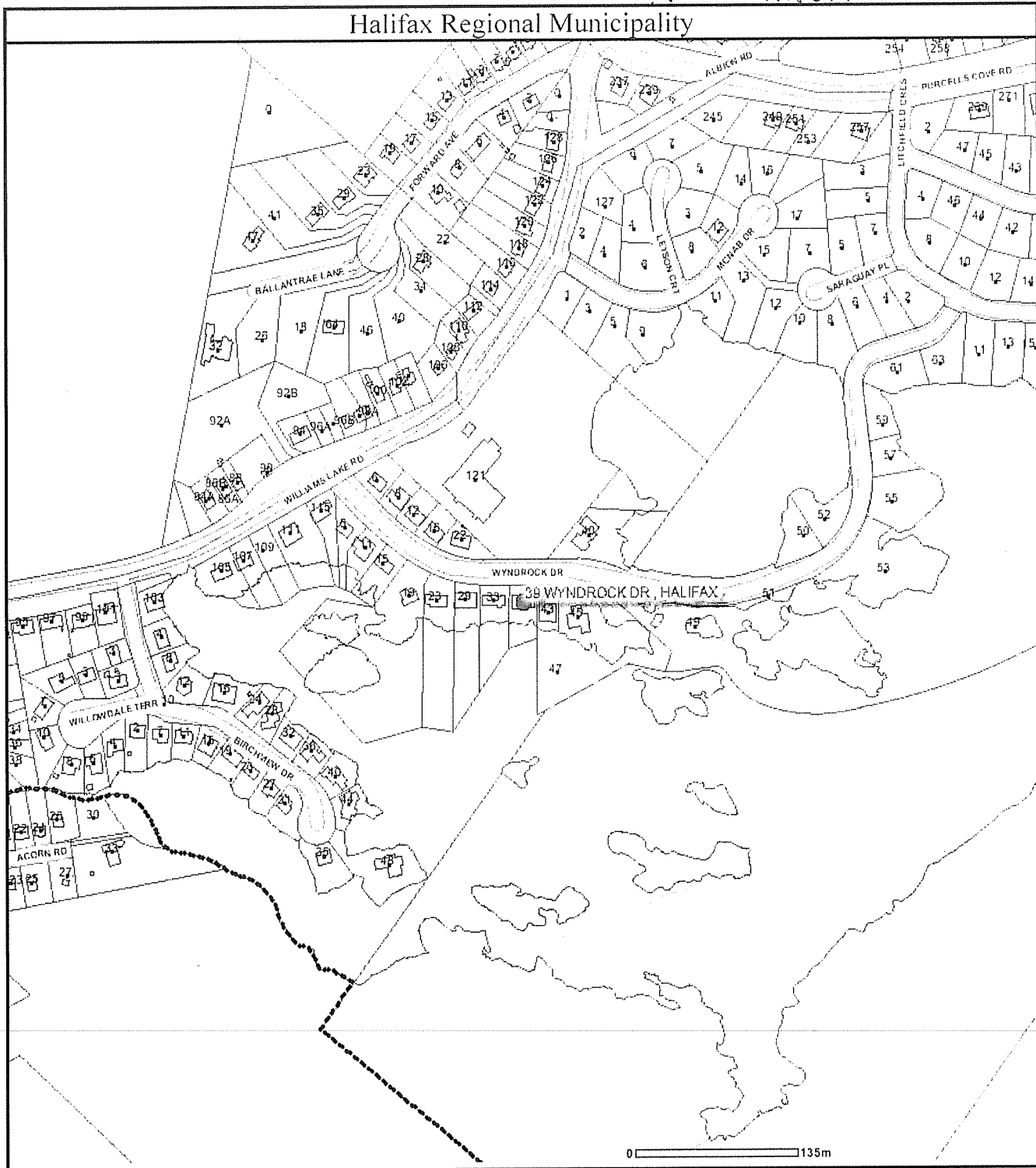

Brenda Seymour - Development Technician (490-4046)

Report Approved by:


Andrew Faulkner - Development Officer (490-4402)

Attachment 1

Halifax Regional Municipality



This map was prepared for the internal use of Halifax Regional Municipality(HRM) HRM takes no responsibility for errors or omissions. For further information on Street Name or Community(GSA) data please contact HRM Civic Addressing at 490-5347 or email civcadd@halifax.ca Date of map is not indicative of the date of data creation

Variance application No: 16003

39 Wyndrock Dr Halifax NS

Notice of Appeal

Dear Mr Faulkner

I would like to appeal your decision to grant our variance application to build an attached garage on 39 Wyndrock Dr. for the following reasons.

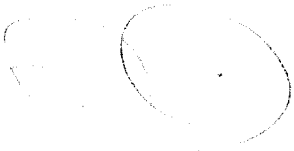
- 1) Our current garage is 8 feet below grade and underneath our house. The driveway leading to the garage has a step slope therefore making it difficult and dangerous to back out of when there is snow or ice.
- 2) With the down grade driveway leading to the house we have a problem with water getting into our basement via the big garage door.
- 3) The Garage under our main living area causes us to use extra power to heat the space
- 4) Our backyard is not accessible from the front therefore making it impossible to build a garage in the back or the side of the house

The new garage built on the front of the house will blend in with the rest of the houses on the street. Please see attached drawings

I look forward to discussing this at the appropriate time.

Thanks for your time

Gord Dickie



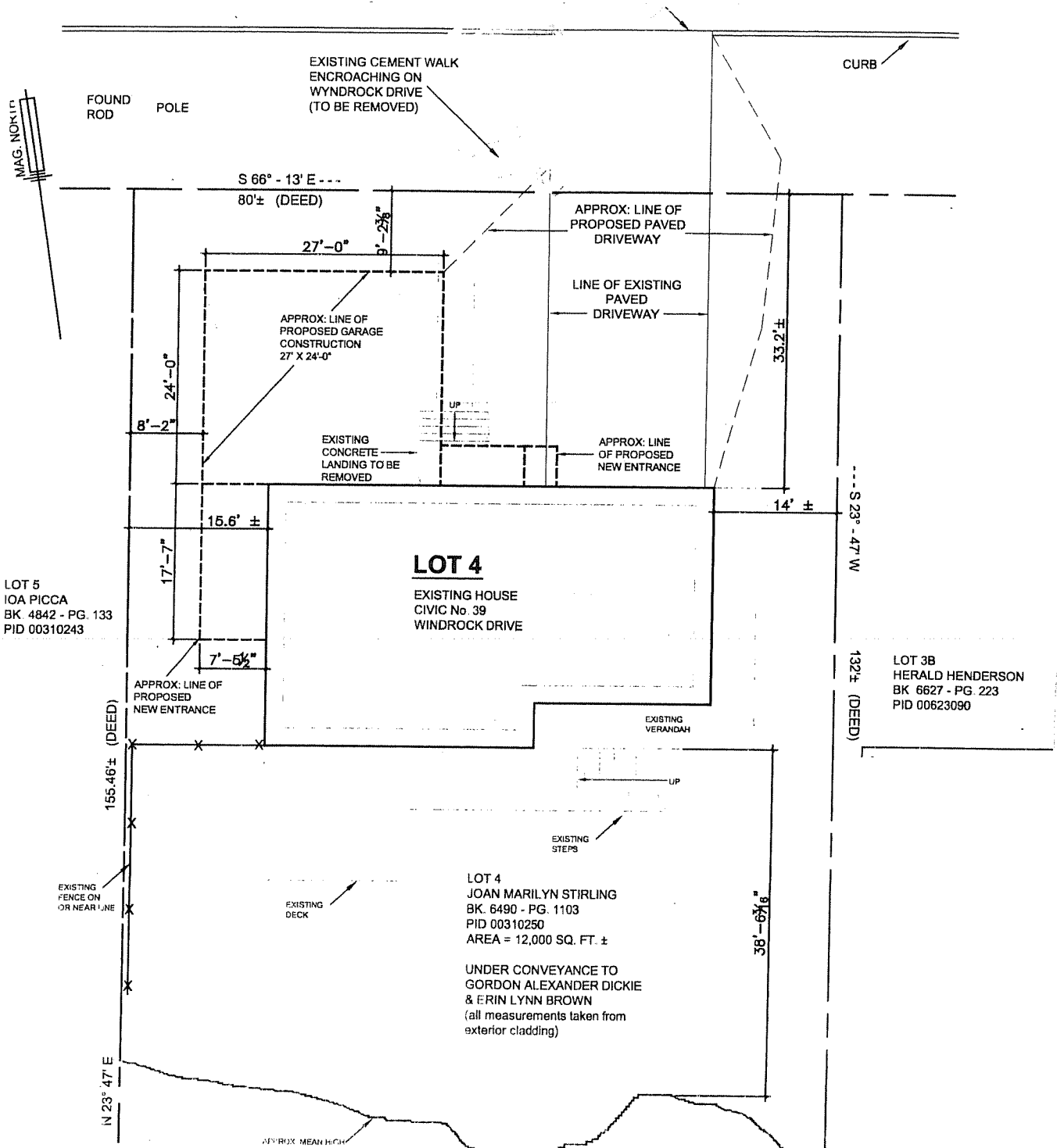
DATE: April 16, 2010

SUBJECT: Application for Variance, File No. 16003
Property at 39 Wyndrock Dr, Halifax

SITE PLAN

Project Proposal: Construct an attached garage
Variance Requested: Vary front yard setback from 20 ft to 9 ft 2 inches

TO WILLIAMS LAKE ROAD \curvearrowright WYNDROCK DRIVE (66' wide) TO PURCELLS COVE ROAD

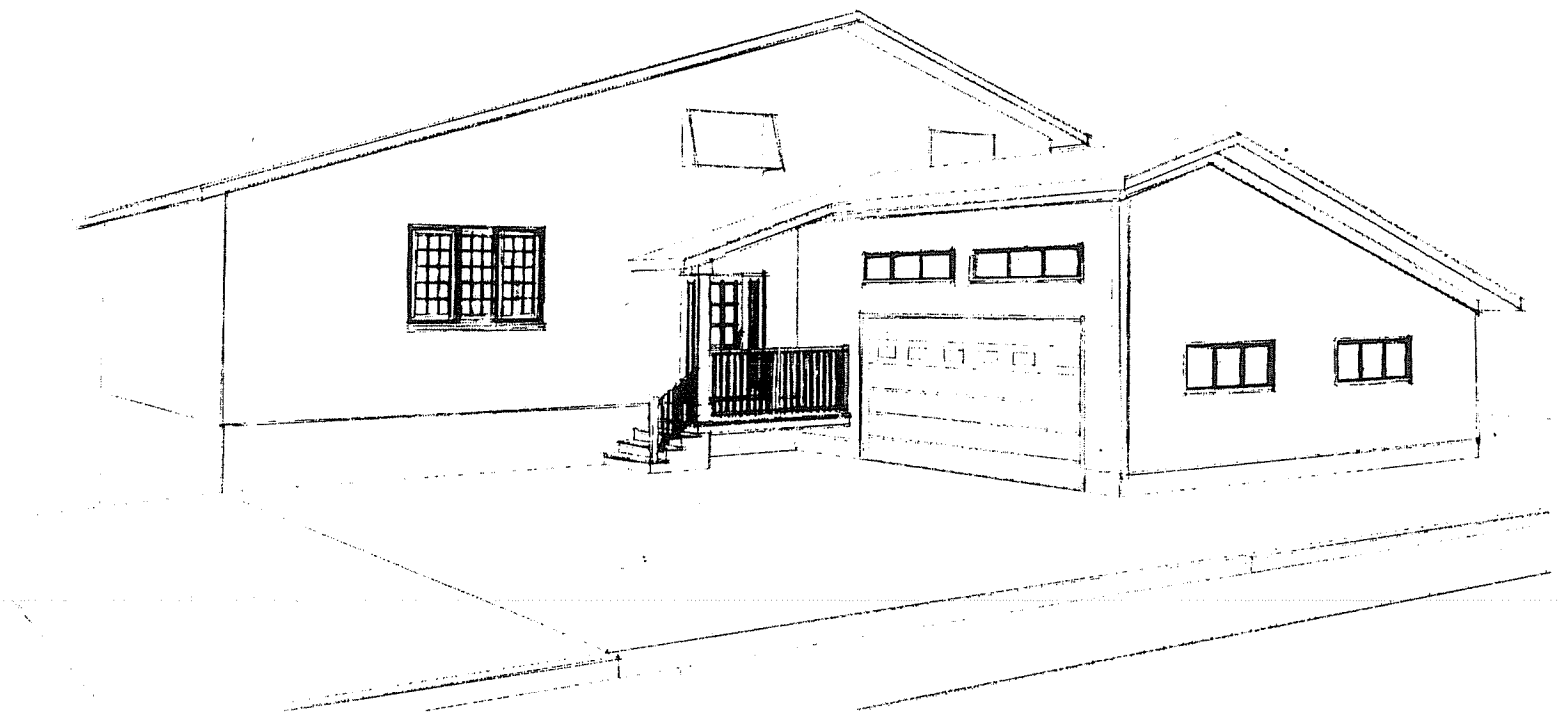


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