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PO Box 1749
Halifax, Nova Scotia
B3J 3A5
Canada

Chebucto Community Council
April 4, 2011

TO: Chair and Members of Chebucto Community Council

SUBMITTED BY:


Trevor Creaser, Development Officer

DATE: March 23, 2011

SUBJECT: Appeal of the Approval of Variance #16746 – 3617 Deal Street, Halifax

ORIGIN

This is an appeal of the Development Officer's decision to approve a variance to reduce the side setback along the front left portion of the existing building for the construction of a three unit addition to the existing single unit dwelling.

RECOMMENDATION

It is recommended that Council uphold the decision of the Development Officer to approve the request for a variance.

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BACKGROUND

The subject property is located at 3617 Deal Street, Halifax and zoned R-2 (General Residential Zone) under the Halifax Peninsula Land Use By-Law, Fairview Secondary Planning Strategy. (Attachment 1). The lot area is approximately 8394 square feet.

The authorized use on the property is a single unit dwelling and the proposal is to construct a three unit addition to the rear of the existing dwelling which would create a four unit dwelling.

An application for the construction of this addition was received by Development Services on December 22, 2010. During the review process by staff, it was determined the use was changing from a single unit dwelling to a four unit dwelling. The setback along the front side corner of the existing building did not meet the required setback of 6 feet for a four unit dwelling as per the requirements of the R-2 Zone . The following table compares the R-2 zone requirements and existing/proposed conditions:

Zone Requirements for Four Unit Building

	Required	Existing
Lot Area	8,000	8,394
Lot Frontage	80 Feet	86.1 (59.7Ft on Deal/26.4Ft-Percy)
Setback (Right)	6	12.8 (Proposed)
Setback (Left)	6	4.7 Feet

A variance application was made on January 26, 2011 for the reduction of the setback from 6 feet to 4.7 feet for a small portion of the building. (Refer to Attachment 2) The variance was approved on February 7, 2011. All property owners within 30 metres were notified of the approved variance and four appeals were filed prior to the expiration of the appeal period. (Refer to Attachment 3)

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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.

(a) Does the Proposed Variance violate the intent of the land use bylaw?

The intent of minimum side yard setback requirement is to provide adequate separation of buildings from adjacent properties. This is necessary to minimize potential conflicts between neighbouring structures and ensure that the buildings can be accessed on their own property for maintenance and repair. There is no proposed change to the location of the existing dwelling and the location of the three unit addition will meet the required setback of 6 feet. The reduction of 1.3 feet to the property line is for a small section of the building to the front left side of the dwelling. It is the opinion of the Development Officer that the reduction of the setback would not *violate the intent of the land use bylaw*.

(b) Is the difficulty experienced general to the properties in the area?

Within the general area, most of the residential lot sizes range between 2,500-6,000 square feet. The lot size of this property is 8394 square feet which meets the lot size requirements of the R-2 Zone for a four unit building. The owner wishes to maintain the location of the existing dwelling as the home is over 50 years of age. It is the opinion of the Development Officer that the *difficulty experienced is not general to properties in the area*.

(c) 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

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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.

COMMUNITY ENGAGEMENT

Community Engagement as described by the Community Engagement Strategy is not applicable to this process. The procedure for public notification is mandated by the *HRM Charter*. If the Variance request is appealed a public hearing is held which is the opportunity for residents (within 30 meters) to speak to staff's recommendation.

ALTERNATIVES

1. Uphold the decision of the Development Officer to approve the application for variance. **This is the recommended alternative.**
2. Overturn the decision of the Development Officer, thereby not permitting the reduction of the setback.

ATTACHMENTS

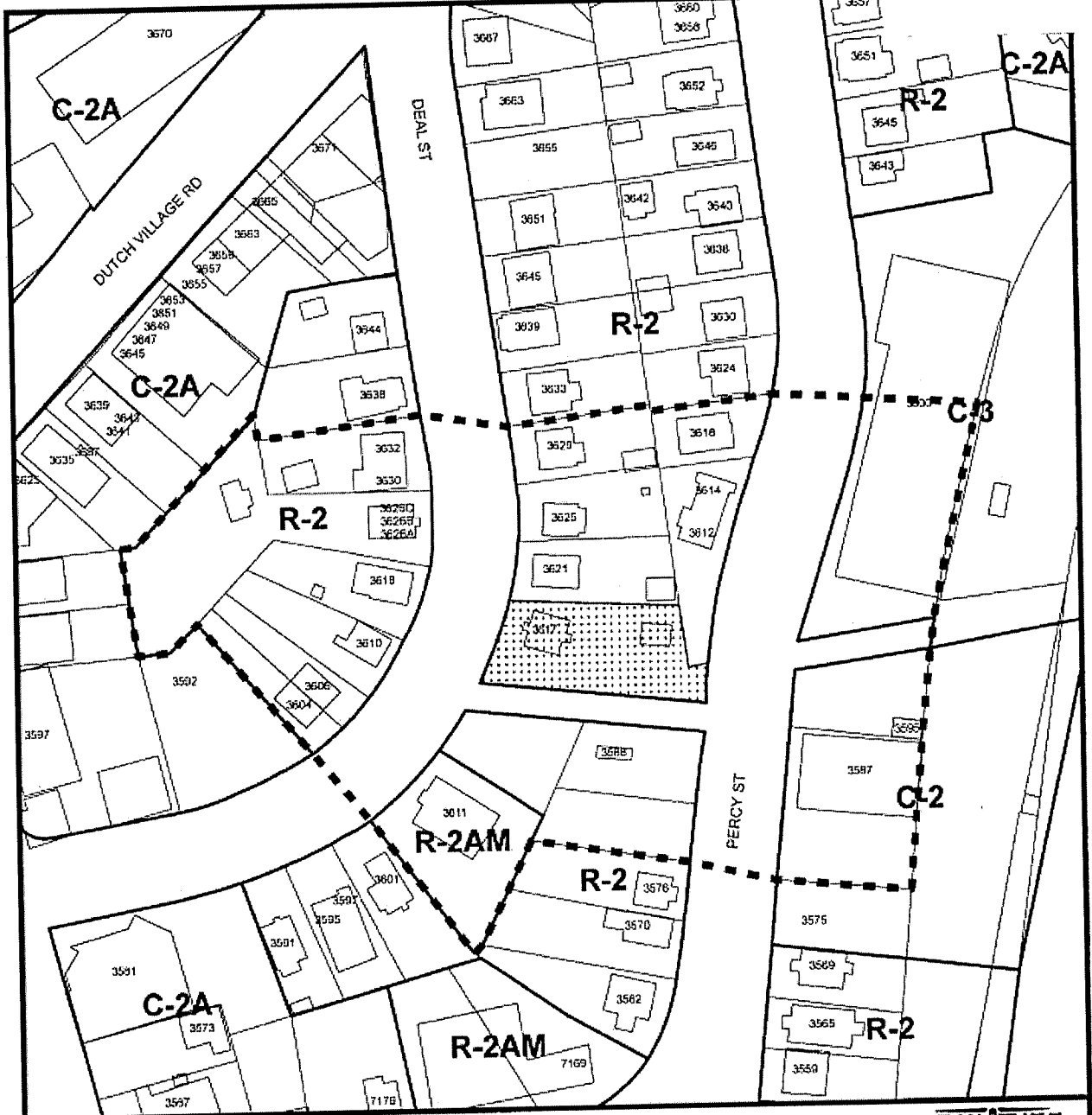
1. Location/ Zoning map
2. Proposed Site Plan and Elevation Drawings
3. Letters of Appeal

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report prepared by: Karen Godwin, 869-4234.

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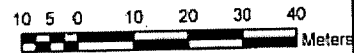
ATTACHMENT 1



Map 1
Notification Area and Zoning

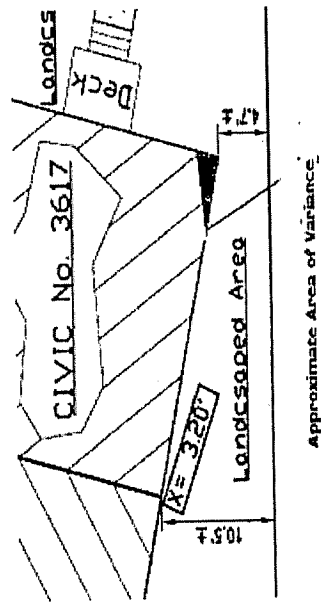
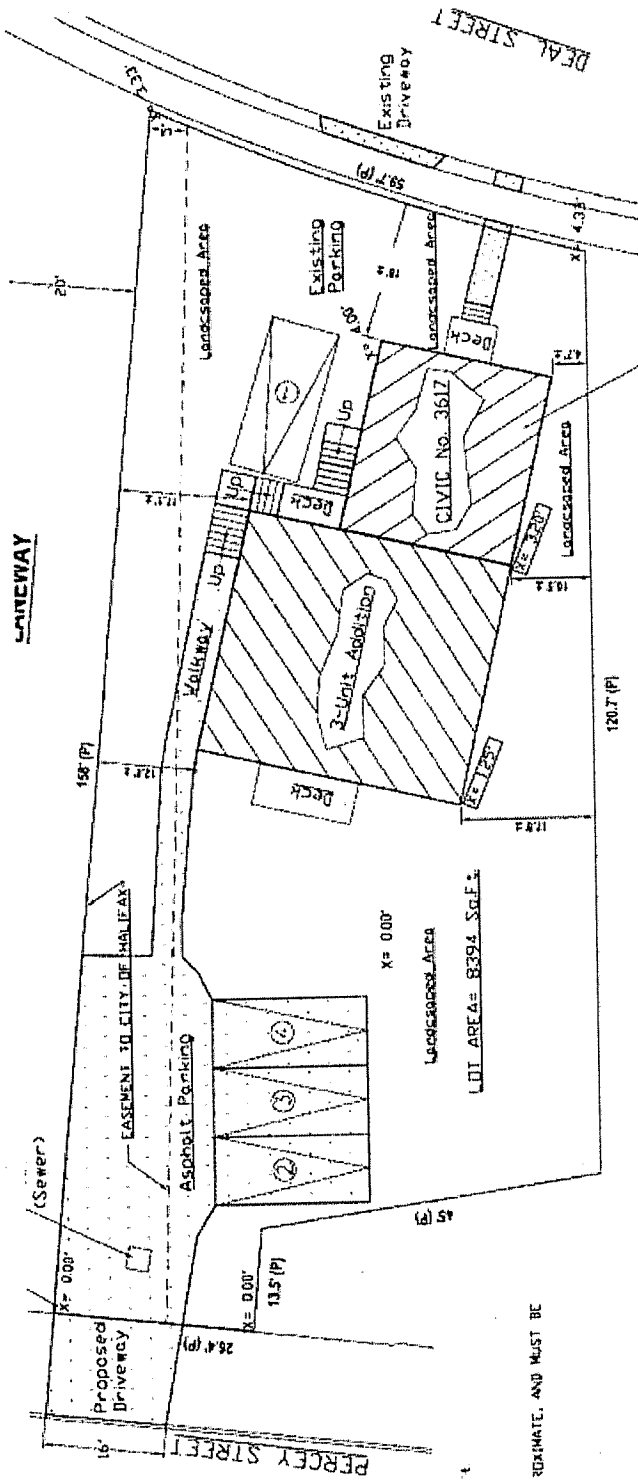
--- Notification Area
 [Dotted Pattern] Subject Area

- R-2 General Residential Zone
- R-2 AM General Residential Conversion Zone
- C-2 General Business Zone
- C-2A Minor Commercial Zone
- C-3 Industrial Zone



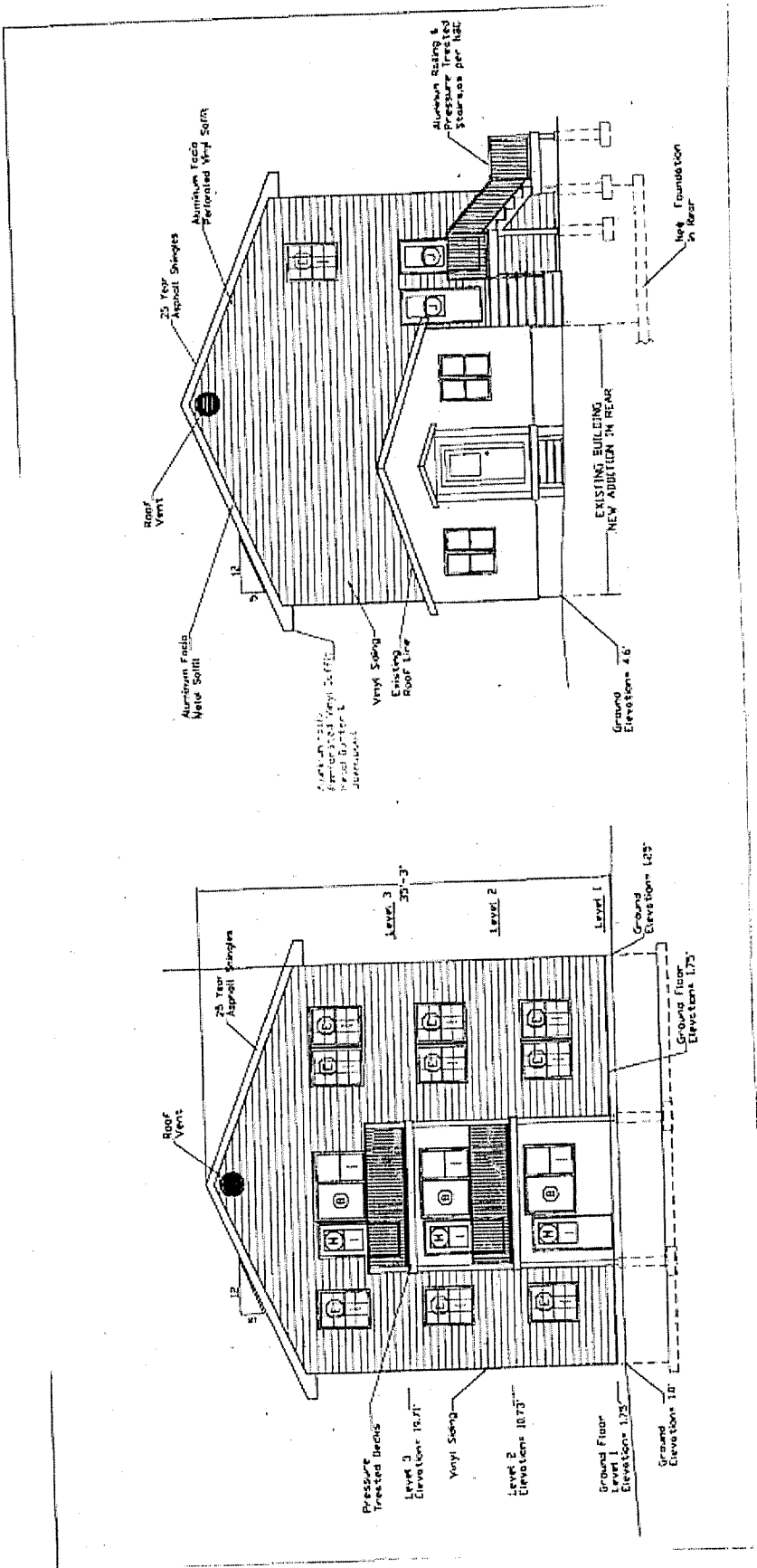
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ATTACHMENT 2



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PROPOSED ELEVATIONS - 3617 DEAL STREET

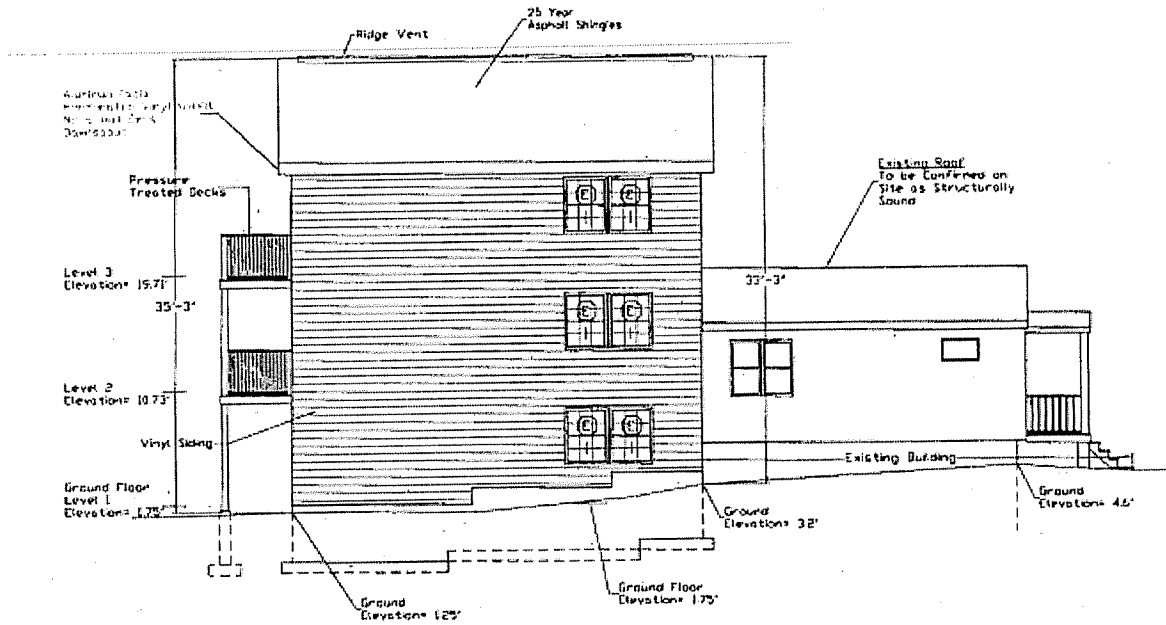


FRONT ELEVATION

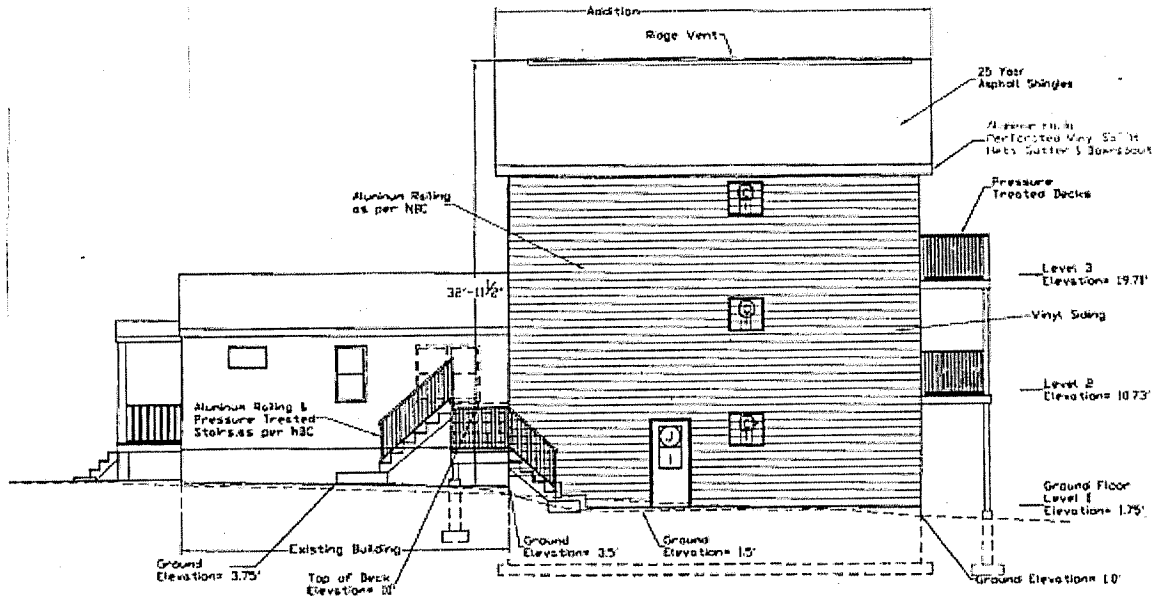
REAR ELEVATION

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PROPOSED ELEVATIONS – 3617 DEAL STREET



LEFT ELEVATION



RIGHT ELEVATION

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ATTACHMENT 3

From: "Darlene Duggan" <[REDACTED]>
To: <creaset@halifax.ca>
Date: 2/18/2011 1:19 PM
Subject: Application for Variance #16746- 3617 Deal Street Halifax

Dear Mr. Creaser:

I am opposed to the proposed 4 unit dwelling to be located on 3617 Deal Street. This street is already too congested with multi-unit dwellings, and the street's planning was not meant for these buildings. The proposal elevation plans I received also do not indicate where parking will be on the property. There are too many cars on this street, and this building could add another 4 - 8 vehicles. Will a driveway be built coming off of Percy Street? Where will they store their garbage? The more multi-unit dwellings the city allows on this street degrades my property value, and devastates the property value of the house next to it. If you allow a multi-unit dwelling on this property, then you must lower my property taxes.

Multi-unit dwellings do not enhance a community, it devalues it. Fairview and Dutch Village Road have become embarrassing to the City of Halifax. The area needs a development plan, and enforced brand identity fitting a growing revitalized community where people want to live, not where they have to live because they can't afford anywhere else. Mashed-together poorly designed buildings with no brand cohesiveness is not how Halifax should be moving forward. When a house is up for sale in residential area, it does not give license to put an apartment. Too many non-owner occupied apartments in a small area, creates an ill community, just look at what has become of Evans Ave, Rufus Avenue and Andrew Street. We have issues with garbage as many of these buildings do not have superintendents. These industrial bins viewable to a street are not aesthetic, they are an eye sore and against the unsightly property by-law. Garbage piles out of them, some have furniture sticking out of them or the garbage is left on the sidewalk. Often garbage is put on the wrong day and it sits there all week, or gets ripped open and strewn across the street and the city by-law offers do nothing. As well, in other cities, buildings do not allow sheets, towels, and newsprint for window treatments. From Joseph Howe Drive and Chater Lane to Deal and Alma Crescent the buildings look slummy. I recently came back from a third world country and was driving down Dutch Village Road, with the cement, garbage bins, mismatched signs, falling down signs, telephone poles leanings, wires hanging, garbage in the gutters, there wasn't much difference between the two. If the city needs money, instead of raising our property taxes, there are other means already in place.

I moved to Fairview hoping the area would get cleaned up, and it's getting worse with, as its nickname indicates "the Hood". If you put in another multi-unit dwelling on Deal street you lower the value of houses on the street and decrease the quality of life with more transient dwellers. This property was meant for an owner occupied dwelling, not an apartment. A little house attached to a massive 3 level apartment building will look ridiculous as well. As stated previously, if a multi-unit dwelling is allowed to be built on this street, then I want my property taxes lowered.

Sincerely,

Darlene Duggan

3629 Deal St.

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From: "O'Driscoll, Karen" <[REDACTED]>
To: <creaset@halifax.ca>
Date: 2/18/2011 1:48 PM
Subject: Appeal to 3617 Deal Street

Dear Mr. Creaser:

I am opposed to the proposed 4 unit dwelling to be located on 3617 Deal Street. This street is already too congested with multi-unit dwellings, and the street's planning was not meant for these buildings. The proposal elevation plans I received also do not indicate where parking will be on the property. There are too many cars on this street, and this building could add another 4 – 8 vehicles. Will a driveway be built coming off of Percy Street? Where will they store their garbage? The more multi-unit dwellings the city allows on this street degrades my property value, and devastates the property value of the house next to it. If you allow a multi-unit dwelling on this property, then you must lower my property taxes.

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I moved to Fairview hoping the area would get cleaned up, and it's getting worse with, as its nickname indicates "the Hood". If you put in another multi-unit dwelling on Deal Street you lower the value of houses on the street and decrease the quality of life with more transient dwellers. This property was meant for an owner occupied dwelling, not an apartment. A little house attached to a massive 3 level apartment building will look ridiculous as well. As stated previously, if a multi-unit dwelling is allowed to be built on this street, then I want my property taxes lowered. Do you need this in hard copy as well as this email?

Sincerely,

Karen O'Driscoll
Business Sales & Services

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02/22/2011 14:42

Re: Application for Variance #16746- #3617 Deal Street, Halifax, Nova Scotia

Dear Mr. Creaser,

I am writing to express my concern over the proposed development at #3617 Deal Street. While I am in no way opposed to the present owner developing the property and creating a four unit dwelling, I am very concerned about the architecture/design of said structure.

In viewing the drawings, it is glaringly obvious that the front elevation is lacking in windows. I live almost directly across the street from #3617 Deal, and if the addition is constructed as per the drawings, I will be looking at a building resembling a warehouse. According to the plans, there is only one small window on the entire Deal Street side of the addition. I realize that the current owner is probably trying to save money by purchasing as few windows as possible (also reducing heating costs), but the resulting appearance of the building is dreadful. The side of the new addition, facing Percy Street, is aesthetically pleasing to the eye and has ample windows and decks. The side facing Deal Street resembles a commercial property and will not only be an eyesore, it will affect the feel of the entire street.

If the present owner would consider building an addition with ample windows on the side facing Deal Street, I would have no objections to the plan. I will enclose the drawing to refresh your memory.

Thank you for your time,

C. Armstrong
Colleen Armstrong

3610 Deal Street
██████████
██████████
██████████

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Municipal Clerk
C/o Trevor Creaser, Development Officer, Halifax Regional Municipality,
Planning and Development- Central Region,
636 Sackville Drive
P.O. Box 1749, Halifax, NS B3J 3A5

24 February 2011

Cindy Babineau
3621 Deal St.

██████████
██████████

Re: Application for Variance #16746 - #3617 Deal St., Halifax, NS

Dear Mr. Creaser,

As per section 251 (1) of the Halifax Regional Municipality Charter, I am a property of owner within 30 meters of the above noted address, and I wish to APPEAL this variance.

Thank you,
Cindy Babineau

RECEIVED
FEB 24 2011