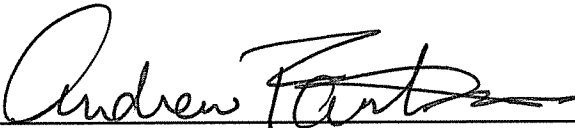




Peninsula Community Council
June 12, 2006

TO: Chairman and Members of Peninsula Community Council

SUBMITTED BY: 
Andrew Faulkner - Development Officer

DATE: June 5, 2006

SUBJECT: Appeal of the Development Officer's decision to approve an application for a Variance - 1212 Blink Bonnie Terrace, Halifax.

STAFF REPORT

ORIGIN

Pursuant to Section 236(3) of the Municipal Government Act any person served notice of a variance may appeal the decision of the Development Officer to the Municipal Council.

This is an appeal of the Development Officer's decision to approve a variance for 1212 Blink Bonnie Terrace, Halifax.

RECOMMENDATION

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

BACKGROUND

The subject property is zoned R-1 (Single Family Zone) under the Halifax Peninsula Land-Use Bylaw. The property currently contains a single unit dwelling and the applicant has proposed to enclose and expand the existing front porch and build uncovered front steps into the front yard setback. .

The expansion and enclosure of the front porch met the requirements of the bylaw; a variance would be required to permit the uncovered steps to project into the front yard.

The property owners applied for the required variance and the application was approved by the Development Officer. Notification in accordance with the Municipal Government Act was sent to the surrounding affected property owners. Staff received one appeal of the approval. A copy of the appeal letter is attached.

DISCUSSION

The *Municipal Government Act* sets out the guidelines under which the Development Officer may not 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 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 bylaw requirement at issue is that of minimum front yard setback. By applying minimum front yard requirements, the bylaw intends to provide adequate building separation to maintain access, safety and privacy. The main wall of the proposed building would be located at the same setbacks as the existing (13.7'), the only structure that would project into the front yard are the steps which would go to 10'. Staff do not consider that the proposal represents a level of departure from the intent of the bylaw that justifies refusal on this basis alone.

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

There are a number of other properties in the community with stairs built into the front yard setback at approximately the same setback as that proposed. These properties would have the ability to rebuild these stairs as of right; this option is not available to the applicants as their original stairs did not project to the same extent into the front yard.

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

The applicant has entered into the application process in good faith and no construction requiring permits has been undertaken. There has been no intentional disregard of land use bylaw requirements.

In summary, staff carefully reviewed all the relevant information in this case. As a result of that review, the variance was approved as it was seen to be reasonable and not contrary to the provisions of the MGA.

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.

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.

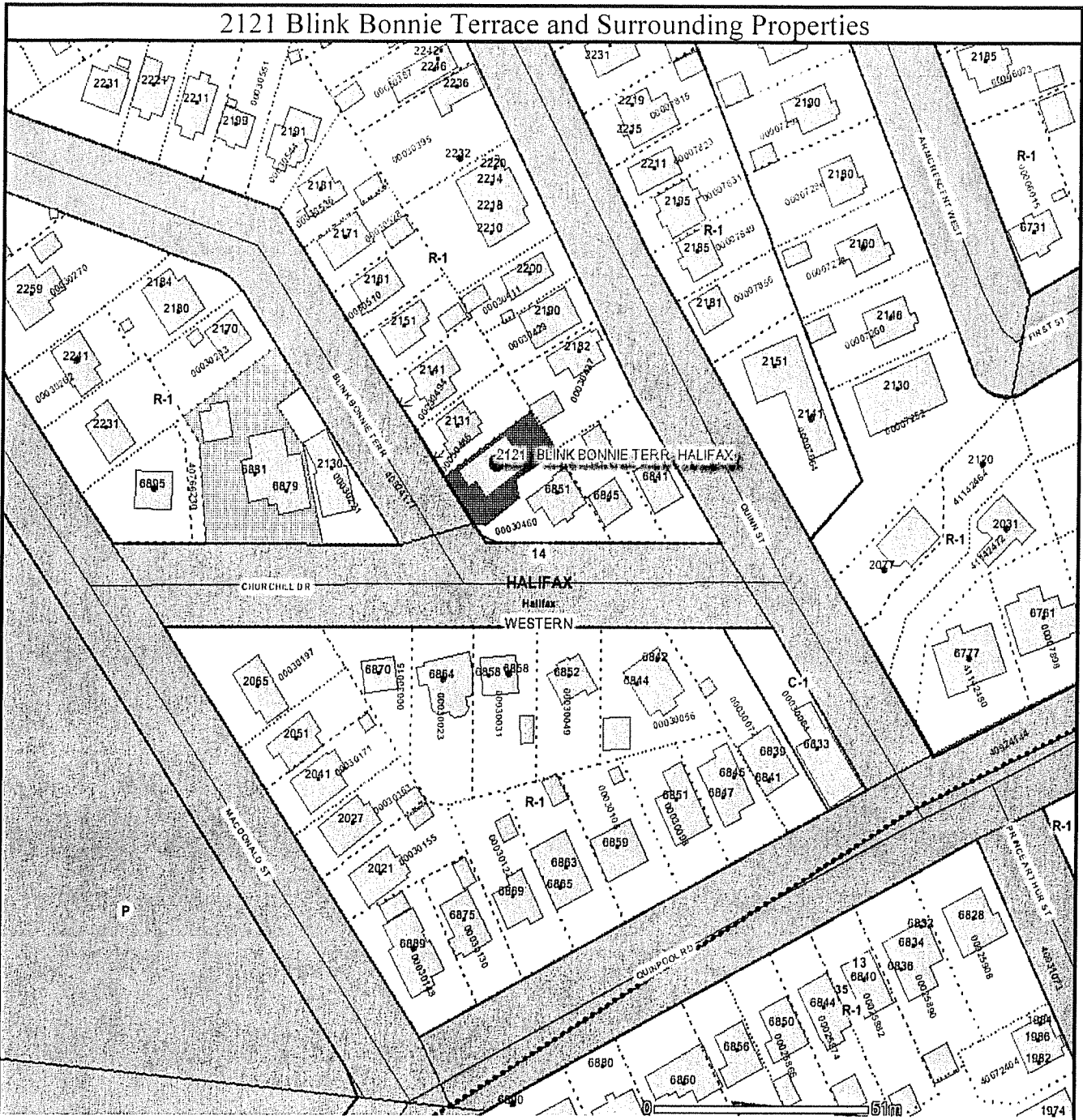
ATTACHMENTS

1. Location Plan
2. Approval letter with site plan.
3. Appeal letter

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: Leticia Smillie - Development Technician (490-4046)



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.

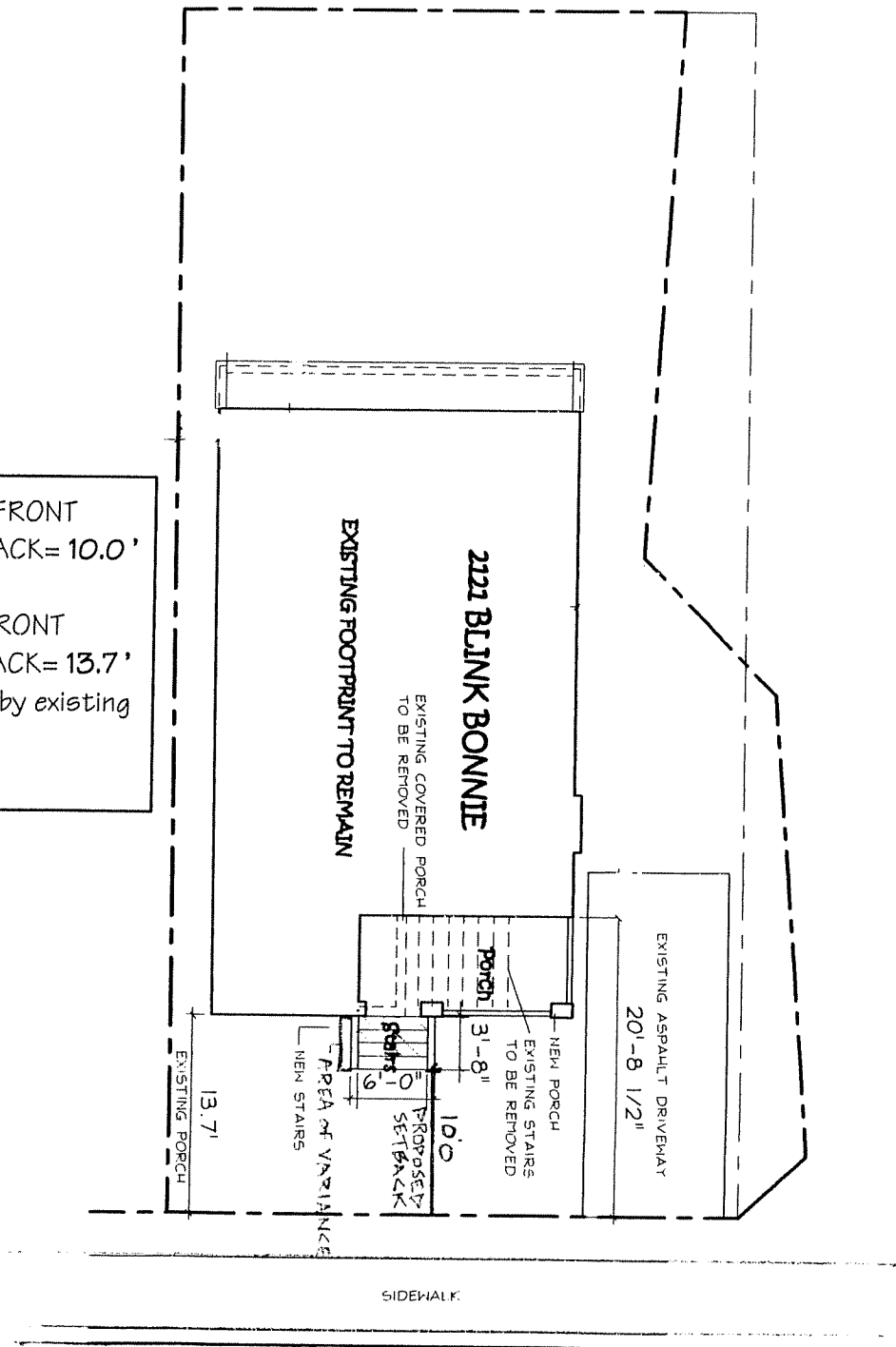
DATE: May 11, 2006

SUBJECT: Case No. 12894 - Variance at 2121 Blink Bonnie Terrace, Halifax

SITE PLAN

PROPOSED FRONT
YARD SETBACK= 10.0'

REQUIRED FRONT
YARD SETBACK= 13.7'
(established by existing
house).



BLINK BONNIE TERRACE

HALIFAX
REGIONAL MUNICIPALITY

May 11, 2006

Dear Assessed Owner:

Re: Case No. 12894 - Variance at 2121 Blink Bonnie Terrace, Halifax

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: 2121 Blink Bonnie Terrace
Project proposal: Reconfiguration and expansion of front porch
Required: 13.7 foot front yard setback (existing).
Approved: 10.0' foot front yard setback, for uncovered steps only.

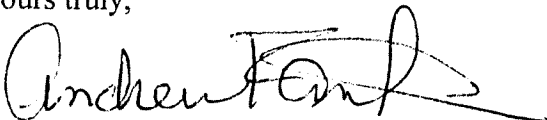
Pursuant to Section 236 of the Municipal Government Act, assessed property owners within 30 meters of the above noted address are notified of this variance. If you wish to appeal, please do so in writing, on or before *May 29, 2006*, and address your appeal to:

**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.**

PLEASE NOTE THAT THIS DOES NOT PRECLUDE FURTHER CONSTRUCTION ON THIS PROPERTY, THAT WOULD MEET THE REQUIREMENTS OF THE LAND USE BYLAW.

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

Yours truly,



Andrew Faulkner, Development Officer
Halifax Regional Municipality

copy to: Jan Gibson, Municipal Clerk
Councillor Sheila Fougere

From: "Miller, Valerie (Calgary)" >
To: <smillil@halifax.ca>
Date: 6/2/06 11:46am
Subject: 2121 Blink Bonnie Terrace variance

Hi Leticia;

I have been trying to get your email address to send formal concern for the emergency access to my back yard door with the 2121 Blink Bonnie Terrace addition.

The cement wall they are building as part of the variance for their front deck extension completely blocks access from the street to my back door and vice versa. My parents stay at my home for long periods and my father has health problems (stroke history) that requires ambulance and stretcher access to the house. The front door has many stairs and in case of fire we need two clear paths I have been advised by safety officials. I don't understand how you can approve a variance that causes such a safety risk to the adjacent property. If this has been approved could you advise who I can appeal this with as I have been advised that for the reasons I mentioned there is recourse for home owners.

Thank you,
Valerie

Valerie J. Miller