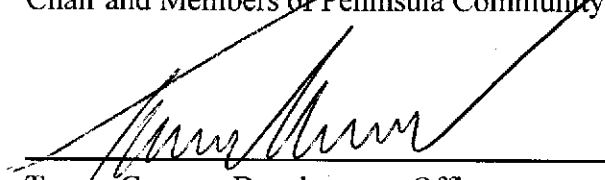


Peninsula Community Council
September 13, 2010

TO: Chair and Members of Peninsula Community Council

SUBMITTED BY: 
Trevor Creaser, Development Officer

DATE: September 3, 2010

SUBJECT: Appeal of the Development Officer's Decision to Approve an Application for a
Variance - Civic #1545 Henry Street, Halifax

ORIGIN

This reports deals with an appeal of the Development Officer's decision to approve a variance from the gross floor area (GFA) requirements of the Halifax Peninsula Land Use By-law to permit the construction of an addition to the existing single unit dwelling.

RECOMMENDATION

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

BACKGROUND

The subject property is zoned R-2 (General Residential Zone), Peninsula Centre under the Halifax Peninsula Land Use By-Law. Refer to Attachment #1.

The property is 3200 square feet in area. Section 26D of the Land Use By-Law requires a lot under 3,500 square feet to have a Floor Area Ratio of 0.75, in this case, a the maximum permitted GFA is 2400 square feet. The existing house has a gross floor area of 2660 sqft. The proposal is to renovate and construct an addition to the rear of the existing single unit dwelling to increase the floor area for the family room (grade level); kitchen (main floor) and a bedroom (2nd floor). This will increase the footprint of the building 113 sqft and create an additional 640 sqft. of floor area. Refer to Attachment #2 and #3.

An application for a variance was made on July 22, 2010 requesting a variance to increase gross floor area to a maximum of 3301 square feet. The variance was approved by the Development Officer on August 13, 2010.

All property owners within 30 metres were notified of the approved variance and two appeals received from the owners of 1560 Henry Street and 1549 Henry Street. Refer to Attachment #4.

DISCUSSION

The *Halifax Regional Municipality 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 if:

- (a) the variance violates the intent of the development agreement or land use bylaw;*
- (b) the difficulty experienced is general to properties in the area;*
- (c) the difficulty experienced results from the intentional disregard for the requirements of the development agreement or land-use by-law."*

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 by-law?

The GFAR requirements were adopted to achieve two objectives:

Firstly, to limit the size of dwellings which could be converted to create an excessive number of bedrooms.

The layout and design of this dwelling indicates that this building will be used a single unit dwelling and is not an issue with this application.

Secondly, to prohibit large houses that are out of scale with the neighborhood.

The addition proposed would increase the footprint by 113 square feet and would not impact the size and scale of the building from the street, keeping the building in proportion to other houses in the area. It is the opinion of the Development Officer that the proposed changes to this existing single unit dwelling are in keeping with the intent of the GFA requirements and character of the neighbourhood.

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

Although the lot sizes in the neighborhood are generally similar but the existing houses do range in gross floor area and configuration. There is no consistency within the neighborhood in terms of GFA and therefore the difficulty is not general to the area.

Is the difficulty the result of intention disregard for the requirements of the land use by-law?

Intentional disregard is not a consideration.

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 recommendation.
2. Council could overturn the decision of the Development Officer and refuse the variance.

ATTACHMENTS

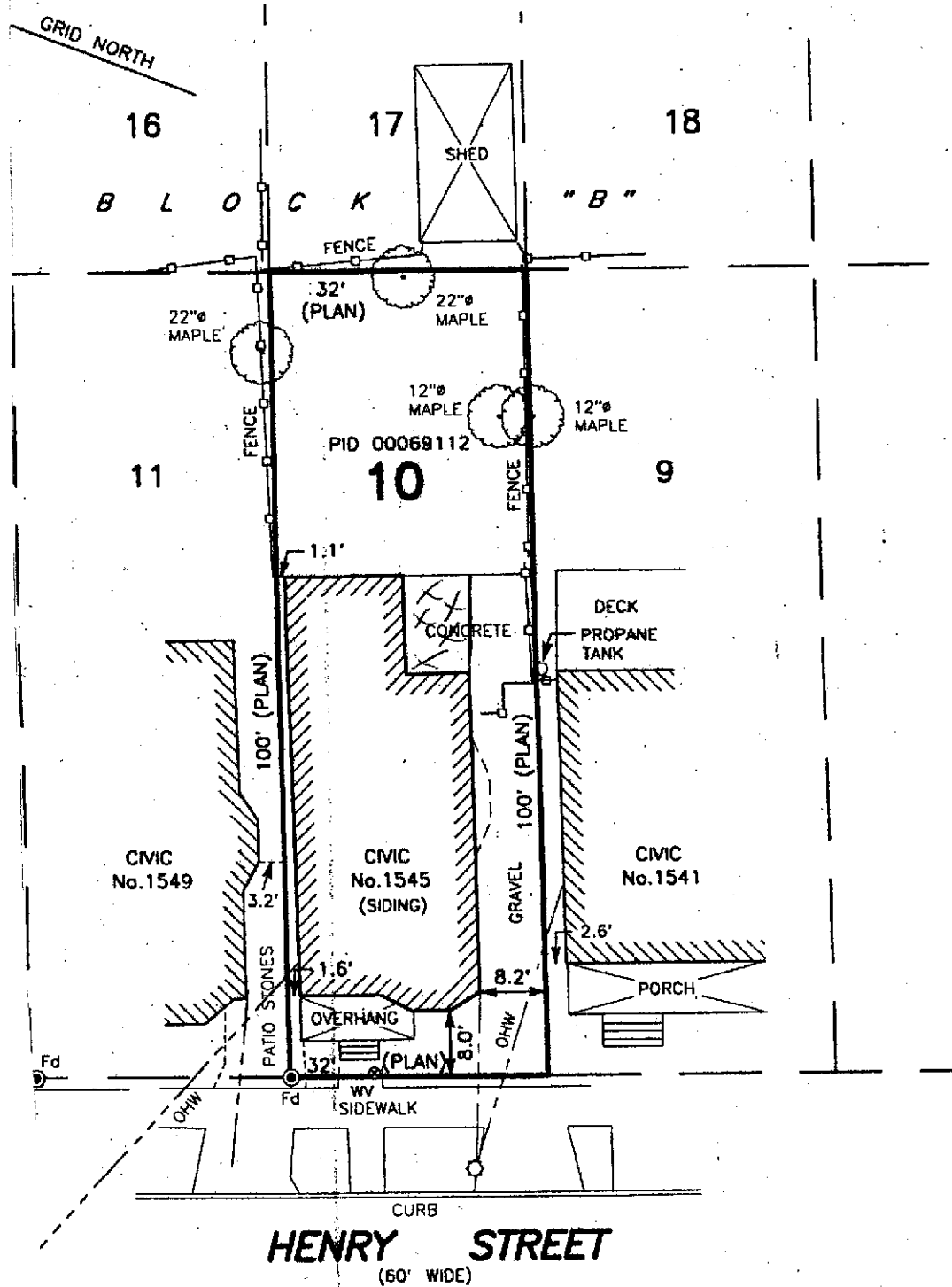
1. Area Map
2. Site Plan
3. Variance Refusal Letter
4. Appellant's Letter

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: Trevor Creaser, 869-4235.

ATTACHMENT 1



ATTACHMENT 2



lumber

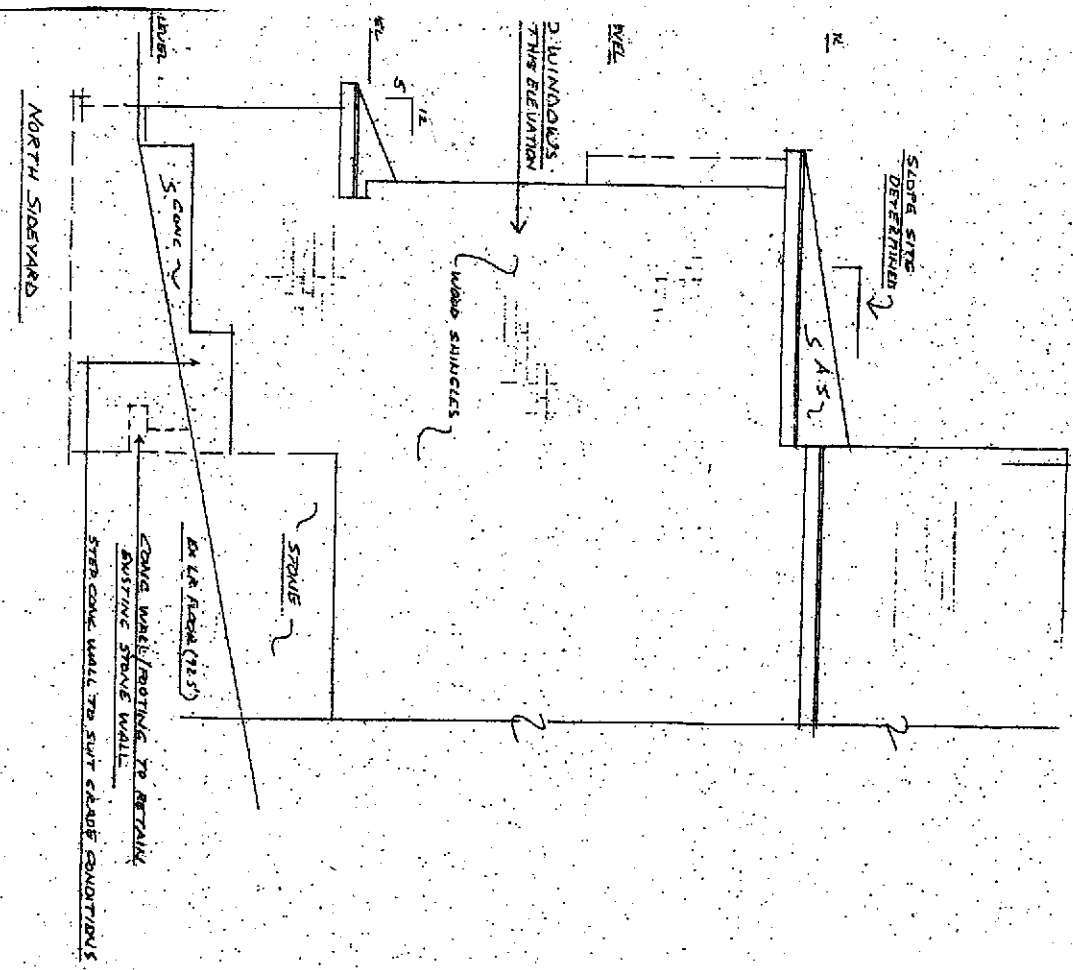
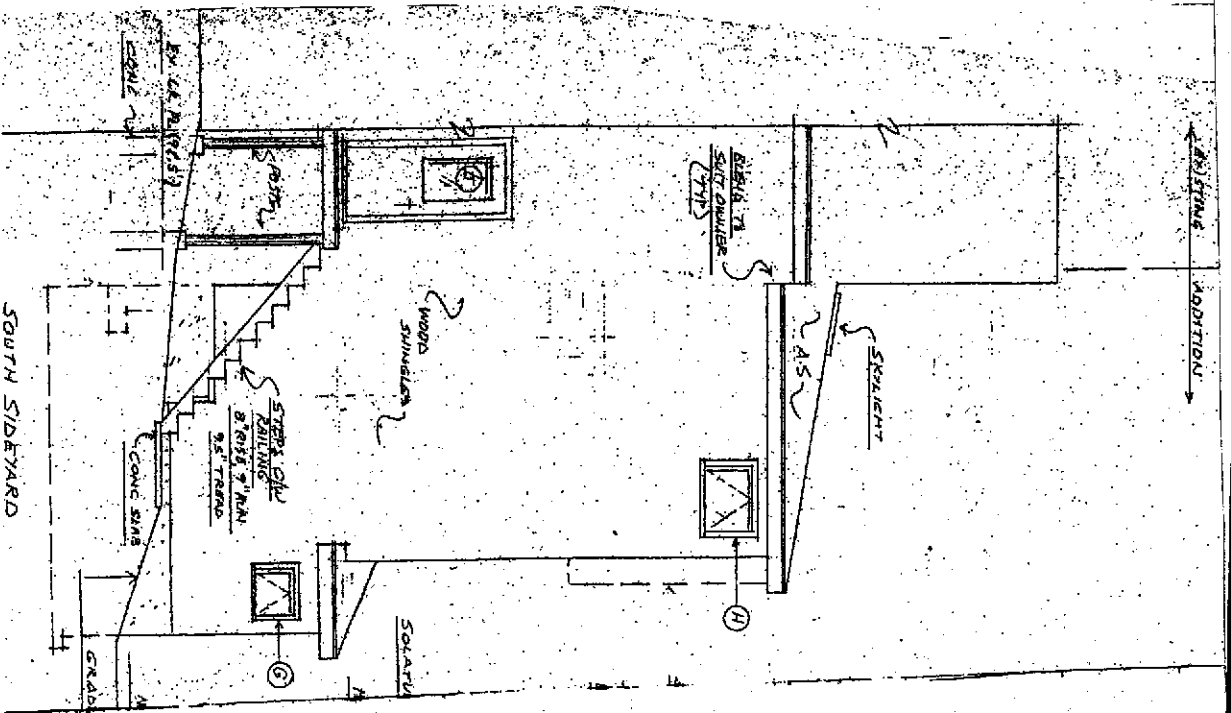
DATE:

August 13, 201

SUBJECT:

Development Officer's decision to approve an application for a variance - 1545 Henry Street. The applicant is proposing to vary Gross Floor Area to allow for a three storey addition in the rear yard.

ELEVATIONS



ATTACHMENT 4

FAX: 902-8694254

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

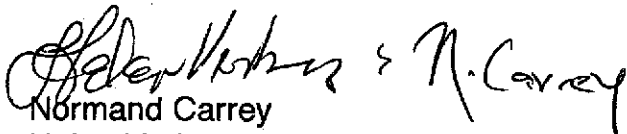
Dear Trevor Creaser:

RE: Variance Application #16338 - #1545 Henry Street, Halifax, NS

We, Normand Carrey and Helen Verbanz of 1560 Henry Street appeal the variance Application #16338 - #1545 Henry Street, Halifax, NS. We oppose the project proposal: Vary Gross Floor Area to allow for a three story rear addition.

The proposal of 3301.25 square feet does not fit in with the average lot sizes of each building in the immediate neighbourhood on this street.

Yours truly,


Normand Carrey
Helen Verbanz

cc: Cathy Mellett, Municipal Clerk
Councillor S. Uteck - District 13

August 23, 2010

Trevor Creaser
Development Officer, Halifax Regional Municipality
Planning and Development – Central Region
636 Sackville Drive
PO Box 1749
Halifax, NS B3J 3A5

Dear Mr. Creaser:

Re: Variance Application #16338 – 1545 Henry Street, Halifax, NS

On August 17, 2010 we received your letter regarding the above mentioned variance application. We wish to appeal this application.

We reside at 1549 Henry Street which is directly next door (north side) to this property. The land utilization rate in this neighbourhood is high. The lots are small and the houses are very close together. In fact the distance between the north wall of 1545 and the south wall of our home at 1549 is a mere 82 inches. We have enclosed photos so you may clearly understand our dilemma. There are descriptions on the back of each of the photos.

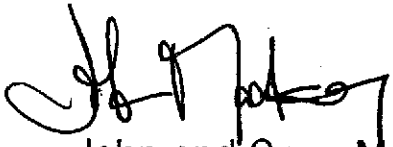
1. The 3 storey rear addition would increase the footprint of this home. It is significant given the size of the houses in the neighbourhood. Not only would this set a precedent but it doesn't respect the fabric of the neighbourhood. An addition of this size on the south side of our home and would directly block the sunlight entering our kitchen, sitting room and impede the sunlight which we currently get in our backyard. This will have a direct impact on the value of our home.
2. We have a big, beautiful maple tree in our backyard. The branches span over 4 backyards including 1545 Henry St. It is difficult to see how the planned addition can proceed without impacting this tree. This tree adds a great deal of charm, beauty and privacy not just to our yard but to the neighbours as well. Once again, destruction of this tree will certainly impact the value of our property.
3. Finally, we believe the addition of 901.25 square feet (adding one third of the existing square footage) will make this house grow to a

size that is incompatible with the neighbouring houses. It will certainly exceed the gross floor ratio which must be in place to serve a purpose of some sort.

We have lived in our home for 15 years and love our neighbourhood. We appreciate and understand the new owners desire to improve their home but would hope that it would not come at the expense of their new neighbours (emotionally and financially). We invite you to come and survey this situation.

Thank you for your consideration.

Yours truly,



John and Gwyn Mackay
Homeowners
1549 Henry Street
Halifax, NS B3H 3K1

cc Councillor S. Uteck -District 13