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Peninsula Community Council
January 11, 2010

TO: Chairman and Members of Peninsula Community Council

SUBMITTED BY: Andrew Faulkner
Andrew Faulkner - Development Officer

DATE: January 5, 2010

SUBJECT: Appeal of the Development Officer's decision to approve an application for a Variance - 6331 Norwood St, Halifax

ORIGIN

This report deals with an appeal of the Development Officer's decision to approve a variance from the lot coverage and gross floor area (GFA) requirements of the Halifax Peninsula Land Use By-law to permit several additions to the single unit dwelling.

RECOMMENDATION

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

BACKGROUND

The subject property is located at 6331 Norwood St in Halifax (see location plan - Attachment 1). The property is zoned R-2 (General Residential) Peninsula Centre secondary plan under the Halifax Peninsula Land Use By-law. The current use is a single unit dwelling.

The approved variances for GFA and lot coverage are as follows:

- Required Lot Coverage: 35%
- Existing Lot Coverage: 38.5%
- Approved Variance: 42%
- Required Gross Floor Area Requirement: 2475 square feet
- Previously varied Gross Floor Area Requirement: 2740 square feet
- Approved Variance: 3245 square feet

On December 14, 2005 a variance for the GFA requirements was issued to allow for an addition to the dwelling. The addition was a 133 square foot, one storey (with basement) rear addition.

The current application is for several additions(see site plan and proposed front elevation - Attachment 2): a second storey addition over the existing first floor (this will have no impact on the lot coverage - GFA only), a right side addition (25 square feet), and 2 additions to the front (22 square feet and 49 square feet with a 12.5 square foot covered entry).

The second storey addition is to allow for a larger master bedroom, the right side 2 storey addition consists of additional closet space on both floors. One front addition allows for slightly larger rooms on the first and second floor, while the other is for an enclosed entry.

Although not required by the Land Use Bylaw the proposed renovation includes architectural upgrades to the facade of the dwelling.

DISCUSSION

The *HRM 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 intent of the Gross Floor Area (GFA) is twofold: 1) to prevent large additions with multiple bedrooms, (“quasi-rooming houses”) and 2) to prohibit large houses that are out of scale with the neighbourhood. Staff believe the design of this home would make it difficult to convert to a rooming house therefore that is not a consideration in this application. In regards to building mass, the proposal is similar to dwellings in the neighbourhood. To permit the variance would be consistent with the intent of the land use bylaw.

Lot coverage limits the percentage of lot that can be built on. This allows for a sufficient mix of building footprint and open area, which may consist of green space. The majority of lots in the surrounding neighbourhood exceed the permitted lot coverage of 35%. The proposal is in keeping with the existing lot coverage of lots of a similar size.

In consideration of the above the Development Officer believes the proposed variance does not violate the intent of the land use by-law.

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

The size of many of the existing homes in the immediate neighbourhood exceed both GFA and lot coverage requirements. The applicant is proposing to construct a building envelope that is reasonably consistent with the size of other homes the neighbourhood.

The difficulty experienced is not general to properties in the area.

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

As no construction has occurred at this site, intentional disregard is not a consideration in approving this variance.

With regards to Mr. Campbell’s appeal letter dated November 29, 2009 (see attachment 3). The nature of the appeal surrounds the addition to the right side of the dwelling, resulting in a projection 2.5 feet wide X 10 long resulting in a 2 foot setback from the property line.

The appellant lists several concerns with the proximity of the addition to the side property line. However a variance is not required here because the rear of the dwelling has a nonconforming setback of 0 feet. As per the HRM Charter, a nonconforming structure can be enlarged if the addition does not further reduce the setback. This means that any proposed addition to this side of the dwelling is entitled to a nonconforming setback of 0 feet.

With respect to the drainage issue, HRM Building Inspection has advised that any addition must provide proper drainage.

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

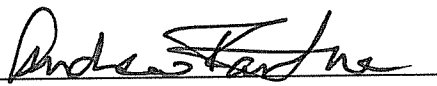
1. Council could uphold the decision of the Development Officer to approve the variance. This is staff's recommended alternative.
2. Council could overturn the decision of the Development Officer and refuse the variance.

ATTACHMENTS

1. Location Map
2. Site Plan/Front Elevation
3. Appeal Letter

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

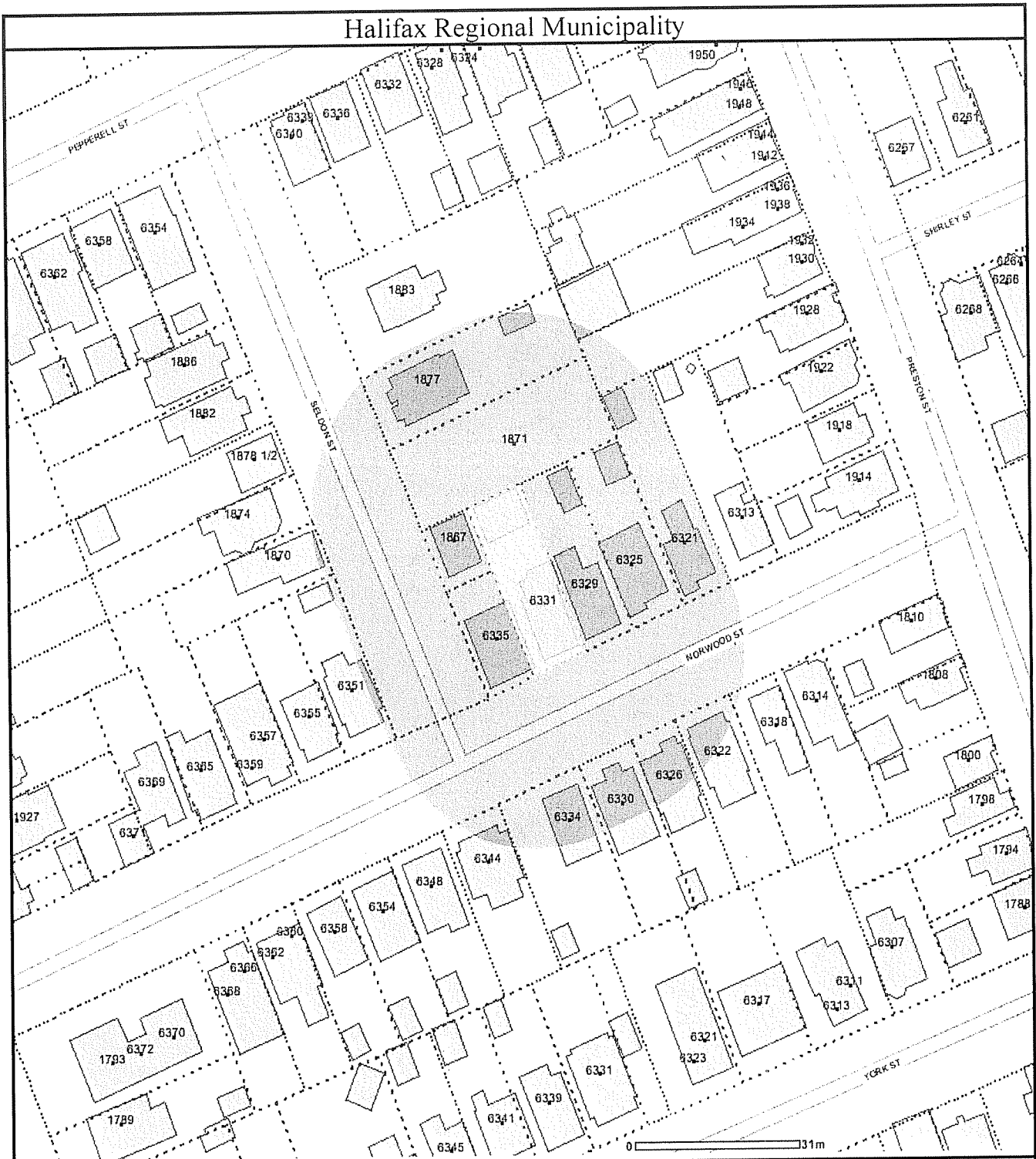
Report Prepared by : 
Mike Cowper - Development Technician (490-7455)

Report Approved by: 
Andrew Faulkner - Development Officer (490-4402)

DATE: January 5, 2010

SUBJECT: Development Officer's decision to approve an application for a variance - 6331 Norwood St. The applicant is proposing to vary Gross Floor Area and Lot Coverage for an addition to a single unit dwelling. The variance is for the several additions on the front and right side.

ATTACHMENT 1 - LOCATION PLAN

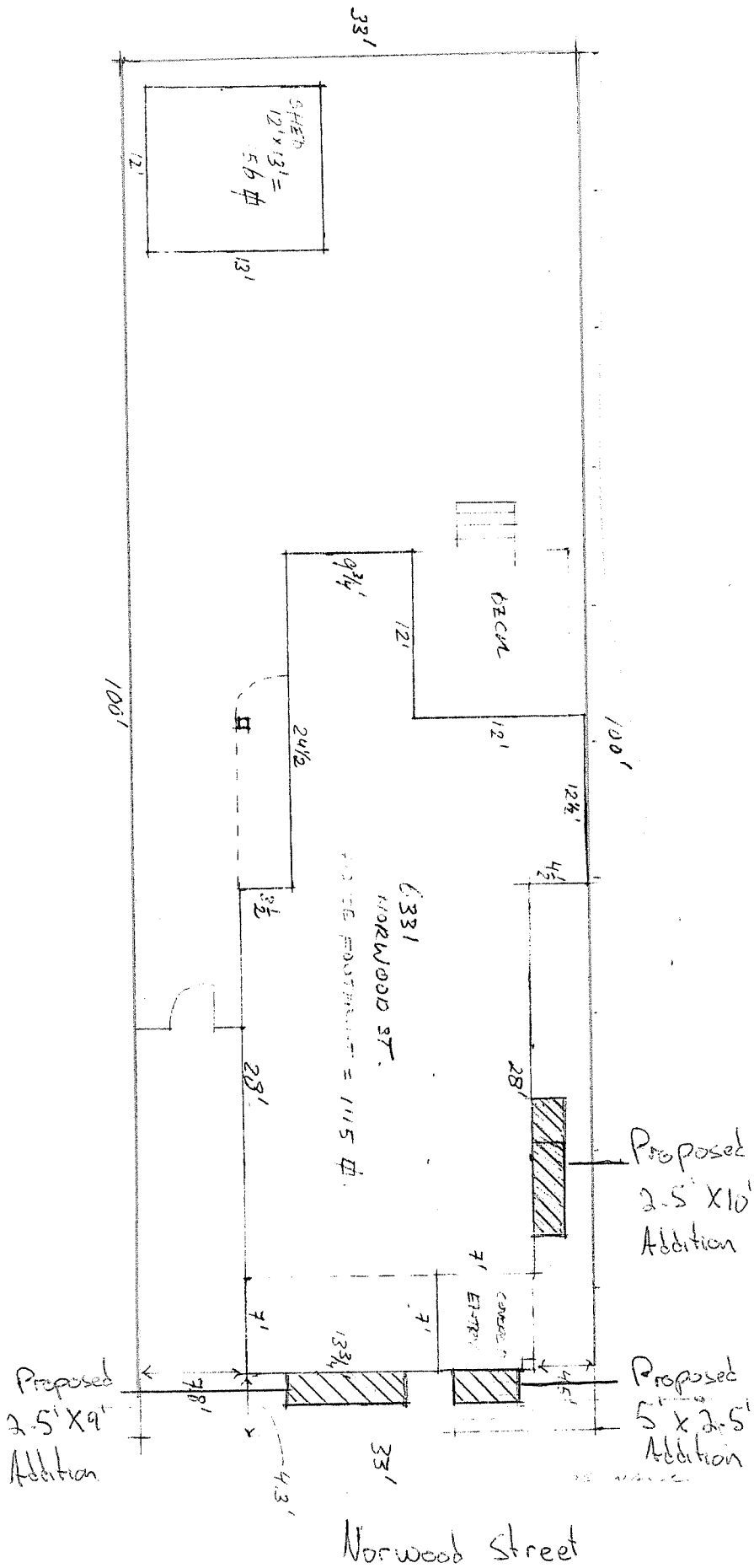


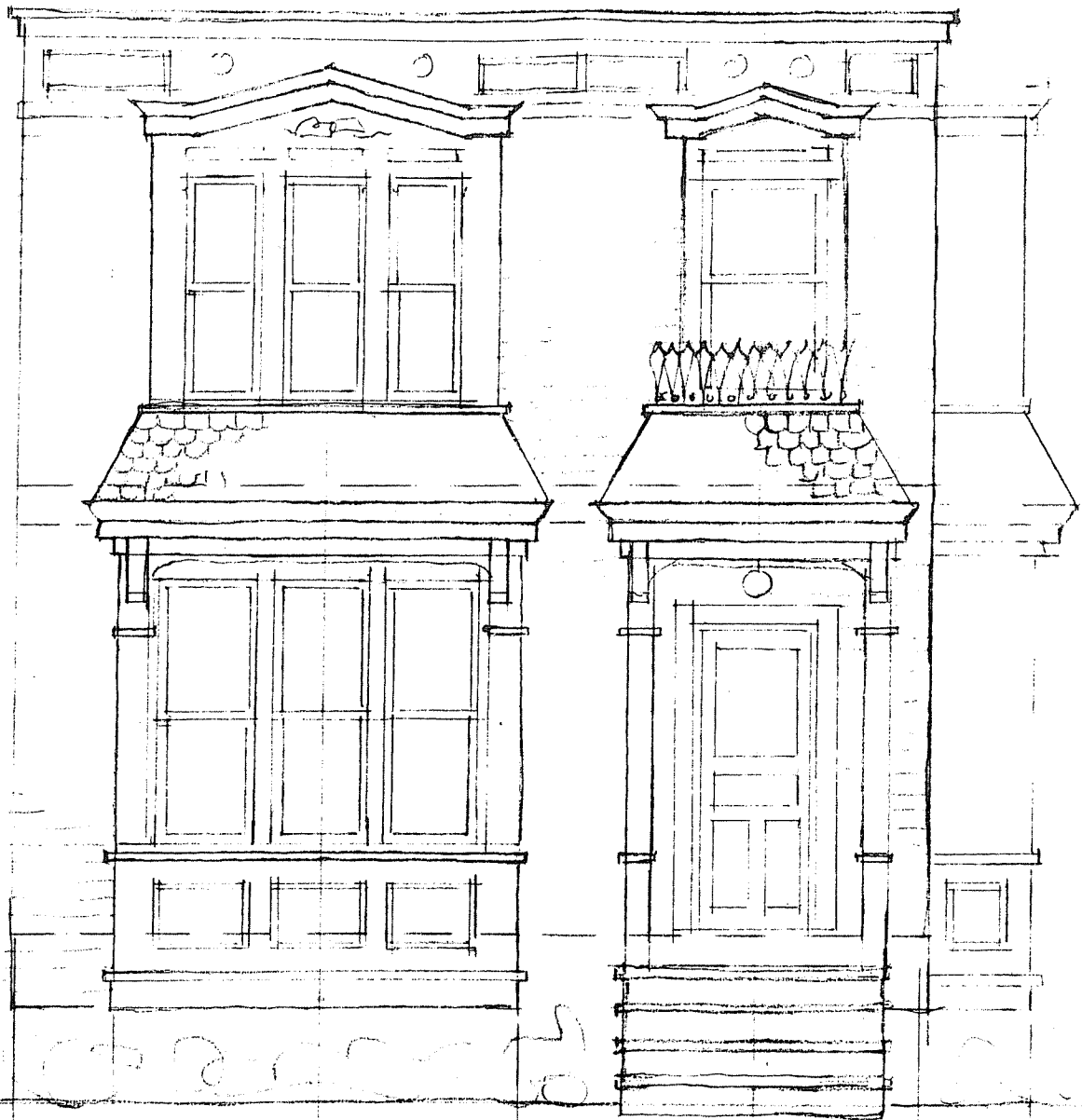
This map was prepared for the internal use of Halifax Regional Municipality(HRM) HRM takes no responsibility for errors or omissions For further information on Street Name or Community(GSA) data please contact HRM Civic Addressing at 490-5347 or email civicadd@halifax.ca Date of map is not indicative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

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ATTACHMENT 2 - SITE PLAN/BUILDING ELEVATIONS (3 PAGES)

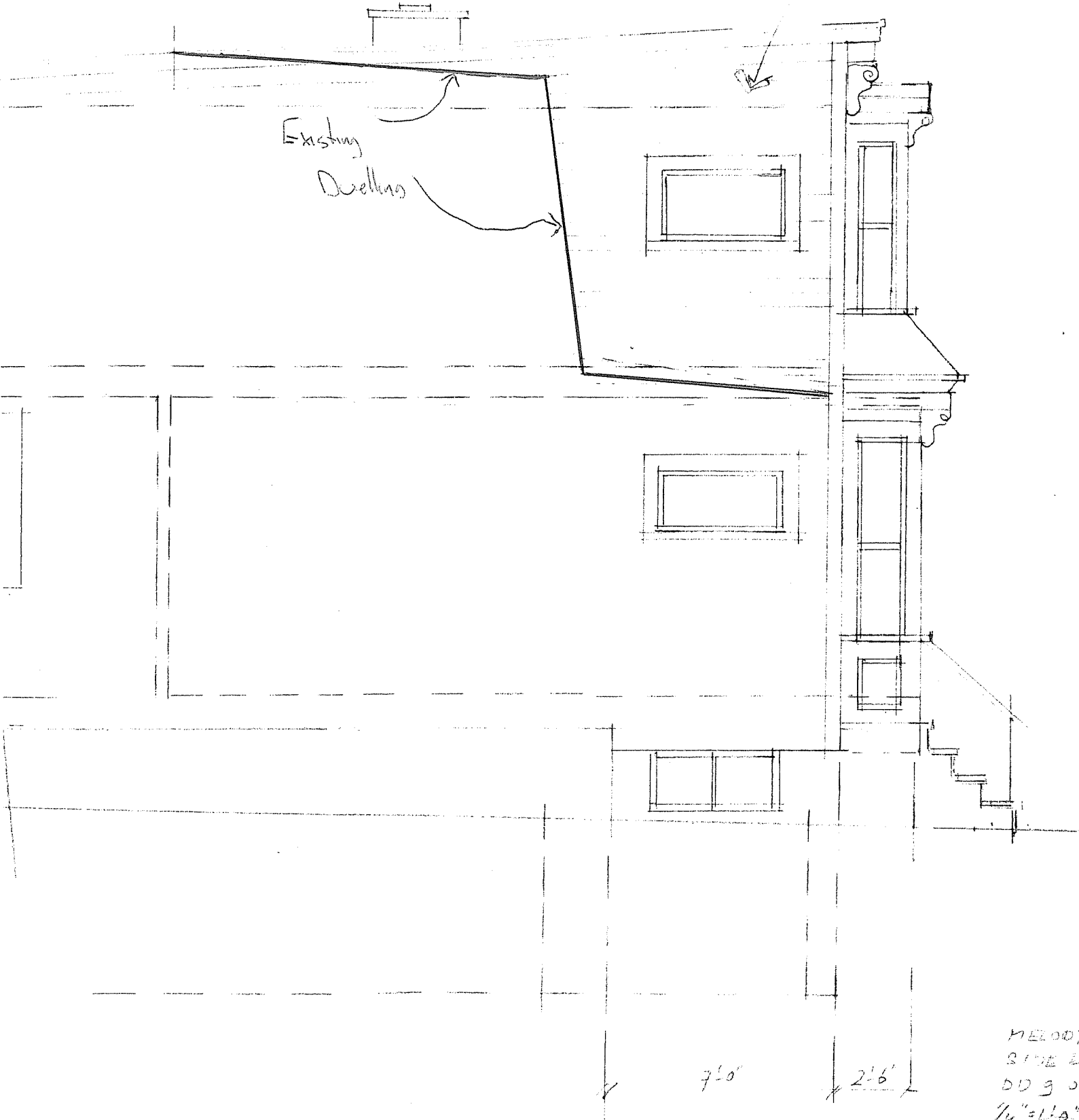




2'-6" / 9'-0" / 2'-6" / 5'-0" / 1'-6" / 20'-9" 1/2

HOUSE
ADDITION

Existing
Dwelling



MEZODY
SIDE E
DD 3 01
1/4" = 1'-0"

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ATTACHMENT 3 - APPEAL LETTER (3 PAGES)

Stephen Campbell, P Eng. LEED AP
6329 Norwood St., Halifax, Nova Scotia, B3H 2K9

Municipal Clerk
c/o Andrew Faulkner, Development Officer
Halifax Regional Municipality
Community Development – Western Region
6960 Mumford Road – West End Mall
P.O. Box 1749, Halifax, NS B3J 3A5

November 29, 2009

Dear Andrew:

RE: Variance #15683 – 6331 Norwood St – Halifax

My wife, Nancy Colpitts, is the owner of 6329 Norwood St. and my two daughters, my wife and I reside there. Our home abuts 6331 Norwood St., which is the subject of the Notification of Variance sent out under your signature dated November 9, 2009. We wish to note that the letter we received had a hand written extension of the deadline for Appeal revised to be Nov. 30, 2009. We attach a copy of that letter to confirm that extension.

We have a good relationship with our neighbors, Paul Tomcik and Melodie Cale, and have had continuing discussions with them about their various renovations. But with this variance we feel the need to register an official appeal, so please accept this, in good faith and as an amicable but official appeal.

I spoke with Mike Cowper on November 17, 2009 and asked for additional information, to that which was attached to the Notice of Variance. In particular, I asked for a plan view of Paul & Melodie's proposed additions. I note that the variance is based on a further increase in the lot coverage over the maximum by-right coverage of 35%.

Mike was very prompt in his reply and faxed the attached plan the same day. I have marked up that plan to indicate our particular concern related to the increase in lot coverage, along the west wall, creates some very serious issues for us.

As you are, probably, aware the lots in this area of the city are in extremely close proximity to each other. On the side, which abuts 6331 Norwood, and is the subject of our Appeal, the proposed increase in lot coverage will result in a number of issues which will significantly affect our property and our ability to carry out certain planned improvements to, and necessary maintenance of our property in the future.

Specifically we have four valid concerns, as follows:

1/ Some years ago we had to replace the aging oil tank in our basement. The only way we were, physically, able to remove the old tank and install the new, was to have a new door installed in that side wall of our home.

With the proposed increase in lot coverage in that area, as highlighted on the attached plan and, which Paul and Melodie desire for the sole purpose of accommodating walk in closets both upstairs and down, we will be left with such restricted access, to that side of our home, that we would not be able to replace that tank or any other accessories and/or equipment, from our basement, such as washer and drier, water tank, stove etc.

2/ Paul and Melodie's contractor(s) will not be, physically, able to construct the part of their proposed addition, along that wall, without trespassing on our property with workers and equipment.

3/ I am an avid home self-renovator and have a long term project under way to remove the vinyl siding and restore all of the exterior walls to the original, Victorian style, cedar shingled finish. The restricted access that would result from the increase in lot coverage under this proposed variance will make that work much more difficult, and less safe, because the removal and shingling work would, if the addition were built, have to be done from a long reach ladder instead of ground based staging.

4/ Our foundation is approximately 100 years old and of rubble wall construction. With the most recent renovation that Paul and Melodie undertook, this past year, the drainage from the entire roof area of their house was directed to the surface area between our two houses. With that installation we observed higher than normal levels of water ingress in to our basement, than prior to the installation. This issue was resolved to our satisfaction, for the time being, when, I suggested and they had an extension to the outlet of the down spouts installed, which directed the roof drainage beyond our foundation.

We understand that, in some later round of renovations, the roof drainage will be directed into the City sewer system. However, from that experience we are concerned that the proposed addition, which increases the lot coverage and intercepts the ground water flow along that wall, could divert ground water flow toward our home and increase the infiltration of water into our basement.

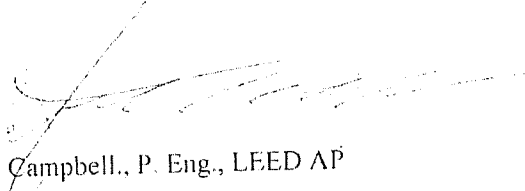
These four concerns outline significant and potentially significant impacts which are more than sufficient to justify our appeal, and to require the elimination of the increased lot cover shown as on the attached mark up of the site plan.

We have no issue with the other components of the renovation except that highlighted on the attached site plan. But do have significant and well justified concerns that must require a revision to the proposed Variance which would delete the (highlighted) addition along the wall adjacent to our property to alleviate the problems and potential problems that could seriously affect our quiet enjoyment of our property.

We trust that with this, well justified application of appeal to this Variance, ensures that no work can proceed without further discussion and/or review. If this trust is not to be respected, please advise us before any further action on this work or any further approvals, which might allow this work to proceed, are granted.

If you have any questions or require any further information to better understand our concerns please contact me by e-mail at scampbell@ns.sympatico.ca, by fax at 468-3843, or by phone at 229-0009.

Regards


Stephen Campbell., P. Eng., LEED AP

CC: Mike Cowper - HRM

