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Peninsula Community Council
October 5, 2009

TO: Chairman and Members of Peninsula Community Council

SUBMITTED BY: 
Andrew Faulkner - Development Officer

DATE: September 24, 2009

SUBJECT: Appeal of the Development Officer's decision to refuse an application for a Variance - 6027 Willow Street, Case No. 15560

ORIGIN

This report deals with an appeal of the Development Officer's decision to refuse a variance from the lot coverage requirements of the Halifax Peninsula Bylaw to permit a rear addition.

RECOMMENDATION

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

BACKGROUND

The subject property is located at 6027 Willow Street, Halifax (see Attachment 1- Location Map). The property is zoned R-2 (General Residential Zone) under the Halifax Peninsula Land Use Bylaw. On August 13, 2009, Mr. Vaslet applied for a construction permit to construct a rear addition on support posts to the second storey of the building (See Attachments 2 & 3- Site Plan and Elevations). The rear yard setback requirement is met according to the applicant's plans, as are all other requirements of the land use by-law, with the exception of the lot coverage. The building on the property currently meets the lot coverage requirements at exactly 35%. The 13' by 25.5' addition exceeds the permitted lot coverage by over 10%, resulting in 45.5%.

A site visit was conducted in order to gain insight into the context of the neighbourhood. While the houses on the adjacent properties are deeper, and have shorter rear yards, these houses are slightly narrower, resulting in lot coverages of approximately 34.5% and 31%.

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.

Does the proposed variance violate the intent of the land use bylaw?

The proposed variance does not violate the intent of the land use bylaw.

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

A study of lot coverages within the notification area of the subject property revealed an average of roughly 34.5%. There are two properties that are just within the notification area that have significantly larger lot areas than what is typically found in the neighbourhood. The average lot size is about 3200 square feet. These two larger properties average at 6400 square feet. Their lot coverage is significantly less than the rest of the notification area and so would pull the average lot coverage down. If these two properties are excluded, the average of the remaining lot coverage is 38%. This is 7% less than what the applicant is proposing. The lot coverages of the neighbourhood and the subject property are, on average, at or above the maximum allowed by the by-law, therefore, the

difficulty experienced is general to the area.

Is the difficulty the result of intentional disregard for the requirements of the land use bylaw?
The difficulty does not result from intentional disregard for the requirements of the land use bylaw.

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 refuse 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. Site Plan
3. Elevations
4. Appeal 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: Erin MacIntyre - Development Technician (490-4338)

Attachment 1- Location Map

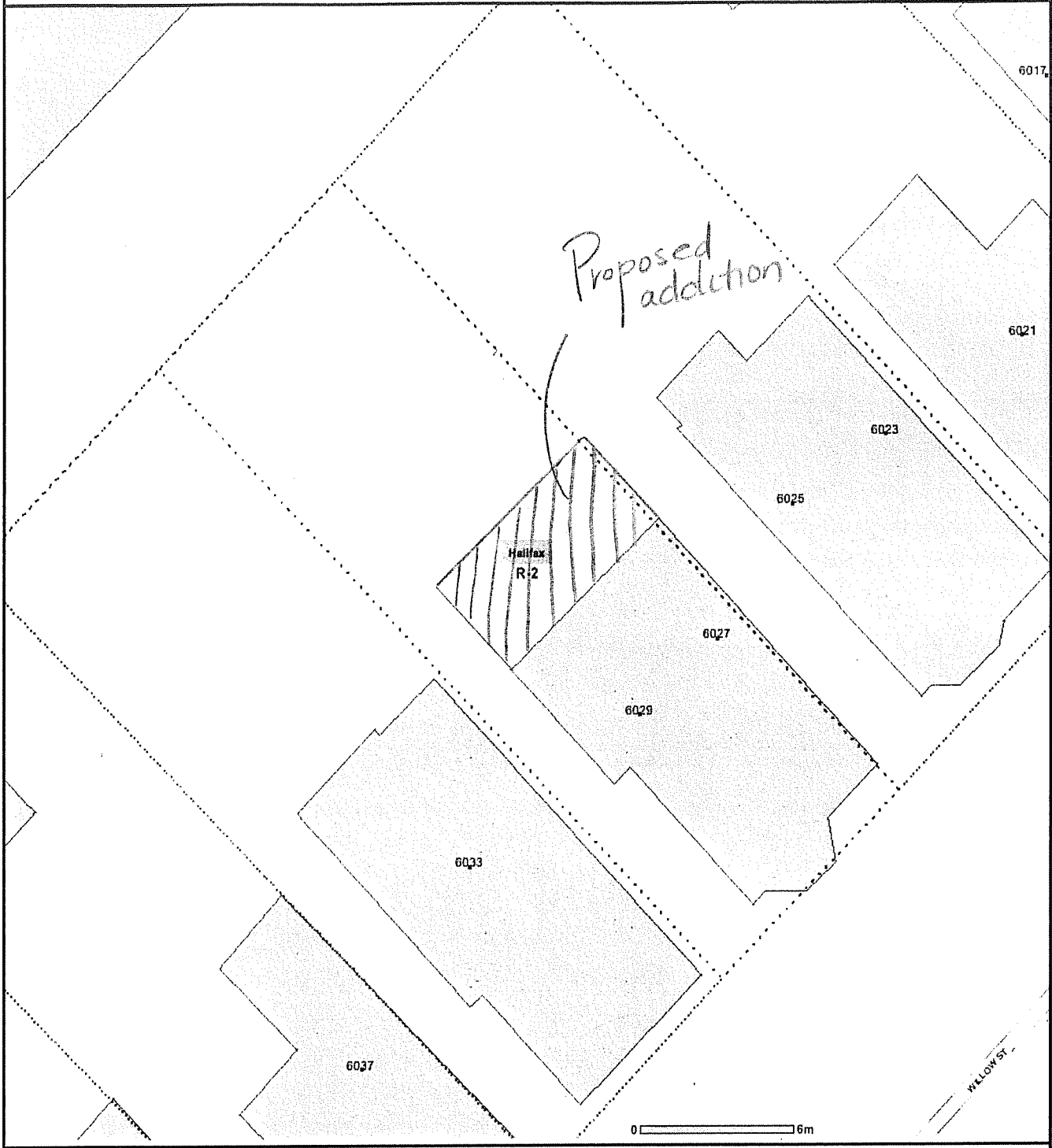
6027 Willow Street- Location Map



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.

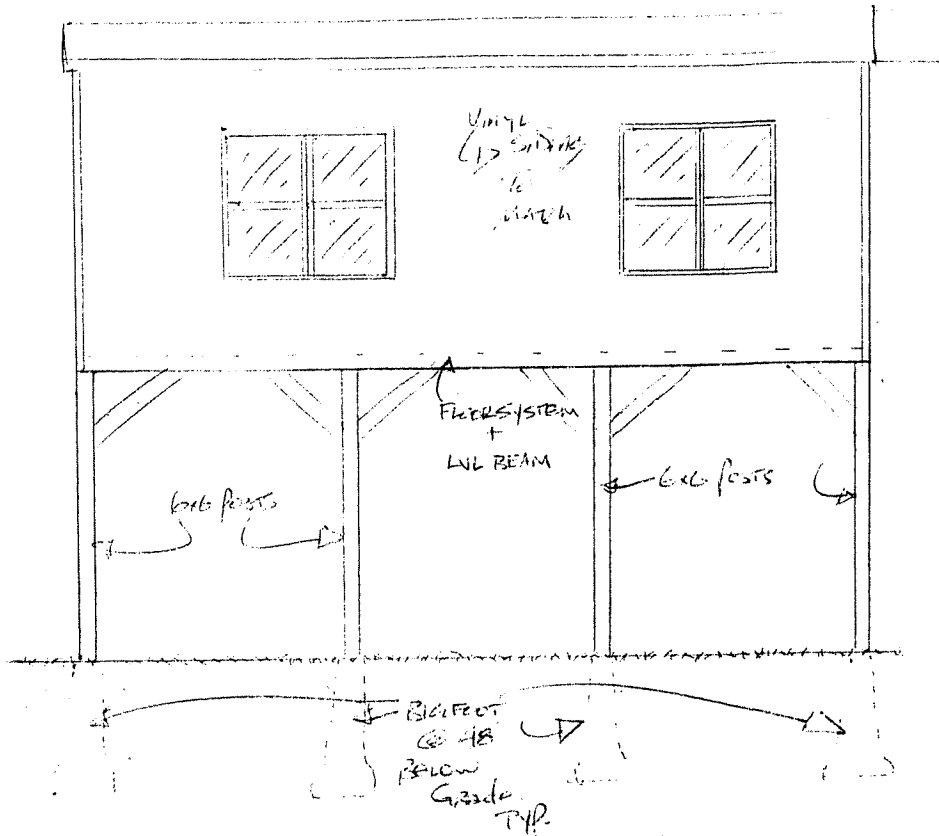
Attachment 2- Site Plan

6027 Willow Street- Site Plan

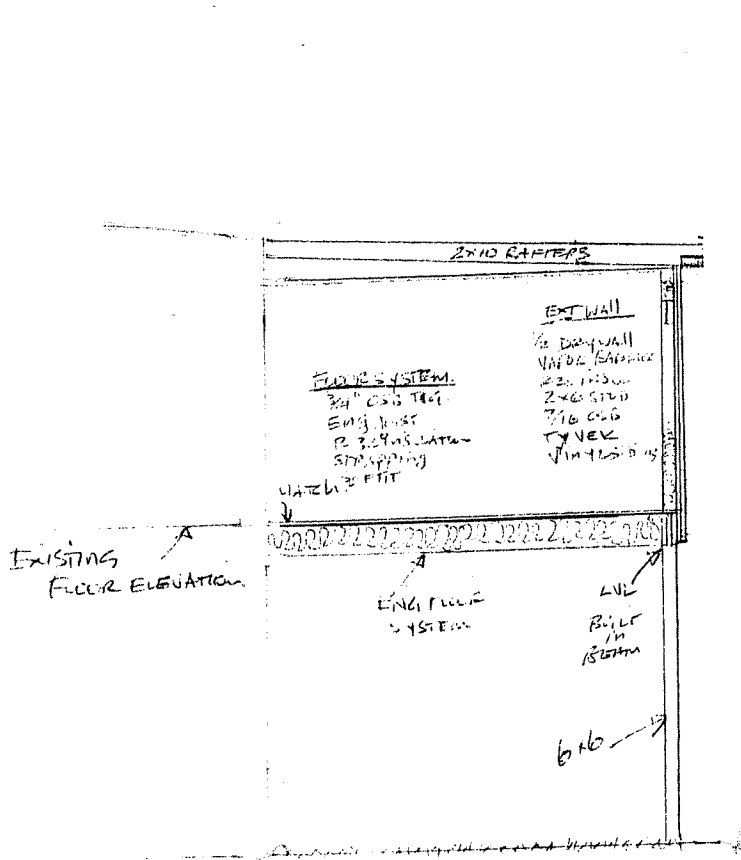


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Attachment 3- Elevations



Rear Elevation



Cross Section

Section

Attachment 4- Appeal Letter

September 14, 2009

Municipal Clerk
C/o Andrew Faulkner, Development Officer
Halifax Regional Municipality
Development Services–western-Region

I would like to appeal the decision of Development Officer with regards to a variance order ,case #15560-variance at 6027-6029 Willow st as I feel the officer in question fell short of his responsibilities and would like a time and date to discuss this with council .

Respectfully

Jamie T Vaslet