

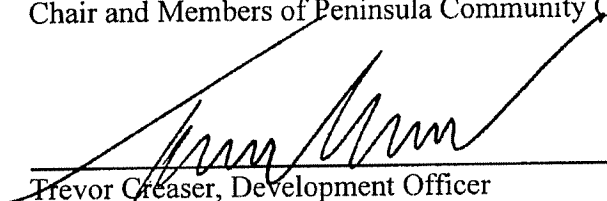
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P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Peninsula Community Council
June 13, 2011

TO: Chair and Members of Peninsula Community Council

SUBMITTED BY: 
Trevor Greaser, Development Officer

DATE: June 6, 2011

SUBJECT: Appeal of the Development Officer to approve Variance Application
#16876, 1616 Edward Street

ORIGIN

This reports deals with an appeal of the Development Officer's decision to approve a variance from the gross floor area ratio (GFAR) requirements of the Halifax Peninsula Land Use By-law to permit renovations to the basement of a 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 located at 1616 Edward Street and is zoned R-2 (General Residential Zone), Peninsula Centre under the Halifax Peninsula Land Use By-Law. (Refer to Attachment 1)

The proposal is to renovate the basement of the dwelling to create additional living space (rec room, bathroom, laundry and gym).

Shortly after the applicant purchased the property, flooding became an issue and had to be addressed immediately. It was necessary to excavate the basement in order to repair the drain tile around the foundation. Since there is considerable cost in repairing the foundation, the owner wishes to utilize this area as previously stated. The property is not eligible to create additional units through an internal conversion.

The property is 3082 square feet in area. Section 26D of the Land Use By-Law permits a lot under 3,500 square feet to have a maximum Floor Area Ratio (FAR) of 0.75, which equates to a maximum permitted Gross Floor Area (GFA) of 2,311.5 square feet. (Refer to Attachment 2)

An application for a variance was made on March 28, 2011 requesting a variance to exceed the gross floor area to a maximum of 3,019 square feet (an additional 707.5sqft.) and was approved on May 11, 2011. (Refer to Attachment #3)

All assessed property owners within 30 metres were notified of the variance approval and the owner of 1630 Edward Street has appealed this decision.

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 by-law;*
- (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 neighbourhood.

The proposed renovations would not increase the footprint. 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 with the character of the neighbourhood as there are a mix of residential.

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

The floor area ratio is dependent on lot size, when comparing other homes on lots of similar size the proposal is consistent.

As the majority of the existing homes already exceed the FAR requirements, their replacement would not be subject to the current requirements and would not require a variance, therefore the difficulty experienced is not general to similar properties in 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

There are no budget implications related to this variance.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project 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

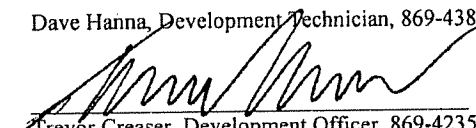
1. Council could uphold the decision of the Development Officer to approve the variance. This is staff's recommendation.
2. Council could overturn the decision of the Development Officer and refuse the variance.

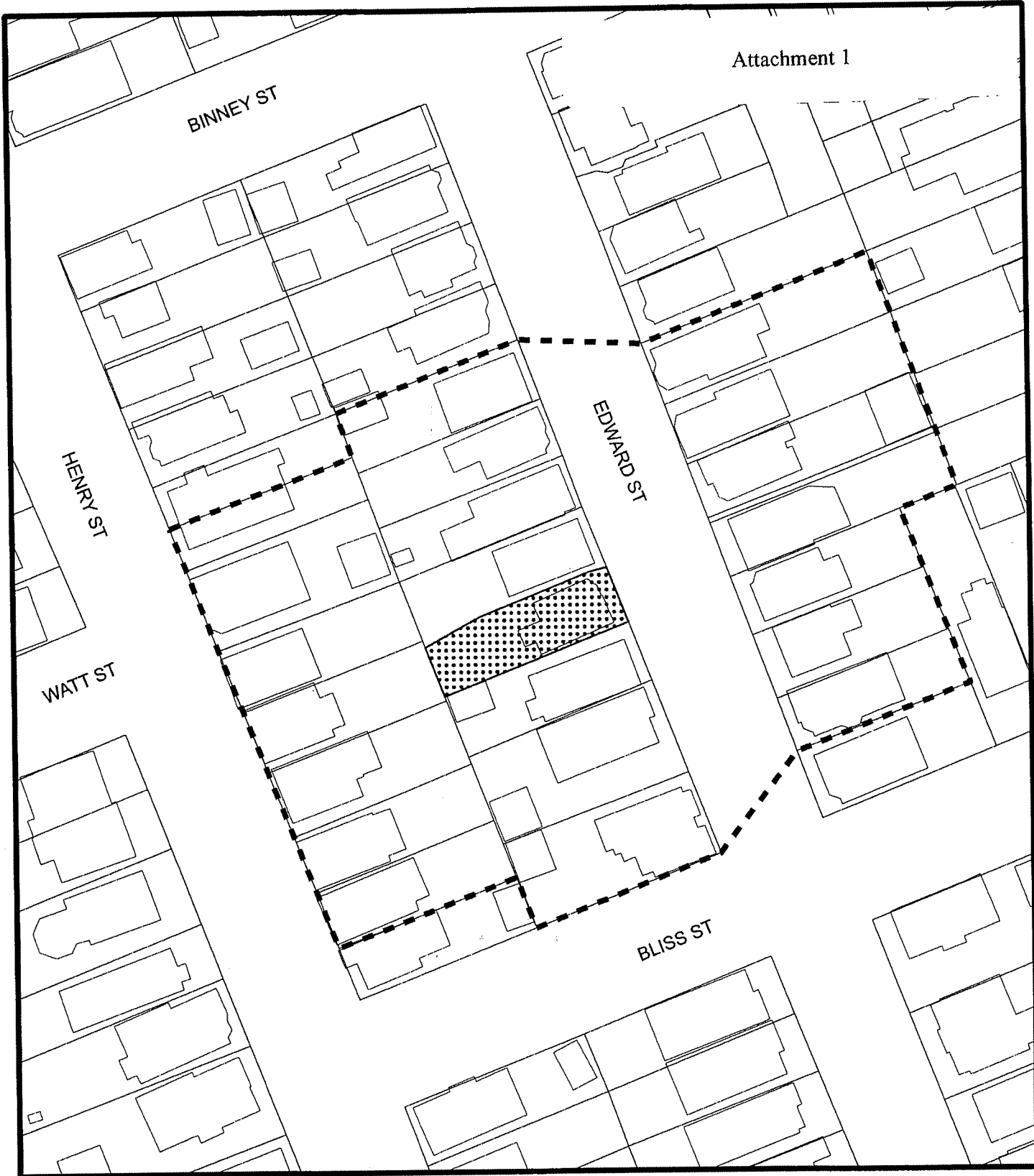
ATTACHMENTS

1. Location Map
2. Site Plan
3. Approval Letter
4. Appeal Letter

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 : Dave Hanna, Development Technician, 869-4386

Report Approved by: 
Trevor Creaser, Development Officer, 869-4235



Map 1

Notification Area

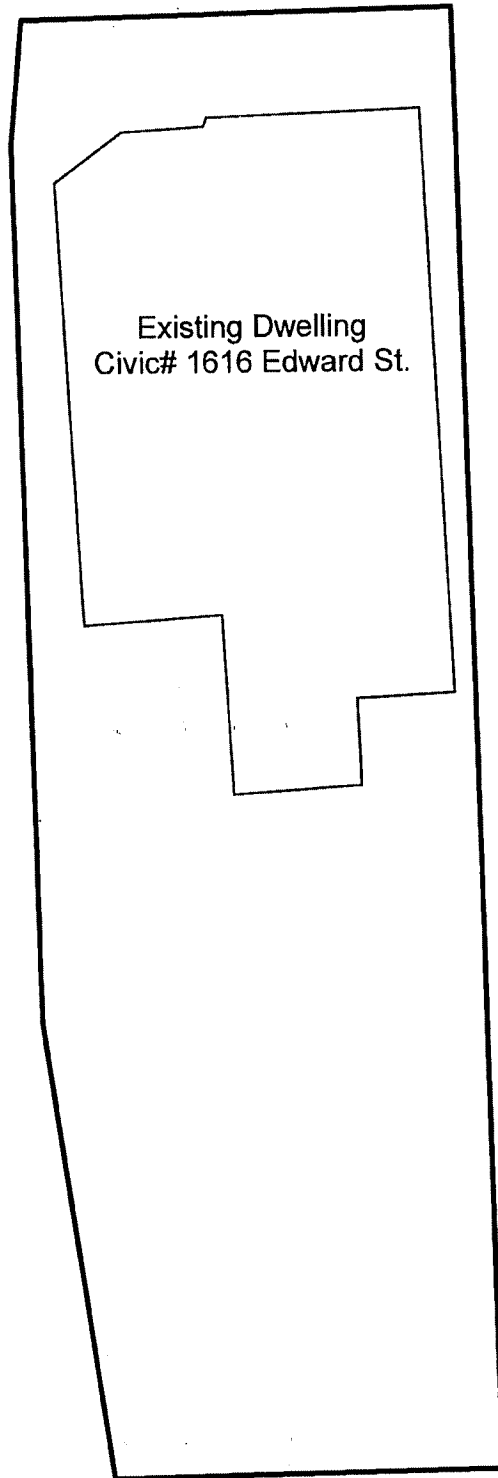
--- Notification Area

..... Subject Property



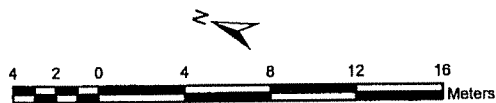
EDWARD ST.

Attachment 2



Map 2
Site Plan

HALIFAX
REGIONAL MUNICIPALITY
Planning Services





Central Region - Acadia School
636 Sackville Drive
Sackville, NS
Telephone: 869-4375
Fax: 869-4254

COMMUNITY DEVELOPMENT

Attachment 3

May 11, 2011
Martin Schaffhauser
553 Brookside Road
Brookside, NS
B3T 1T4

Dear Schaffhauser:

RE: **Application for Variance # 16876- 1616 Edward Street, Halifax**

This will advise that I have approved your request for a variance from the requirements of the Land Use Bylaw for Halifax Peninsula as follows:

Location: 1616 Edward Street
Project Proposal: Allow an increase to the maximum Gross Floor Area (GFA) permitted under the land use bylaw to renovate the basement of an existing single unit dwelling.

	Required	Proposed
Gross Floor Area (GFA) Max.	2,311.5 sqft	3,019 sqft

In accordance with Section 251 of the Halifax Regional Municipality Charter, all assessed owners of property within 30 metres of your property have been notified of this variance. Those property owners have the right to appeal the decision of the Development Officer to the Municipal Council. An appeal must be filed on or before **30 May 2011**.

No permits will be issued until the appeal period has expired or any appeals disposed of.

Sincerely,

Trevor Creaser
Development Officer

cc. Cathy Mellett, Municipal Clerk
Councillor Sue Uteck

Dr. Robert Green

May 16, 2011

Mr. Trevor Creaser, Development Officer
Halifax Regional Municipality
Planning and Development, Central Region
636 Sackville Drive
Halifax, Nova Scotia
B3J 3A5
Fax: 902-869-4386

RE: Increased maximum gross floor area at 1616 Edward Street.

Dear Mr. Creaser:

Please accept this letter of opposition for the request of variance for the property at 1616 Edward Street. I have a number of concerns with this proposal.

First, this is a substantial increase in the gross floor area from 2300 sq ft to over 3000 sq feet. This house, as it stands already, does not visually conform to the standards of our neighborhood. It is a rather large house on a small lot with a shared driveway. I do not feel that an increase in the square footage would be in keeping with the visual appeal of our neighborhood.

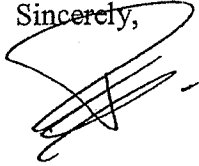
Second, I see no reason for an increased GFA. As stated in the letter provided by you, this is for the basement of an existing single unit dwelling. The owners of this property have renovated it extensively in the past from a family home to a multiunit rental facility. Unfortunately, there have been numerous incidences of noise pollution from this general area.

Third, the renovations on this property have already begun, which surprises me. There is a large trash container on the front of the property which obstructs all traffic through the sidewalk. This

is certainly a problem for families with young children as there is no way to get around this trash container without diverting directly onto the street. In fact, I witnessed a person in a handicap scooter who was unable to pass around this trash container at all, within the last 24 hours.

I ask you to consider the above concerns and to not allow a variance as requested by the owners of this property.

Sincerely,



Dr. Robert S. Green

cc Councilor Sue Uteck -- fax: 490-6013
George Kovacs, Community Association -- fax: 473-3617
