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PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Peninsula Community Council
February 8, 2010

TO: Chair and Members of Peninsula Community Council

SUBMITTED BY: Rosemary MacNeil, Development Services

DATE: January 25, 2010

SUBJECT: Appeal of the Development Officer's decision to approve an application for a Variance - 5670 Morris Street, Halifax

ORIGIN

This report deals with an appeal of the Development Officer's decision to approve a variance for the lot frontage and area of the Peninsula Land Use Bylaw to permit an addition and convert a three unit dwelling to a five unit dwelling.

RECOMMENDATION

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

BACKGROUND

In December, 2009 Development Services received an application to vary lot frontage and lot area for an addition to a three unit dwelling to create a five unit dwelling. The Development Officer approved the variance. A letter of appeal was received on January 21, 2010.

The property at 5670 Morris Street is zoned R-2A (General Residential Conversion Zone) under the Halifax Peninsula Land Use Bylaw. This zone allows for single unit dwellings, two unit dwellings, townhouses, and converted multiple dwellings houses (five to fourteen units). Single unit dwellings, two unit dwellings, three and four unit dwellings, and five to fourteen unit dwellings all require forty feet of frontage and four thousand square feet of area. Currently, the three unit dwelling at 5670 Morris Street has 37'-3" of frontage and 3911.25 square feet of area. Therefore, a variance was required to convert the three unit dwelling to create a five unit dwelling.

The surrounding neighbourhood has a mix of residential uses ranging from single unit dwellings, three units, four units, five units, six units, town houses, and a multi unit apartment building. A number of properties have a smaller lot area than the subject property and have three or more units. Due to the mix of residential uses, a five unit would fit into the character of this neighbourhood. Further, this lot is close to meeting the minimum requirements and has a larger lot size than some of the properties that currently have more units (see Table below).

Some surrounding properties:

# of units	Lot Size
SUD	4352 sq. ft
SUD	5069 sq. ft
SUD	3360 sq. ft
3 Unit	3360 sq. ft
3 Unit	4488 sq. ft
4 Unit	4629 sq. ft
5 Unit	3286 sq. ft
5 Unit	3360 sq. ft
6 Unit	4716 sq. ft

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 R-2A zone permits up to 14 residential units with a minimum 4,000 square foot lot size.

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

In order to achieve what most of the other properties already have, a variance is required.

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

Not applicable. The addition has not been built.

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 grant the variance. This is the recommended alternative.


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

ATTACHMENTS

1. Location Map
2. Appeal letter
3. Site Plan
4. Elevations

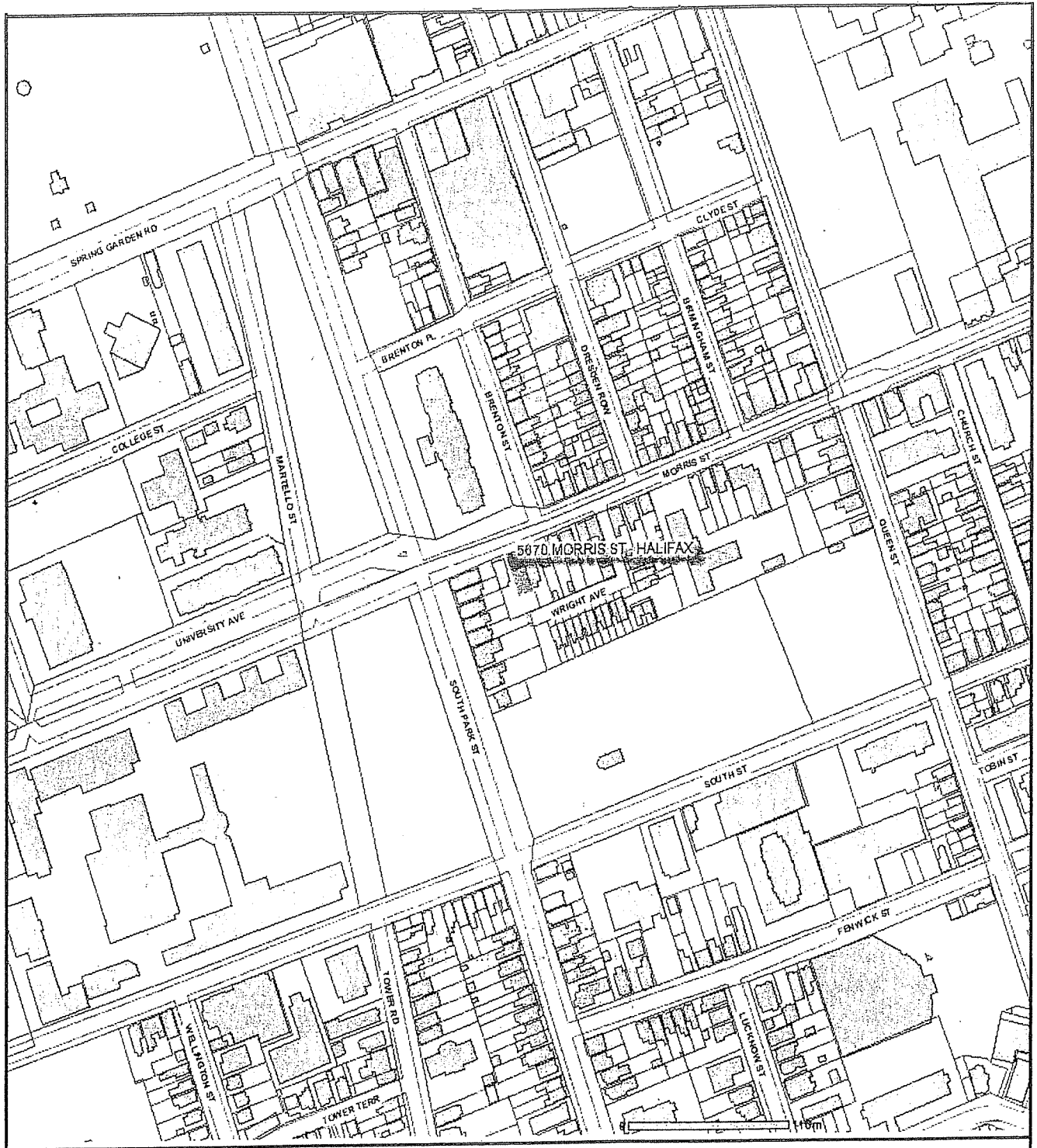
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by : Shilo Gempton, Development Technician 490-6796



Report Approved by: Rosemary MacNeil, Development Officer 490-4560

ATTACHMENT 1 - LOCATION MAP



ATTACHMENT 2 - APPEAL LETTER

1244 Wright Avenue
Halifax, NS
B3J 1C7

RECEIVED
JAN 21 2010

January 20, 2010

Municipal Clerk
c/o Andrew Faulkner, Development Officer
Halifax Regional Municipality
Planning and Development – Western Region
P.O. Box 1749 Halifax, NS B3J 3A5

To Whom it May Concern,

We are writing to appeal the approval of Variance Application #15799 (5670 Morris Street, Halifax). We are owners of units in a small condominium building which is located immediately next to 5670 Morris Street. There are several reasons for our decision to appeal.

Each of our units has two large (5' by 5') windows on the west side of the building, facing the proposed development. The addition would block many of these windows, substantially reducing the natural light in our main living rooms. We are also concerned the loss of view and privacy, given the proximity of the two buildings and the sizes of the lots.

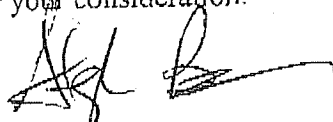
We also believe that this addition (turning 5670 Morris from a three unit to a five unit rental dwelling) would have an adverse effect on the character and quality of life in our neighbourhood. Wright Avenue is a quiet street with a strong sense of community. It is the sort of place that encourages families to stay in the downtown core. It is often described as a "gem" in downtown Halifax, and such gems are rare and worth preserving.

The by-laws of our condominium corporation are consistent with the character of the neighbourhood, requiring that the units be used as single-family dwellings. The house at 5670 Morris (which backs onto Wright Avenue) has, in the past, prompted neighbourhood complaints regarding noise and late-night parties, which sometimes required police intervention. We fear that enlarging the building to include more rental units would only exacerbate the problem.

In short, we believe that the proposed addition would have an excessively negative impact on our properties and on the neighbourhood as a whole.

Thank you for your consideration.

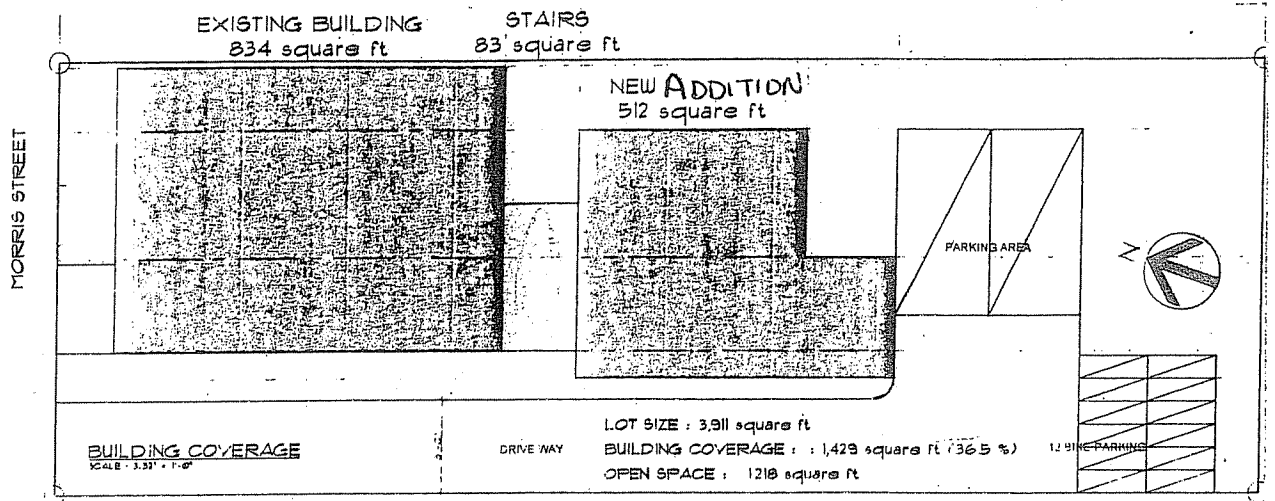
Sincerely,



Stephen Boos (President, HCCC #168) 446-0993
on behalf of Frank Mason (1242 Wright Avenue), Stephen Boos and Kathryn Morris (1244
Wright Avenue) and Gary and Joan Lund (1246 Wright Avenue)

ATTACHMENT 3 - SITE PLAN

SUBJECT: Development Officer's decision to approve an application for a variance - 5670 Morris Street. The applicant is proposing to vary lot frontage and area to add to a three unit dwelling and create a five unit dwelling.



ATTACHMENT 4 - ELEVATIONS

SUBJECT: Development Officer's decision to approve an application for a variance - 5670 Morris Street. The applicant is proposing to vary lot frontage and area to add to a three unit dwelling and create a five unit dwelling.

