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HALIFAX
REGIONAL MUNICIPALITY
PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Peninsula Community Council
September 3, 2010

TO: Chairman and Members of Peninsula Community Council

SUBMITTED BY: Andrew Faulkner
Andrew Faulkner - Development Officer

DATE: September 3, 2010

SUBJECT: Appeal of the Development Officer's decision to approve an application for
Variance # 16218 - 6583 Quinpool Rd., Halifax

ORIGIN

This report deals with an appeal of the Development Officer's decision to approve a variance for the lot area and front and rear yard setback of the Halifax Peninsula Land Use Bylaw to construct a 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 6583 Quinpool Rd., Halifax and Zoned R-1 under the Halifax, Peninsula Land Use By-law. The applicant has proposed the construction of a single unit dwelling.

In the case of lots existing prior to the date of adoption of this section, the lot size and lot frontage requirements are reduced to 3,000 sq ft and 30 ft, respectively, for single family residential uses. The said lot is described in a deed dated 1969 which predates the Land Use Bylaw, as a separate lot from the lot abutting Quinpool Rd. and since that time has been a separate lot. The variance application proposes a minimum lot area of 2550 sq ft. The front yard required is 15 ft depth. The rear yard required is 20 ft.

The existing lot has an average depth and width of 50 ft, which makes it difficult to meet the front and rear yard setback requirements and construct a modest dwelling. The footprint of the proposed dwelling is 24' x 30 '. This leaves a front yard setback of 10 ft. and rear yard of 6 ft 4 inches.

The variance application was approved by the Development Officer on June 28, 2010. In accordance with HRM Charter, all assessed property owners within 30 meters of the subject property were notified of the variance approval. Subsequently, four appeals were received.

DISCUSSION

The *Halifax Regional Municipal 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 ?

One of the goals in planning policies adopted for the established neighbourhoods of the Halifax Mainland is to maintain the character and stability of these areas through Municipal Planning Strategy (MPS) policies such as **Policy 2.4** which states:

“...the City encourages the retention of the existing residential character of predominately stable neighbourhoods, and will seek to ensure that any change it can control will be compatible with these neighbourhoods,”

The properties in the buffer area show a mix of single unit and two unit two story dwellings. Our permit records indicate many of the properties in the immediate neighbourhood, have constructed additions, thereby creating larger homes. Some of these additions included dormers, and/or added living space to the attic area thereby creating a third story. The applicant has proposed a 24 ft x 30 ft, three story single family dwelling and is in keeping with the character of the neighbourhood. Based upon this, staff feel that the proposed variance meets the intention of the Land Use Bylaw.

In response to concerns of the appellants:

- 1) The maximum height permitted under Section 28 of the R-1 Zone, is 35 ft. The height proposed for this applications is 33 ft 4 inches.
- 2) Maximum number of bedroom permitted in a single family dwelling is five bedrooms. Proposed is three bedrooms.
- 3) To clarify the address taken on the application. The vacant lot is described in a deed for 6583 Quinpool Rd. This lot has been used as the backyard for this property but intended as a separate parcel of land.

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

The difficulty experienced is unique to this property due to the configuration of this lot.

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

The potential new property owner has met with staff prior to purchasing the lot to discuss his options in constructing a single family home. He proceeded to make an application for a variance when it was realized that due to the configuration of his lot, he would have difficulty meeting the requirements of the land use bylaw.

There is no intentional disregard.

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

ATTACHMENTS

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

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

Report Prepared by : Brenda Seymour - Development Technician (490-4046)

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

Attachment 1

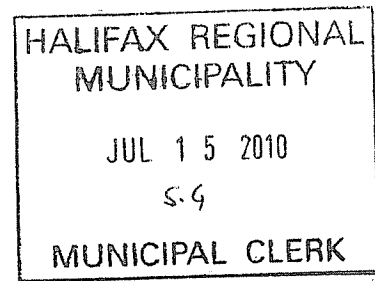


http://hrmwin09/servlet/com.esri.esrimap.Esrimap?ServiceName=land_serv&ClientVersi... 08/06/2010

cc: Sheila Edmonds - PCC

2028 Poplar Street
Halifax, NS
B3L 2Y7

July 14, 2010



Andrew Faulkner, Development Officer (faulkna@halifax.ca)
c/o Municipal Clerk,
Planning & Development – Western Region
P.O. Box 1749, Halifax, NS
B3J 3A5

RE: Application for Variance, File # 16218 -6583 Quinpool RD. Halifax

In response to your letter regarding the request for a variance for the above mentioned property, we are writing to express our strong opposition to any variances being approved for this property. The property in question will not be on Quinpool Rd. as referenced in your letter (as it will be facing on Poplar Street and will presumably be a Poplar Street civic address), assuming that the property is subdivided.

Poplar Street is a quiet neighborhood of basically single family homes with a good mixture of young families and retired people. It is a good clean neighborhood where people know each other and most take pride in maintaining their properties. We recently purchased our home in this neighbourhood, and one of the main factors for buying this house was the nicely spaced lots in the neighborhood and the variety of beautiful mature trees, well kept gardens and green space. We were given to understand that the space around our home, which includes the lot in question, would never be developed because of the *strict* existing HRM by-laws.

Since moving in here three years ago, the existing house at 6583 Quinpool Road has been sold a couple of times and is now operated as a rooming house. It is now rapidly falling into a state of disrepair. City by-laws are not complied with – the sidewalks are never shoveled and are treacherous in winter.

It is our concern that, with the current zoning, yet another three storey house with parking for three cars on that property could, within a year or so, become another rooming house. We saw that happen in our former neighbourhood many times and is one of the main reasons we moved. We had hoped that we would not see that "cramming" of another house into a too small lot in this part of the city as is done in so many other areas.

In short, the main reasons we are opposed are as follows:

- the variances requested are excessive for the size of the lot
- it will make the surrounding lots too crowded
- there will be the loss of over a dozen trees (mix between maples & evergreens), some of which are significant mature trees
- our property would lose shade in summer and considerable light in winter
- a three story building from ground level up would be the highest building in the neighborhood and will create an overwhelming feeling of claustrophobia
- it will have a negative effect on the land values of the surrounding properties

It is clear that this is not a suitable property to be granted a variance, given the current living environment of the neighborhood and we respectfully wish to appeal the decision to grant a variance.

Regards

Diane Scott & Gordon Stewart

Cc Councillor Jennifer Watts (District 14)

revised-

July 14, 2010

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

ATTN: Mr. Andrew Faulkner, Development Officer
(Sent via email: clerks@halifax.ca)

RE: APPEAL OF VARIANCE – 6583 Quinpool Road, Halifax, NS (HRM File No. 16218)

Dear Sir,

We received your letter regarding development and construction of a new home on Poplar St. From review of the building plans that were attached, we thought that the idea of a small home and having a new family in the neighbourhood would be wonderful. However, understanding the existing HRM land use bylaws and the meaning of "variance", we have some concerns.

We live in a modest, family neighbourhood in Halifax. This is a neighbourhood whose homes (and residents) comply with existing building codes and bylaws. When a developer comes in and requests the need for variances, this raises red flags for us. A variance is an official permit to do something normally forbidden by regulations. There must be extreme circumstances which warrant granting such variances, otherwise the arbitrary granting of variances would undermine the integrity of our HRM bylaws. As we are not privy to the circumstances which warrant these excessive variances, we can't help but feel concern for what potentially could happen to our neighbourhood. Based on our experience with our 'new' neighbours at 6583 Quinpool Road (the parent parcel), our concerns are not unfounded.

With regard to helping to contribute to a historically solid family neighbourhood in west-end Halifax, we have no confidence in the property owners of 6583 Quinpool Road. They have not demonstrated consistent respect for the bylaws of HRM or the neighbours of Poplar Street. We were told (by the selling agent) that the sub-divided lot currently proposed for development could not be divided and developed because it formed a portion of 6583 Quinpool Road as required under the standard requirements of HRM (<35% of property occupied by dwelling). It was just a matter time before they saw the opportunity to unload the 'English Garden'. Also, the constant state of disarray and untidiness around the property (uncut lawn, garbage piles, broken glass, snow and ice covered side-walk and driveway) - not to mention the noise complaints - since they bought the property has demonstrated to us that when a property owner pushes the limits of a bylaw, whether zoning or land use, the neighbourhood suffers.

Given the current R1 zoning of the infant parcel and previous experience with 6583 Quinpool Road, we are concerned and unsure under which pretence the parcel will be developed. In reading the building plans, we see the plans allow for parking of three vehicles for a 'single unit dwelling' and a large new home that requires a variance of the current standards in order to construct. This raises more of our concerns that once developed, the new home may be sublet to students or boarders, resulting in a further reduction in the quality of living in our family community. We have no assurances this will not happen based on the current zoning of the property.

We also feel the proposed home design and style are not in keeping with the neighbourhood. These variances are allowing for a large, modern home to be developed on a smaller than permitted lot size (2,550 sq.ft.) that would be better suited for a bungalow or two-storey home. If the dwelling were to be built as planned, it would more than likely be the tallest home on the street (including several nearby apartments). Visually, the building is 33% higher than it is wide, giving the appearance of a towering structure looming next to the street, especially if the front yard setback is allowed to be reduced to 10' from the accepted standard of 15'.

In closing, we feel the variances given to allow for construction of the proposed residential dwelling north of 6583 Quinpool Road are not acceptable. Unless warranties are made by the developer, we cannot support their plan. If the proposed development goes ahead without heed to our concern, it will give our family the sense that our quality of living will be diminished and just cause for an appeal of our property assessment in the coming year.

Should you require any clarification, please feel free to contact us at home at 425-8994.

Sincerely,

Robert and Kathleen Bekkers
2025 Poplar St.
Halifax, NS
B3L 2Y6

cc. Jennifer Watts, District 14 Councillor, via email: jennifer.watts@halifax.ca

cc: Sheila Edmonds - PLL

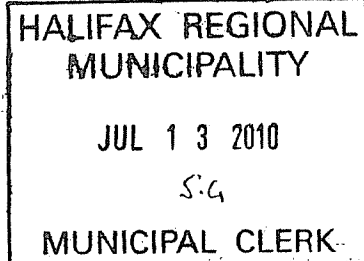
Brad R. Perry, CMA
2055 Connaught Avenue
Halifax, NS B3L 2Z2

July 12, 2010

Halifax Regional Municipality
c/o Municipal Clerks Office

sent via email to: clerks@halifax.ca

Planning and Development / Western Region
1841 Argyle Street, Main Floor
Halifax, Nova Scotia
B3J 3A5



Attn: Andrew Faulkner, Development Officer

Re: Application for variance at 6583 Quinpool Rd. Halifax, file number 16218

Dear Sir,

I have received your notice dated June 28, 2010, concerning an application for variance at 6583 Quinpool Road, Halifax, file number 16218. As a property owner adjacent to the west and north property lines (side and rear of property) of the lot in question I will be directly affected by the development.

Please receive this letter requesting an appeal of your variance decision.

My understanding is that the minimum lot size for construction of a new dwelling in HRM is 3,000 square feet, with no structure closer than 20 feet to the rear property line and no closer than 15 feet from the front property line. The minimum requirements allow a reasonable sized home to be built without encroaching on the adjacent properties. All of these dimensions will be broken if the development proceeds.

The lot in question is by my estimation approximately 2,500 square feet, being roughly 50' x 50'. This is a very small lot. The reality is that even the 3,000 square feet required by HRM is a small lot.

My property extends from Connaught Avenue to Poplar Street in an unusual way that leads one to primarily use the back entrance to the property from Poplar Street - the back of our house is really our front. Our house is in the south east corner of our lot exactly 20 feet from the rear property line of the lot in question. We park our car at our Poplar Street entrance and we use the small backyard extensively both for recreation and gardening. If the new property is built, the area of our property that we use the most will be encroached by the new home being approximately 6 feet from our property line. Where the by-law requires 40 feet between back yards, we would have just 26 feet.

The closeness of the new home to the rear property line is compounded by the fact that the proposed home will be three stories high! Where we have sunlight and open space now we will have the wall of a building and shadow in the future.

There is also the large tree in the back corner to consider. The tree begins on my property but grows out over the adjacent lot and will definitely intersect with the building construction as it progresses to the second and third floors. Even if the tree did not impede construction I could not leave a tree that was my responsibility within a few feet of a structure when any storm could potentially leave me with a large liability for property damage. Am I expected to have the tree removed?

To summarize, I feel the variance is unacceptable. The lot is clearly too small for a new home and it is well below HRM minimum standards. The encroachment of the new home on my property is intrusive being 6 feet from our property line rather than the required 20 feet. The height of the home compounds all of the problems. If the development is to continue I would suggest limiting the home to two stories and require it to be at least 15 feet from the rear property line. Also, the tree in the corner should be removed at the builders expense before construction begins.

Please feel free to call me at home at 902.446.8818 or on my cell phone at 403.690.2533 if you have any questions related to my comments and or the development proposal.

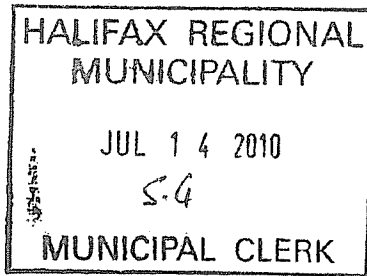
Sincerely,

A handwritten signature in black ink, appearing to read 'Brad R. Perry'.

Brad R. Perry

CC: Jennifer Watts, Councilor, District 14, jennifer.watts@halifax.ca

cc: Shirlagh Edmonds - PCC



6587 Quinpool Road
Halifax, NS.
B3R1A4
July 12, 2010

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

Attn: Andrew Faulkner, Development Officer
Re: Application for variance at 6583 Quinpool Rd. Halifax, File number 16218

Dear Sir,

Your letter dated June 28th 2010 was received by me on the 29th of June 2010, in it you discussed an application for variance at 6583 Quinpool Road, Halifax re: file number 16218. As a property owner in close proximity to the proposed building site the rear section of my property will be directly affected by the development if it goes through.

In this letter I am kindly requesting an appeal of your variance decision.

My property is located at the corner of Quinpool Road and Connaught Avenue. My civic Address is #6587 Quinpool Road but my driveway which gives the main access to my property is located on Connaught Avenue, so I live at the intersection of two very busy roads. My other side boundary extends from Connaught straight through to the back of my land and abuts on the land which has been proposed for this new development. There are many reasons why this proposed development gives me great concerns

a) The size of the lot is much too small and infringes on City requirement for a healthy and safe location of a house and it will created a cramped congested feeling in the area.

b) My backyard has provided me with a peaceful haven where I have a flower garden, a fruit Orchard and my Gazebo, here I enjoy quiet times away from the bustle of the two main roads which surround me. In this spot I enjoy entertaining my friends and their children in safety. I have experienced many accidents on the front and side of my property as cars collide and crash into my fence after impact on Connaught Avenue and sometimes Quinpool Road. At times I have narrowly escaped injury, so you can understand why the peace and safety of my back yard is so very important to me and my continued survival in this city.

i) The proposed building will block the sunlight from the back of my property and in so doing rob my plants of valuable sunlight which they need to thrive.

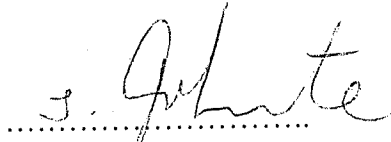
ii) The height of the building will compound the problem because it will cast a long shadow causing my house to become very cold on that side and will encourage the build up of ice which can put me at greater risk of falling when I am outside.
iii) With houses so closely placed together a tunnelling effect will be produced and this will restrict free circulation of air causing the intensity of winds to be amplified producing deleterious effects especially during Winter months and even in hurricane season.

In summary, I would like to emphasize my concerns about the height of the building, the closeness to my property, the loss of adequate lightings and sunlight for my gardens, the tunnelling effect with winds and the violation of my private space and the increased risk of spending more time on the front of my property where I am never sure when a car will come barrelling into my property causing me injury.
Please note that I have enclosed a list of the many traffic accidents which have occurred on my property including the most recent one which occurred on June 12, 2010.

For these many reasons I feel the variance is unacceptable and I am requesting an appeal of your variance decision.

I thank you for your cooperation.

Yours truly,


.....
Thelma Johnstone.

cc. Jennifer Watts, Councillor , District 14.

6587 Quinpool Road
Halifax, N.S. B3L 1B6
May 3, 2000

Mr David McCusker
Traffic Authority
P.O.Box 1749
Halifax, N.S. B3J 3A5

Re: Frequent accidents at the corner of Quinpool and Connaught

Dear Mr McClusker:

On April 17, 2000 I spoke with Mr Leonard Bugbee about the most recent accident that occurred on Thursday, March 27, 2000. A car collided and landed on my property causing damage to my privacy hedge.

This is not the first accident; rather it's one of many which I shall list with the most recent first:

- (4) March 27, 2000 at 7:30a.m. - accident file #00-1281
- (3) August 10, 1999 at 5:45p.m. - accident file #99-29846
- (2) September 23, 1996 at 8:15p.m. - accident file #96-31495
- (1) July 21, 1993 at 1:00p.m. (1987 Honda owner: Laurier Bertin, 3211 Frontenac, Laval, P.Q. Ass. Gen. des Caisses Desjardins policy # LE9285175-7 and 1986 Volvo 760 owner: Carlos Auto Service, 2537 Agricola St. Hfx. N.S. B3K 4C4 policy #3010080)

I am always in the garden, as gardening is one of my hobbies. The frequency of these accidents has given me great concern as I do not know when a car might come crashing, killing or hurting me on my property.

I am seriously considering putting in a vehicle protection barrier and I have been informed that I'll need a permit. I have an estimate and have enclosed a copy for your information.

As a retiree, I would appreciate H.R.M.'s assistance in putting in this barrier. When the first accident occurred in 1993, I telephoned my then-Councillor, Mr Epstein, to ask if something couldn't be done to the traffic lights. As usual, nothing was done. I suppose unfortunately someone has to die first.

The traffic on Quinpool and Connaught is overbearing. The speeding is unreal; the motorists drive as if they are on the 401 highway. They break every rule in the book, frequently running red lights. If there were a surveillance camera, the city could make a pot of gold.

ALL NEW



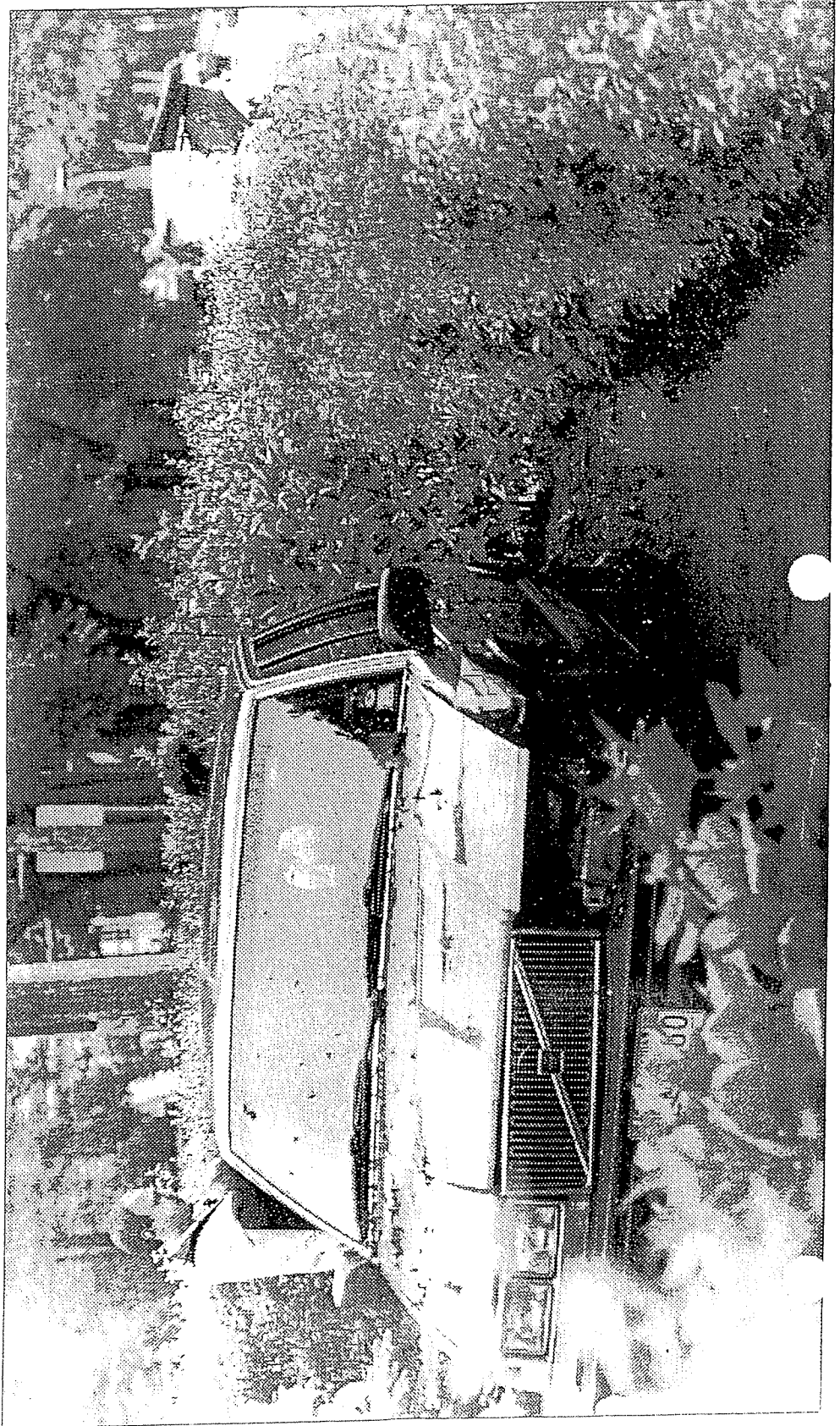
day after they escaped uninjured
in a two-car accident in Halifax

/3

Ah, Canada!

Monticone Ivano, (left) an Italian tourist, holds his daughter Sofia, three months, as he surveys the damage to a hedge after the Volvo he was travelling in struck another car and crashed through the greenery at the intersection of Connaught Avenue and Quinpool Road at 1 p.m. yesterday

TONY CALDWELL

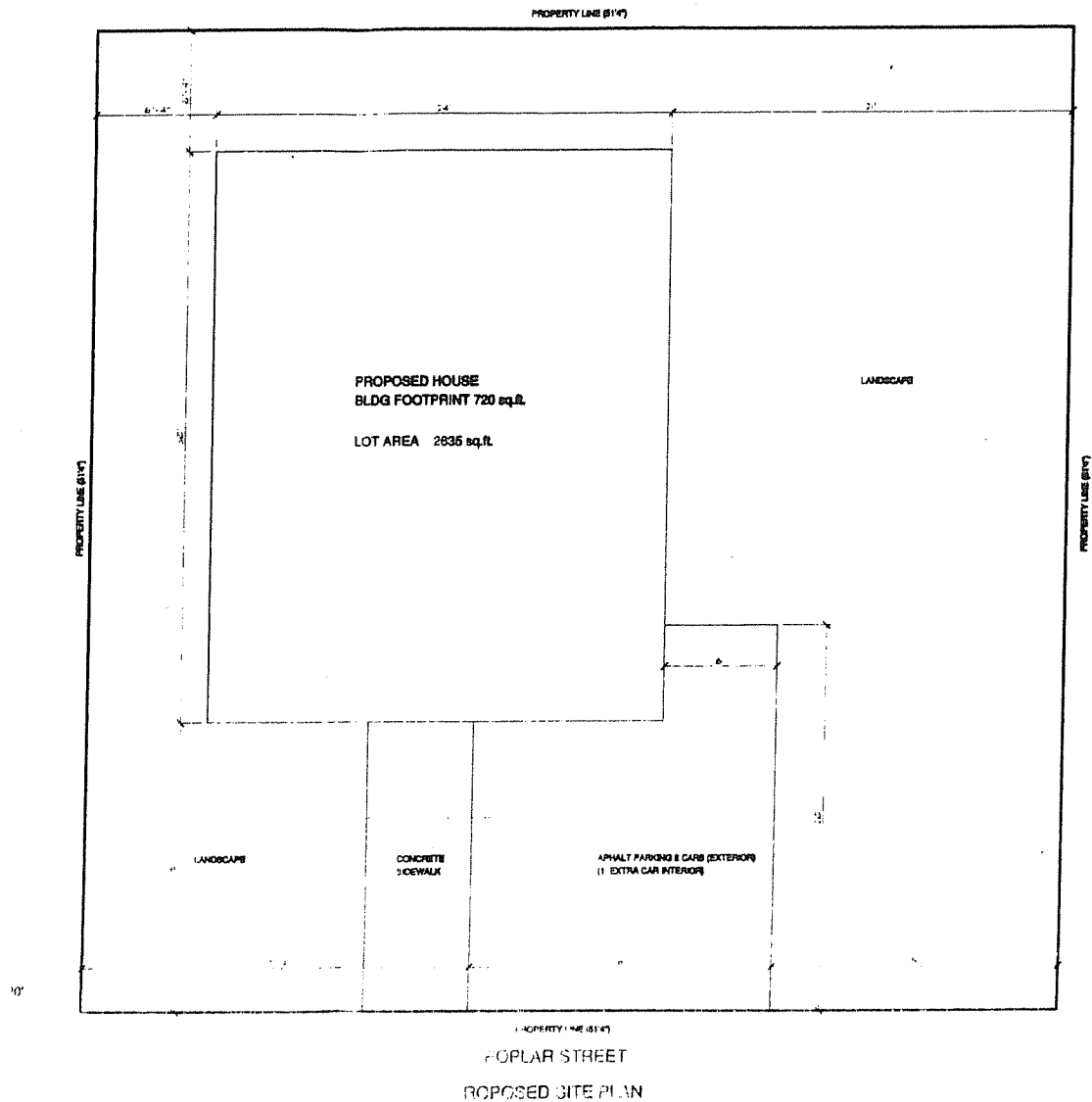


DATE: June 28, 2010

SUBJECT: Application for Variance, File No. 16218 - 6583 Quinpool Rd., Halifax

SITE PLAN and ELEVATIONS

Project Proposal: to construct a single unit dwelling
Approved Variance: Vary lot Area from 3000 sq ft to 2550 sq ft
 Vary rear yard setback from 20 ft to 6' 4"
 Vary front yard setback from 15 ft to 10 ft



DATE: June 28, 2010

SUBJECT: Application for Variance, File No. 16218 - 6583 Quinpool Rd., Halifax

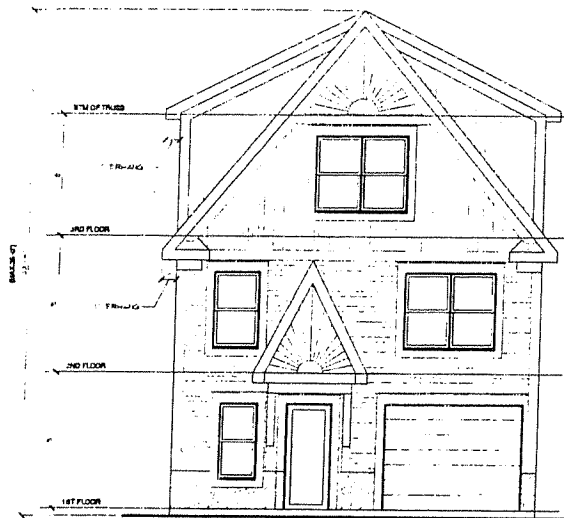
SITE PLAN and ELEVATIONS

Project Proposal: to construct a single unit dwelling

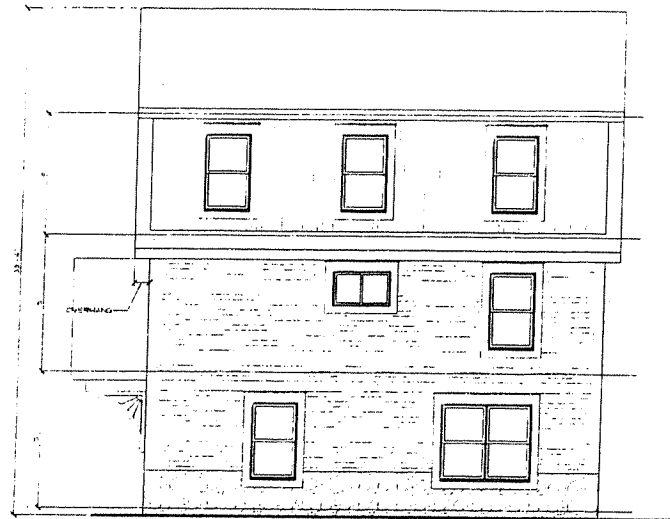
Approved Variance: Vary lot Area from 3000 sq ft to 2550 sq ft

Vary rear yard setback from 20 ft to 6' 4"

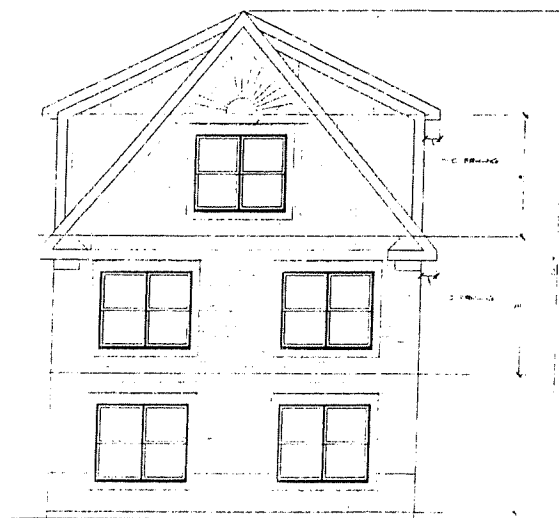
Vary front yard setback from 15 ft to 10 ft



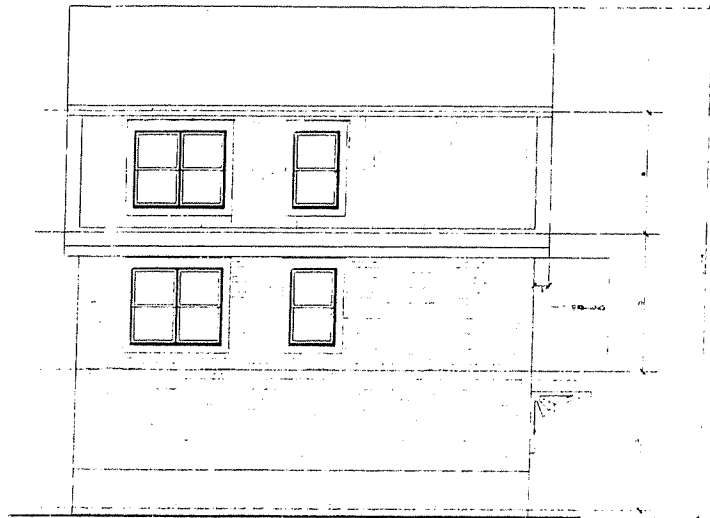
PROPOSED FRONT ELEVATION



PROPOSED RIGHT ELEVATION



PROPOSED REAR ELEVATION



PROPOSED LEFT ELEVATION