

TO: Chairman and Members of Peninsula Community Council

SUBMITTED BY: 
Andrew Faulkner - Development Officer

DATE: September 1, 2010

SUBJECT: Appeal of the Development Officer's decision to approve an application
for a variance at civic 1590 Walnut Street, Halifax

ORIGIN

Pursuant to Section 251 (3) of the Halifax Regional Municipality Charter any person served notice of an approval of a variance may appeal the decision of the Development Officer to the Municipal Council.

This report deals with an appeal of the Development Officer's decision to approve an application for a variance from the requirements of the land use bylaw for property at 1590 Walnut Street, Halifax

RECOMMENDATION

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

BACKGROUND

The subject property is zoned R-2 General Residential Zone, Peninsula Centre Secondary Plan in the Halifax Peninsula Land Use By-law.

On June 29, 2010 an application was received to vary the minimum right side yard setback from five (5) feet to three point five (3.5) feet.

The proposal is to renovate internally, the existing single family dwelling to create a two unit dwelling.

There is currently an active permit (#109005) to renovate a single unit dwelling. A previously issued permit (105275) to move an existing basement door and excavate the basement, disqualified this property owner from using the internal conversion clause available to property owners in the Peninsula Centre Secondary Plan.

DISCUSSION

The *Halifax Regional Municipality Charter* sets out guidelines under which the Development Officer may not 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 purpose of the side yard requirements is to provide separation between buildings. This proposal does not reduce the existing separation distance of three point five (3.5) feet. This proposal meets all other setback requirements as set out in the Land Use Bylaw for Halifax Peninsula

It is the opinion of staff that the approval of this variance does not violate the intent of the land use bylaw

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

The legal occupancy of all residential buildings within the variance notice area was examined. There is a mix of single family dwellings, two unit dwellings, three unit dwellings and a four unit dwelling. With a few exceptions, most lots have 40 feet of frontage and an area of 4,000 square feet, as does the applicant property. Two of the multi unit dwellings pre-date the 1950 adoption of the Halifax Peninsula Land Use Law while others qualified for the internal conversion clause.

Based on this assessment it is felt that the difficulties associated with this proposal is not general to properties in the area.

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

The property owner has applied for the Variance prior to the conversion, the difficulties are not a result of intentional disregard of the requirements of the land use by-law

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

ATTACHMENTS

1. Site plan
2. Approval letter
3. Notification list
3. Appellant letter
4. Notification letter

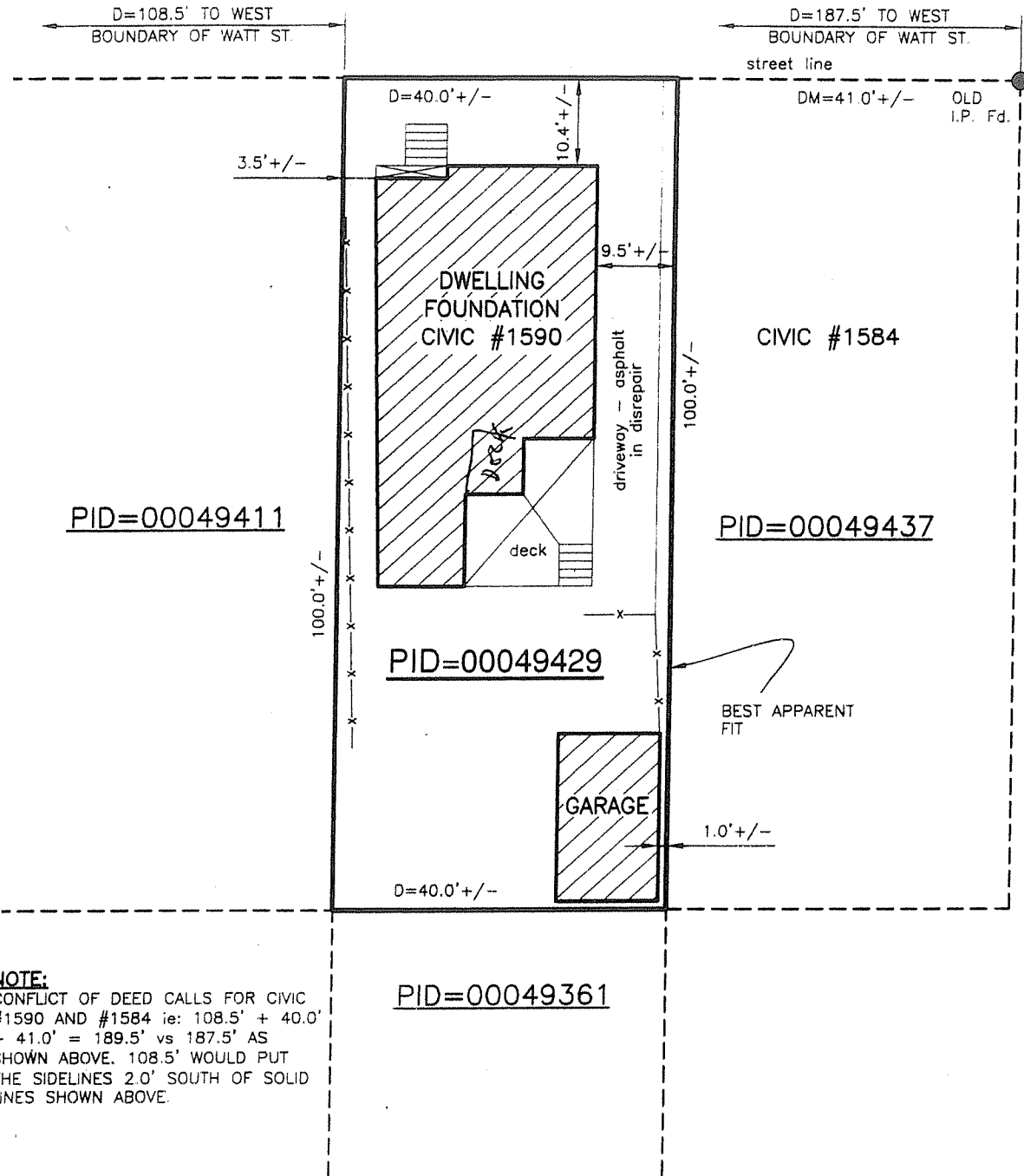
INFORMATION BLOCK

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: Liz Scott, Development Technician - 490-4409

SURVEYOR'S LOCATION CERTIFICATE

WALNUT STREET



NOTE:

CONFLICT OF DEED CALLS FOR CIVIC #1590 AND #1584 ie: $108.5' + 40.0' + 41.0' = 189.5'$ vs $187.5'$ AS SHOWN ABOVE. $108.5'$ WOULD PUT THE SIDELINES $2.0'$ SOUTH OF SOLID LINES SHOWN ABOVE.

PID=00049361

I, Gerald B. Boylan, Nova Scotia Land Surveyor hereby certify that this Surveyor's Location Certificate was prepared under my supervision and in accordance with Part VII of the Nova Scotia Land Surveyors regulations made pursuant to section 8 of the Land Surveyors Act.

Dated July 16, 2008

G. B. Boylan

NSLS

CAUTION:

This Surveyor's Location Certificate shall not be used for boundary definition or as a reference document for the preparation of legal descriptions or for building permit applications, or for positioning of new fencing, hedges, driveways, extensions, etc. It is not transferable from client to future owners.

Certified to Sudit Sur

Legend: D - from deed, P - from plan, M - by measure —x—x— Fence, I.B. - iron bar I.P. - iron pipe

CIVIC # 1590, WALNUT STREET
HALIFAX, N.S.

SCALE: 1" = 20'

CERTIFICATION

This is to certify that I have measured and found the foundation of the above shown dwelling to be entirely



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

July 23, 2010

Sujit Sur
1590 Walnut Street
Halifax, NS
B3H 3S2

Dear Mr. Sur:

RE: Case 16272, civic1590 Walnut Street, Halifax

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

Location:	1590 Walnut Street
Project Proposal:	Convert existing single unit dwelling to a 2 unit dwelling
Minimum right sideyard required	5 feet
Approved variance	Reduce sideyard to existing 3.5 feet

In accordance with Section 251 of the **Halifax Regional Municipal 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 **August 11, 2010**

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

If you have any questions or require additional information, please contact Liz Scott at 490-4409.

Sincerely,

A handwritten signature in black ink that reads "Andrew Faulkner".

Andrew Faulkner
Development Officer

cc. Cathy Mellett, Municipal Clerk
Councillor Sue Uteck, District 13

PLANNING AND DEVELOPMENT SERVICES - WESTERN REGION

Tel: (902) 490-4402 Fax (902) 490-4645

E-mail: faulkna@halifax.ca Web Site: www.halifax.ca

16272

OWNER1	OWNER2	ADDRESS1	ADDRESS2	POST_CDE
✓ BONNELL JOHN R.H.	BONNELL CATHY LUMSDEN	1555 CHESTNUT ST	HALIFAX NS	B3H 3S9
✓ ELLISON ROBERT ALFRED SCOTT	SHOVELLER LYNDA JOAN	1585 CHESTNUT ST	HALIFAX NS	B3H 3S9
✓ FOLWARCZNA MAGDALENA ANNA		6195 PEPPERELL ST	HALIFAX NS	B3H 2P1
✓ GARDINER GAIL		1584 WALNUT ST	HALIFAX NS	B3H 3S2
✓ GLAZOV MARINA		1569 CHESTNUT ST	HALIFAX NS	B3H 3S9
✓ GRAHAM DANIEL GREGORY		1581 CHESTNUT ST	HALIFAX NS	B3H 3S9
✓ HALIFAX REGIONAL MUNICIPALITY		PO BOX 1749	HALIFAX NS	B3J 3A5
✓ HAYDEN SUSAN ALEXANDRA		1591 CHESTNUT ST	HALIFAX NS	B3H 3S9
✓ KIERANS JOHN KENNETH	HODGSON JANA	1602 WALNUT ST	HALIFAX NS	B3H 3S2
✓ KIM REALTIES LIMITED		1595 CHESTNUT ST	HALIFAX NS	B3H 3S9
✓ KIM REALTIES LIMITED		580 YOUNG AVE	HALIFAX NS	B3H 2V5
✓ PHELAN LINDEN J		43 SEAFARERS LANE	HALIFAX NS	B3T 1W6
✓ ROACH DAVID CECIL	SCHOFIELD ALEX SUSAN E	1604 WALNUT ST	HALIFAX NS	B3H 3S2
✓ SUR SUJIT		1590 WALNUT ST	HALIFAX NS	B3H 3S2
✓ WHITE MARGARET SEWELL		1452 DRESDEN ROW	HALIFAX NS	B3J 3T5
n/a	n/a	n/a	n/a	n/a

Scott Ellison
1585 Chestnut Street
Halifax, NS B3H 3S9

August 10, 2010

Andrew Faulkner, Development Officer
c/o Municipal Clerk
Halifax Regional Municipality
Development Services – Western Region
PO Box 1749
Halifax, NS B3J 3A5

Dear Andrew:

RE: Case 16272 at Civic 1590 Walnut Street, Halifax

In response to your letter dated July 23, 2010, I am appealing the decision to grant a minor variance. The reason for the appeal is the population density of this section of Walnut Street. Converting 1590 from a single to a two unit dwelling will only increase the number of residents on Walnut.

Currently, there are multiple unit dwellings on Walnut Street near 1590 and there are issues with noise and behaviour. As recently as the past Natal Day weekend, fireworks were set off well after 11PM on a Walnut Street property near 1590. Increasing the population density by adding more residents by converting a single family occupied home into a two unit dwelling will only increase the number of noise and behaviour incidents.

Two additional comments, it appears construction has already commenced on the conversion of 1590 Walnut as a window has been removed and boarded over. Also, the property is not kept in a sightly manner as the backyard is infested with goutweed and the driveway is not in great condition. Given this, changing the property to a two unit building probably will not lead to it being kept in an appealing manner.

Thank you for your time and I look forward to being kept informed regarding this appeal:

Yours truly,

Scott Ellison

cc: Councillor Sue Uteck, Distrc 13
Danny Graham, 1581 Chestnut Street
Dr. Steven Workman, 1591 Chestnut Street



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

August 18, 2010

Sujit Sur
1590 Walnut Street
Halifax, NS
B3H 3S2

Dear Sur:

RE: Variance Case 16272 at Civic 1590 Walnut Street, Halifax

Subject to the appeal provisions of the Halifax Region Municipality Charter, your application for a variance has been appealed by the owners of 1585 Chestnut Street

This is to advise that the appeal will be presented to the Peninsula Community Council on Monday, September 13, 2010 at Council Chambers, City Hall, 1849 Argyle Street, Halifax.

Should you require further information, please do not hesitate to contact this office at 490-4402

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Faulkner", written in a cursive style.

Andrew Faulkner
Development Officer

cc: Cathy Mellett, Acting Municipal Clerk
Councillor Sue Uteck, District 13
Sheilagh Edmonds, Community Council Support



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

August 18, 2010

Scott Ellison
1585 Chestnut Street
Halifax, NS
B3H 3S9

Dear Mr. Ellison:

RE: Case No. 16272 - Variance at Civic 1590 Walnut Street, Halifax

This is to confirm that your appeal of the above variance application has been received by this office.

Your objection may be presented to the Peninsula Community Council on Monday, September 13, 2010, at 7:00 p.m., at Council Chambers, City Hall, 1841 Argyle Street, Halifax.

Should you require further information, please do not hesitate to contact this office at 490-4402

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Faulkner".

Andrew Faulkner,
Development Officer

cc: Councillor Sue Uteck, District 13
Cathy Mellett, Municipal Clerk
Sheilagh Edmonds, Community Council Support