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PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Peninsula Community Council
September 17, 2007

TO: Chairman and Members of Peninsula Community Council

SUBMITTED BY:

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

Andrew Faulkner - Development Officer

DATE: August 14, 2007

SUBJECT: Appeal of the Development Officer's decision to deny an application for a
Variance - 2581 Elm St, Halifax

ORIGIN

This report deals with an appeal of the Development Officer's decision to deny a variance from the left side yard of the Halifax Peninsula Land Use Bylaw to permit a Two Unit Dwelling.

RECOMMENDATION

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

BACKGROUND

Currently there is an existing dwelling with an existing side yard setback of two feet from the left side yard and 9'-4" from the front yard. The applicant proposes to build an addition to create a semi-detached building. The site plan proposes a right side yard of 5 feet and a front yard setback of 16 feet from the front yard.

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 ?

One of the goals in planning policies adopted for the established neighbourhoods of the Halifax Peninsula 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 predominantly stable neighbourhoods, and will seek to ensure that any change it can control will be compatible with these neighbourhoods."

The character of this neighbourhood is primarily Single Unit Dwellings. Within the buffer area, there is a semi-detached building (2580 Beech Street) in which a portion of the building is setback further from the street. However, from the front, it appears to be a single unit dwelling with one door in the front. The design of the proposed building at 2581 Elm Street does not fit the character of the surrounding neighbourhood nor does it maintain the stability of the neighbourhood which is primarily single unit dwellings. Therefore the variance was refused.

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

The difficulty experienced is general to properties in the area. Most dwellings in the neighbourhood have similar setbacks as this property.

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

There is no intentional disregard.

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.

REGIONAL PLANNING IMPLICATIONS

There are no implications on the Regional Planning process associated with this application.

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 grant the variance.

ATTACHMENTS

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

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: Andrew Faulkner - Development Officer (490-4402)

Halifax Regional Municipality



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

June 29th, 2007

Re: 2581 Elm Street Variance Application # 13916

Dear HRM,

This letter is to inform you of my intention to appeal the rejection of my variance application. Please forward to me any relevant information pertaining to this process.

Sincerely,



Steven Nurse

2007 JUN 29 10:00 AM
STEVEN NURSE
2581 ELM STREET
MILWAUKEE, WI 53212

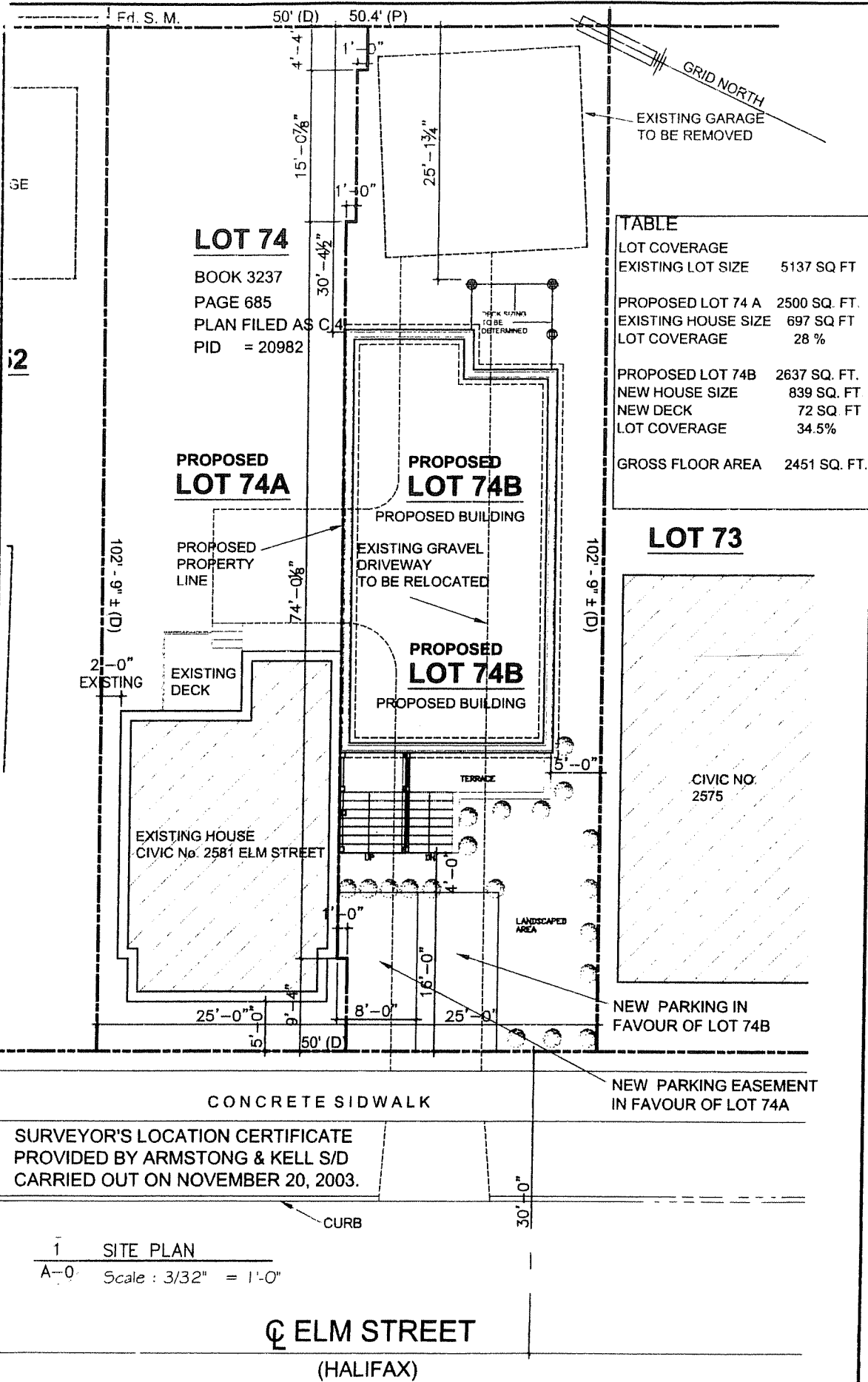


TABLE	
LOT COVERAGE	
EXISTING LOT SIZE	5137 SQ FT
PROPOSED LOT 74 A	2500 SQ. FT.
EXISTING HOUSE SIZE	697 SQ FT
LOT COVERAGE	28 %
PROPOSED LOT 74B	2637 SQ. FT.
NEW HOUSE SIZE	839 SQ. FT
NEW DECK	72 SQ. FT
LOT COVERAGE	34.5%
GROSS FLOOR AREA	2451 SQ. FT.

1 SITE PLAN
 A-0 Scale : 3/32" = 1'-0"

ELM STREET
 (HALIFAX)

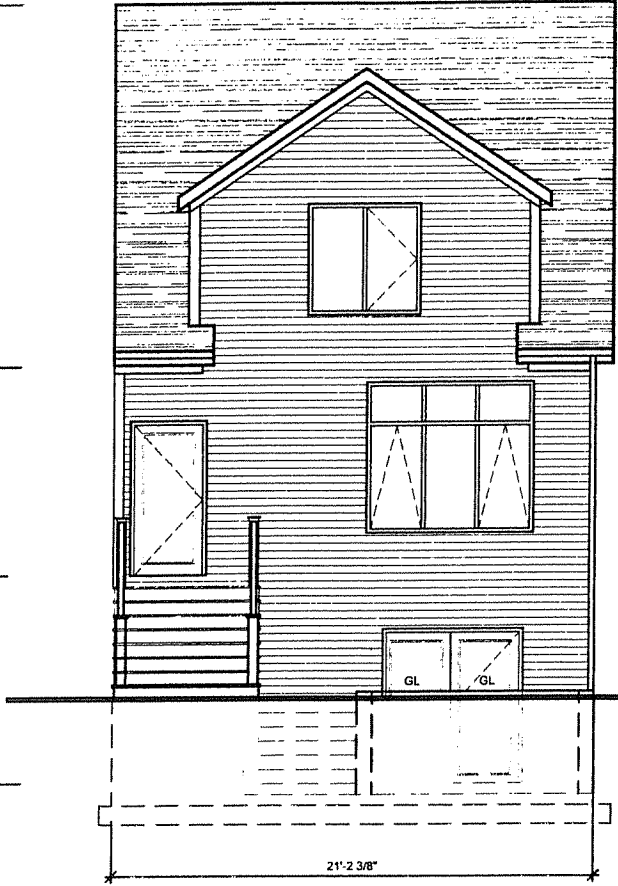
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			3/32" = 1'-0"	A-0

34'-8" RIDGE

18'-7" 2nd FLOOR

9'-3 1/2" MAIN FLOOR

0'-0" LOWER LEVEL



1 WEST ELEVATION
 A-9 1/8" = 1'-0"

ELM STREET
 PROPOSED SUBDIVISION
 ELM STREET
 HALIFAX, NOVA SCOTIA

ALL CONSTRUCTION TO MEET
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 SCALE
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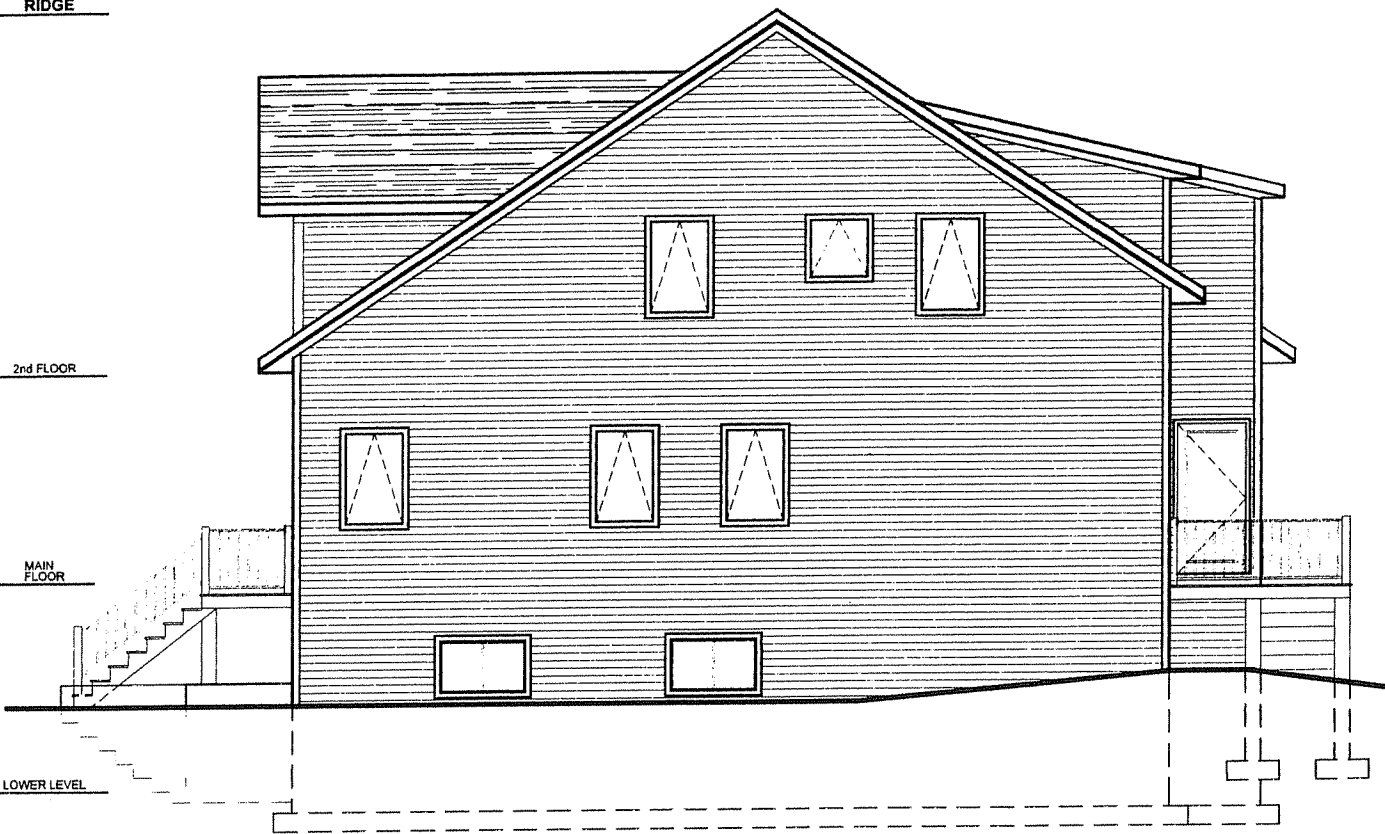
DATE
 FEB./07
 DRAWING NO
 A-9

34'-6" RIDGE

16'-7" 2nd FLOOR

9'-3 1/2" MAIN FLOOR

0'-0" LOWER LEVEL



1 SOUTH ELEVATION
A-8 1/8" = 1'-0"

ELM STREET
PROPOSED SUBDIVISION
ELM STREET
HALIFAX, NOVA SCOTIA

ALL CONSTRUCTION TO MEET
ALL APPLICABLE CODES, BY-LAWS,
STANDARDS, ETC.
APPROXIMATE DIMENSIONS

MICHAEL
NAPIER
ARCHITECTURE

DRAWING
SOUTH ELEVATION

SCALE
1/8" = 1'-0"

DATE
FEB /07

DRAWING NO
A-8