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Halifax, Nova Scotia  
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*Peninsula Community Council*  
September 13, 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 deny an application for a  
Variance #16298 - 2487 Davison St, Halifax

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**ORIGIN**

This report deals with an appeal of the Development Officer's decision to deny a variance for the, lot area, lot frontage, rear and side yard setbacks of the Halifax Peninsula Land Use Bylaw to add volume to a two unit dwelling created through conversion in 1987.

**RECOMMENDATION**

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

## BACKGROUND

The property is regulated under the *Halifax Peninsula Land Use By-Law* and is zoned R-2. The owner of the subject property proposes increasing the volume of a two unit dwelling.

In 1987 a permit was issued on this property to convert a single unit dwelling to a two unit dwelling. This permit was issued using an internal conversion clause under the Land Use Bylaw. The dwelling is restricted at the existing size, whereby, no increase in volume of the building is permitted.

The applicant wants to change the internal layout of the building so that the two units are over and under as opposed to side by side. To do this it will be necessary to raise the basement height to meet building code, which will result in an increase in volume of the structure.

With the additional volume, this building no longer complies with the conversion requirements and therefore must be reviewed under the requirements of the R-2 Zone for a two unit dwelling. Therefore, a variance was required to comply.

On July 7, 2010, staff received an application for a variance to relax the minimum lot area, lot frontage, side yard and rear yard setbacks. The variance application was denied by the Development Officer. On July 14<sup>th</sup>, 2010, an appeal was received and is subsequently before council.

In accordance with HRM Charter, all assessed property owners within 30 meters of the subject property have been notified of the appeal and this Hearing.

## 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 Peninsula, is to maintain the character and stability of these areas through Municipal Planning Strategy (MPS) policies such as 1.1 which states:

*“The objective is to encourage stable residential communities in Peninsula North and to preserve the character of Peninsula North, the retention and rehabilitation of structurally sound housing units shall be encouraged”*

1.3.1 states:

*“...in medium-density residential areas the conversion of structures existing at the date of this bylaw is permitted to a maximum of two apartment units per structure provided there is no increase in the height or volume of the building.”*

The Development Officer has determined that the proposal does not meet this objective, therefore, is refused as it is considered to be contrary to the intent of the bylaw.

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

The area surrounding the subject property includes lot areas that range from 1530 sq ft to 3600 sq ft. These properties are impacted by the same restrictions. Based on these circumstances, the difficulty experienced is general to the area.

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

The applicant applied for a permit prior to initiating construction, therefore 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 deny the variance.
2. Council could overturn the decision of the Development Officer and approve 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/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 (490-3328)

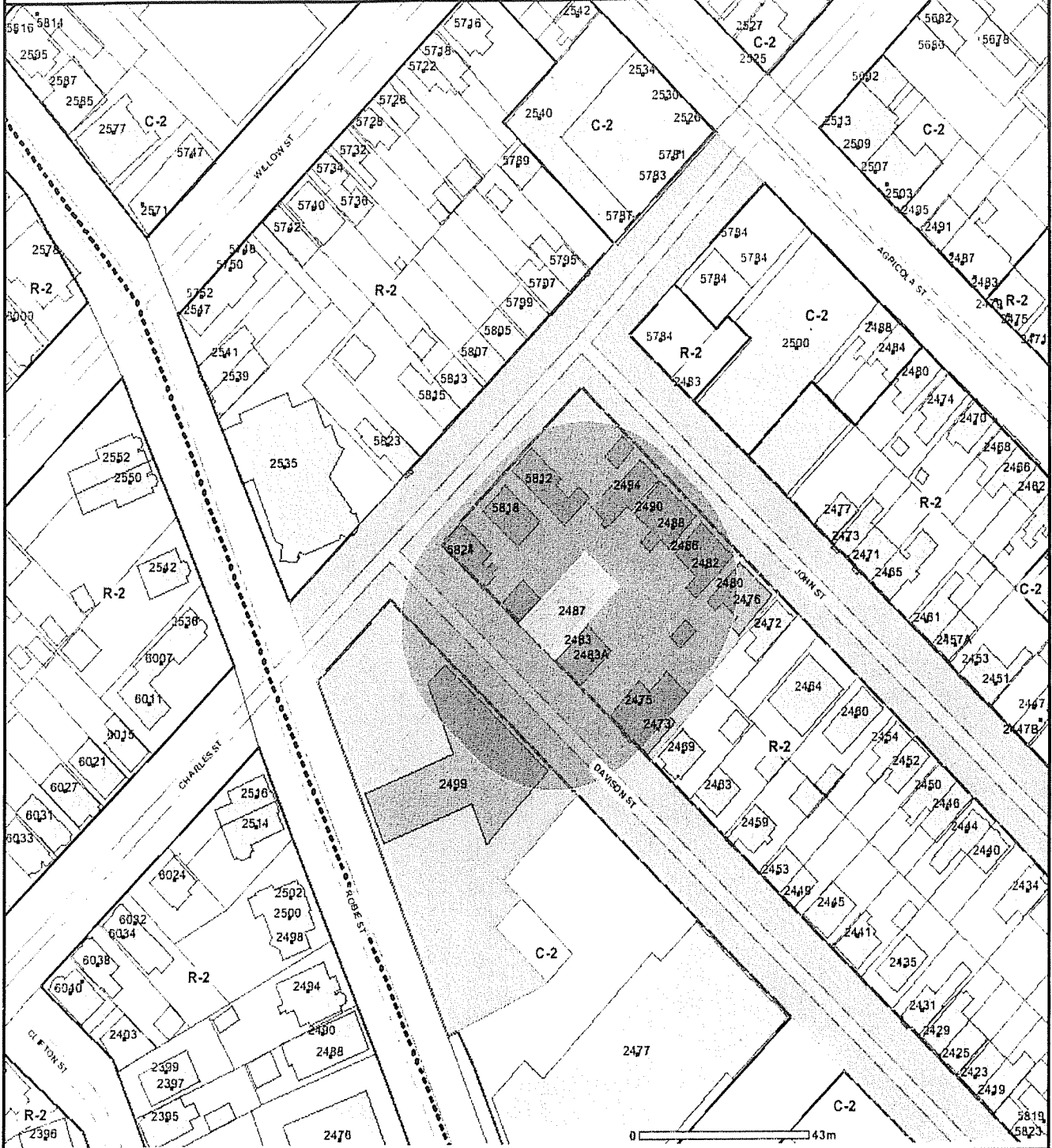
Report Approved by:



Andrew Faulkner - Development Officer (490-4402)

Attachment 1

# VARIANCE 16298 - 2487 DAVISON ST, HALIFAX



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](mailto:civicadd@halifax.ca). Date of map is not indicative of the date of data creation.

Wednesday, July 14, 2010

Andrew Faulkner  
Development Officer  
HRM  
Development Services,  
Western Region  
P.O. Box 1749  
Halifax, N.S.  
B3J 3A5

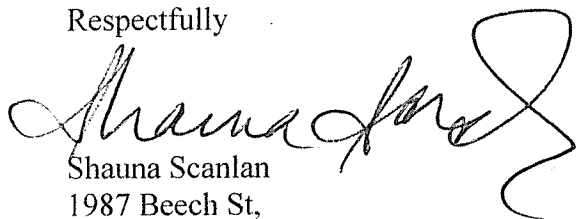
Dear Mr. Faulkner:

Re: Appeal of Variance Application # 16298 Refusal  
For 2487 Davison St, Units A & B

I would like to appeal you refusal of the variance for 2487 Davison on the following grounds:

- A) The building has operated as a two side by side unit building since 1987, Units A & B
- B) The basement height as it exists is already 6'8" approximately 4" inches from legal height for full use of the basement.
- C) To fully renovated the units would mean to lift the building approximately 20" to create 8' ceiling in the lower unit. This lift would be very nominal and significantly under any HRM height restrictions. The renovation would give significant curb appeal and value to the area. . This investment is worthwhile, as it would be my primary residence.

Respectfully



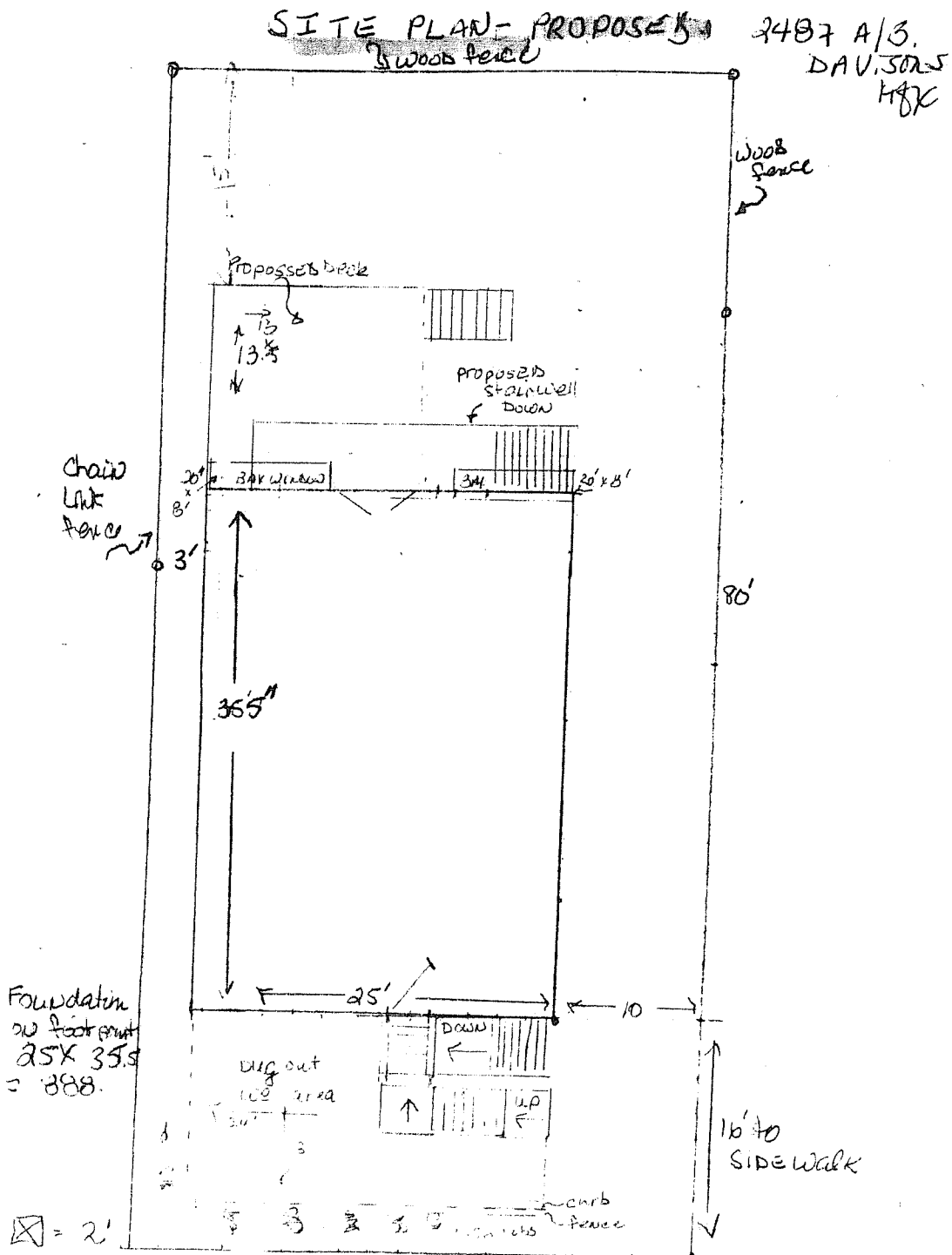
Shauna Scanlan  
1987 Beech St,  
Unit B  
Halifax, N.S. B3H 4B9  
902-423-1980

DATE: September 1, 2010

SUBJECT: Variance Application No. 16298 - 2487A Davison St., Halifax

SITE PLAN

**Project Proposal:** Convert from single unit dwelling to two unit dwelling  
**Variance Requested:** Vary lot area from 5000 sq ft to 2926 sq ft  
 Vary lot frontage from 50 ft to 38 ft  
 Vary rear yard setback from 20 ft to 15 ft  
 Vary left side yard setback from 5 ft to 3 ft



DATE: September 1, 2010

SUBJECT: Variance Application No. 16298 - 2487A Davison St., Halifax

ELEVATIONS

**Project Proposal:** Convert from single unit dwelling to two unit dwelling

**Variance Requested:** Vary lot area from 5000 sq ft to 2926 sq ft  
 Vary lot frontage from 50 ft to 38 ft  
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FRONT (WEST) (STREET) VIEW / PROPOSED IN JUNE, 2010

NOTES TO PROPOSED FRONT VIEW ATTACHED

