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PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Peninsula Community Council**  
**September 8, 2008**

**TO:** Chairman and Members of Peninsula Community Council

**SUBMITTED BY:**

  
\_\_\_\_\_  
Andrew Faulkner - Development Officer

**DATE:** August 27, 2008

**SUBJECT:** Appeal of the Development Officer's decision to refuse an application for a  
Variance - 2434 Clifton Street

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**ORIGIN**

This report deals with an appeal of the Development Officer's decision to refuse a variance from the lot area and gross floor area requirements of the Halifax Peninsula Land Use Bylaw for the conversion of a single unit dwelling to a two unit dwelling.

**RECOMMENDATION**

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

## **BACKGROUND**

The above noted application proposes the creation of a second unit within an existing single unit dwelling. There is no intended increase in volume of the building. The property is zoned R-2, General Residential Zone, Peninsula North Area 3, in the Halifax Peninsula Land Use Bylaw.

Although the R-2 Zone permits internal conversion to two units which existed prior to 1993, there was an addition to this single unit dwelling in 1994 which therefore prohibits conversion by-right. The R-2 Zone requirements apply in their entirety, as follows:

Lot Size Minimum 5,000 square feet - Proposed: 2,183 square feet

Note that no variances are required for side yard setbacks or lot coverage as three variances have been granted for this property previously:

- 1979 - lot coverage and side yard to accommodate a rear deck and one storey rear addition
- 1983 - lot coverage and side yard to accommodate construction of garage
- 1994 - lot coverage, rear yard, and side yard to accommodate an addition of a third story

This Variance to convert the building to a two unit dwelling was refused by the Development Officer on July 29, 2008. The applicant appealed the Development Officers decision on August 8, 2008.

## **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 ?**

Throughout the Land Use Bylaw, density is directly or indirectly controlled by lot area requirements. Staff believe the intent of the regulations is clearly established by requiring larger lots for developments containing larger numbers of dwelling units. For example, the standard R-2 guidelines require a lot are of 4000 square feet for single unit dwellings, 5000 sq ft for duplexes and 8000 sq ft for three and four unit buildings. Side lot line setbacks are increased as density increased, from 4 feet to 6 feet. For low density residential development, it is clear the bylaw intends to restrict higher numbers of dwelling units to lots with comparatively larger lot areas and greater open space between the buildings and the lot line.

The Development Officer believes that further reduction in lot area and frontage to allow additional units would clearly violate the intent of the bylaw. Therefore the variance is refused.

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

The zone permits up to four units, dependent on the frontage, lot area and side yard setbacks. The properties in the buffer area are a mix of single unit dwellings, townhouses and two unit dwellings. The majority of the single unit dwellings would have difficulty meeting the lot area requirements to construct or alter an existing building to create a two unit dwelling, therefore the difficulty experienced is general to the properties in the area..

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

There is no intentional disregard, as the applicant has made application for a development permit and subsequently applied for a variance.

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

**ATTACHMENTS**

1. Location Certificate
2. Provincial mapping
3. Refusal Letter
4. Appeal refusal 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.

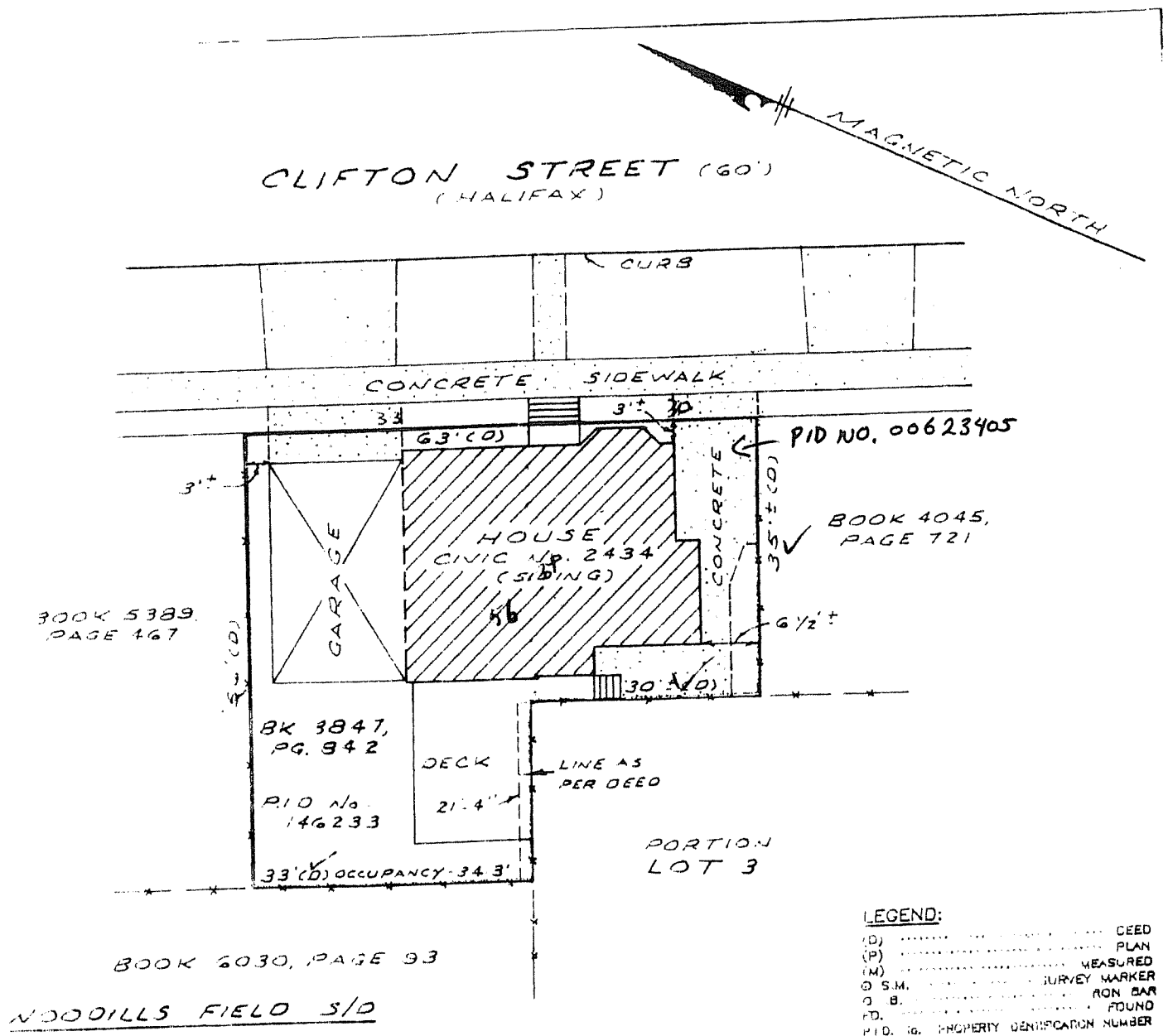
Report Prepared by: Connie Sexton, Development Technician (490-4338)

DATE: August 20, 2008

SUBJECT: Variance Application #14786  
2434 Clifton Street

## SITE PLAN

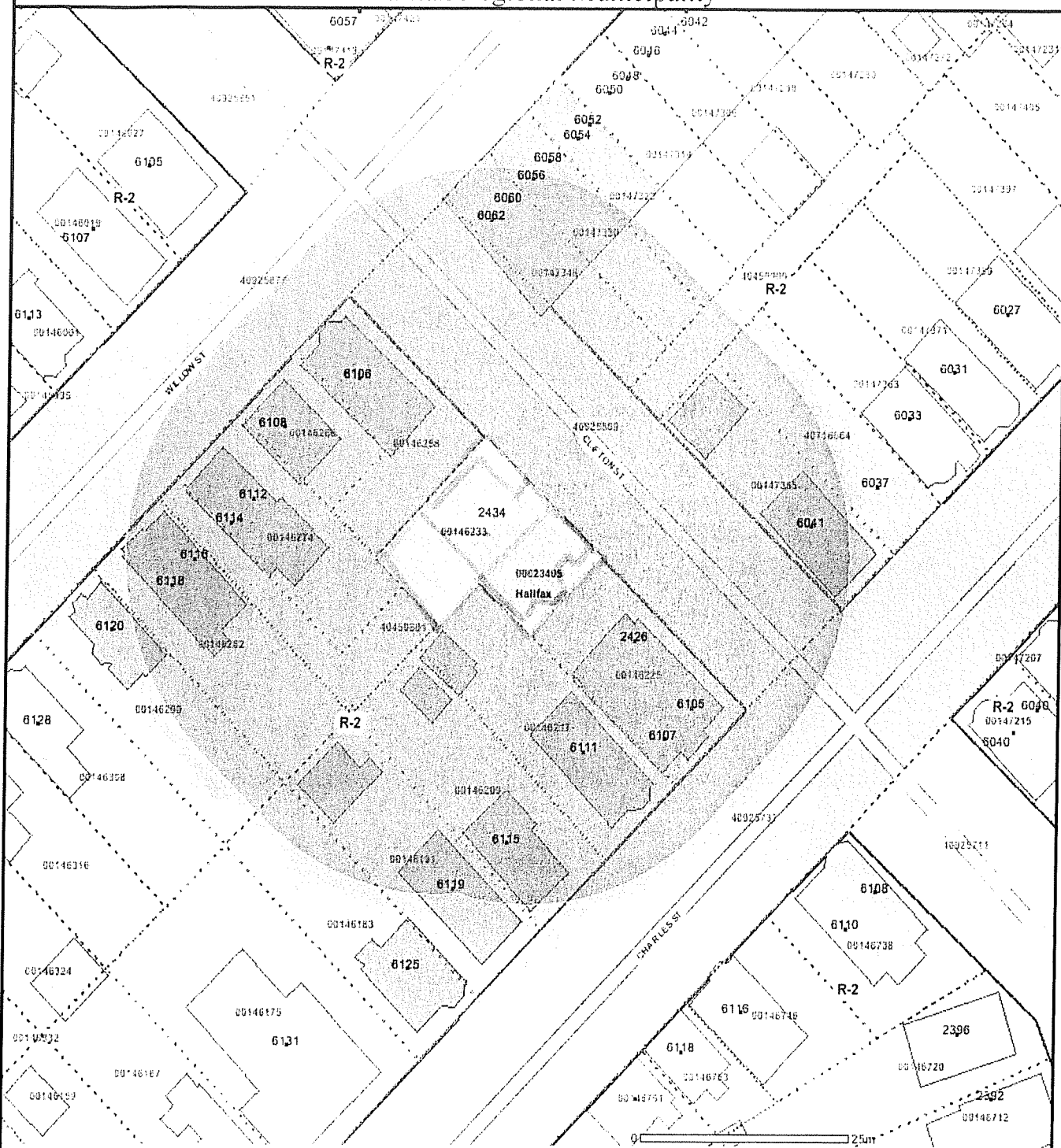
Vary lot area from 3000 sq ft. to 2183 sq ft.  
Vary Gross Floor Area from 1637 sq ft to 3578 sq ft.



FIELD SURVEYS WERE CARRIED OUT ON OCTOBER 16<sup>th</sup>, 2003

SCALE: 1 INCH = 20 FEET

## Halifax Regional Municipality



30 m Buffer for 2434 Clifton



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.



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

*Community Development  
Western Region Office - West End Mall  
6960 Mumford Rd., Halifax, NS B3L 4P1*

July 29, 2008

Ms. Alison Bidwell  
2434 Clifton Str  
Halifax, NS B3K 4V2

Dear Ms. Bidwell:

**RE: Application for Variance No. 14786 - 2434 Clifton Street**

This letter is to advise you that your application for a variance to change a single unit dwelling to a two unit dwelling has been **refused**.

Section 235(3) of the **Municipal Government Act** states that:

**No variance shall be granted where:**

- (a) the variance violates the intent of the Land Use Bylaw;**
- (b) the difficulty experienced is general to properties in the area; or**
- (c) the difficulty experienced results from the intentional disregard for the requirements of the Land Use Bylaw.**

The intent of the bylaw in the Halifax Peninsula North Area 3 is to keep two unit residential uses on larger lots than units used for single family dwellings. The bylaw is intended to not allow two unit dwellings on smaller lots that do not meet the gross floor area as this changes the character and stability of the neighbourhood.

**Andrew Faulkner, Development Officer C/O Municipal Clerk  
Halifax Regional Municipality  
Development Services - Western Region  
P.O. Box 1749  
Halifax, NS B3J 3A5**

**Your appeal must be filed on or before *August 9, 2008***

If you have any questions or require additional information, please contact this office at (902) 490- 4338

Sincerely,

A handwritten signature in black ink that reads "Andrew Faulkner". The signature is fluid and cursive, with the first name "Andrew" and last name "Faulkner" clearly distinguishable.

Andrew Faulkner  
Development Officer  
cc.

Municipal Clerk  
Shelia Fougere, Councillor District 14

8 August 2008-08-08

Andrew Faulkner,  
Development Officer  
Halifax Regional Municipality  
PO Box 1749  
Halifax NS  
B3J 3A5

FAX: 902 490 4645

Dear Mr. Faulkner

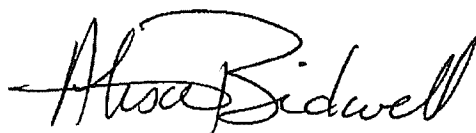
RE: Application for Variance No. 14786 – 2434 Clifton Street

This letter is to notify the Development Office that I am appealing the refusal of my application #14786 to change a single unit dwelling, 2434 Clifton Street, to a two unit dwelling.

Could you please acknowledge the receipt of this appeal by one of the following 3 options:

1. Email to [albidwell@yahoo.ca](mailto:albidwell@yahoo.ca).
2. A telephone call to 423-6916
3. Mail to Alison Bidwell, 2434 Clifton St. Halifax, N.S. B3K 4V2

Thank you very much, sincerely



Alison Bidwell  
2434 Clifton St  
Halifax, N.S.  
B3K 4V2

902 423-6916  
902 499-0610

cc: Sheila Fougere, Councillor District 14