

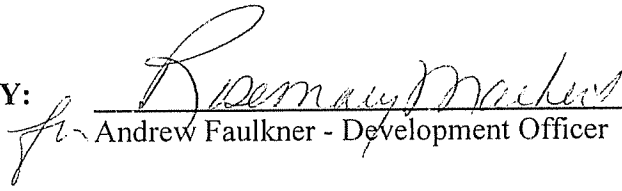


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Peninsula Community Council
May 12, 2008

TO: Chairman and Members of Peninsula Community Council

SUBMITTED BY:



Andrew Faulkner - Development Officer

DATE: May 5, 2008

SUBJECT: Appeal of the Development Officer's decision to deny an application for a
Variance - 6064 Cunard St, Halifax

ORIGIN

This report deals with an appeal of the Development Officer's decision to deny a variance for minimum lot area, lot frontage, gross floor area, lot coverage, and right side yard setback 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 this lot is vacant. The applicant proposes to build a two unit dwelling with the following variances:

Location: 6064 Cunard Street, Halifax

Project Proposal: Two unit dwelling and a detached garage

	Requirements	Proposal
Right side yard setback	5 feet	4 feet
Lot Area	5000 square feet	2890 square feet
Lot Frontage	50 feet	34 feet
Lot Coverage	35%	41%
GFAR	0.75	1.39

Side yard setback, lot coverage, and Gross Floor Area are consistent with the surrounding neighbourhood. The refusal for a variance was based on lot area and lot frontage.

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."

On the north side of Cunard, there are two large commercial buildings. On the

south side of Cunard (where the proposal is located), there are 6 properties. Of these six properties, three of them are duplexes and three are single units. The footprints of the neighbouring properties are larger than what is proposed for this site. The properties in the buffer along Compton Ave are primarily SUD all of which have similar footprints. Of all the properties in the buffer, 9 out of 13 exceed the lot coverage and 12 out of 13 well exceed the GFAR.

All residential properties in this area appear to have approximately the same lot size. In order to develop any of these lots as a single unit dwelling that would fit the character as the existing neighbourhood, a variance would be required for area, frontage, setbacks and GFAR. A variance for a single unit dwelling would be supported.

The intent of the bylaw is to keep two unit residential uses on larger lots than an R-1 use. For a two unit dwelling, a much larger lot size is required. In order to develop this lot as a SUD, the applicant would need a variance for lot size. However, the applicant would only require an additional 110 square feet for lot area which is a reasonable request. For a SUD, frontage would not have to be varied. For a two unit dwelling, the applicant is requesting a difference of 2,110 square feet for lot area, and a difference of 20 feet for frontage which is not reasonable. Given that the mix of dwellings in this neighbourhood is an equal mix of SUD and TUD a variance for a TUD cannot be supported.

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 lot sizes and frontages 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

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)

April 15, 2008

MS. Shilo Gempton
Halifax Regional Municipality
Planning Department
By Hand

Dear Ms. Gempton

RE: Variance application File# 14535, 6064 Cunard St., Halifax

Thank you for your patience and assistance in processing our variance application for the above noted property. We were of course disappointed that our variances could not be granted and so are advising you that we will be appealing the decision on our variance application and request that you initiate our appeal procedure at the earliest opportunity,

Sincerely

A handwritten signature in black ink, appearing to read 'P. Levangie', written in a cursive style.

Philip Levangie

Cell 499-8170,

fax 429-6130,

email restec@eastlink.ca

Variance 14535

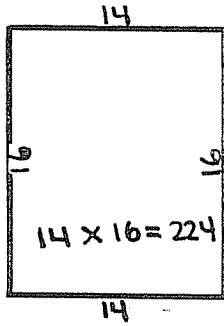


This map was prepared for the internal use of Halifax Regional Municipality(HRM) HRM takes no responsibility for errors or omissions For further information on Street Name or Community(GSA) data please contact HRM Civic Addressing at 490-5347 or email civicadd@halifax.ca Date of map is not indicative of the date of data creation

DATE: May 5, 2008

SUBJECT: Development Officer's decision to deny an application for a variance - 6064 Cunard Street. The applicant is proposing to vary the right side yard setback, front yard setback, lot area, lot frontage, lot coverage, and Gross Floor Area to permit a two unit dwelling and a detached garage.

SITE PLAN



6064 Cunard Street, Halifax

Lot Size: 2890 sq.ft
Coverage: 41%
Building height: Not To Exceed 35ft
Contact: Philip Levangie
Phone: 1 (902) 499 8170

