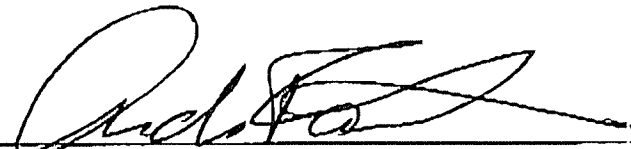


7.1.1

Western Region Community Council
September 26, 2005

TO: Chairman and Members of Western Community Council

SUBMITTED BY:



Andrew Faulkner - Development Officer

DATE: October 20, 2005

SUBJECT: SUPPLEMENTARY REPORT

Appeal of the Development Officer's decision to approve an application
for a variance - 642 Ketch Harbour Road, Portuguese Cove

ORIGIN

See the original report on the WRCC October 3, 2005, agenda.

DISCUSSION

Prior to the October 3rd meeting it was brought to the Development Officer's attention that the application was not only for a garage, but for a second storey sunroom above the garage. Upon review the DO determined that this was a significant change to the original variance circulated to neighbouring property owners and it was important that the variance be re-circulated.

The variance was reconsidered and the Development Officer approved the amended application.

In response there has been one appeal of the approved variance. The appeal letter is attached for your consideration.

RECOMMENDATION

It is recommended that Council uphold the Development Officer's decision to approve this 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 approve the variance. This is the recommended alternative.
2. Council could overturn the decision of the Development Officer and refuse the variance.

ATTACHMENTS

1. Appellant 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: Andrew Faulkner

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Halifax Regional Municipality
c/o Andrew Faulkner, Development Officer
P.O. Box 1749
Halifax, Nova Scotia B3J 3A5 *HAN*

HAND DELIVERED

Re: Case No. 12206
– Variance at Civic No. 642 Ketch Harbour Road, Portuguese Cove

The information in a letter dated August 26, 2005 from the Halifax Regional Municipality was incomplete. The letter indicated that a garage was to be built yet we learned through our questioning that the intent was not simply to build a garage but to add a sunroom atop the structure. A subsequent letter dated October 3, 2005 was sent by the HRM to advise of the sunroom addition.

The addition of the 2nd story will add to the perceived encroachment to our property and our enjoyment of it through loss of privacy and deeper shadows cast upon it by a taller structure. There is no indication of the height of the structure, which will make a difference to the intrusion.

Further, there is no information given as to how much of the property line is affected by the variance request. This should not be left to assumption on our part.

Most single garages do not require a 14.5 foot frontage so a useful garage can be built within the confines of an eight foot easement. We understand that the owners of 642 Ketch Harbour Road have a desire to have their preferences met. On the other hand, we are obliged to protect our property in every respect.

We also wish to advise you that the appeal process is unnecessarily difficult. Given the impact of the process to both parties, we wish to bring the following points to your attention.


1. The opportunity to respond within the time frame provided is exceedingly short. The notice of August 26 allowed only 8 business days to prepare our appeal. One of the owners of the property resides out of province and, bearing in mind postal delays, we recommend that the department give consideration to timing in the interest of fairness. No alternatives to mailing the written appeal are offered; fax and email are not accepted. A civic address is not given to allow hand delivery. Even the named contact in the August 26 letter could not be contacted as she was out of the office until approximately the date that the appeal was due. Section 236 of the *Municipal Government Act* does not specify the kind of days allowed for an appeal. Calendar days are insufficient in some circumstances. The letter dated October 3 was postmarked October 4 and was not received by the out of province owner until October 12. Every opportunity should be given to an appellant to file an appeal without undue stress.
2. The first hearing was postponed due to the lack of information presented in the initial letter. The second letter only added the words "with sunroom above." We expected that more detail would be provided. The overall height is an important consideration.
3. The property owner requesting the variance was not sent a copy of the initial information letter dated August 26, 2005. Had that occurred, the original omission may have been corrected early in the process, avoiding the need to reschedule the hearing.
4. Citizens who have not dealt with the system appreciate information regarding the details of the process. The steps and rules, from the initial letter, through appeal letter, the hearing, expected delays, as well as when the decision on the appeal can be expected would be very helpful. One should not obtain this pertinent information by attending a hearing and then be told that the matter is postponed. Disclosure of available information makes sense when the parties involved are inexperienced with the process.

Thank you for considering this appeal and listening to our comments with respect to the appeal process.

Yours truly,



Christine Ulan



for Patricia Ulan

cc Councillor Steven Adams, District 18