

HALIFAX

Public Hearing Case 24105

Appeal of Variance Refusal:
1783 East Petpeswick Road

Harbour East-Marine Drive Community Council
February 2, 2023

Applicant Proposal

Location: 1783 East Petpeswick Road

Zoning: FV (Fishing Village) Zone, Eastern Shore (West) Land Use By-Law (LUB)

Proposal: A request for seven variances to permit an agriculture use in an existing accessory structure.

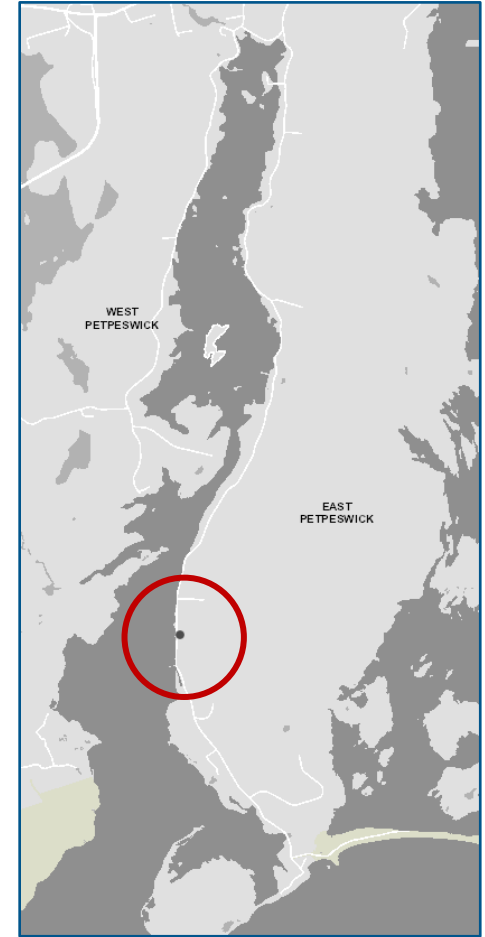
Background

- While the barn has been in existence for a number of years, it was not used for an agricultural use (a single horse) until approximately 2015.
- Staff received a complaint about a horse located in an existing building sited within the required setback from potable water supplies and watercourses, and within the required separation distance from neighbouring dwellings.
- The applicant then applied for this variance request to bring the agricultural use into conformity with the LUB.

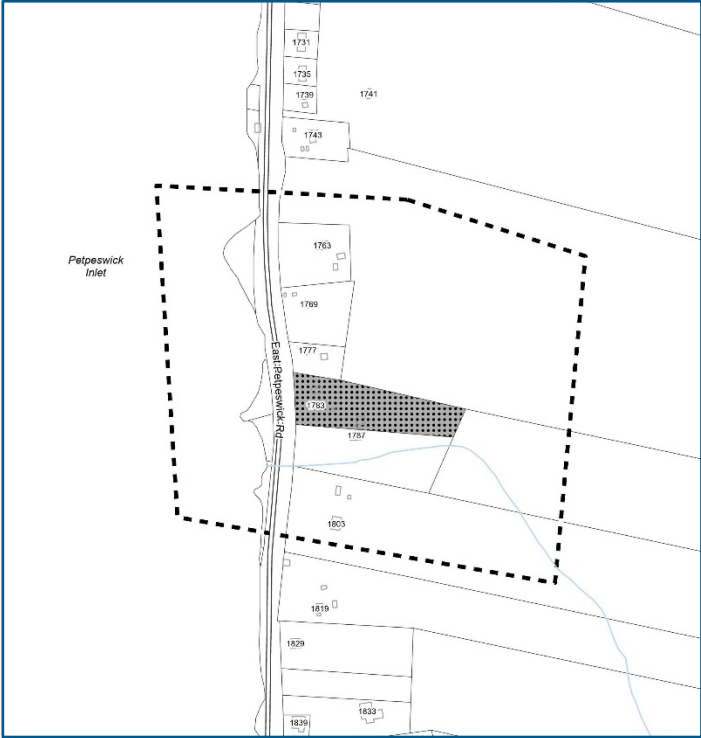
Site Context



General Site location in Red



100 Metre Notification Area

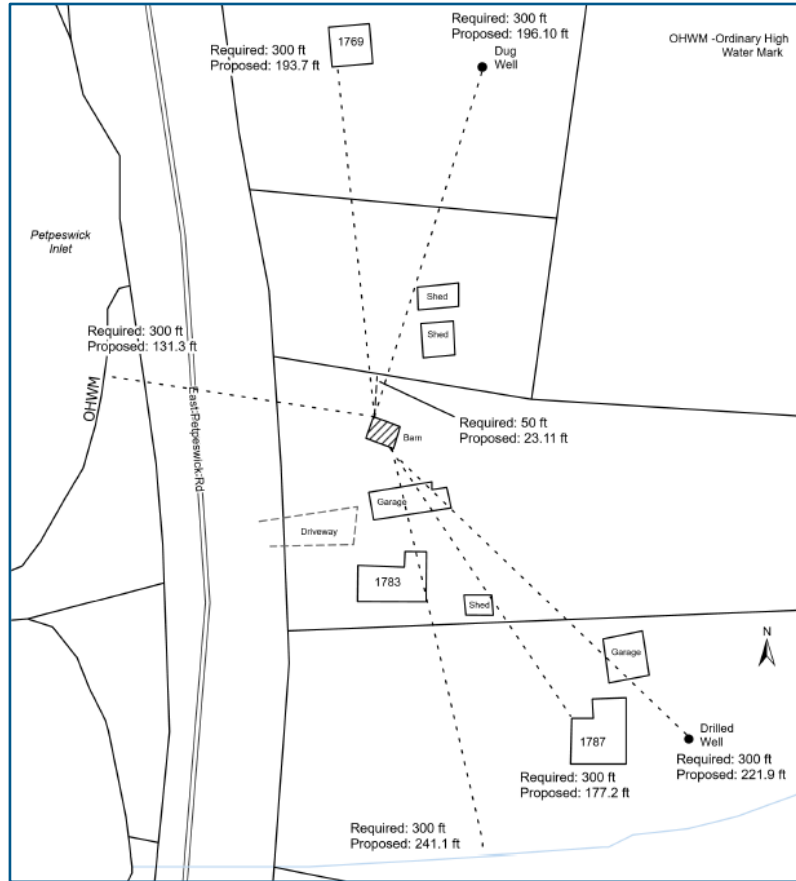


Variations Requested

| | | Zone Requirement | Variance Requested |
|----|--|-------------------------|--------------------------------|
| 1. | Minimum Side Setback (Left) | 50 feet (15.24 metres) | 23 feet 11 inches (7.3 metres) |
| 2. | Minimum Setback from Watercourse or Waterbody (north of property) | 300 feet (91.26 metres) | 131 feet 3 inches (40 metres) |
| 3. | Minimum Setback from Watercourse or Waterbody (south of property) | 300 feet (91.26 metres) | 241 feet 1 inch (73.4 metres) |
| 4. | Minimum Setback from residential dwelling (1769 East Petpeswick Rd.) | 300 feet (91.26 metres) | 193 feet 7 inches (59 metres) |
| 5. | Minimum Setback from residential dwelling (1787 East Petpeswick Rd.) | 300 feet (91.26 metres) | 177 feet 2 inches (54 metres) |

Variances Requested

| | | Zone Requirement | Variance Requested |
|----|--|-------------------------|---------------------------------|
| 6. | Minimum Setback from potable water supply (1769 East Petpeswick Rd.) | 300 feet (91.26 metres) | 196 feet 10 inches (60 metres) |
| 7. | Minimum Setback from potable water supply (1787 East Petpeswick Rd.) | 300 feet (91.26 metres) | 221 feet 9 inches (67.6 metres) |



Consideration of Proposal

The Halifax Charter

250 (3) A variance may **not** be granted where:

- a) the variance **violates the intent** of the land use by-law;
- b) the difficulty experienced is **general to properties** in the area;
- c) the difficulty experienced results from an **intentional disregard** for the requirements of the land use by-law.

Does the proposal violate the intent of the LUB?

- The LUB requirements include a minimum 15.2m or 50ft setback from side lot lines and a minimum 91.4m or 300ft setback from residential dwellings, potable water supplies and watercourses.
- The purpose of these setbacks is to carry out the intent of MPS policy to allow agricultural uses, while creating restrictions that consider the environment, human health, and potential impact and compatibility with neighbouring properties.
- **It is the Development Officer's opinion that this proposal violates the intent of the LUB to provide separation of agricultural uses from residential uses, watercourses and potable water supplies.**

Is the difficulty experienced general to properties in the area?

- There are a variety of large and small lots of varying shapes and sizes along East Petpeswick Road.
- Many of the smaller lots would not be capable of meeting the setback requirements for an agricultural use.
- However, there are also some larger lots (several acres in size) that could easily meet the setback requirements.
- Given the variety of lot sizes and configurations of nearby lots, the difficulty experienced is not general to properties in the area. **This criterion did not inform the refusal of the variance request.**

Is the difficulty experienced the result of an intentional disregard for the requirements of the LUB?

- The agricultural use commenced on the property without a development permit in 2015 when the property owner/applicant adopted the horse. The applicant has stated he was not aware that the LUB regulated agricultural uses.
- Since being made aware of the requirements the applicant has made this variance application to bring the use into conformity.
- **Intentional disregard of by-law requirements did not inform the refusal of the variance request.**

Alternatives

Council may overturn the decision of the Development Officer and allow the appeal, resulting in approval of the Variance.

Or

Council may uphold the Development Officer's decision and deny the appeal, resulting in refusal of the Variance. **This is the recommended alternative.**

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Thank You

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