

HALIFAX

Public Hearing Case 24451

Appeal of Variance Refusal:
178 Sunnyvale Crescent

North West Community Council
March 27, 2023

Applicant Proposal

Location: 178 Sunnyvale Crescent

Zoning: R-1 (Single Unit Dwelling) Zone, Sackville Land Use By-Law (LUB)

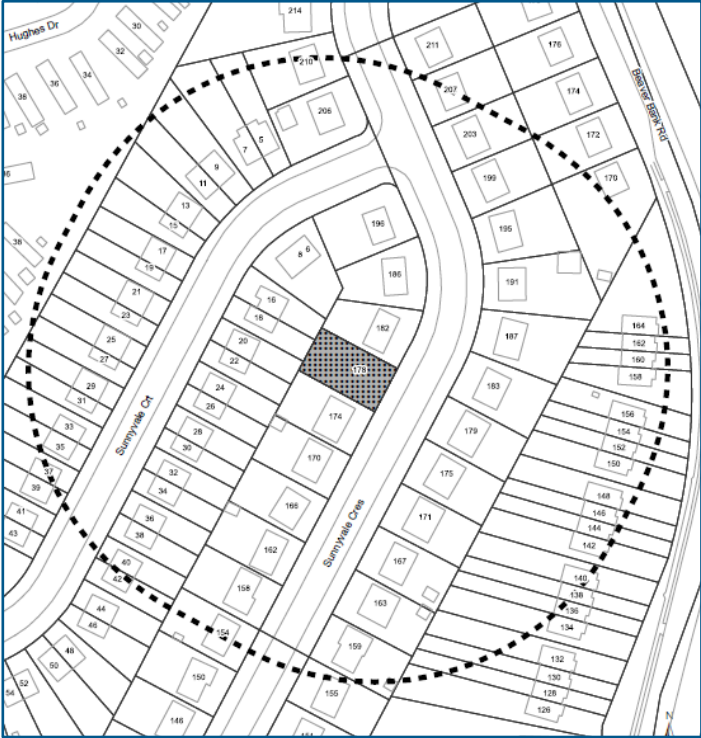
Proposal: A request for one variance to permit a reduction of the left yard setback for an addition to an existing dwelling to create a larger living room and dining room space on the main floor.

Site Context



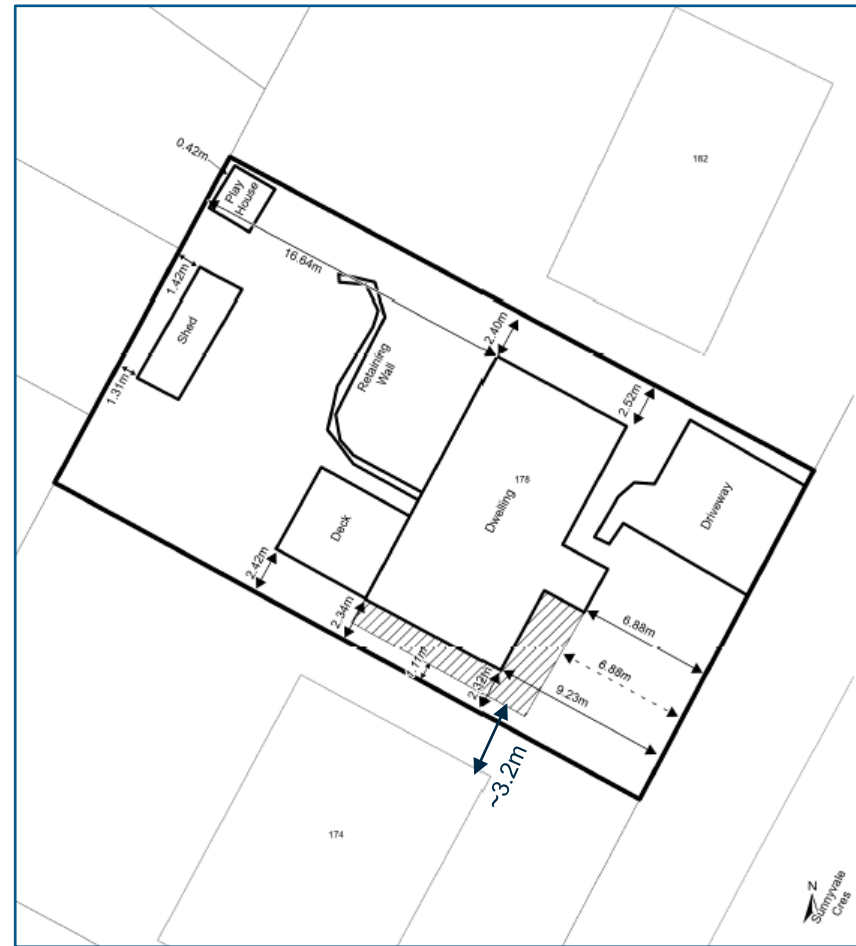
General Site location in Red

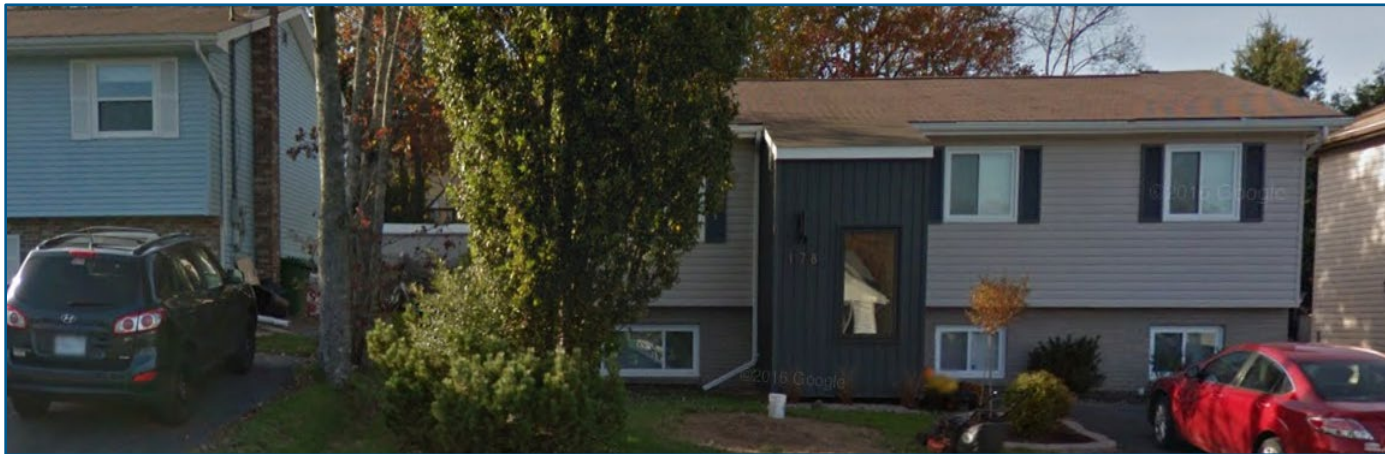
100 Metre Notification Area

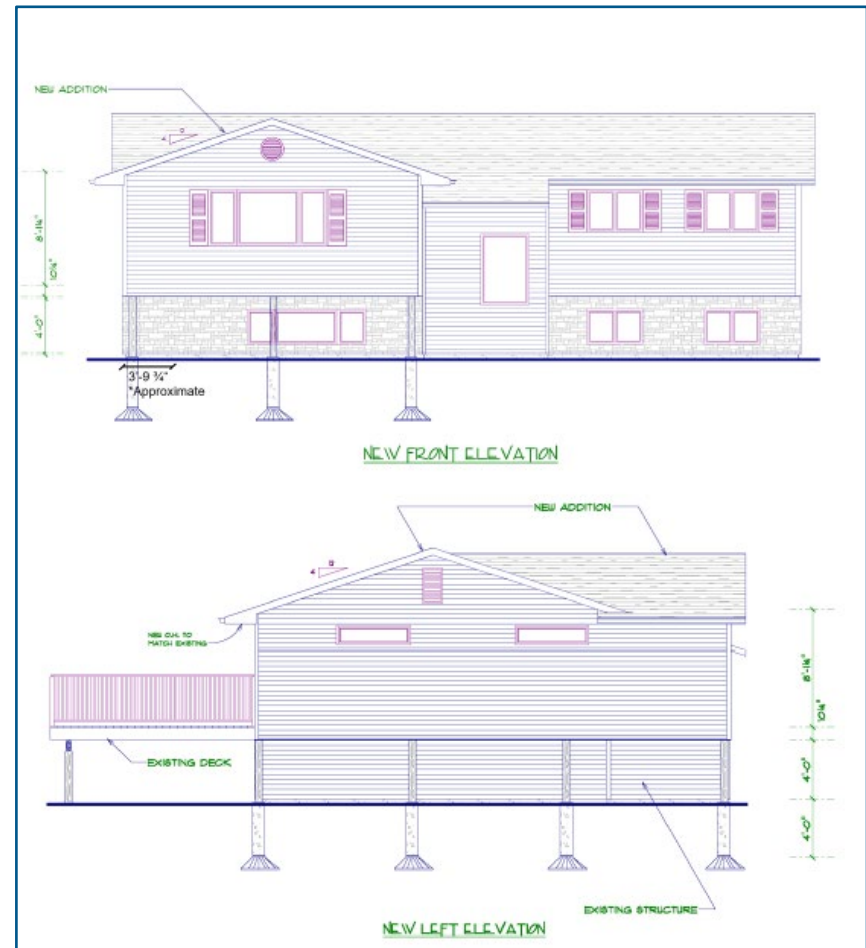


Variance Requested

		Zone Requirement	Variance Requested
1.	Minimum Side Setback (Left)	2.44 metres (8 feet) Existing non-conforming: 2.32 metres (7.611 feet)	1.11 metres (3.64 feet)







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 2.44m or 8ft setback from side lot lines. Since the dwelling is non-conforming, the LUB enables existing buildings to be renovated, repaired, enlarged, or reconstructed provided that the enlargement, reconstruction, repair, or renovation does not further reduce the front or side yard which does not conform.
- The purpose of these setbacks is to maintain adequate separation from adjacent properties/buildings for maintenance, aesthetics, access, and safety. The request to reduce the already reduced non-conforming setback by approximately half does not meet the intent of the land use by-law.
- There appears to be space in the rear yard which could possibly accommodate this addition.
- **It is the Development Officer's opinion that this proposal violates the intent of the LUB to provide adequate separation of adjacent properties.**

Is the difficulty experienced general to properties in the area?

- Many of the properties were created under the same plan of subdivision in 1987. Each lot is generally consistent in size with existing building setbacks.
- The variance application did not highlight any site constraints or geographical factors which would differentiate this property from adjacent properties in the area.
- Many nearby properties also exceed minimum lot area requirements with similar existing non-conforming building setbacks.
- Due to a consistent lot pattern and lack of any identified site constraints, **the difficulty experienced is general to properties in the area.**

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

- The applicant has entered the permit process in good faith, intentional disregard was not a consideration for refusal

Alternatives

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

Or

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

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Thank You

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