

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

Item No. 10.2.1
North West Community Council
April 17, 2023

TO: Chair and Members of North West Community Council

SUBMITTED BY:



Erin MacIntyre, Director, Development Services

DATE: April 11, 2023

SUBJECT: **Case 24627: Appeal of Variance Approval – 250 Shore Club Road, Hubbards**

ORIGIN

Appeal of the Development Officer's decision to approve a variance.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality (HRM) Charter; Part VIII, Planning and Development

- s. 250, a development officer may grant variances in specified land use by-law or development agreement requirements but under 250(3) a variance may not be granted if:
 - (a) the variance violates the intent of the development agreement or land use by-law;
 - (b) the difficulty experienced is general to properties in the area; or
 - (c) the difficulty experienced results from an intentional disregard for the requirements of the development agreement or land use by-law.
- s. 251, regarding variance requirements for notice, appeals and associated timeframes.
- s. 252, regarding requirements for appeal decisions and provisions for variance notice cost recovery.

RECOMMENDATION

In accordance with Administrative Order One, the following motion shall be placed on the floor:

That the appeal be allowed.

Community Council approval of the appeal will result in refusal of the variance.

Community Council denial of the appeal will result in approval of the variance.

Staff recommend that North West Community Council deny the appeal.

BACKGROUND

A variance request has been submitted for 250 Shore Club Road in Hubbards to allow for the construction of an outdoor dining patio and kitchen/bar area (Map 2, Attachment C), as additions to the existing Shore Club restaurant. To facilitate this project, a variance has been requested to relax the required front and side yard setbacks and the minimum required distance between detached accessory structures and the main building.

In addition to the variance application, the applicant has submitted a building permit for an outdoor dining patio at the same proposed location which meets the required front yard and side yard setbacks. This building permit was issued and construction has started on the outdoor dining patio. If the variance is approved, the applicant would be permitted to expand the deck to the desired setbacks detailed in the table below.

Site Details:

Zoning

The property is located in the MU-1 (Mixed Use 1) Zone of the Planning Districts 1 & 3 Land Use By-Law (LUB). The relevant requirements of the LUB and the related variance requests are identified below:

	Type of Variance	Zone Requirement	Variance Requested
Outdoor Dining Patio	Minimum Front Yard (Shore Club Road)	20 feet	0.5 feet
	Minimum Side Yard (Dauphinee Drive)	8 feet	0 feet
Outdoor Kitchen/Bar	Minimum Front Yard (Shore Club Road)	20 feet	0.5 feet
	Minimum Side Yard (Dauphinee Drive)	8 feet	5 feet
	Minimum Distance from a Main Building	12 feet	0 feet

For the reasons detailed in the Discussion section of this report, the Development Officer approved the requested variance (Attachment A). Four property owners within the notification area have appealed the approval (Attachment B) and matter is now before North West Community Council for decision.

Process for Hearing an Appeal

Administrative Order Number One, the *Procedures of the Council Administrative Order* requires that Council, in hearing any appeal, must place a motion to “allow the appeal” on the floor, even if the motion is in opposition to the staff recommendation. The Recommendation section of this report contains the required wording of the appeal motion as well as a staff recommendation.

For the reasons outlined in this report, staff recommend that Community Council deny the appeal and uphold the decision of the Development Officer to approve the request for variances.

DISCUSSION

Development Officer's Assessment of Variance Request:

In hearing a variance appeal, Council may make any decision that the Development Officer could have made, meaning their decision is limited to the criteria provided in the *Halifax Regional Municipality Charter*.

The *Charter* sets out the following criteria by which the Development Officer may not grant variances to requirements of the Land Use By-law:

"250(3) A variance may not be granted if:

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

To be approved, any proposed variance must not conflict with any of the criteria. The Development Officer's assessment of the proposal relative to each criterion is as follows:

1. Does the proposed variance violate the intent of the land use by-law?

Front Yard Variance

Front yard setbacks help ensure that structures maintain adequate separation for aesthetics, access and safety. The requested reduction of the front yard to 0.5 feet from the front (Shore Club Road) property line is effectively a reduction of the entire front yard setback. However, from an aesthetics perspective there will be approximately 17 feet of right-of-way between the edge of pavement and the proposed outdoor dining patio and outdoor kitchen/bar. This area is also fairly level, near the end of the public road and there is not a ditch in this location. From an access and safety standpoint, the NS Department of Public Works has also reviewed the proposal and have approved a permit allowing the proposed proximity of the structures from the Shore Club Road right-of-way.

Side Yard Variance

A variance has also been requested for the side yard abutting the private right-of-way, Dauphinee Drive. The proposed outdoor kitchen/bar will be approximately 5 feet from the side yard property line. This is a 3 foot reduction of the required 8 foot side-yard setback. Dauphinee Drive provides separation between the Shore Club property and residential properties on the far side of the private right-of-way.

The applicant is looking to place an accessibility ramp to the outdoor dining patio with a side yard setback of 0 feet. The LUB allows accessibility ramps within any yard, meaning they are permitted to encroach within the side yard setback. Therefore, the ramp itself does not require a variance, but its location was included in the site plan and notification to ensure transparency when notifying property owners of the variance request.

Minimum Separation Between Buildings

The intent of the land use by-law is to ensure adequate separation between buildings on the same lot. The use of the accessory building (outdoor kitchen) will support the main use of the building along with the deck. The outdoor kitchen location was felt to be complimentary to the operation of the business and the proposed separation meets the intent of the land use by-law.

It is the Development Officer's opinion that the requested variances does not violate the intent of the land use by-law.

2. Is the difficulty experienced general to properties in the area?

In evaluating variance requests, staff must determine if general application of the by-law creates a specific difficulty or hardship that is not broadly present in the area. If these circumstances exist, then consideration can be given to the requested variance. If the difficulty is general to properties in the area, then the variance should be refused.

The commercial building associated with the proposed outdoor dining patio is on a corner lot between Shore Club Road and the private right-of-way Dauphinee Drive. As a result, the applicant is restricted in the available area for the outdoor patio and outdoor kitchen/bar. The configuration of the lot presents a challenge in terms of meeting the operational needs for the commercial business while meeting the required setbacks.

There are other areas of the property where the outdoor dining patio and kitchen/bar could be located, but the applicant has requested the variance for this location so that it can be connected to the existing indoor dining room and provide efficient service. The applicant has indicated that the kitchen is located on the other side of the building where food is unloaded and customer parking is provided. Therefore, having an outdoor patio at this location would remove customer parking and complicate cooking and serving operations.

Due to the physical constraints of the lot and the uniqueness of the commercial operation of the Shore Club, it is the Development Officer's opinion that the difficulty experienced is not general to the area.

3. Is the difficulty experienced the result of an intentional disregard for the requirements of the land use by-law?

In reviewing a proposal for intentional disregard for the requirements of the land use by-law, there must be evidence that the applicant had knowledge of the requirements of the by-law relative to their proposal and then took deliberate action which was contrary to those requirements.

The applicant applied for the required variance and building permits before beginning any construction work on the site. While there is a deck under construction currently, it meets all requirements of the land use by-law.

If the appeal of the variance approval is denied and the Development Officer's approval is upheld, the permit would be revised to allow expansion of the deck currently under construction to the extent shown in the variance application. Intentional disregard of the by-law requirements was not a consideration in this variance request.

Appellants' Submissions:

While the criteria of the *HRM Charter* limits Council to making any decision that the Development Officer could have made, the appellants have raised certain points in their letters of appeal (Attachment B) for Council's consideration. These points are summarized and staff's comments on each are provided in the following table:

Appellants' Appeal Comments	Staff Response
<i>Concerns regarding additional noise being generated on the property and disrupting the peace of surrounding property owners due to the outdoor patio being constructed.</i>	Noise is regulated by By-law N-200 Respecting Noise and not the Land Use By-law. Concerns or complaints regarding noise can be addressed by calling 311, or after hours through the RCMP local detachment's non-emergency line.

<p><i>General concerns regarding the proposed accessibility ramp accessing the outdoor patio in the side yard setback abutting Dauphinee Drive. Concern about the safety of accessing the ramp by walking along Shore Club Road for Shore Club patrons.</i></p>	<p>According to Section 4.22(f) of the Planning Districts 1 and 3 Land Use By-law, accessibility ramps are permitted to encroach and be located in any yard. The proposed outdoor patio and accessibility ramp will be reviewed and inspected by a Building Official to ensure compliance with the Building Code, ensuring there are no safety concerns. In addition, Shore Club Road is owned by the Nova Scotia Department of Public Works, who have reviewed the proposal for any safety issues related to the street and issued a permit to construct the outdoor patio and ramp.</p>
<p><i>Concern regarding a current structure on the property that might have been placed without approval and may extend slightly over the property line of Dauphinee Drive.</i></p>	<p>The structure in question is in the area that the outdoor patio is proposed to be placed. The Municipality can forward this concern to a Compliance Officer provided the property lines are visible in order to validate the concern raised.</p>
<p><i>Garbage and refuse are left on surrounding properties and Dauphinee Drive most weekends from the current operation of the Shore Club, and there is concern that the outdoor patio will result in increased littering in the area and trespassing onto Dauphinee Drive and surrounding properties.</i></p>	<p>It is the property owner's responsibility to ensure that their waste is properly contained and to provide ample waste receptacles for their patrons. Complaints regarding littering or improperly stored solid waste can be made by calling 311, and the matter will be followed up by Solid Waste staff. With regards to trespassing concerns on private property, property owners can contact the RCMP.</p>
<p><i>Concern that the construction of the outdoor patio will reduce available parking, resulting in vehicles parking on Shore Club Road or Dauphinee Drive, which may impede emergency vehicle access to surrounding properties.</i></p>	<p>Ample on-site parking exists at the rear and other side of the existing building for the operation of the commercial business that will still be available. Parking on a public street is regulated by the Motor Vehicle Act, and is typically permitted, provided vehicles are not parked longer than 24 hours and are not impeding traffic or emergency vehicles. A right-of-way permit for the construction of the proposed patio was approved by the Nova Scotia Department of Public Works, who is responsible for ensuring the construction will not negatively impact the public street.</p>
<p><i>Concern that the placement of the outdoor patio will not allow proper maintenance for snow removal on Shore Club Road.</i></p>	<p>The Nova Scotia Department of Public Works owns and maintains Shore Club Road. The applicant has received a right-of-way permit from the Province to construct the outdoor patio, and any concerns with snow removal would have been addressed by that department.</p>
<p><i>Concern that the placement of the outdoor patio on the corner of Shore Club Road and Dauphinee Drive will cause sightline issues for vehicles exiting off of Dauphinee Drive onto Shore Club Road.</i></p>	<p>The Nova Scotia Department of Public Works owns and maintains Shore Club Road. The applicant has received a right-of-way permit from the Province to construct the outdoor patio, and any concerns with the intersection or sightlines would have been addressed by that department. The location of the property line leaves approximately 17 feet between the edge of the road and the proposed outdoor patio.</p>

<p><i>The Shore Club sits on a large piece of land, and the proposed outdoor patio could be alternatively situated without negative consequences and reducing required setbacks.</i></p>	<p>The proposed location of the outdoor patio was requested by the applicant for two reasons. The dining hall is located in the existing building nearest to the corner of Dauphinee Drive and Shore Club Road. Placing an outdoor patio connecting to the dining hall would provide efficient service and operation of the Shore Club. Steps and a door leading into the dining hall at this location already exist as well.</p> <p>Staff asked the applicant for clarification as to why a deck could not be placed on the other side of the building to meet the front yard and side yard setback requirements. It was stated that the kitchen is located at the other side of the building of which an outdoor patio at this location would be far from the dining hall where the food is served. This location is also where food is unloaded and brought into the kitchen. Primary on-site parking at the rear of the Shore Club would also be removed with the placement of an outdoor patio at this location. These reasons were adequate to accept the outdoor patio at the applicant's desired location.</p>
<p><i>Concern that the vegetation that exists between the subject property and Dauphinee Drive will be removed to place the proposed outdoor dining patio and kitchen/bar, which will diminish privacy and an existing visual barrier.</i></p>	<p>The maintenance of existing vegetation is not a requirement of the Land Use By-law. If the vegetation is located on the subject property, it is within their rights to remove it, if required.</p>

Conclusion:

Staff have reviewed all the relevant information in this variance proposal. As a result of that review, the variance request was approved as it was determined that the proposal does not conflict with the statutory criteria provided by the *Charter*. The matter is now before Council to hear the appeal and render a decision.

FINANCIAL IMPLICATIONS

There are no financial implications related to this variance request. The HRM cost associated with processing this application can be accommodated within the proposed 2023/24 operating budget for Planning and Development.

RISK CONSIDERATION

There are no significant risks associated with the recommendation contained within this report.

COMMUNITY ENGAGEMENT

Community Engagement, as described by the Community Engagement Strategy, is not applicable to this process. The procedure for public notification is mandated by the *HRM Charter*. Where a variance approval is appealed, a hearing is held by Council to provide the opportunity for the applicant, all assessed owners

within 100 metres of the subject property and anyone who can demonstrate that they are specifically affected by the matter, to speak.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications.

ALTERNATIVES

As noted throughout this report, Administrative Order One requires that Community Council consideration of this item must be in context of a motion to allow the appeal. Council's options are limited to denial or approval of that motion.

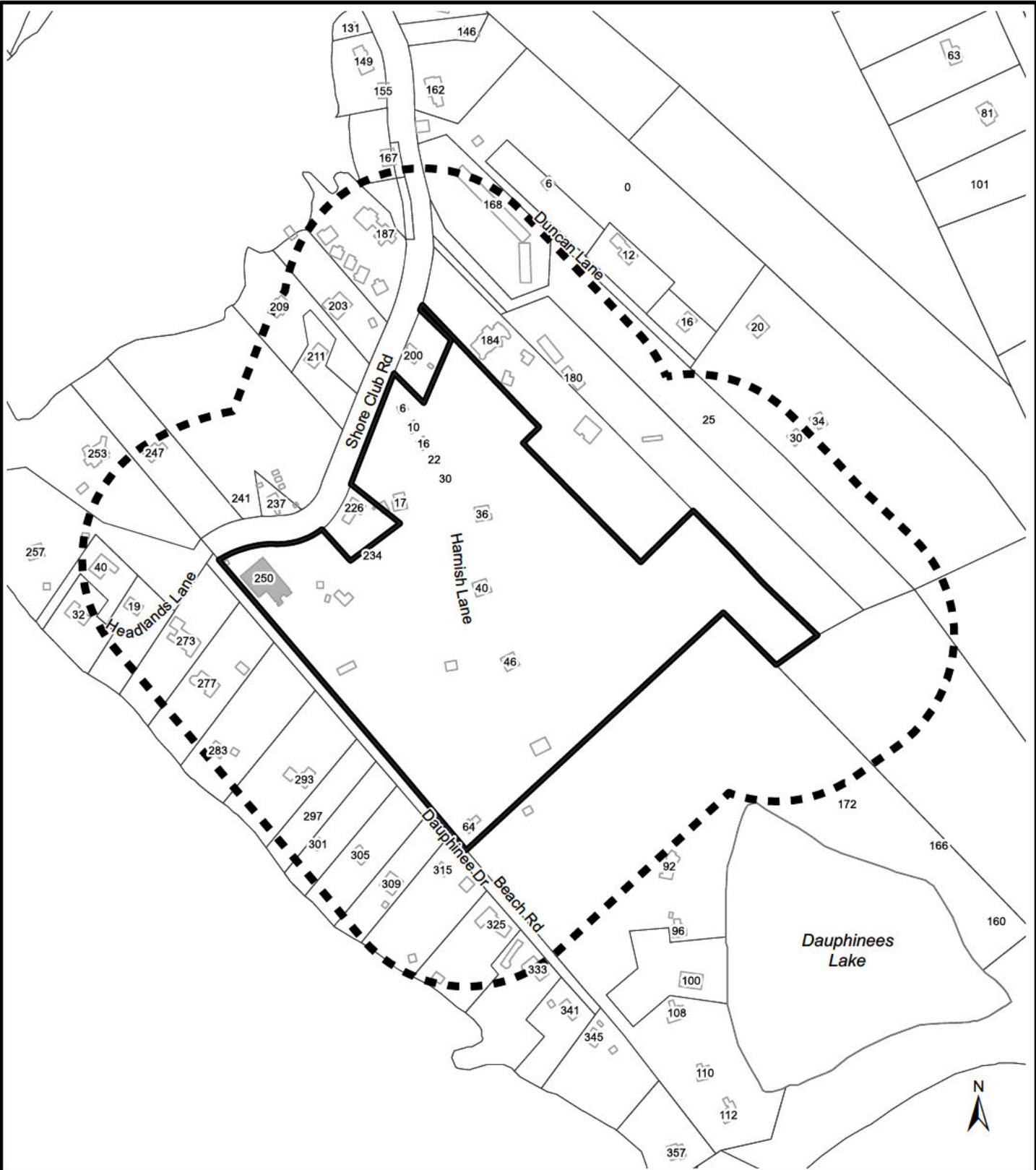
1. Denial of the appeal motion would result in the approval of the variance. This would uphold the Development Officer's decision and this is staff's recommended alternative.
2. Approval of the appeal motion would result in the refusal of the variance. This would overturn the decision of the Development Officer.

ATTACHMENTS

Map 1:	Notification Area
Map 2:	Site Plan
Attachment A:	Variance Approval Notice
Attachment B:	Letters of Appeal from Abutters
Attachment C:	Building Details and Elevations

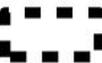
A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Rhys Burnell, Planner 1, 902.233.0561
Peter Nightingale, Principal Planner/Development Officer, 902.719.9478



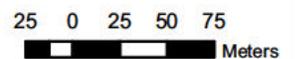
Map 1 - Notification Area

250 Shore Club Rd,
Hubbards

-  Subject Building
-  Subject Property
-  Notification Area

HALIFAX

The accuracy of any representation
on this plan is not guaranteed.





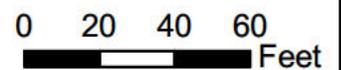
Map 2 - Site Plan

250 Shore Club Rd,
Hubbards

- Existing Shore Club Building
- Proposed Outdoor Dining/Patio Area
- Proposed Covered Kitchen/Bar/Bathrooms/Storage Area
- Proposed Access Ramp

The accuracy of any representation
on this plan is not guaranteed.

HALIFAX



February 24, 2023

Dear Sir or Madam:

RE: VARIANCE APPLICATION 24627, 250 SHORE CLUB ROAD, HUBBARDS, NS (PID 40086555)

As you have been identified as a property owner within 100 metres of the above noted address you are being notified of the following variance as per requirements of the Halifax Regional Municipal Charter, Section 251.

This will advise you that as the Development Officer for the Halifax Regional Municipality I have approved a request for a variance from the requirements of the **Planning Districts 1 & 3 Land Use Bylaw** as follows:

Location: 250 SHORE CLUB ROAD (PID 40086555)
Project Proposal: The applicant is looking construct a proposed outdoor dining and patio area. This proposal consists of an attached deck with an accessory structure for a kitchen/bar with bathrooms. The applicant is requesting the following variances below for the attached deck and accessory structure.

LUB Regulation	Requirement	Requested Variance
- Setbacks for Proposed Attached Deck	- Front Yard Setback: 20 feet - Side Yard Setback: 8 feet	- Front Yard Setback: 6 inches - Side Yard Setback: 0 feet
- Setbacks for Accessory Structure	- Front Yard Setback: 20 feet - Side Yard Setback: 8 feet - Distance from Main Building: 12 feet	- Front Yard Setback: 6 inches - Side Yard Setback: 5 feet - Distance from Main Building: 0 feet

Pursuant to Section 251 of the Halifax Regional Municipal Charter, assessed property owners within 100 metres of the above noted address are notified of this variance. If you wish to appeal, please do so in writing, **on or before March 13, 2023** and address your appeal to:

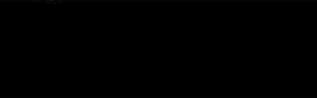
Municipal Clerk
Halifax Regional Municipality
P.O. Box 1749, Halifax, N.S. B3J 3A5
clerks@halifax.ca



If filing an appeal, be advised that your submission and appeal documents will form part of the public record, and will be posted on-line at www.halifax.ca. If you feel that information you consider to be personal is necessary for your appeal, please attach that as a separate document, clearly marked "PERSONAL". It will be provided to the committee and/or council members and staff, and will form part of the public record, but it will not be posted on-line. You will be contacted if there are any concerns.

Please note, this does not preclude further construction on this property provided the proposed construction does not require a variance. If you have any questions or require clarification of any of the above, please contact Rhys Burnell at (902) 233-0561.

Yours truly,



Peter Nightingale, Principal Planner / Development Officer
Halifax Regional Municipality

cc. Clerk's Office (clerks@halifax.ca)
Councilor Pam Lovelace

Burnell, Rhys

From: Office, Clerks
Sent: Monday, March 13, 2023 7:37 AM
To: Burnell, Rhys; Nightingale, Peter
Cc: MacIntyre, Erin; Campbell, Catherine
Subject: FW: [External Email] Variance request at 250 Shore Club Road, Hubbards, N.S.

Please see below email appealing the Variance Application 24627, received by our office, which I am forwarding to you for action as you may deem appropriate.

Regards,

LESLIE NEATE
OFFICE OF THE MUNICIPAL CLERK

HALIFAX



halifax.ca

From: [REDACTED]
Sent: Friday, March 10, 2023 6:34 PM
To: Office, Clerks [REDACTED]
Cc: Lovelace, Pam [REDACTED]; Nightingale, Peter [REDACTED]
Subject: [External Email] Variance request at [REDACTED]

[This email has been received from an external person or system]

Re: Variance Application 24627 [REDACTED]

Municipal Clerk:

I am a property owner at [REDACTED] which abuts the property [REDACTED]. My family has owned this property for over 60 years and I am now the sole owner of said property. We have always tried to be good neighbours and are certainly not adverse to growth in our community. Getting along with our neighbours is important and even though I am only a seasonal resident, the proposed improvements would only be in operation during the time that I am in residence.

As per the information I received regarding the above variance request I am appealing this decision. My concerns are as follows:

1. Firstly, the noise level increase. If the plan is to have outdoor music while dining either with a band directly outside or music piped out by speakers this majorly affects mine and my family's peace and quiet. I go there to get away from the city and avoid such disruption. Over the years we have all

resigned ourselves to the Sat. nite dance ritual as it only occurs once per week and even though the music does not stop right at the appointed time, we have never made an issue of this being an hour or so past the appointed end of the dance. This proposal would be from Wed. to Sunday I am assuming which greatly increases that situation, plus with it being outside it would be much louder.

2. Secondly, the proposed ramp that is going behind the building housing bathrooms and a kitchen which places it directly at the intersection of 4 roads. These all meet at the top which abutts the above mentioned property. If special needs people need use of this ramp by the time they park their vehicle and seek out the ramp they are putting themselves in a very dangerous situation as they would have to approach this ramp directly off these roads that meet there and anyone coming out of said roads cannot see what is ahead as most of them are "blind" until they reach the top. A very precarious position for everyone concerned.

3. Thirdly, the parking. This proposal takes away a portion of the parking space quite substantially. I have had issues with parking from the club in the past, which I will say have been resolved in recent years. However with this proposal I would be concerned that once again my road can be impeded at the top which limits the space an emergency vehicle could enter my property. [REDACTED] and at any given time could be in the need of dialing 911. This is a concern.

4. Fourthly, with the addition of this dining out facility, it greatly increases the number of people that will now be eating and drinking directly opposite my road. The drinking issue has caused issues to this day as I frequently find beer bottles, glasses, and just general garbage on my property on a Sunday morning after the dances. I have also encountered people from the club using the bathroom in my bushes and other such things that I won't get into here. We all have encountered "tourists" who feel its their right and privilege to sightsee on our properties and take a nice walk down our roads. The increase in the number of people milling about with this proposal is unsettling. Even putting private property signs at the top does not stop them from trespassing. This is still an ongoing problem just with the Lobster suppers from Wed. to Sun. and the dances on Sat. nights.

It is not my intention to impede the Harnishes from increasing their business to improve the community and I and my family have always tried to be good neighbours. But this time I felt the need to voice my concerns.

Thank you. I hope you will take my objections under advisement and make the correct decision on this matter for the benefit of all concerned.

Sincerely,

Susan McCann

Property owner [REDACTED]

Burnell, Rhys

From: Office, Clerks
Sent: Thursday, March 9, 2023 12:29 PM
To: Burnell, Rhys; Nightingale, Peter
Cc: MacIntyre, Erin; Campbell, Catherine
Subject: APPEAL: VARIANCE APPLICATION 24627, [REDACTED]

Please see below email appealing the Variance Application 24627, received by our office, which I am forwarding to you for action as you may deem appropriate.

Regards,

LESLIE NEATE
OFFICE OF THE MUNICIPAL CLERK

HALIFAX



halifax.ca

From: thalia delano [REDACTED]
Sent: Thursday, March 9, 2023 11:01 AM
To: Office, Clerks [REDACTED]
Subject: [External Email] VARIANCE APPLICATION 24627, [REDACTED]

[This email has been received from an external person or system]

AS PROPOERTY OWNER OF [REDACTED], I 100% OBJECT\APPEAL TO THE PROPOSED OUTDOOR DINING AND PATIO AREA VARIANCE APPLICATION 24627 THAT ELIMINATES SETBACKS.

There are several reasons for this objection:

1. By-laws are in effect to protect neighbours, and it is requested that the HRM protect the long-standing neighbours property and privacy around [REDACTED]
[REDACTED]

The speed limit of Shore Club Road has been reduced to 40 km per hour, new traffic congestion and people parking on private properties, and now there is a proposal to expand traffic while further reducing parking .

2. There is already a major shortage of parking at 250 Shore Club and the proposed deck removes 30-40% of the parking that is on the designated property of 250 Shore Club Road.

Currently, cars are continuously using the Private Drive and driveways to turn around causing unwanted traffic on the private lands. Cars are often parked that reduces the width of the roads. Reducing the 8 feet setback to both 6 inches and 0 feet removes all parking from the front of the land of 250 Shore Club Road.

What about buses? This business attracts bus loads of diners and partyers. Where will the buses park, especially with removing 100% of the parking spaces that are directly in front of the Shore Club and to the right side.

Tuna Blue is a great example of taking away parking as the past 2 summers have been nothing short of challenging when driving by at diner time - the roads are barely passable with too many people lingering on the road and people creating new road side parking.

This poses a risk to getting emergency vehicles by Tuna Blue and the Shore Club.

Winter: with the proposed deck having 0 setback also proposes more challenges as snow removal is at a minimum, and this variance would not allow for proper snow removal to give open access to both lanes of the Shore Club Road.

3. Trespassing: this is a family area and the extra traffic poses new dangers to the multi-generational families with foot traffic and young children playing in this area.

More tourists are using the private lane, Dauphinee Drive to walk their animals and have them pee and poo on our lane without picking up after themselves showing a lack of respect to the local property owners, and having diners walk their dogs will only lead to more unwelcomed usage of Dauphinee Drive.

Most weekends there is garbage on many of our properties from drinking garbage (empty bottles etc) to clothing, including underwear that is left on our property (and neighbours) after every Saturday night, or any event.

The patrons do not respect local land owners. Damage is caused every year at the top of our property . Adding a deck, putting more people outside will have more people using Dauphinee Drive as their washroom or congregation area.

4. Noise: there is already too much noise coming from 250 Shore Club Road. There are too many loud events to go until 1:30-2:00 am with hundreds of people walking the quiet private properties.

The current smoking deck, located on the Dauphinee Drive Road is constantly noisy filled with foul language and the smell of smoke.

The open deck will bring more noise pollution to this quiet private area.

5. Smell: 250 Shore Club has long dumped their lobster waste water on the land as every year there is a terrible waste water smell that the private owners are forced to live with.

6. Creating a Variance to put the Accessible Ramp on the back of the property at the corner of the intersection to Dauphinee Drive is a health and safety risk and it is a hazard having those with larger vehicles with accessibility and NO parking or space for these special vehicles to assist those with accessibility challenges.

In conclusion, if this variance is accepted, then I expect any variance that I may apply for to add a building, such as a garage, that I too will receive acceptance should I want to request a 0 feet setback from either neighbours property, or 0 feet setback from Dauphinee Drive and would like pre-approval to have 0 feet setback for all future development of [REDACTED] as what is approved for my commercial neighbour, must also be extended to my property.

Regards;

[REDACTED]

March 7, 2023

[REDACTED]

Re: Variance Application 24627

[REDACTED]

Municipal Clerk,

Thank you for the February 24th variance request notification.

We encourage and support growth and economic/business development within our community when it adheres to boundaries and guidelines set out by municipal and provincial policy/legitimacies. It is our understanding that property line setbacks have been established to respect neighbours and ensure peaceful enjoyment of ones property. Variances from those guidelines jeopardize this. Because of this, we wish to appeal the requested variance.

In particular, the greatest concern is the proposed Side Yard Setback: 0 feet which results in the accessibility ramp abutting directly on the Dauphinee Drive property line. In addition, it appears there is current structure which may actually extend slightly over the Dauphinee Drive property line. We would like to clarify that [REDACTED] did not approve and/or agree to the existing placement of the current structure.

In addition to the above concerns, implementation of the variance request presents an unsafe condition for Shore Club patrons, neighbours and residents of Dauphinee Drive; as well as, frequent trespassing onto Dauphinee Drive and neighbouring properties.

Thank you for considering this appeal.

Respectfully,

[REDACTED]

Darlene O'Neill

[REDACTED]

Doris Dauphinee

Cc: Councilor Pam Lovelace
Peter Nightingale, Principal Planner/Development Officer

Property Owner [REDACTED]

[REDACTED]

March 8th 2023.

To

Peter Nightingale, Principal Planning / Development Officer [REDACTED]

Clerk's Office [REDACTED]

Councilor Pam Lovelace [REDACTED]

Dear Mr Nightingale, Clerks, and Ms Lovelace,

Thank you for the recent notification of Variance Application 24627 related to 250 Shore Club Road, which seeks to reduce substantial existing setbacks to effectively zero.

My wife and I would like to place on record that we have no objection to the Shore Club's business as an entertainment venue *per se* - we were well aware of it and its legacy when we bought our property in 2019 and we want to encourage and support the venue, and we do attend functions there. We view the establishment as a keystone of the local community.

My wife and I do, however, strongly object to the proposed Variance Application, and we wish to appeal the Requested Variances for the following reasons:

We - and a significant number of other residents - live along Dauphinee Drive, which is the only means of access to our homes. Dauphinee Drive is a private roadway, the width of one vehicle only, which runs directly behind the Shore Club. There is a 'blind' 90+ degree turn in/out intersection of Dauphinee Drive with the end of Shore Club Road ("the **Intersection**"). If you visit the site in question, it is evident that the Intersection is already tight for traffic and pedestrians alike in its current state.

The Intersection is adjacent to the proposed decking and Accessory Structure. This area of the Shore Club property that is the subject of the Requested Variances is currently lightly used, for band load-in on show nights, and for overflow patron's parking or for film crew vehicles when needed.

The proposed new use of the decking and Accessory Structure in that area, to offer an outside bar area for Shore Club patrons on most days of the week, will greatly increase both the volume and frequency of use of the area by patrons in close proximity to the Intersection and its traffic.

The requested elimination of the existing setbacks will combine with the significant increase of use of that area of the Shore Club property as an outside bar and the proposed deck and accessibility ramp to put a large number of patrons in very close proximity to traffic, make the

Intersection congested, impair drivers' sight lines across the Intersection, have lights distracting drivers around the Intersection in hours of twilight / darkness, and facilitate increased, persistent activity by patrons which will be visually distracting for drivers. Additionally the new bar area will of course be serving alcohol which, as we all know, can lead to unpredictable / irrational behaviour, which does not mix well with traffic.

Together these factors pose a significant increased concern for the safety of local residents, drivers / pedestrians using Dauphinee Drive, and patrons of the proposed outside bar area of the Shore Club.

Further, a zero setback along Dauphinee Drive would also necessitate removing trees and vegetation that currently form a small privacy screen for our property, as well as that of our immediate neighbours. This would mean that patrons and staff no longer have a physical or visual barrier to the entrance to our property. Even as things stand at the moment, we have Shore Club patrons wandering onto our property late at night most weekends in summer. In fact, our neighbours feel the need to put 'Private Property, No Access' signs in the middle of Headland Drive to discourage late night revellers trying to access the shore via their property.

Having a respected buffer between residents' private property and a busy entertainment venue is, as I'm sure you'll agree, vital for a continued peaceful, safe, and private co-existence in a small community such as Hubbards.

In summary, approving Variance Application 24627 would lead to:

- An unsafe new mixture of a significantly increased number of people, alcohol, visual impairments, and distractions confronting the existing traffic in an area that is already a small hazard due to the sharp, tight, blind corner of the Intersection. This greatly increases the likelihood of accidental harm to patrons of the Shore Club from Dauphinee Drive traffic.
- Elimination of the privacy afforded by the existing setbacks, and increasing the incidence of people, perhaps unknowingly, trespassing onto private property.

The current setbacks of 20 feet and 8 feet are stipulated and enforced by the Planning Department on behalf of the City for good reason - they offer citizens the right to adequate safety and privacy. All residents of the area are subject to similar setback rules, which we respect and abide by. Allowing the Variance Application for the proposed deck area and Accessory Structure would directly and materially diminish both safety and privacy in the immediate vicinity, and therefore be in direct variance to the principles the current setbacks are intended to enforce.

Finally, we note that the Shore Club sits on a large plot which offers ample alternative opportunities to offer the same facilities contemplated under the Variance Application at different locations within the site that would not have any of the negative consequences of the proposed location, and to which we would have no objection.

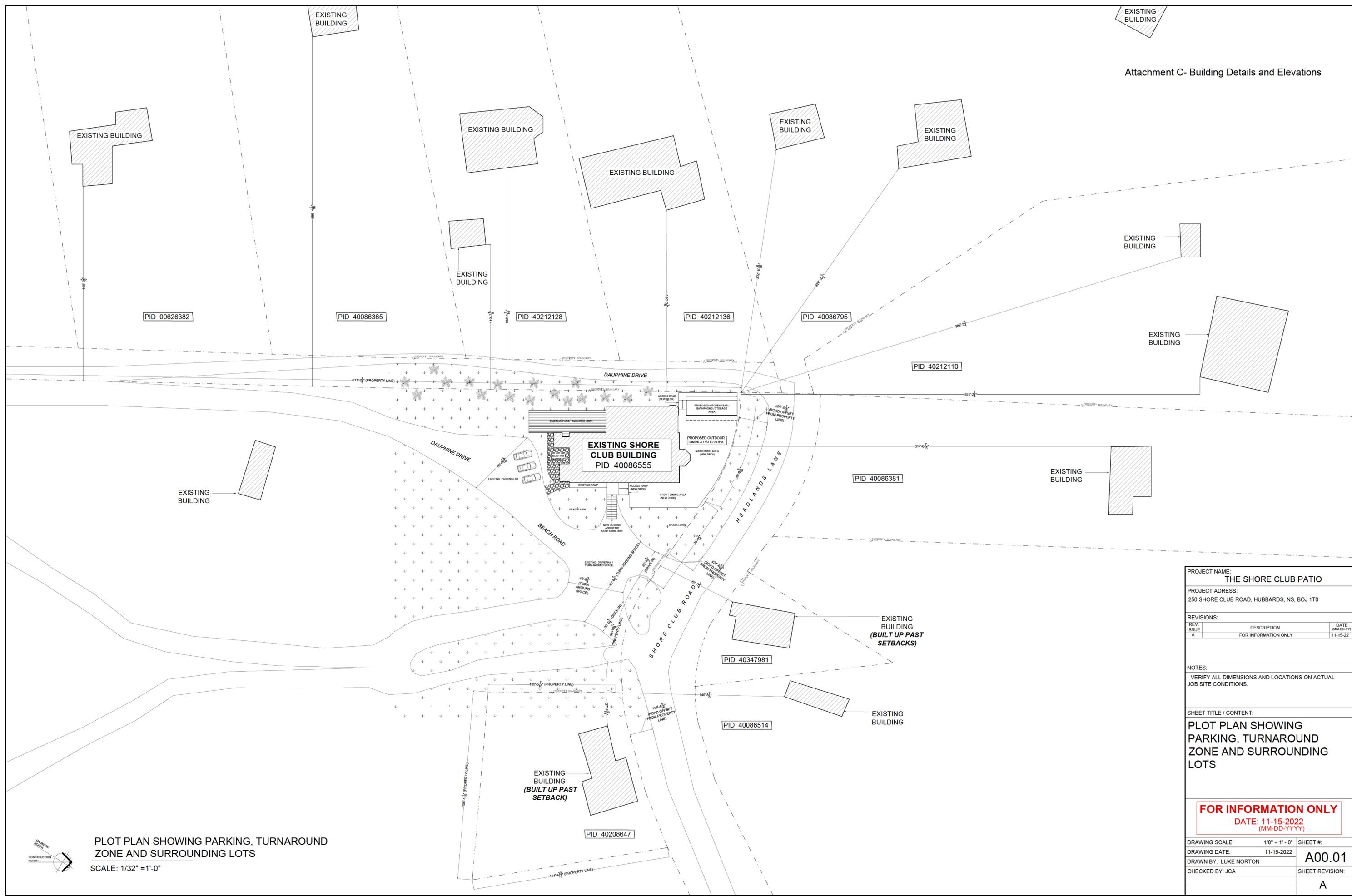
We therefore request that you do not approve the Variance Application.

Thank you in advance for your careful consideration of our comments and our request to appeal the variances.

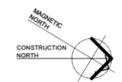
[REDACTED]

[REDACTED]

[REDACTED] Walsh & Janesta Boudreau



PLOT PLAN SHOWING PARKING, TURNAROUND ZONE AND SURROUNDING LOTS
SCALE: 1/32" = 1'-0"



PROJECT NAME: THE SHORE CLUB PATIO		
PROJECT ADDRESS: 250 SHORE CLUB ROAD, HUBBARDS, NS, BOJ 1T0		
REVISIONS:		
REV. ISSUE	DESCRIPTION	DATE (MM-DD-YY)
A	FOR INFORMATION ONLY	11-15-22

NOTES:
- VERIFY ALL DIMENSIONS AND LOCATIONS ON ACTUAL JOB SITE CONDITIONS.

SHEET TITLE / CONTENT:
PLOT PLAN SHOWING PARKING, TURNAROUND ZONE AND SURROUNDING LOTS

FOR INFORMATION ONLY
DATE: 11-15-2022 (MM-DD-YYYY)

DRAWING SCALE:	1/8" = 1' - 0"	SHEET #:	A00.01
DRAWING DATE:	11-15-2022	DRAWN BY:	LUKE NORTON
CHECKED BY:	JCA	SHEET REVISION:	A



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PROJECT NAME:
THE SHORE CLUB PATIO

PROJECT ADDRESS:
250 SHORE CLUB ROAD, HUBBARDS, NS, B0J 1T0

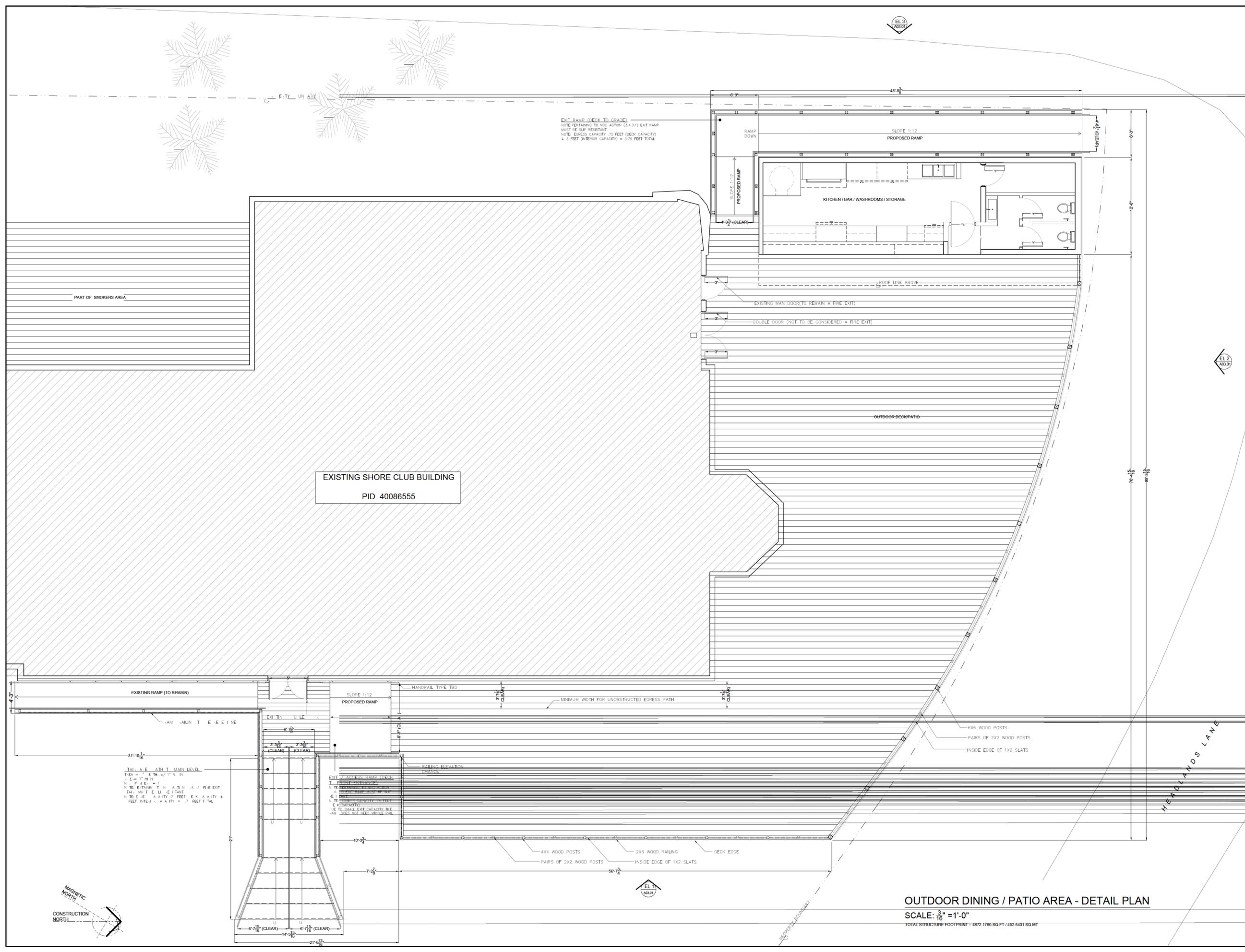
REV. / ISSUE	DESCRIPTION	DATE (MM-DD-YYYY)
A	FOR INFORMATION ONLY	11-15-22

NOTES:
- VERIFY ALL DIMENSIONS AND LOCATIONS ON ACTUAL JOB SITE CONDITIONS.

SHEET TITLE / CONTENT:
DINING AREA / PATIO PLAN

FOR INFORMATION ONLY
DATE: 11-15-2022
(MM-DD-YYYY)

DRAWING SCALE:	3/16" = 1'-0"	SHEET #:	A01.01
DRAWING DATE:	11-15-2022	DRAWN BY:	LUKE NORTON
CHECKED BY:	JCA	SHEET REVISION:	A



OUTDOOR DINING / PATIO AREA - DETAIL PLAN

SCALE: 3/16" = 1'-0"
TOTAL STRUCTURE FOOTPRINT = 4872.1780 SQ.FT / 452.6401 SQ.MT

