

HALIFAX

Case 21645: Variance Hearing 1532 Larch Street, Halifax

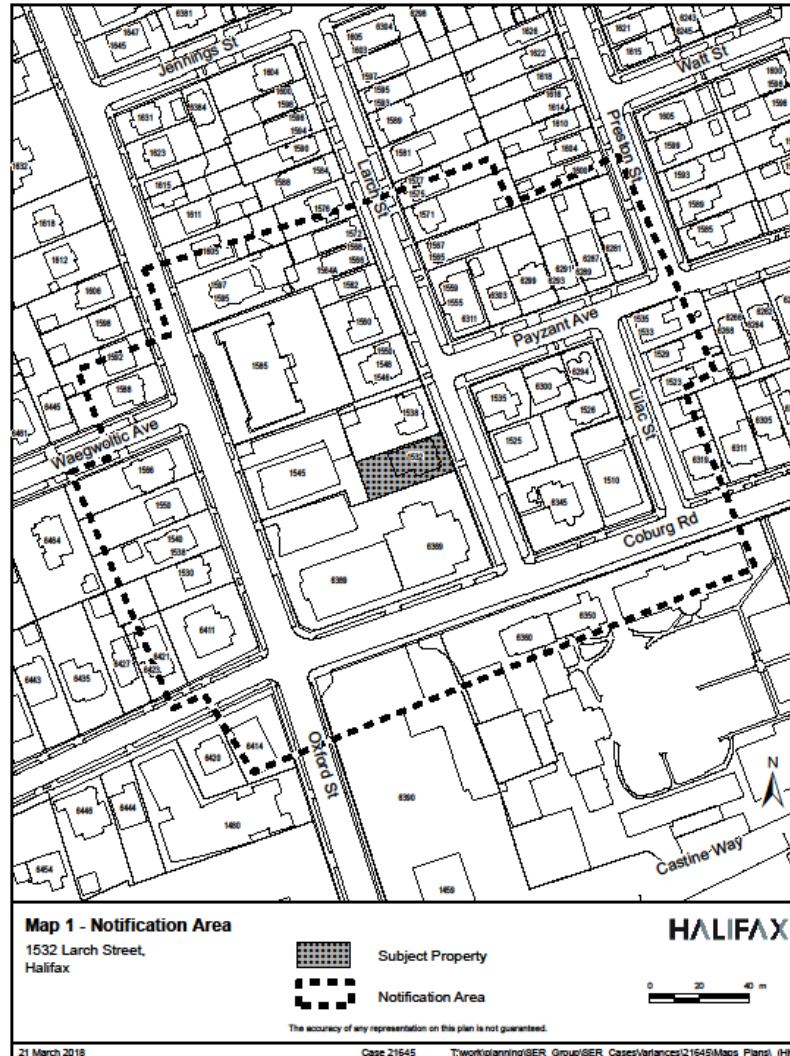
Halifax and West Community Council

August 7, 2018

Background

- Zoned as R-2 (General Residential) under the Halifax Peninsula Land Use By-law, and located in the Peninsula Centre Secondary Plan Area
- The proposal is to convert an existing single unit dwelling into a three-unit dwelling.
- The existing dwelling, as it is situated on the lot, does not meet the side-yard requirement for a three-unit dwelling. All other LUB requirements are met.
- In order to facilitate this proposal, a variance has been requested

Location Map



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Background

- There are several avenues to approving a multi unit dwelling in the R-2 Zone in the Peninsula Centre Area:
 - **INTERNAL CONVERSION:** A residential building which was in existence on 14 October 1982 can be converted to 3 units, provided the external dimensions of the property have not changed. Subject to conditions on unit size and bedroom count.
 - **NEW CONSTRUCTION:** Must meet requirements for lot area, frontage, setbacks, gross floor area (GFAR), unit size, and unit mix

Background

- Existing single unit dwelling



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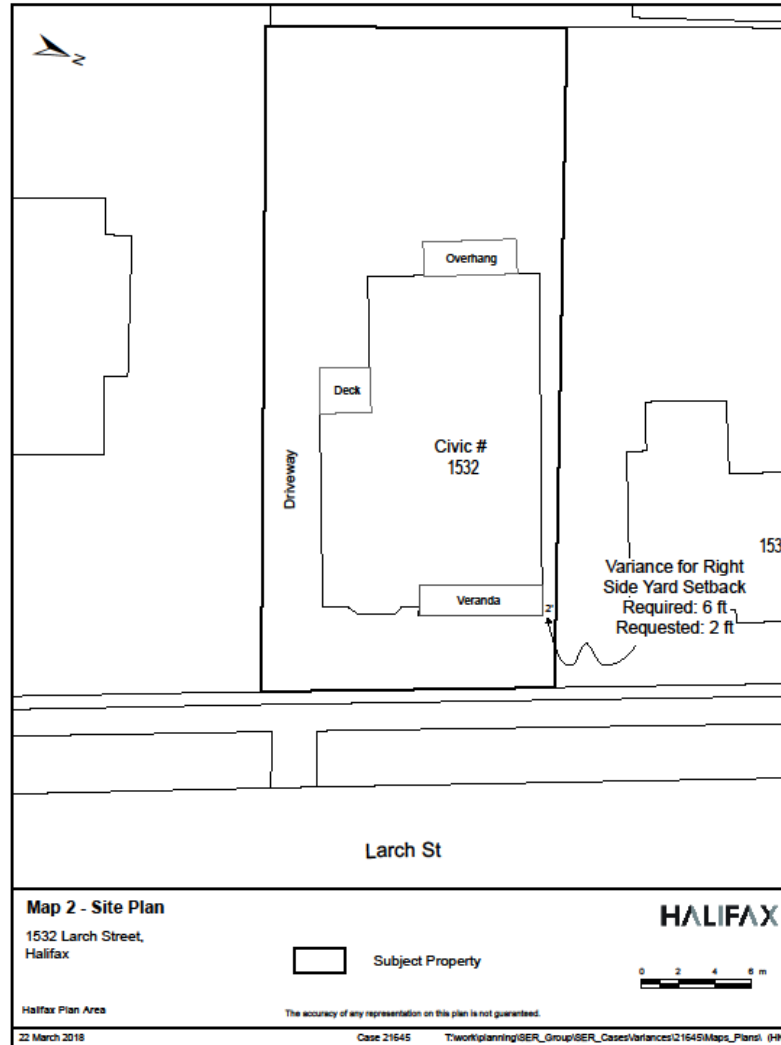
Background

- Existing side yard



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Site Plan



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Consideration of Proposal

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

- (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**;
- (c) the difficulty experienced results from an **intentional disregard** for the requirements of the development agreement or land use by-law.

Decision

1. **Does the proposed variance violate the intent of the Land Use By-law?**
 - The property is zoned R-2 which permits a building containing up to 4 units
 - The proposed development meets the Land Use By-law requirements for lot area, frontage, gross floor area (GFAR), and all other setbacks
 - **Granting the variance would not result in a violation of the intent of the Land Use By-law**

Decision

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

- The properties in the notification area include a mix of land uses, with residential uses ranging from single unit dwellings up to multi unit dwellings with over 100 units
- Varying lot fabric in the area. Many lots created prior to the adoption of the original City of Halifax Land Use Bylaw (1950)
- **The difficulty experienced is not general to properties in the area**

Decision

3. **Is the difficulty experienced the result of an intentional disregard for the requirements of the Land Use By-law?**
 - The applicant has applied for a Development Permit and requested the variance in good faith prior to commencing any work on the property.
 - **It is the Development Officer's opinion there was no intentional disregard for the requirements of the land use by-law.**

Appeal

Appellant's Appeal Comments	Staff Response
<p><i>Opposed to the fact that there will be underground parking.</i></p>	<p>The proposal is for the conversion of the existing dwelling to three-units; no underground parking is proposed.</p>

Appeal

Appellant's Appeal Comments	Staff Response
<p><i>The six-foot setback requirement is there for a reason.</i></p>	<p>The side-yard setbacks exist to ensure adequate separation between buildings on adjacent lots. The proposal is for the conversion of an existing building, which pre-dates the land use by-law, and therefore did not have to meet any setbacks when it was constructed. Regardless of whether the variance is granted, the existing structure will remain 2 feet from the lot line. Granting the variance will simply allow a different use to be made of the existing structure.</p>

Appeal

Appellant's Appeal Comments	Staff Response
<p><i>Too many apartments in this area and too many students.</i></p>	<p>The R-2 Zone allows for buildings containing up to four apartments. The proposal is for a building containing three apartments, and does not exceed the maximum number of units permitted in a building under the Land Use Bylaw.</p> <p>The Municipality does not regulate tenancy. The Land Use Bylaw stipulates the maximum number of apartments which can be contained in a building, but does not speak to who shall be permitted to live in the units.</p>

Alternatives

Council may uphold the Development Officer's decision and deny the appeal.

OR

Council may overturn the decision of the Development Officer and allow the appeal.