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PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Chebucto Community Council
March 2, 2009

TO: Chairman and Members of Chebucto Community Council

SUBMITTED BY: 
Andrew Faulkner - Development Officer

DATE: February 20, 2009

SUBJECT: Appeal of the Development Officer's decision to refuse an application for a Variance - 29 Wyndrock Dr, Halifax, No. 15166

ORIGIN

This report deals with an appeal of the Development Officer's decision to refuse a variance from the front yard setback requirements of the Halifax Mainland Land Use By-law to permit the construction of an attached garage addition.

RECOMMENDATION

It is recommended that Council uphold the Development Officer's decision to refuse the variance.

BACKGROUND

The subject property is located at 29 Wyndrock Drive in Halifax (see location plan - Attachment 1). The property is zoned R-1 under Halifax Mainland Land Use By-law.

On January 19, 2009, the owner applied for a variance to the front yard setback requirement under the Halifax Mainland Land Use By-law in order to construct a 22 ft by 22 ft garage addition to a single family dwelling.

On February 9, 2009, a variance refusal letter was issued by the Development Officer. The applicant appealed the Development Officer's decision with a letter submitted on February 11, 2009 (see attachment 3)

DISCUSSION

The *Halifax Regional Municipality Charter (2009)* sets out guidelines under which the Development Officer may consider variances to Land Use By-law requirements. Those guidelines are as follows:

"A variance may not be granted where the:

(a) variance violates the intent of the land use by-law;

(b) difficulty experienced is general to the properties in the area;

(c) difficulty experienced results from an intentional disregard for the requirements of the land use by-law."

In order to be approved, the proposed variance must not conflict with any of the above statutory guidelines. An assessment of the proposal relative to these stipulations is set out below.

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

The requested variance of front yard setback at 12 ft in order to allow the construction of a proposed garage addition in the front yard does violate the intent of the land use by-law to maintain minimum front yard setback requirement at 20 ft in an R-1 zone in the Halifax Mainland Land Use By-Law. This setback was desired by the community to ensure uniform streetscapes.

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

With only a few exceptions to properties within the immediate neighbourhood achieve the required 20 foot front yard setback. Those properties all experience the same difficulty as that of 29 Wyndrock Drive and therefore the variance was refused.

Is the difficulty the result of intentional disregard for the requirements of the land use by-law?

There is no intentional disregard for the requirements of the land use by-law.

BUDGET IMPLICATIONS

None.

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 refuse the variance.
2. Council could overturn the decision of the Development Officer and allow the applicant to proceed with the construction of the garage in the front yard.

ATTACHMENTS

1. Location Map
2. Site Plan
3. Appeal Letter

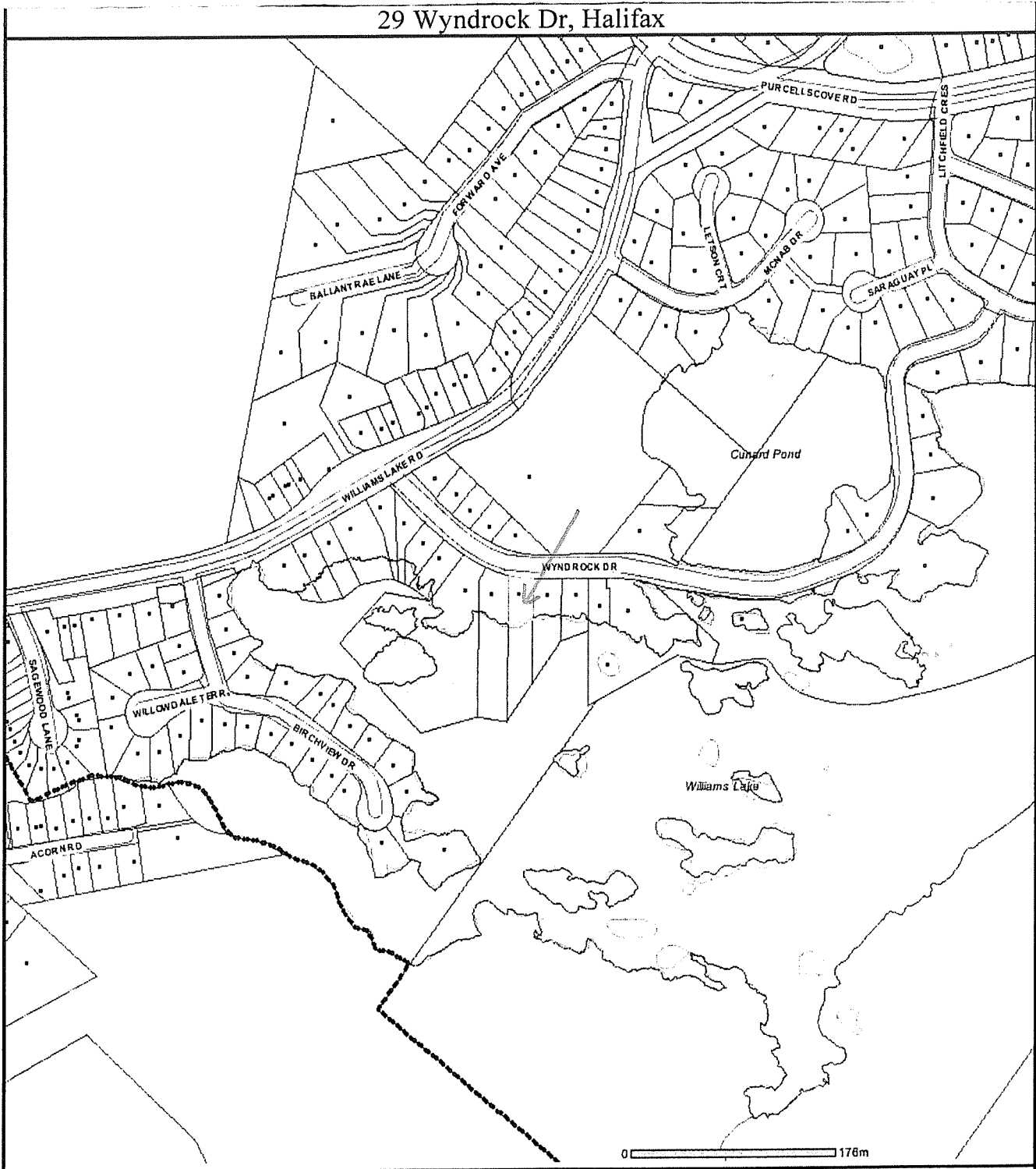
Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Mary Wong - Development Technician (490-6796)

DATE: February 20, 2009

LOCATION MAP - 29 Wyndrock Dr, Halifax

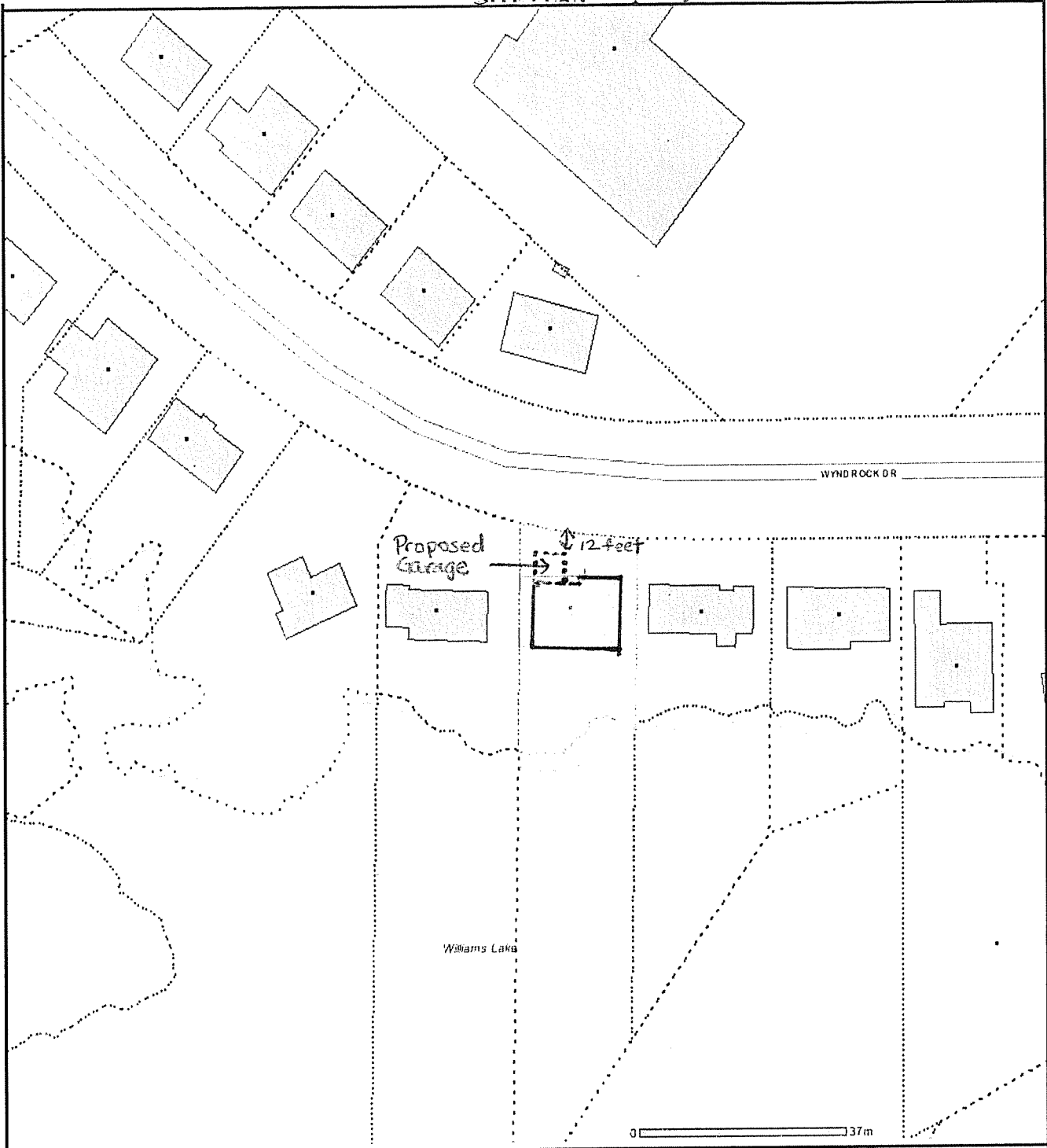
SUBJECT: Application for Variance, File No. 15166



DATE: February 20, 2009

SUBJECT: Development Officer's refusal of a variance application on front yard setback at 29 Wyndrock Dr, Halifax

SITE PLAN



RECEIVED FEB 11 2009

#15166.

M.W.

From:
Susan and Andrew Ross
29 Wyndrock Dr.
Halifax
B3P1R8
477-7906
February 11 2009

Regarding Request for setback variance for driveway work and garage addition at 29 Wyndrock Dr.

We wish to appeal the Development Officers decision denying our request for a variance allowing construction of a single story double car garage on the front of our existing residence. The request for such is to alleviate significant problems associated with our current downsloping driveway and single car garage incorporated into the house. This existing situation is a huge safety issue with regards to winter maintenance. Snow blows into the catch basin created by the sloped driveway. Weather patterns we receive routinely in Halifax with snow followed by rain and subsequent return to below zero temperatures. cause this and the associated runoff from the street to freeze making the driveway treacherous. These problems are further magnified by the fact the driveway is on the north side of the house in the shade and so receives little natural heat or sunlight to aid melting. Additionally, because we reside on Williams Lake, salt use is if not prohibited, certainly strongly discouraged on environmental basis. (The city only uses sand on our street.)

Visitors must be discouraged from coming to the house and we believe this is likely a significant liability issue. Cars have routinely got stuck in the driveway and we at times are concerned that our vehicles will not be able to get out without carrying significant speed from the garage rocketing onto the street. Having discussed this with design experts, the proposed plan of reducing the existing slope by raising the driveway base and adding a garage to provide protection for the vehicles and cover the shaded portion was considered the optimal solution.

Although this does contravene the existing bylaw for setback in Mainland South where we live, we do not believe that it is out of character for the neighborhood. In fact, our neighbor directly across the street obtained a variance within the last number of years for a similar project of a garage addition. Moreover, newer houses up the street actually infringe upon setback. There are other examples through our area of houses which at least from visual assessment encroach.

Therefore, given the significant safety issues related to the existing topography of the property and driveway and the fact that our application does not step outside the norm for our neighborhood, we believe that this decision should be reassessed and overturned in our favor.

Sincerely,



Susan Ross



Andrew Ross