

Appeal of Parking Variance – 28 John Street

January 13, 2025

General Overview

On November 28, 2024, the Development Officer issued a variance for 28 John Street to reduce its parking requirement from 5 parking stalls to 3 parking stalls. In keeping with the Municipal Government Act (MGA), assessed owners were made aware of their right to appeal parking variance approval and landowners have appealed the decision.

Background

Apartments proposal

The Landowner has received funding and begun construction on a 5 residential unit apartment building, with affordable units using a co-operative ownership model. The building is a heritage building and the Heritage Advisory Committee recommended the renovations be permitted in January of 2024.

The issue of parking was raised in October of 2024. At that time, it was discovered that parking had not been addressed, either through provision of parking on site or through the issuance of variance. Additionally, while a building permit has been issued, the development does not have a development permit, which will prevent the occupation of the building for residential purposes unless a development permit is issued. A development permit cannot be issued until the parking issue is resolved, as currently the development does not have sufficient parking as required under the land use bylaw.

Analysis

Council is required under the MGA (s.236A) to rule on the appeal of the parking variance. Council may make any decision the development officer may make, MGA (s. 237(1)).

Further, under the MGA Council must not act contrary to the Municipal Planning Strategy (S. 217). This is to ensure there is certainty for all parties that the policy and regulations in the planning bylaws, which have undergone public engagement and been approved by Council, are adhered to.

The Municipal Planning Strategy (MPS) and Land Use Bylaw (LUB) do not consider specific criteria for refusing a variance of this type and offers little guidance in this case. To refuse a variance, the development officer, or Council, must provide a reason from policy or regulations in the MPS, LUB, or MGA.

Proposed MPS and LUB Amendments

The Town is considering changes to how variances for parking are issued. Potential amendments impacting a variance of those nature include: notice to landowners within 30m in advance of approval; consideration of landowners views; additional criteria to guide approval/rejection of variances and

ability to substitute 1 vehicle stall for 2 bike stalls, limited to 20% of overall vehicle parking or 1 vehicle parking, whichever is greater. These amendments are open for public input, but not in force.

Implementation

Below is an outline of the schedule for the appeal hearing:

- Chair (Mayor) opens appeal hearing
- Overview of Process and Background
- Presentations/Opening Remarks
 - Appellants - 1, 2, 3... - 10 min each
 - Respondents – Applicant, Development Officer - 10 min each
- Follow up/Closing Remarks
 - Appellants - 1, 2, 3... - 5 min each
 - Respondents – Applicant, Development Officer - 5 min each
- Council Questions
- Vote to uphold approval or grant appeal

Vote to uphold approval or grant appeal (see options).

Options

Options	Parking Requirement
Uphold Variance Approval	3 parking stalls will be required
Deny Variance Approval	5 parking stalls will be required

Appendices

Appendix 1 – Variance Request Letter – November 25, 2024

Appendix 2 – Variance approval – November 28, 2024

Appendix 3 – Appeal letter – Kyle Bower – December 10, 2024

APPENDIX 1



Memorandum

To: Michael Kahn, Planner, Town of Shelburne
From: Dion Whyte, Director, New Commons Development
Re: Compass Nova Scotia Request for Nominal Cost Land Sale and Minor Parking Variance –
28 John St., Shelburne, NS.
Date: November 25, 2024

Dear Michael,

On behalf of Compass Nova Scotia, we would like to request a Parking Variance from 5 spaces to 3 spaces for the property at 28 John Street, Shelburne, NS (PID 80146764). In order to facilitate the 3 on site parking spaces, Compass NS would also like to request a nominal sum sale of Town owned lands along Mowatt St. sufficient for us provide the 3 parking spaces along the side of the building as shown on the exhibit attached.

There is currently no space available on the property that can accommodate on-site parking without incurring significant expense and without creating potential conflicts with the approved building design or associated services. New Commons Development (NCD) and Compass NS have explored options to add parking on the northeastern portion of the property accessed off Mowatt St., however provision of driveway access is not possible due to the limited space available and presence of the domestic water supply well in this location. The team also explored the potential to remove the existing gazebo and provide 1-2 parking stalls in this location however this would require significant retaining works at significant expense due to the grade change in this location and has the risk of conflicting with one of the building access doors on the east side of the building. Following the assessment of options, the acquisition of the additional land along Mowatt St. and creation of 3 new parallel parking stalls along this side of the building was determined to be the only viable option.

As part of the property redevelopment, we will be adding an accessible ramp that will wrap around from the building frontage on John St. to the Mowatt St. side of our building. That ramp would help to define the corner for vehicles turning, and we would further propose to include a yellow cross hatch line painting to further delineate the parking area from the roadway.

As an additional means of addressing potential concerns we would also propose to install a fence along the back property line to further delineate the property boundary and make it evident the resident

parking is on our side. Signage located here would also help manage parking. The new owner has confirmed that the Property Manager will be available to manage any issues on an ongoing basis.

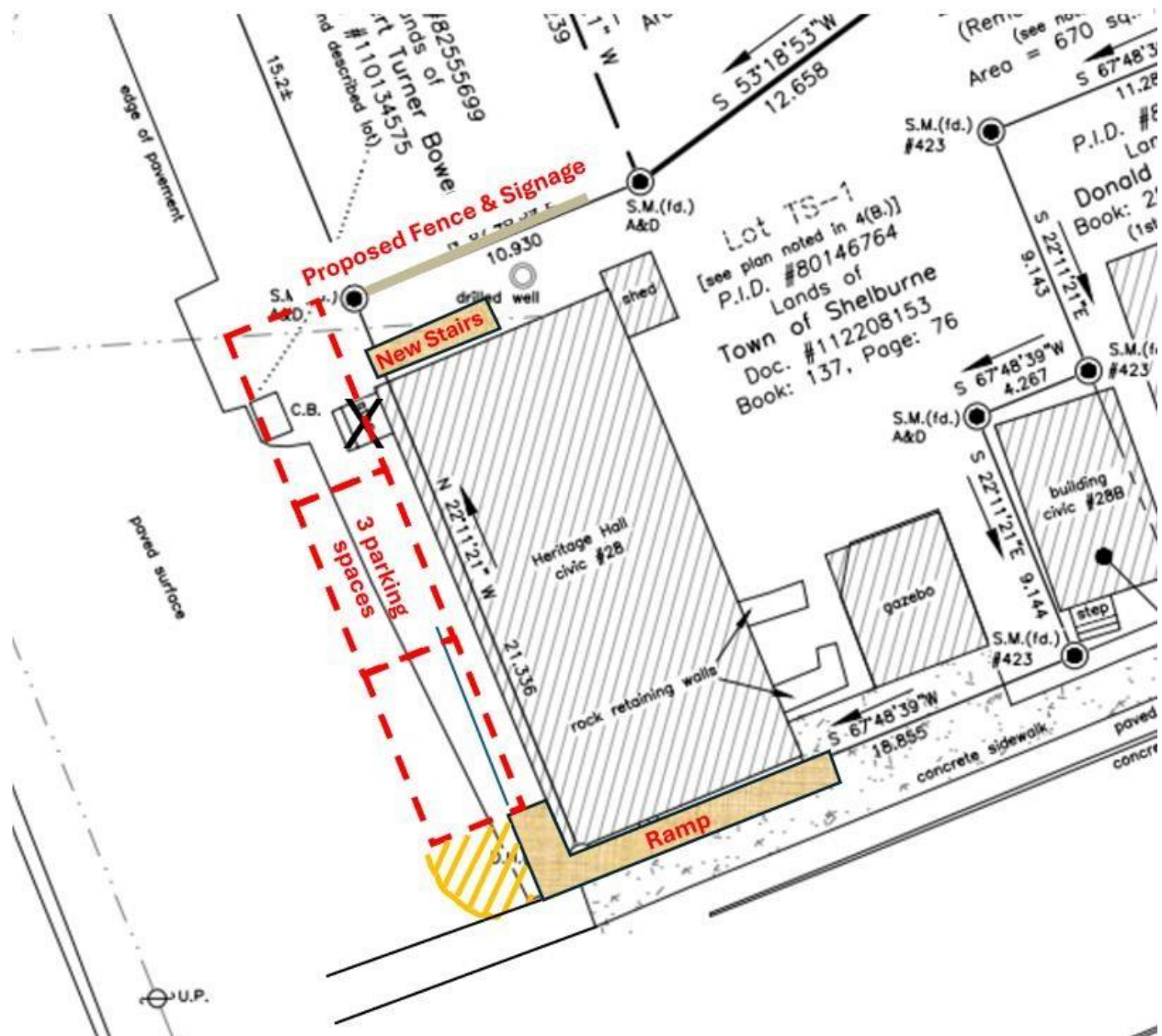
Please do not hesitate to contact me should you have any questions or require additional information.

Sincerely,

Dion Whyte

Director, New Commons Development

EXHIBIT



APPENDIX 2



P.O. Box 670
162 Mowatt Street Shelburne, N.S.
B0T 1W0

November 28, 2024

Dion Whyte New Commons Development

Sent by email:

Dear Dion:

Re: Variance Request

I have received your request for a Variance at 28 John Street, Shelburne. Your request is to reduce the number of parking spaces as follows:

To reduce the number of required parking spaces from 5 to 3 parking spaces

I am hereby granting the variance as requested.

Please note "Within 7 days of granting this Variance we will notify all accessed property owners within 30 meters of the property and they will have 14 days from receipt to appeal my decision to council"

Sincerely,

A handwritten signature in blue ink, which appears to read "Andrew Goreham". The signature is fluid and cursive.

Andrew Goreham
Development Officer

c: Michael Kahn, Senior Planner, Town of Shelburne
Sarah Mattatall,, CAO Town of Shelburne

APPENDIX 3

Date: December 10, 2024
Client: Town of Shelburne, *Attention Michael Kahn, Senior Planner*
Project: 5 bedroom apartment Renovation
Location: 28 John Street, Shelburne, Shelburne Co., NS - *P.I.D.# 80146764*

Michael,

I am writing in response to a letter received from New Commons Development requesting a parking variance from 5 spaces to 3 spaces. After further consideration, I would like to speak against approving this variance.

New Commons Development has claimed that the property cannot accommodate 5 parking spaces without incurring significant expense. I have attached a Site Plan that outlines a suitable location for 5 parking spaces. The question then becomes whether they work with myself to acquire more access on Mowatt Street or they remove the gazebo to install a driveway. I find that to be a reasonable cost for any developer who is required to create parking spaces on private property within the Town of Shelburne as outlined in the Land-Use Bylaw. I would request some evidence to the contrary if this argument holds up.

The issue with accepting the proposal to create parking on Mowatt Street is that it only protects New Commons Development who aren't even residents of the Town. It stands to burden the tenants of the apartment, neighbouring properties, traffic, Town Public Works department, Town Bylaw Enforcement and potentially the RCMP (all Shelburne County residents).

Pros to accepting New Commons variance:

1. Saves the developer expense

Cons to accepting New Commons variance:

1. Creates traffic sight issues on an already challenging intersection
2. Affects snow removal
3. Insufficient parking for the tenants as outlined in your Land Use Bylaw
4. Has potential to burden neighbouring property with overflow parking
5. Devaluation of neighbourhood properties by virtue of overflow street parking cluttering the streetscape
6. Places a burden on Bylaw Enforcement and potentially RCMP

I look forward to hearing your response and course of action moving forward. Thank you for your consideration in this matter.

Regards,

A handwritten signature in blue ink, appearing to read 'K. B.', with a long horizontal flourish extending to the right.

Kyle Bower, P.Eng., N.S.L.S.

