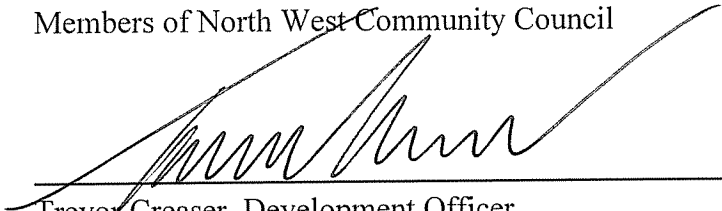


North West Community Council  
July 9, 2009

**TO:** Members of North West Community Council

**SUBMITTED BY:**   
Trevor Creaser, Development Officer

**DATE:** June 30, 2009

**SUBJECT:** Appeal of the Refusal of Variance #15201 - 81 Ridgeview Drive, Lower Sackville

**ORIGIN**

This is an appeal of the Development Officer's decision to refuse a variance for the reduction of the flankage yard setback requirements of the Land Use Bylaw for Sackville for the construction of an attached garage to the side of a single unit dwelling at 81 Ridgeview Drive, Lower Sackville.

**RECOMMENDATION**

It is recommended that Council uphold the decision of the Development Officer to refuse the request for a variance.

**BACKGROUND**

The subject property is located at 81 Ridgeview Drive, Lower Sackville (refer to Attachment 1). 81 Ridgeview Drive is zoned R-1 (Single Unit Dwelling) under the Land Use Bylaw for Sackville.

On February 9, 2009 Variance application was submitted for the construction of an attached garage to a single unit dwelling. The variance requested was for a reduction of the minimum required flankage yard setback from 20 feet to **9.3 feet** (see Attachment 2). The flankage yard being Belleshire Drive right of way.

The application was reviewed by the Development Engineering who cited concerns regarding the short length of the driveway between the face of the proposed garage and the curb. Halifax Regional Municipality would not be able to restrict parking in this location and foresees problems with the sight lines (stopping distance) as well as concerns regarding snow clearing operations during the winter months if a vehicle were to park in this location. The Development Engineer has not recommended approval of this application.

The application was refused on May 8, 2009 (attachment #3) which was subsequently appealed on May 15, 2009 (attachment #4).

## DISCUSSION

The *Halifax Regional Charter* sets out guidelines under which the Development Officer may consider variances to Land Use Bylaw requirements. Those guidelines are as follows:

*“A variance may not be granted where the:*

*(a) variance violates the intent of the land use bylaw;*

*(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 bylaw.”*

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.

*(a) variance violates the intent of the land use bylaw;*

The land use bylaw establishes flankage and front yard setbacks to provide adequate separation from buildings to street right of ways for aesthetics, operational requirements and more importantly for corner lots, safety. It was the opinion of the Development Officer that the construction of the attached garage only 9.3' Belleshire Drive right of way would ***violate the intent of the land use bylaw.***

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

The lot configuration, setbacks and building location is consistent with other corner lots in the neighbourhood and therefore, ***the difficulty experienced is general to properties in the area.***

*(c) difficulty experienced results from an intentional disregard for the requirements of the land use bylaw.”*

As no construction has occurred at this site *intentional disregard* was not a consideration in refusing this variance.

## BUDGET IMPLICATIONS

None

## ALTERNATIVES

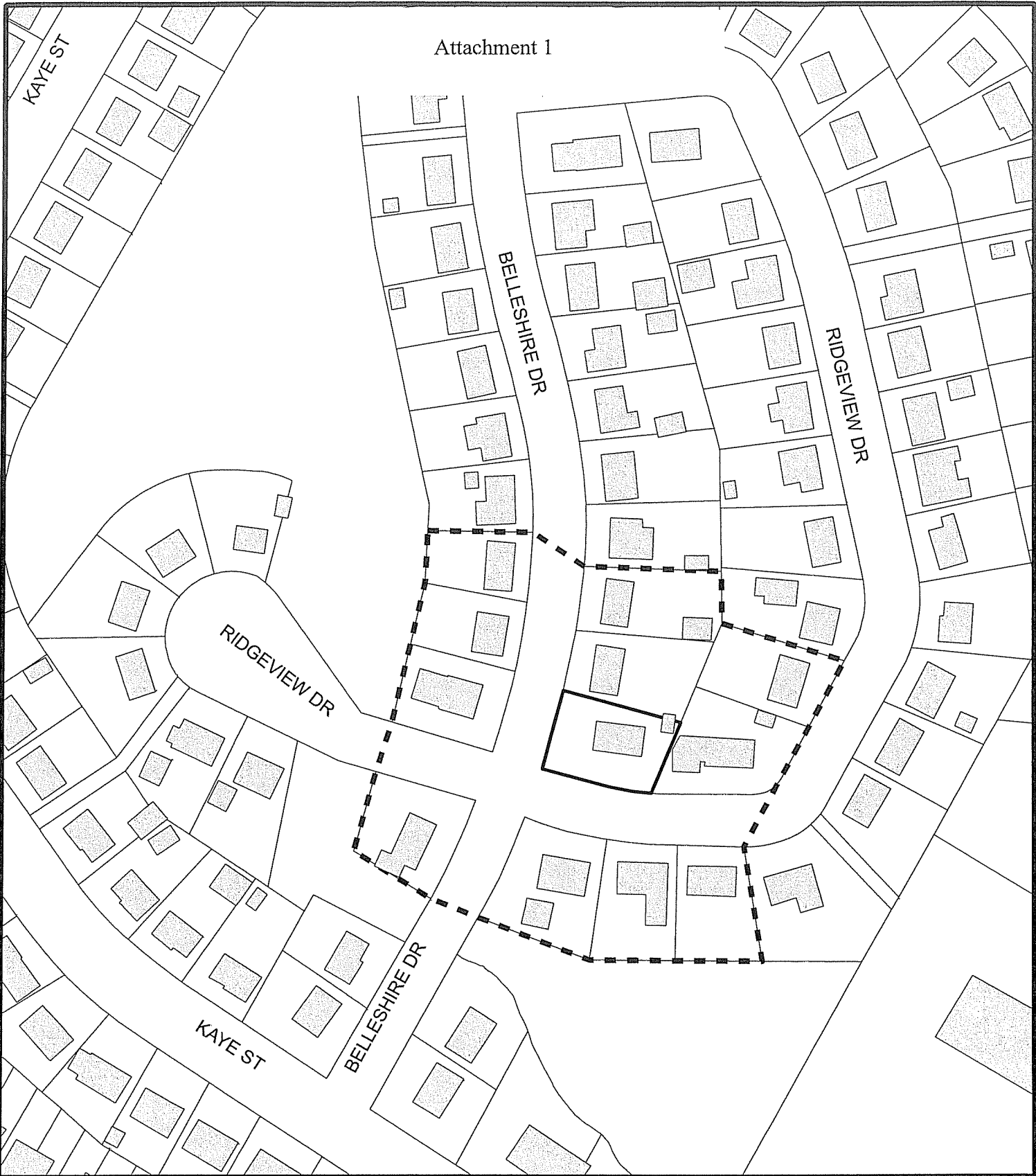
1. Uphold the decision of the Development Officer to refuse the application for variance. This is the recommended alternative.
2. Overturn the decision of the Development Officer, thereby allowing the variance.

## ATTACHMENTS

1. Location map
2. Site Plan
3. Variance Refusal Letter
4. Appellant's Letter

**North West Community Council Report  
Appeal of Approval of Variance #15201**

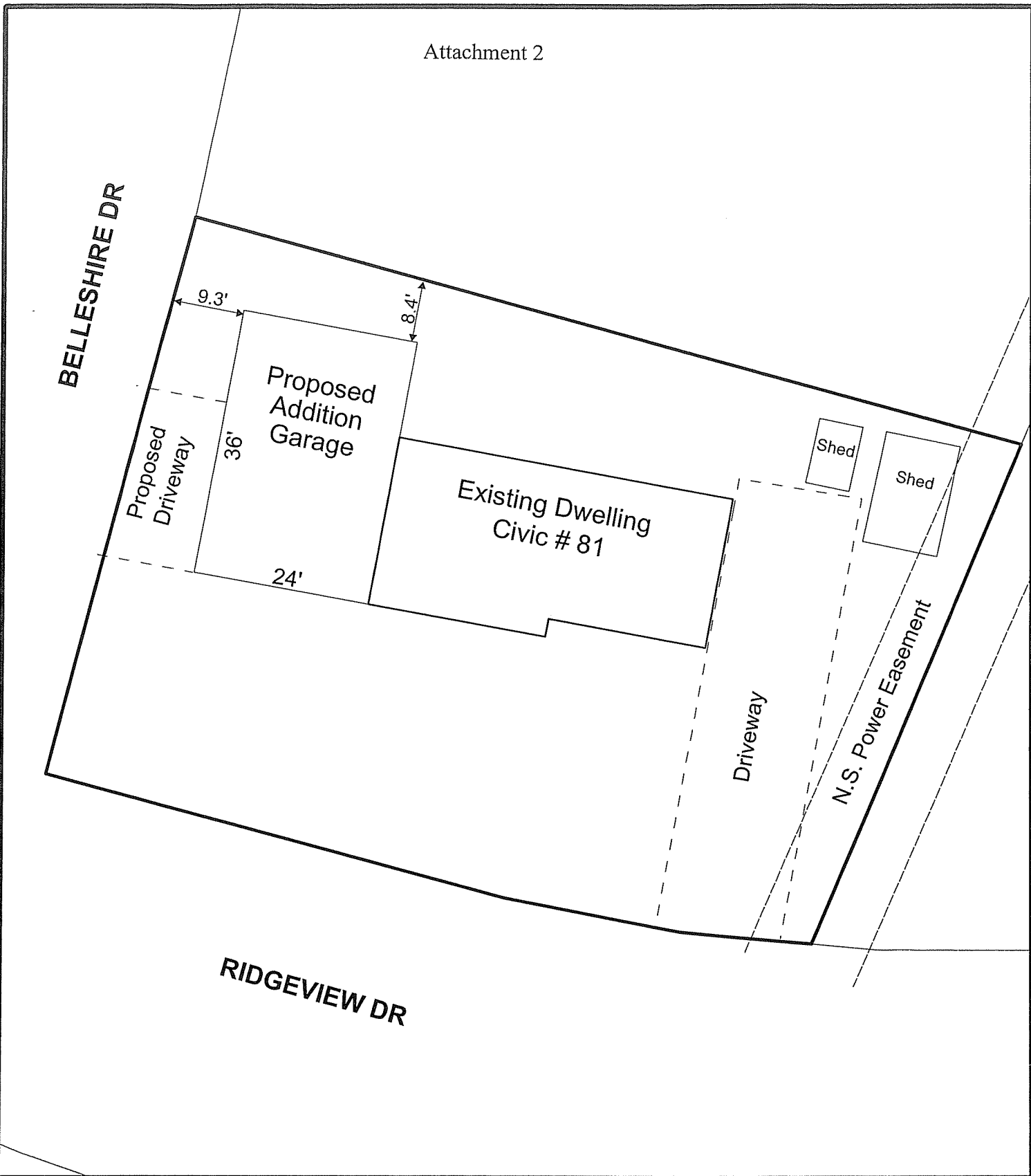
Additional copies of this report and information on its status can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.  
Report prepared by: Trevor Creaser, 869-4235.



Map 1  
Notification Area

--- Notification Area





Map 2  
Site Plan

N  
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**HALIFAX**  
REGIONAL MUNICIPALITY  
Planning Services

May 8, 2009

**Joseph Paul Raymond Sequin**  
81 Ridgeview Drive  
Lower Sackville, NS  
B4C 1L8

Dear Mr. Sequin

RE: Variance Application # 15201

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This will advise that the Development Officer for the Halifax Regional Municipality has refused your request for variance from the requirements of the Land Use Bylaw for **Sackville** as follows:

Location: **81 Ridgeview Drive**

Project Proposal: Addition (Garage) to Single Family Dwelling which will bring the house closer to the Right of Way of Belleshire Drive. The front yard setback is 20 feet from the Right of way, the addition will reduce it to 9.3 feet. Variance Requested: 9.3 feet from 20 feet

Section 259(3) of the **HRM Charter** states that:

No variance shall be granted where:

- (a) the variance violates the intent of the Land Use Bylaw;
- (b) the difficulty experienced is general to properties in the area; or
- (c) the difficulty experienced results from the intentional disregard for the requirements of the Land Use Bylaw.

It is the opinion of the Development Officer that the variance violates the intent of the Sackville Land Use Bylaw and is general to properties in the area.

The following are comments from engineering regarding this application;

*"Engineering has concerns regarding the short length of the driveway between the face of the building and the curb. Halifax Regional Municipality would not be able to restrict parking in this location and foresees problems with the sight lines (stopping distance) as well as concerns regarding snow clearing operations during the winter months. Development Engineering would recommend against granting a variance in this location for a garage. "*

Pursuant to Section 260(4) of the **HRM Charter** you have the right to appeal the decision of the Development Officer to the Municipal Council. The appeal must be in writing, stating the grounds of the appeal, and be directed to:

**Municipal Clerk  
c/o Trevor Creaser, Development Officer  
Halifax Regional Municipality  
Development Services - Central Region  
P.O. Box 1749  
Halifax, NS B3J 3A5**

Your appeal must be filed on or before **May 15, 2009**.

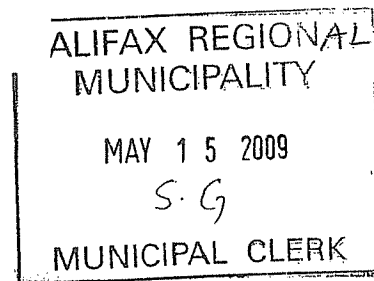
If you have any questions or require additional information, please contact this office at 869-4389.

Sincerely,



Kevin Warner  
Development Officer

cc. Municipal Clerk  
Councillor Bob Harvey , District 20



May 12, 2009

Halifax Regional Municipality,  
Mr. Trevor Creaser, Development Officer

Re: Variance Application # 15201

Mr. Creaser:

I made application for a variance to the Land Use Bylaw in February which was rejected on grounds that it would impede snow clearing operations and they foresee problems with the sight lines (stopping distance) to the junction of Belleshire and Ridgeview Drives.

First of all, I have a driveway that can accommodate four vehicles and under no circumstances will any vehicle be parked in the driveway adjacent to the door of the addition. Under present conditions, a person could park an 18 wheeler on Belleshire Drive and providing that they maintain the required distance from the intersection, it would be legal. The garage opening would be 45 to 50 feet from the intersection which I consider adequate for snow removal and would not impede traffic any differently than normal driveways along the street.

In considering the other end of the house to construct my garage, I would have to again go for a variance as NSPI have an easement which has already been encroached upon by the neighbour. Where would that leave the Power Commission in the event that the telephone pole should need replacement? I do not have many options other than to scrap the idea of ever being able to avail myself of a shelter to house my vehicle.

For these reasons I am appealing the decision of Mr. Kevin Warner to deny my request for a variance.

For your consideration,

A handwritten signature in black ink that reads "Paul Seguin".

Paul Seguin,  
81 Ridgeview Drive,  
Lower Sackville, NS  
B4C 1L8  
864-3831

cc. Councillor Bob Harvey, District 20