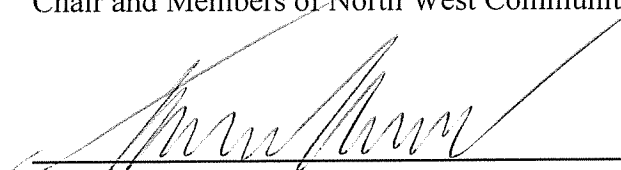


North West Community Council
February 25, 2010

TO: Chair and Members of North West Community Council

SUBMITTED BY:


Trevor Creaser, Development Officer

DATE: February 15, 2010

SUBJECT: Appeal of the refusal of Variance # 15695 - 317 Shore Drive, Bedford

ORIGIN

This is an appeal of the Development Officer's decision to refuse an application for a variance from the front and side yard setback requirements of the Land Use Bylaw for Bedford for the construction of an attached garage to an existing dwelling.

RECOMMENDATION

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

BACKGROUND

The subject property is located at 317 Shore Drive, Bedford and the property is zoned RSU (Residential Single Unit) under the Land Use Bylaw for Bedford (refer to Attachment 1).

The setback requirements in the RSU zone are **8 feet** from side property boundaries and **15 feet** from the front property boundary common with the street right of way.

An application for variance was made on October 30, 2009 requesting a variance on the left side of the existing house to allow for a reduction to 3.3 feet as well as a variance from the front yard requirements for the construction of a covered entry porch; reduction to 11.1 feet. (refer to Attachment 2).

The Development Officer refused the variance on November 9, 2009 (refer to Attachment 3). The applicant appeal the decision on November 16, 2009 (refer to Attachment 4).

DISCUSSION

The *Halifax Regional Municipality 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 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;*
- (c) the difficulty experienced results from the intentional disregard for the requirements of the development agreement or 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:

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

The land use bylaw sets standards for building setbacks from lot boundaries to provide appropriate separation from adjacent dwellings and the street right of way. The residence at 325 Shore Drive has an “existing” setback of approximately **3 feet** from the lot boundary common with this property. By allowing this addition to be located 3 feet from this common boundary would result in a **building separation of only 6 feet**. It is therefore the opinion of the Development Officer that this variance would *violate the intent of the land-use by-law*.

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

This property is in a neighbourhood with older homes that would have been constructed prior to the land use bylaw. Many of these homes have “existing” setbacks that do not conform to current requirements and the land use bylaw recognizes these situations by permitting these setback to be maintained. It is therefore determined that *the difficulty experienced is general to properties in the area*

(C) Intentional disregard was not a consideration in refusing this variance.

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

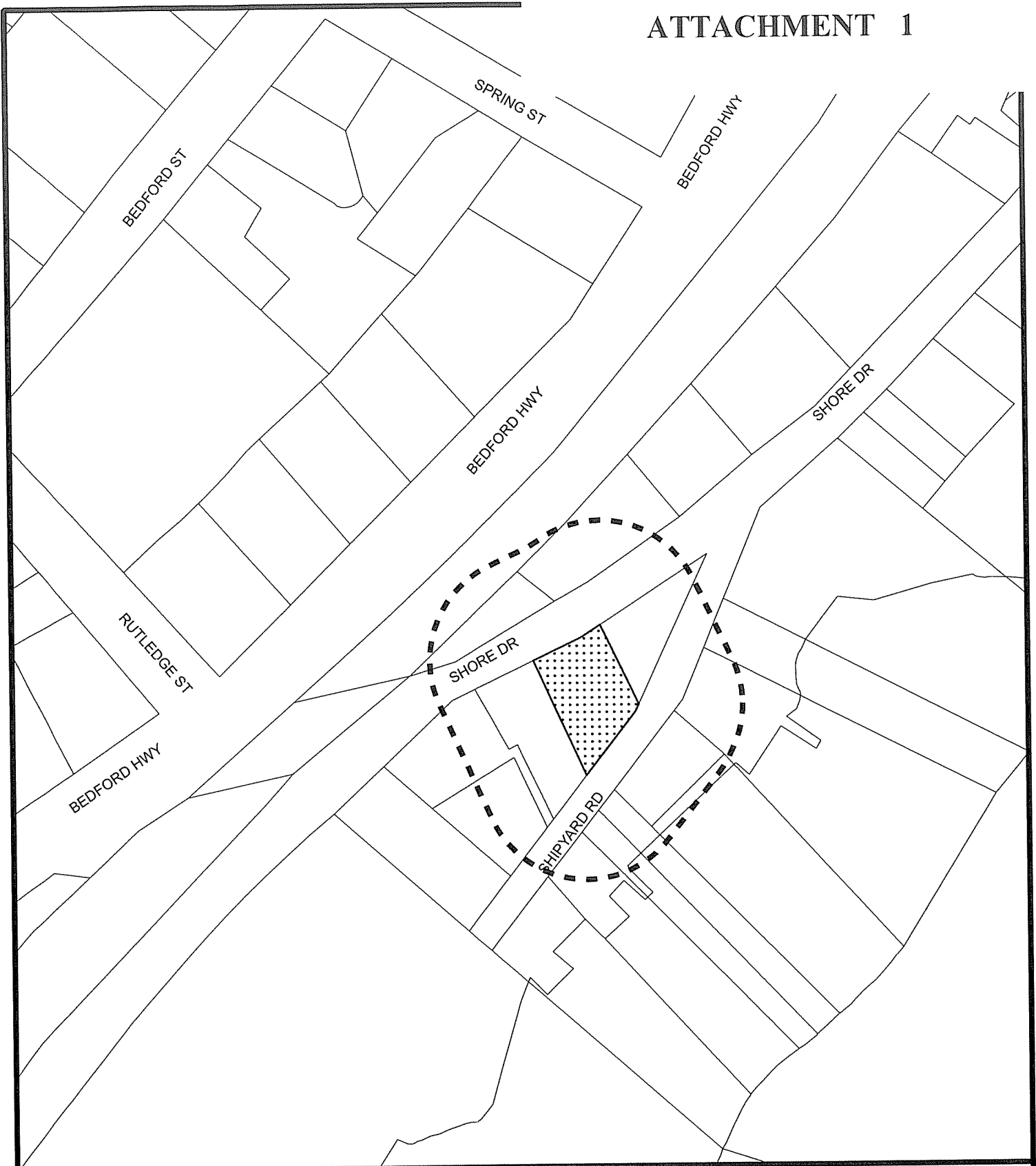
1. Uphold the decision of the Development Officer to refuse the application for variance. **This is the recommended alternative.**
2. Overturn the decision of the Development Officer, thereby approving the variance.

ATTACHMENTS

1. Zoning Map
2. Site Plan
3. Variance Refusal Letter
4. Appellant's Letter
5. Front Elevation

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.

ATTACHMENT 1



Map 1
Notification Area

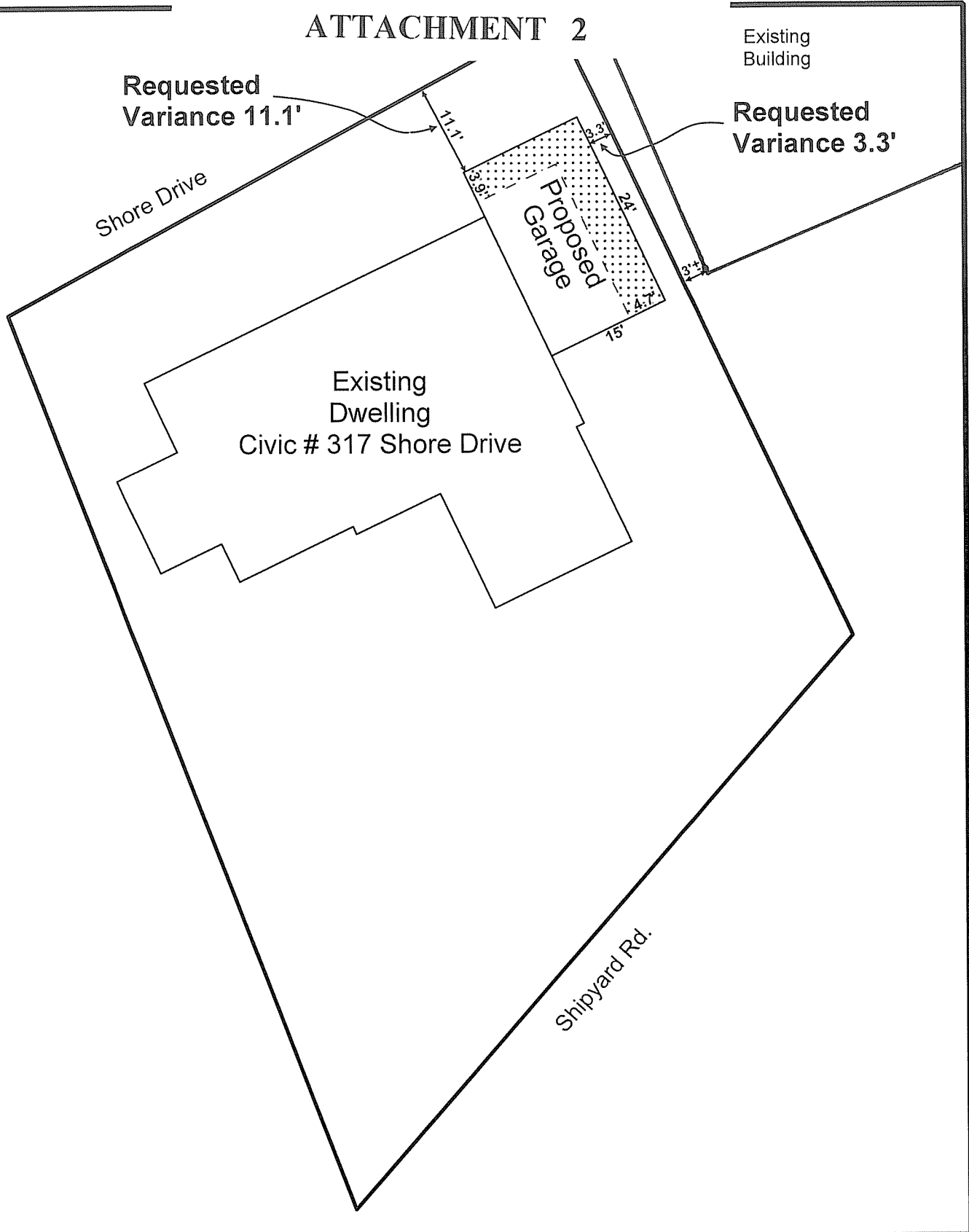
--- Notification Area

▣ Subject Property




HALIFAX
REGIONAL MUNICIPALITY
Planning Services

ATTACHMENT 2



Map 2
Site Plan

 Area requiring Variance



HALIFAX
REGIONAL MUNICIPALITY
Planning Services

COMMUNITY DEVELOPMENT - CENTRAL

November 9, 2009

Roeland W. Leenes
7 Ridgepark Lane
Halifax, N.S. B3N 3J2

Dear Mr. Leenes:

RE: Application for Variance #15695 - 317 Shore Drive, Bedford

This will advise that I have refused your request for variance from the requirements of the Land Use Bylaw for Bedford as follows:

Location:	#317 Shore Drive, Bedford
Project Proposal:	Construction of Attached Garage to Right Side of Dwelling
Required Setback:	8 Feet from the Right Side Property Line
Variance Requested:	3.3 Feet from the Right Side Property Line
Required Setback:	15 Feet from Front Property Line
Variance Requested:	11.1 Feet from Front Property Line

Section 250(3) of the *Halifax Municipality Charter* states that:

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 the intentional disregard for the requirements of the development agreement or land-use by-law.

It is the opinion of the Development Office that this variance would *violate the intent of the Land Use By-Law*.

Pursuant to Section 251 (4) of the *Halifax Regional Municipality 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:

Trevor Creaser
Development Officer
Halifax Regional Municipality
Development Services - Central Region
P.O. Box 1749, Halifax, N.S. B3J 3A5

Your appeal must be filed on or before **November 19, 2009**.

If you have any questions or require additional information, please contact either myself or Karen Godwin at 869-4234.

Sincerely,


Trevor Creaser
Development Officer

cc. Cathy Mellett, Acting Municipal Clerk
Councillor T. Outhit

November 16, 2009.

To:
Mr. Trevor Creaser
Development Officer
Halifax Regional Municipality
Development Services – Central Region
P.O. Box 1749
Halifax, N.S. B3J 3A5

RECEIVED

NOV 17 2009

DEPARTMENT OF PLANNING
AND DEVELOPMENT

RE: Variance Application #15695 – 317 Shore Drive, Bedford

APPEAL

Please be advised that the owners of the property 317 Shore Drive, Bedford, have instructed me to appeal the decision of the D.O. to refuse a variance from the requirements of the Land-use Bylaw for Bedford.

We will demonstrate before Council that the requested variance for the reduced front and side yards for this property are

1. reasonable under the circumstances and
2. meet the intent of the said Land-Use Bylaw.

This appeal is filed pursuant to section 251 (4) of the H.R.M. Charter.

We will await a date for a hearing by Council.

Sincerely,



Roeland Leenes M.Arch.
for
Mr. T. Maclean and Mrs. S. Davidson.

cc. Cathy Mellett, Acting Municipal Clerk
Bedford Councillor Tim Outhit
Mr Maclean and Mrs Davidson, Owners.

