

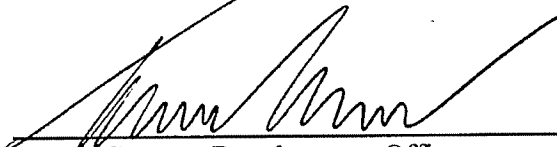


P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

**Peninsula Community Council
December 12, 2011**

TO: Chair and Members of Peninsula Community Council

SUBMITTED BY:


Trevor Creaser, Development Officer

DATE: November 30, 2011

SUBJECT: Appeal of Variance Approval #17243 for 6319 Cornwall Street,
Halifax

ORIGIN

This report deals with an appeal of the Development Officer's decision to approve variance from the side yard requirements of the land use by-law for the location of a shed at 6319 Cornwall Street in Halifax.

RECOMMENDATION

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

BACKGROUND

The property is zoned R-2 General Residential Zone, Peninsula Centre under the Land Use Bylaw for Halifax Peninsula (refer to Attachment 1). The property currently contains a three unit dwelling.

The owner began to construct a 9'x 9' shed without a permit between the dwelling and left property boundary (refer to Attachment 2). On August 30, 2011 HRM staff advised a permit was required for the shed under construction. On September 6, 2011 the property owner applied for a development permit for a 9'5"x 9'1" shed. During the review of the permit application it was determined the shed was 10 inches from the side property line and the minimum side yard requirement is 6 feet. Subsequently, a variance was applied for on September 14th, 2011 to vary the side yard setback requirement. The variance was approved on October 21 (refer to Attachment 3) and an appealed was received on Nov.2 from the owner of 6331 Cornwall Street (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 by-law;

The intent of setbacks under the land use bylaw is to ensure that structures maintain adequate separation from adjacent structures and property lines for access, safety and esthetics. The location of the shed does not impact the adjacent property as the structure is located behind the dwelling on the abutting lot. This provides a separation of approximately 17' from the adjacent dwelling. As all other requirements are being met, the variance does not violate the intent of the land use bylaw.

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

The grade in the rear yard of this property is considerably higher than other properties in the area. This makes it challenging to gain access the rear of the property from the outside so it is logical to locate the shed in the side yard for ease of access to property maintenance items and storage. Also, this allows the owner to take advantage of the limited amenity space in the rear. It is therefore determined this property is not *general to properties in the area*.

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

Once the owner was aware the structure required a development permit, he entered the permit and variance process in good faith to resolve the setback issue and therefore *intentional disregard* is not a consideration.

BUDGET IMPLICATIONS

There are no budget implications related to this variance.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

Community Engagement as described by the Community Engagement Strategy is not applicable to this process. The procedure for public notification is mandated by the *HRM Charter*. If the Variance request is appealed a public hearing is held which is the opportunity for residents (within 30 meters) to speak to staff's recommendation.

BUDGET IMPLICATIONS

None

ALTERNATIVES

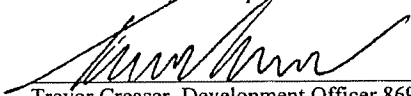
1. Council could uphold the decision of the Development Officer to approve the variance. This is staff's recommendation.
2. Council could overturn the decision of the Development Officer and refuse the variance.

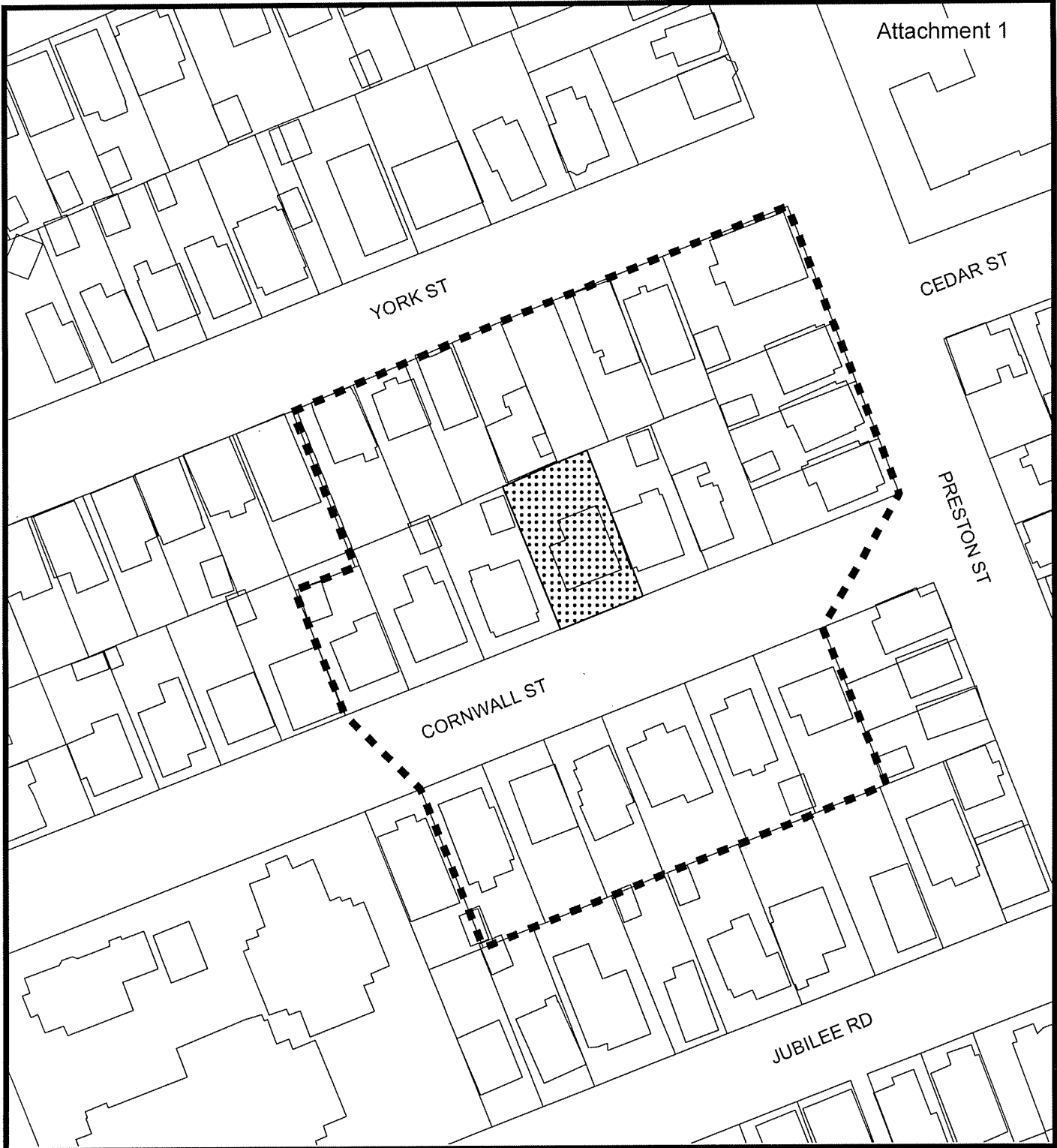
ATTACHMENTS

1. Location Map
2. Site Plan
3. Approval Letter
4. Letter of appeal

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by : Connie Sexton, Development Technician 869-4005


Report Approved by: 
Trevor Creaser, Development Officer 869-4235

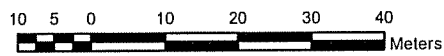


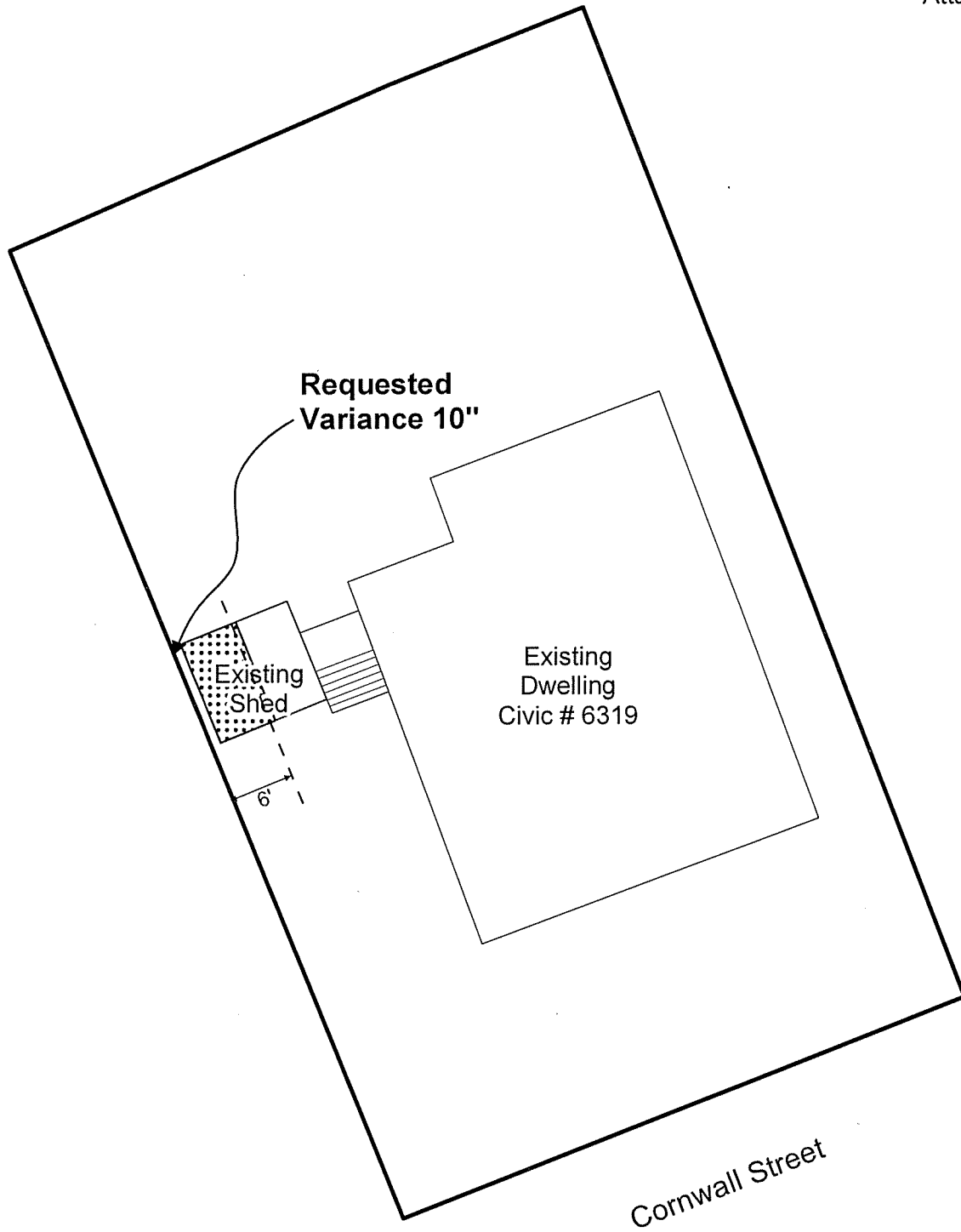
Map 1
Notification Area



■ ■ ■ ■ Notification Area

 Subject Property





Map 2
Site Plan



Area of Requested Variance

HALIFAX
REGIONAL MUNICIPALITY
Planning Services





COMMUNITY DEVELOPMENT
636 Sackville Drive
Sackville, NS
Telephone: 869-4375
Fax: 869-4254

COMMUNITY DEVELOPMENT

October 21, 2011

Mr. Allan Offman
6319 Cornwall Str.
Halifax, NS B3H 2J2

Dear Mr. Offman:

RE: Variance # 17243 – 6319 Cornwall Street

This will advise that I have approved your request for a variance from the requirements of the Land Use Bylaw for Halifax Peninsula as follows:

Location:	6319 Cornwall Street
Project Proposal:	To allow a shed to remain closer to the left side yard than permitted by the Halifax Peninsula Land Use By-law
Required Left Side Yard:	6 feet
Requested Left Side Yard:	10 inches

In accordance with Section 251 of the Halifax Regional Municipality Charter, all assessed owners of property within 30 metres of your property have been notified of this variance. Those property owners have the right to appeal the decision of the Development Officer to the Municipal Council. An appeal must be filed on or before **November 6, 2011**.

No permits will be issued until the appeal period has expired and any appeals disposed of.

If you have any questions or require additional information, please contact Connie Sexton at 869-4005.

Sincerely,

A handwritten signature in black ink, appearing to read "Trevor Creaser".

Trevor Creaser
Development Officer

cc. Cathy Mellett, Municipal Clerk
Councillor, Sue Uteck

October 29, 2011 .

Drew Creason,
Development Officer,
Wabigoon Regional Municipality.
Dear Sir,

Re: the variance at 6319
Cornwall Street, # 17243.

I live at 6331 Cornwall Street
and I am appealing this variance
on the grounds that this work
was done without a permit.

Sincerely,
Edith A. Ross

