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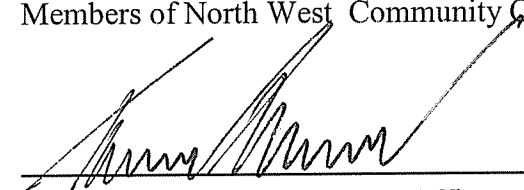


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North West Community Council
June 21, 2007

TO: Members of North West Community Council

SUBMITTED BY:


Trevor Creaser, Development Officer

DATE: June 14, 2007

SUBJECT: Appeal of the approval of a Variance #13509- 1385 Sackville Dr.

ORIGIN

This is an appeal of the Development Officer's decision to approve an application for a variance from the side yard setback requirements of the land use bylaw for a main building at 1385 Sackville Dr.

RECOMMENDATION

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

BACKGROUND

The subject property is located on the north side of Sackville Dr. (refer to Attachment #1). 1385 Sackville Dr. is zoned C-2 (Community Commercial) under the Land Use Bylaw for Sackville.

An application for variance was made on December 21, 2006 to locate a new auto detailing shop four (4) feet from the left side property boundary. The requirement under the C-2 zone is fifteen (15) feet.

The lot has 60 feet of frontage on Sackville Drive, while the width of the lot narrows to 35 feet at the rear. It is for this reason the applicant is having difficulty meeting the 15 foot side yard setbacks required by the zone. Other lots in the area are typically wider. Due to zone provisions pertaining to setbacks and design requirements for parking areas, it will be difficult to accommodate parking at the rear of the proposed building. Therefore the parking area for the business will be located in front of the building (refer to attachment #2 for the site plan).

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Civic 1393 current permits, by Development Agreement, an outdoor display court. Civic 1381 has a single unit dwelling and civic 1379 also has an outdoor display court for vehicle sales.

HRM Development Engineering has advised that the site is not capable of being serviced as there are no sewer or water services to tie into at this location. Also, they have confirmed that access to the site can be accommodated.

The Development Officer approved the variance on January 26, 2007 which was appealed by the owner of 1379 Sackville Drive (refer to attachment #4).

The appellant has raised a number of issues in his appeal, as listed below:

1) *Rules were developed for a reason. The property is far too narrow for this proposal.* Setback regulations were developed to maintain compatibility between uses. There are sometimes situations where the standard cannot be met, for example, where there are site conditions preventing a proposed development from meeting the setback requirements. This is the reason for the variance process. This application is one of those instances.

2) *There is currently a water supply problem and septic problems may worsen upon development.* The applicant will be responsible for obtaining all relevant approvals from the appropriate agencies.

DISCUSSION

The *Municipal Government Act* 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 intent of minimum side yard setback requirements is to provide adequate separation of buildings from to adjacent properties. This is necessary to ensure compatibility of uses, and to minimize potential conflicts between neighbouring properties. To permit a variance from 15' to 4' would *not violate the intent of the land use bylaw.*

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

This lot was part of a subdivision approving 3 lots in 1963. This lot is the narrowest of the 3. Lots in the immediate vicinity are approximately 1 acre in size. therefore the *difficulty experienced is not*

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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 approving this variance.

BUDGET IMPLICATIONS

None

ALTERNATIVES

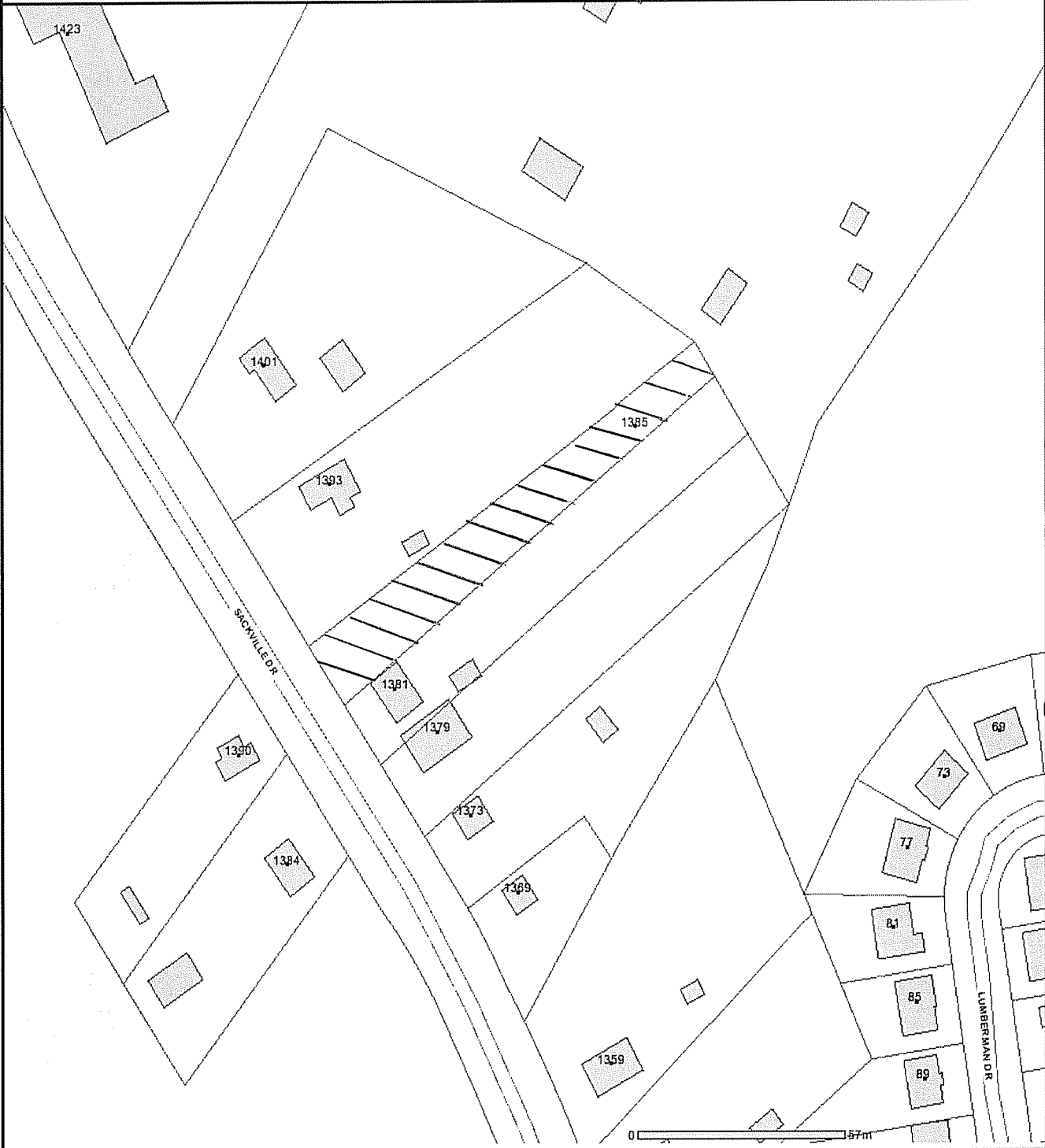
1. Uphold the decision of the Development Officer to approve the application for variance. This is the recommended alternative.
2. Overturn the decision of the Development Officer, thereby refusing the variance.

ATTACHMENTS

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

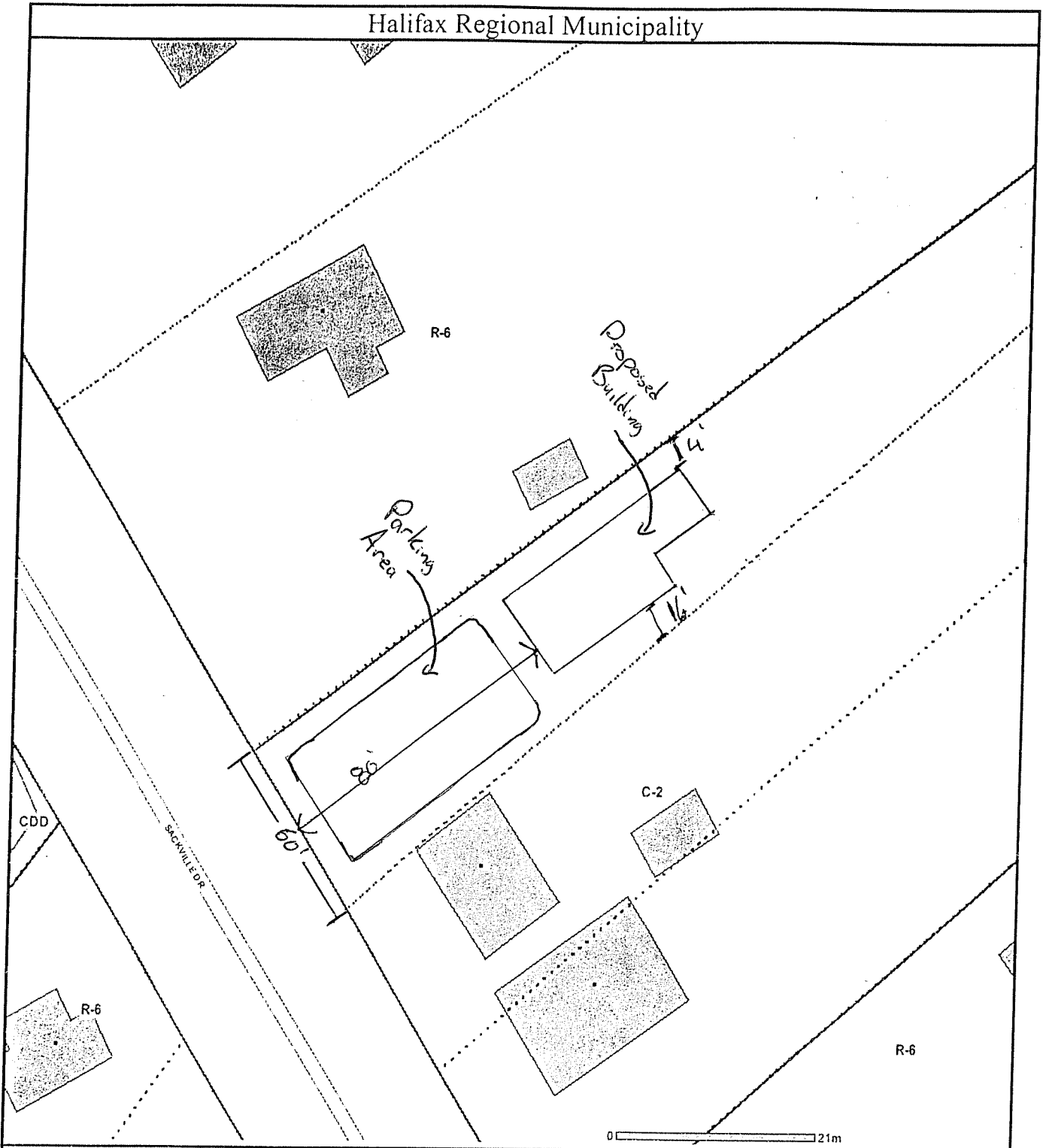
Additional copies of this report and information on its status can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.
Report prepared by: Trevor Creaser, 869-4235.

Halifax Regional Municipality



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