

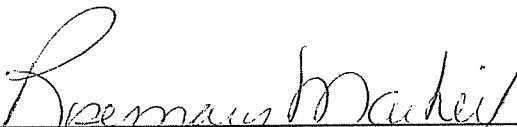


PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Western Community Council**  
**November 24, 2008**

**TO:** Chairman and Members of Western Community Council

**SUBMITTED BY:**

  
\_\_\_\_\_  
Andrew Faulkner - Development Officer

**DATE:** November 18, 2008

**SUBJECT:** Appeal of the Development Officer's decision to deny an application for a  
**Variance #14988 - 53 Parkdale Avenue,**

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### ORIGIN

This report deals with an appeal of the Development Officer's decision to deny a variance from the requirements of the Timberlea, Lakeside, Beechville Land Use Bylaw to construct an addition to a single unit dwelling.

### RECOMMENDATION

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

## BACKGROUND

The above noted application proposes to construct an attached garage on an existing single unit dwelling. This property is regulated under the *Timberlea, Lakeside, Beechville Land Use By-Law* and is currently zoned R-1 (single unit dwelling). The zone requires a minimum lot frontage of 60 feet (for serviced areas); a minimum lot size of 6000 square feet (for serviced areas); and rear and side yards of 8 feet.

On September 24, 2008 an application was made to construct an addition to a single unit dwelling at 53 Parkdale Avenue. Upon review it was determined that the left side yard was deficient and the development permit was refused. On October 6, 2008, a Variance application was received from the property owner. Upon review, the development officer refused the variance and sent notification to Mr. Oicle on November 7, 2008. An appeal was received on November 10, 2008. Subsequently, a notice was sent to neighbours within the 30 meter buffer zone regarding the refusal of the variance.

## 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.

### **Does the proposed variance violate the intent of the land use bylaw?**

The Land Use By-law permits relatively small suburban lots of 6,000 square feet in area, with 60 feet of frontage on a street in the R-1 zone. The zone requires a side yard setback of 8 feet to the property boundary, which provides for 16 foot separations between buildings on adjacent lots. Among other things, required yards enable owners to maintain their structures without encroaching onto neighbouring properties.

**Is the difficulty experienced general to the properties in the area ?**

All the properties in this neighbourhood are of uniform size and shape (see attached mapping). Every other property would have a deficient side yard setback if they constructed an addition of this size.

In the neighbourhood there is not one residence constructed at 0 lot line setback. If the addition were allowed in this instance, it would be unique. *Therefore, the difficulty experienced is general to the properties in the area.*

**Is the difficulty the result of intentional disregard for the requirements of the land use bylaw?**

There has been no intentional disregard for the requirements of the land use bylaw.

**BUDGET IMPLICATIONS**

There are no implications on the Capital Budget associated with this report.

**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. Council could uphold the decision of the Development Officer to deny the variance.
2. Council could overturn the decision of the Development Officer and approve the variance.

**ATTACHMENTS**

1. Location Plan
2. Notification Letter
3. Site and Elevation Plans.
3. Appeal Letter

**INFORMATION BLOCK**

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.

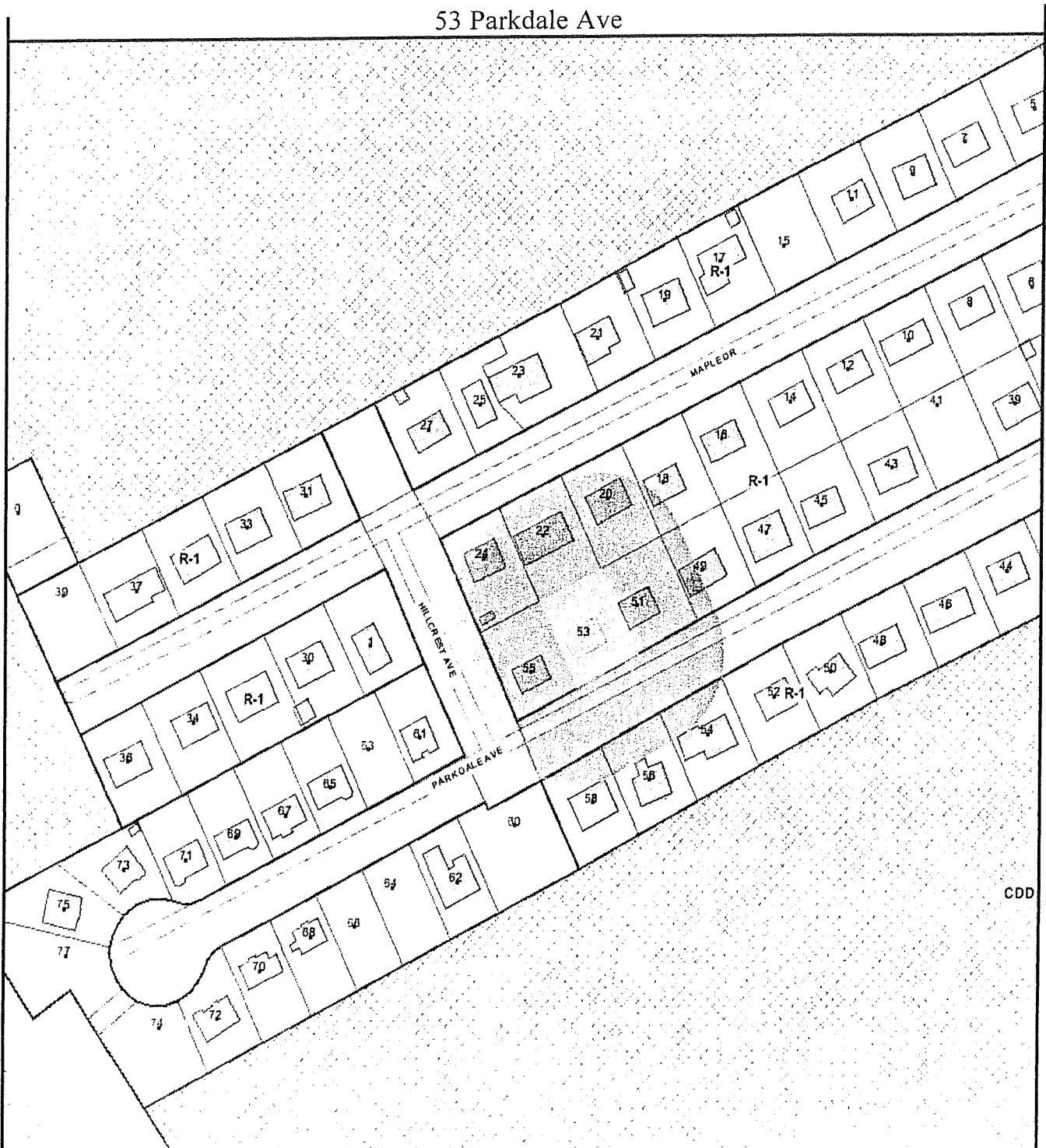
Report Prepared by: Connie Sexton - Development Technician (490-4338)

DATE: November 4, 2008

SUBJECT: Variance Application #14988  
53 Parkdale Avenue

SITE PLAN:

To vary: vary left side setback from property line from existing 15' to 0' from property line on the left side



November 5, 2008

Dear Assessed Owner:

**Re: Variance Application No. 14988 - 53 Parkdale Avenue**

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**As you have been identified as a property owner within 30 metres of the above noted address you are being notified of the following variance as per requirements of the Municipal Government Act, Section 236.**

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

**Location:** 53 Parkdale Avenue, Lakeside  
**Project Proposal:** attach new garage to existing house  
**Variance Requested:** vary left side setback from property line from existing 15 feet to 0 feet

Section 235(3) of the **Municipal Government Act** 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 (a) the variance violates the intent of the Land Use Bylaw and (b) the difficulty experienced is general to properties in the area.

The applicant has appealed the Development Officer's refusal of the application for variance.

The appeal will be heard by the Western Community Council on November 24, 2008, 330 Lacewood Drive, Keshen Goodman Library at 7:00 p.m.

If you have any questions or require additional information, please contact Connie Sexton, Development Technician at **490-4338**.

Sincerely,

  
Andrew Faulkner  
Development Officer

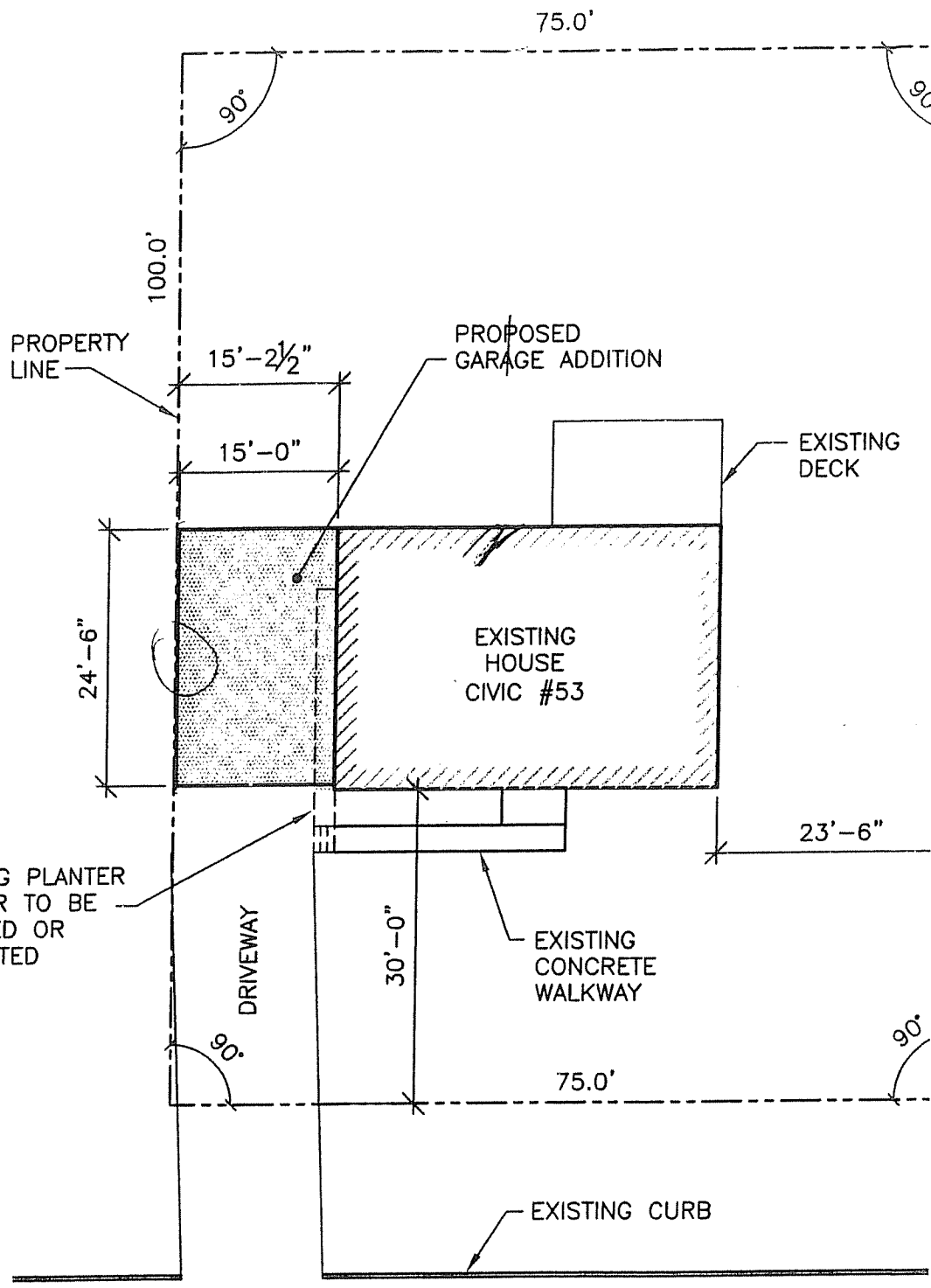
cc.

Julia Horncastle, Acting Municipal Clerk  
Councillor Reg Rankin, District 22



OWNER1	OWNER2	ADDRESS1	ADDRESS2	POST_CDE
BUCKLEY HAROLD F		22 MAPLE DR	TIMBERLEA NS	B3T 1C2
CAMPBELL KAREN A	CAMPBELL LORNE H	20 MAPLE DR	TIMBERLEA NS	B3T 1C2
DESGAGNE SERGE	OUELLET	52 PARKDALE AVE	TIMBERLEA NS	B3T 1C2
EARLE WILLIAM JOSEPH	EARLE MARY JOSEPHINE	54 PARKDALE AVE	TIMBERLEA NS	B3T 1C2
JOHNSON SHERRY LEE	JOHNSON ALAN EDWARD	55 PARKDALE AVE	TIMBERLEA NS	B3T 1C2
KEOUGH TODD RUSSELL		24 MAPLE DR	TIMBERLEA NS	B3T 1C2
KHOURY SAMIA	KHOURY GEORGE	49 PARKDALE AVE	TIMBERLEA NS	B3T 1C2
MACLEOD SUSAN FLORA		51 PARKDALE AVE	TIMBERLEA NS	B3T 1C2
MCGRATH ANDREW MICHAEL	MCGRATH ELIZABETH ANNE	18 MAPLE DR	TIMBERLEA NS	B3T 1C2
OICLE ELLERY MORTON	OICLE ANITA MARY	53 PARKDALE AVE	TIMBERLEA NS	B3T 1C2
PEVERILL DAWN MARIE	KLEFENZ BRYON KEESE	58 PARKDALE AVE	TIMBERLEA NS	B3T 1C2
QUINN DAVID STANLEY	QUINN JOAN MARIE	56 PARKDALE AVE	TIMBERLEA NS	B3T 1C2
n/a		n/a	n/a	n/a

*Mailed  
Nov. 6/08*



PARKDALE AVENUE

# SITE PLAN

SCALE: 1/16" = 1'-0"

534 Parkdale Avenue  
Timberlea, N.S. B3T 1C2

November 5, 2008

4.

Andrew Faulkner, Development Officer c/o Municipal Clerk  
Halifax Regional Municipality  
Development Services - Western Region  
PO Box 1749  
Halifax, N.S. B3J 3A5

Dear Mr. Faulkner

Re: Application for variance No 1498 - refusal date November 4, 2008.

I hereby give notice that I wish to appeal your decision in refusing my application for a variance for a new garage at 53 Parkdale Ave., Timberlea.

I want to build this garage on the west side of my property as it is the only suitable place that is practical. I have talked to my neighbours of 16 years who have property bordering my home on the west, north and east sides and none of them have a problem with my planned addition. In fact our neighbours at 55 Parkdale Ave, Al & Sherry Johnson have told me that should I need a letter of their approval that they would give me one.

Respectfully submitted for your consideration

Elley McOle CD

RECEIVED  
NOV 15 2008