

North West Community Council
March 25, 2010

TO: Members of North West Community Council

SUBMITTED BY:


Trevor Creaser, Development Officer

DATE: March 8, 2010

SUBJECT: Appeal of the refusal of Variance # 15926 - 4 Alder Crescent, Sackville

ORIGIN

This is an appeal of the Development Officer's decision to refuse an application for a variance from the front yard setback requirement of the Land Use Bylaw for Sackville for the construction of a porch on the front of a dwelling at 4 Alder Crescent.

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 4 Alder Crescent, Sackville is zoned R-1 (Single Unit Dwelling) under the Land Use Bylaw for Sackville (refer to Attachment 1).

An application for variance was made on February 16, 2010 to construct a porch (22' wide and 5' deep) on the front of the dwelling, 15 feet 4 inches from the front property line common with Alder Crescent street right of way (refer to Attachment 2). An addition was constructed in 1989 which created an existing setback of 17 feet 2 inches. The requirement under the R-1 Zone is 20 feet.

The Development Officer refused the variance on February 23, 2010 (refer to Attachment 3). The refusal was subsequently appealed on March 3, 2010 (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 bylaw;*
- (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;

Violating the intent was not a consideration in refusing this variance.

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

*As the front yard set back of this property is consistent with other properties in the area; it is the opinion of the Development Officer that the *difficulty experienced is general to properties in the area.**

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

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.

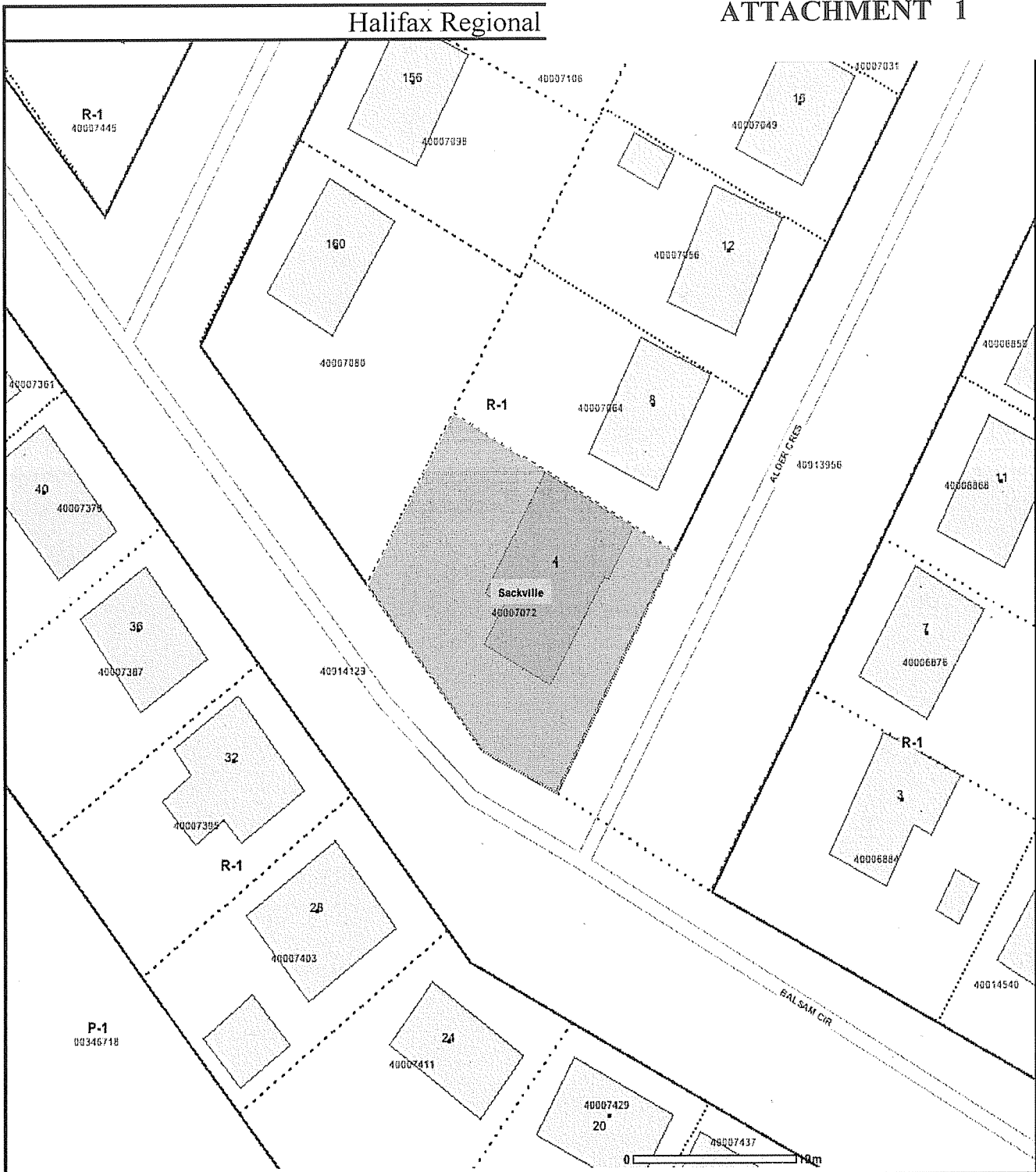
ALTERNATIVES

1. Uphold the decision of the Development Officer to refuse the application for variance.
2. Overturn the decision of the Development Officer, thereby approving the variance.

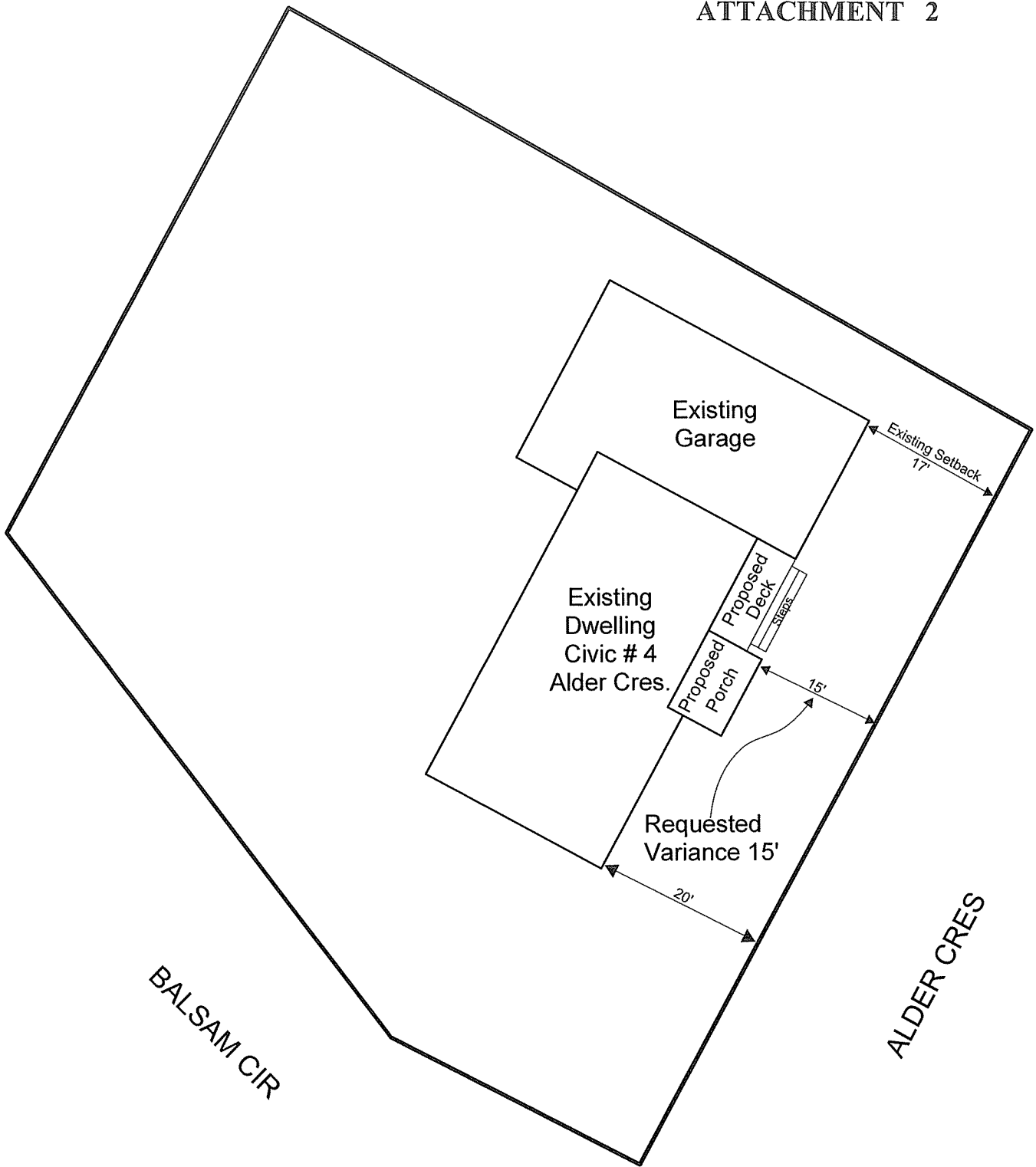
ATTACHMENTS

1. Location Map
2. Site Plan
3. Variance Refusal 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.



This map was prepared for the internal use of Halifax Regional Municipality(HRM) HRM takes no responsibility for errors or omissions For further information on Street Name or Community(GSA) data please contact HRM Civic Addressing at 490-5347 or email civicadd@halifax.ca Date of map is not indicative of the date of data creation



Map 2
Site Plan



COMMUNITY DEVELOPMENT

February 23, 2010

Shirley Gillis
4 Alder Crescent
Lower Sackville, NS B4C 1A2

Dear Ms. Gillis:

RE: Application for Variance # 15926 - 4 Alder Crescent, Lower Sackville

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

Location:	4 Alder Crescent, Lower Sackville
Project Proposal:	Construct an Enclosed Porch, Deck and Steps on front of Dwelling
Required Setback:	20 Feet (17' 2" existing setback) from the Front Property Line
Variance Requested:	15' 4" from the Front Property Line

Section 250 (2)(3) of the **Halifax Regional 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.

As your home is located the same distance, if not closer, to the street as other homes in the area, it is determined *that the difficulty experienced is general to properties in the area.*

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, 636 Sackville Drive, Sackville, NS B4C 2S3**

Your appeal must be filed on or before **March 5, 2010.**

Please note that you have the option of modifying your design so as the addition is no closer to the front property line than 17'2".

If you have any questions or require additional information, please contact Gail Bowen at 869-4253.

Sincerely,



Trevor Creaser
Development Officer

cc. Cathy Mellett, Acting Municipal Clerk
Councillor Harvey

March 3, 2009

RECEIVED

MAR 3 2010

DEPARTMENT OF PLANNING
AND DEVELOPMENT

Halifax Regional Municipality
Development Services – Central Region
636 Sackville Drive
Sackville, N.S., B4C 2S3

ATTENTION: Trevor Creaser – Development Officer

RE: Application for Variance #15926 – 4 Alder Crescent, Lower Sackville
Attached Copy from HRM

Dear Sir:

The permit was not granted due to (B) for the difficulty experienced is general to properties in the area.

We have walked around and taken pictures of houses in the general area built or renovated in the past ten years. We have found that there are some which are much closer to the street than we are asking for in our application.

The setback of our house is the following:
Main house 41'6" to street
Garage 37'6" to street

We are asking for a 2' variance to change our front entrance to make it more accessible and hazard free at this time, and as the occupants get older, they will be able to change entrance to a more handicap accessible entrance.

We have talked to all the close neighbors about the change in the front and they have no problem with the change. I have taken pictures of our house with the addition marked off and this addition will not change the look of the house or the other houses looking up or down the street.

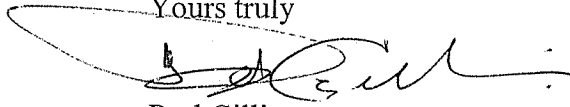
I have read the letter refusing our request for the 2' variance. The measurements they quoted are correct except they don't take in account from property line to street is another 20'. There will never be sidewalks on this street. All the homeowners maintain this piece of property which enhances all the properties.

I would like very much to be present my objection to the variance application being turned down. I would like to have the opportunity to talk to our area councillor and show him our drawings and pictures of our proposed addition and if we have to go before council, we would also like that opportunity.

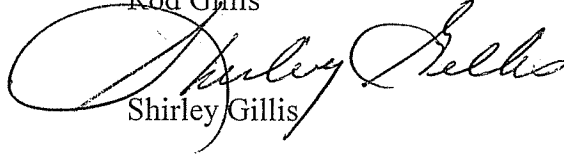
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We feel what we are asking for does not affect our neighbors or the look of the street.

Yours truly

A handwritten signature in cursive script, appearing to read "Rod Gillis".

Rod Gillis

A handwritten signature in cursive script, appearing to read "Shirley Gillis".

Shirley Gillis

4 Alder Crescent, Lower Sackville, N.S., B4C 1A2
865-7234 cell 499-7258

cc Bob Harvey, Councillor