


**Harbour East Community Council**  
**September 7, 2006**

**TO:** Chairman and Members of Harbour East Community Council

**SUBMITTED BY:**

  
Sean Audas - Development Officer

**DATE:** August 29, 2005

**SUBJECT:** Appeal of the Development Officers decision to approve a Variance application at 10 Boutilliers Lane, Dartmouth

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**ORIGIN**

This report deals with an appeal of the Development Officers decision to approve a variance for the front yard setback of a two unit dwelling at 10 Boutilliers Lane, Dartmouth

**RECOMMENDATION**

It is recommended that Council uphold the Development Officers decision to approve the variance.

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## **BACKGROUND**

The property is zoned R-2 Zone - Two Family Residential Zone under the Land Use By-Law for Dartmouth.

### **Proposed Use:**

The existing property is a vacant lot. A subdivision application was received on May 13, 2005 to create five lots. The proposed lot being considered with this application is Lot 1G which is zoned R-2; the remaining four lots are zoned R-1.

## **DISCUSSION**

The *Municipal Government Act* sets out criteria in part 235(3) under which the Development Officer may consider variances to Land Use Bylaw requirements. The criteria 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 criteria. 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 Bylaw sets out standards relative to yards and street frontage.
- The setback for front yards in the R-1 and R-2 Zone is 15 - 30 feet.
- A setback of 15 feet is typically only granted for lots created on a cul-de-sac.
- A 20 foot setback is the minimum standard for new developments.
- The existing dwelling at 16 Boutilliers Lane is being demolished with the proposal, therefore the development on this side of the street has to meet the minimum setback is 20 feet.
- ***It is felt that to reduce the required setback by three feet does not violate the intent of the land use by-law***

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

- Four of the five proposed lots have a proposed front yard setback of 20 feet to 25 feet.
- The angle of intersection between Boutilliers Lane and Waverley Road yields a pie shaped lot. The ability to obtain the front yard setback is reduced as the lot narrows. Only two portions of the proposed dwelling are within this reduced setback.
- The subdivision grading plan indicates that a drainage easement is required at the rear of the lots. No permeant structure is permitted within the drainage easement.
- The private drainage easement was reduced in order to achieve a greater front yard setback. The easement width was reduced to 4 meters from 4.5 meters. This was the maximum amount it could be reduced in order to accommodate the 1:100 year storm, and

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- allow adequate width for maintenance.
  - *The difficulties associated with this proposal are not general to properties in the area.*

**Does the difficulty experienced results from an intentional disregard for the requirements of the land use bylaw?**

- Whereas, the property owner has applied for the Variance prior to any construction, *the difficulties are not a result of intentional disregard of the requirements of the land use by-law.*

In summary, staff carefully reviewed all the relevant information in this case. As a result of that review, the variance was approved and notification sent in accordance with the provisions of the Municipal Government Act.

**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 approve the variance. This is the recommended alternative.
2. Council could overturn the decision of the Development Officer and refuse the variance request.


**ATTACHMENTS**

1. Site plan
2. Location Map
3. Approval Letter
4. Appeal Letter

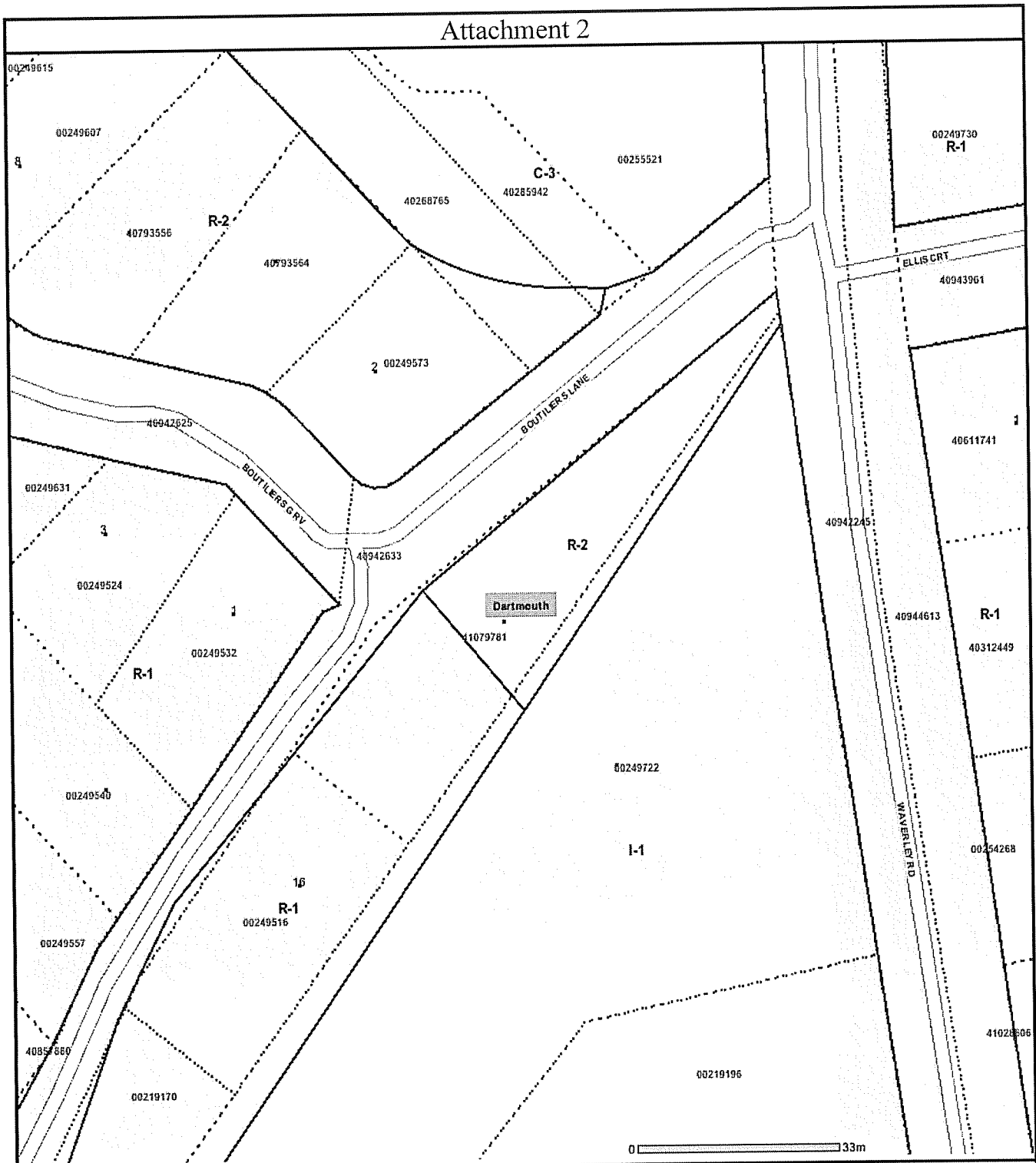
A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Sean Audas Development Officer 490-4341

Report Approved by:

  
Sean Audas/Development Officer/490-4341





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 [civcadd@halifax.ca](mailto:civcadd@halifax.ca). Date of map is not indicative of the date of data creation.

# ATTACHMENT 3

## HALIFAX REGIONAL MUNICIPALITY

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Planning & Development Services  
Eastern District, Alderney Gate Office

PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5  
Telephone: 902-490-4490  
Fax: 902-490-4661

August 9, 2006

Dear Sir or Madame:

**Re: Case No. 13177- Variance at 10 Boutilliers Lane, Proposed Lot 1G, Dartmouth, Nova Scotia**

As the Development Officer for the Halifax Regional Municipality, I have approved a request for a variance from the requirement(s) of the land use bylaw as follows:

<b>Location:</b>	10 Boutilliers Lane, Dartmouth
<b>Property owner:</b>	Terrance Booth, Marie Dauphinee-Booth, Stephen and Debra Graham
<b>Project proposal:</b>	Two unit dwelling
<b>Required (i.e. setback):</b>	<b>20 feet from the front property line</b>
<b>Approved (i.e. setback):</b>	<b>17 feet from the front property line</b>

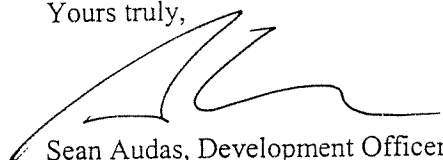
Pursuant to Section 236 of the Municipal Government Act, assessed property owners within 30 metres of the above noted address are notified of this variance. If you wish to appeal, please do so in writing, on or before August 28, 2006, and address your appeal to:

**Municipal Clerk,  
c/o Sean Audas, Development Officer  
Halifax Regional Municipality,  
Planning and Development - Eastern Region,  
P.O. Box 1749, Halifax, N.S.  
B3J 3A5.**

PLEASE NOTE THAT THIS DOES NOT PRECLUDE FURTHER CONSTRUCTION ON THIS PROPERTY, THAT WOULD MEET THE REQUIREMENTS OF THE LAND USE BYLAW.

If you have any questions or require clarification of any of the above, please call Patricia Hughes at 490-6257.

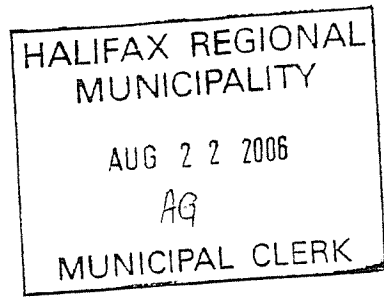
Yours truly,



Sean Audas, Development Officer  
Halifax Regional Municipality

copy to: Jan Gibson, Municipal Clerk  
Andrew Younger, Councillor District 6

# ATTACHMENT 4



August 18, 2006

Municipal Clerk,  
c/o Sean Audas, Development Officer  
Halifax Regional Municipality  
Planning & Development  
P.O. Box 1749  
Halifax, N.S.  
B3J 3A5

Dear Mr. Audas:

Re: Variance at 10 Boutilier's Lane, Proposed Lot 1G, Dartmouth, N.S.

In response to the proposed development at 10 Boutilier's Lane (Lot 1G), I would like to oppose the approval for the setback variance. Taking into account the view plane, the future possibility of sidewalk development and the fact that bylaws are a means of protection for other property owners, I feel any proposal should be no less than compliant.

Sincerely,

ROBERT T. WYMAN

R. WYMAN  
1 BOUTILIER'S GROVE  
PART. N.S.  
BOX 209