

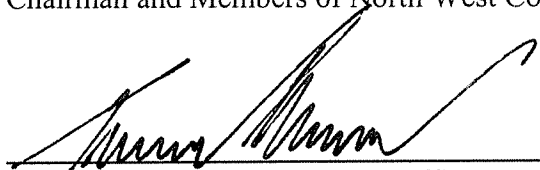


PO Box 1749
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**North West Community Council
Meeting November 23, 2006**

TO: Chairman and Members of North West Community Council

SUBMITTED BY:



Trevor Creaser - Development Officer

DATE: November 15, 2006

SUBJECT: Appeal of the Development Officer's decision to refuse an application for a
Variance - 7 Stokil Drive, Lower Sackville

ORIGIN

This report deals with an appeal of the Development Officer's decision to refuse a variance from the front and side yard setback requirements of the Land Use Bylaw for Sackville to permit construction of an attached garage to the left side of an existing single unit dwelling.

RECOMMENDATION

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

BACKGROUND

The subject property is located at 7 Stokil Drive in Lower Sackville (see location plan - Attachment 1). The property is zoned R-1 under the Land Use Bylaw for Sackville. The R-1 zone requires a minimum side yard of 8' and front yard of 20'.

On September 5, 2006 a variance application was made to reduce the left side and front yard setback requirements of the R-1 zone to construct an attached garage (16' x 29') as the following table illustrates:

	Zone Requirement	Proposed Setback
Left Side yard	8 Feet	2 feet
Front Yard	20 feet	17.5 feet

Attachment #2 illustrates the proposed addition and the extent of the variance requested.

The application was reviewed by Development Staff and it was determined the application did not meet the requirements set forth in the *Municipal Government Act* and was therefore refused by the Development Officer on September 27, 2006 (see Attachment #3).

Dave Wright, on behalf of Dan Wright, subsequently exercised his option to appeal the Development Officer's decision on October 6, 2006 (see Attachment #4).

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 intent of the setback requirements under the land use bylaw is to provide adequate separation of structures from abutting property lines as well as other adjacent buildings. This separation is to accommodate appropriate access to the side of building and rear of the lot without infringing on abutting property(s) such as general maintenance. This minimum setback also provides separation from an accessory building which can be located no less 4' from the property line on the adjacent property. It is therefore determined *the variance violates the intent of the land use bylaw.*

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

As shown on Attachment #1, the lot configuration, lot size and orientation of homes in the general area are similar. Given the fact that the majority of these properties can not meet the setback requirement for a similar addition, it is clear the *difficulty experienced is general to properties in the area.*

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

The applicant has entered the variance process in good faith and therefore intentional disregard was not a consideration.

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.

REGIONAL PLANNING IMPLICATIONS

There are no implications on the Regional Planning process associated with this application.

ALTERNATIVES

1. Council could uphold the decision of the Development Officer to refuse the variance. This is staff's recommended alternative.
2. Council could overturn the decision of the Development Officer and allow the applicant to proceed with the addition.

ATTACHMENTS

1. Location Map
2. Site Plan
3. Refusal Letter
4. Notice of Appeal

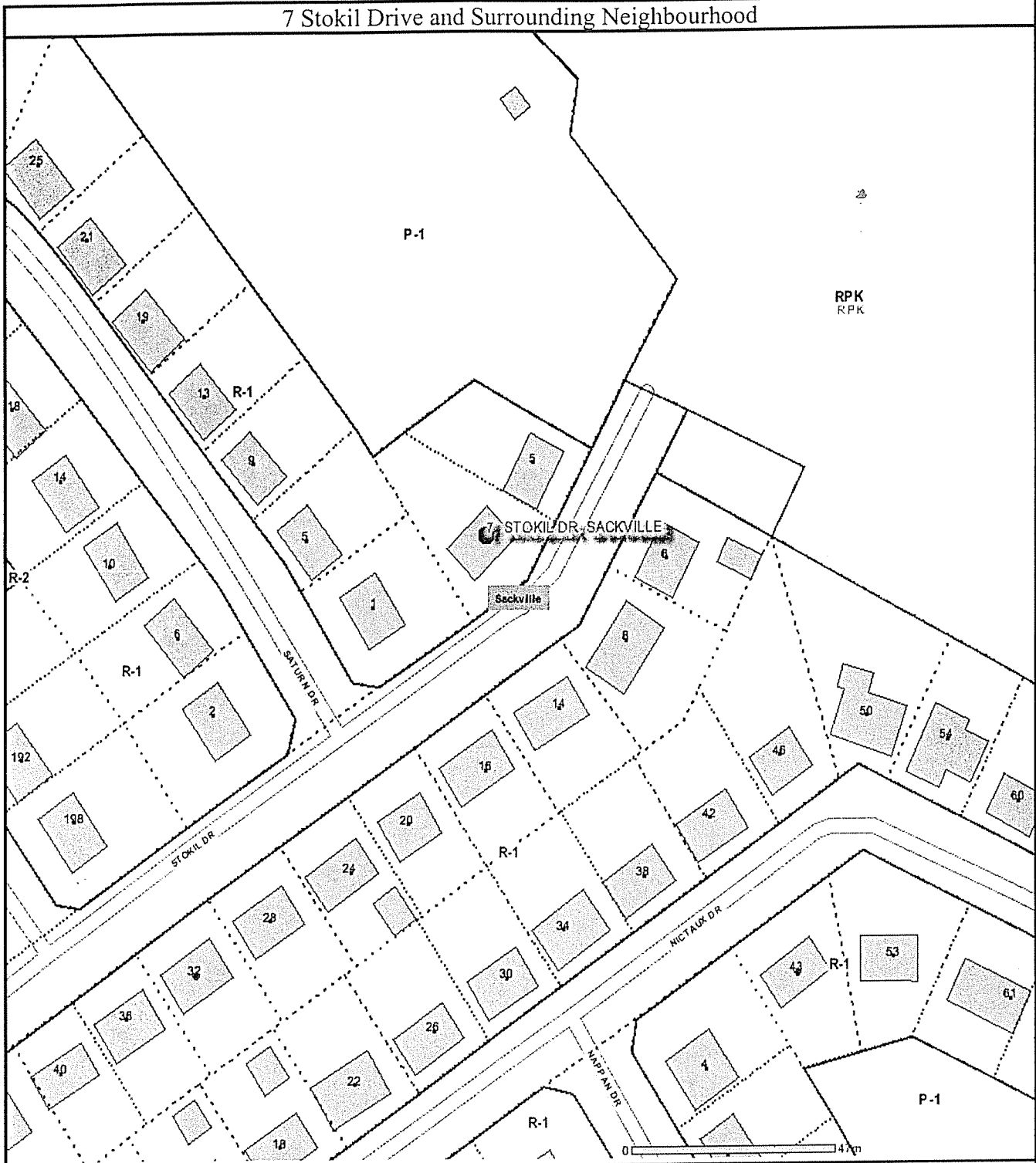
INFORMATION BLOCK

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: Trevor Creaser - Development Officer (869-4235)

ATTACHMENT # 1

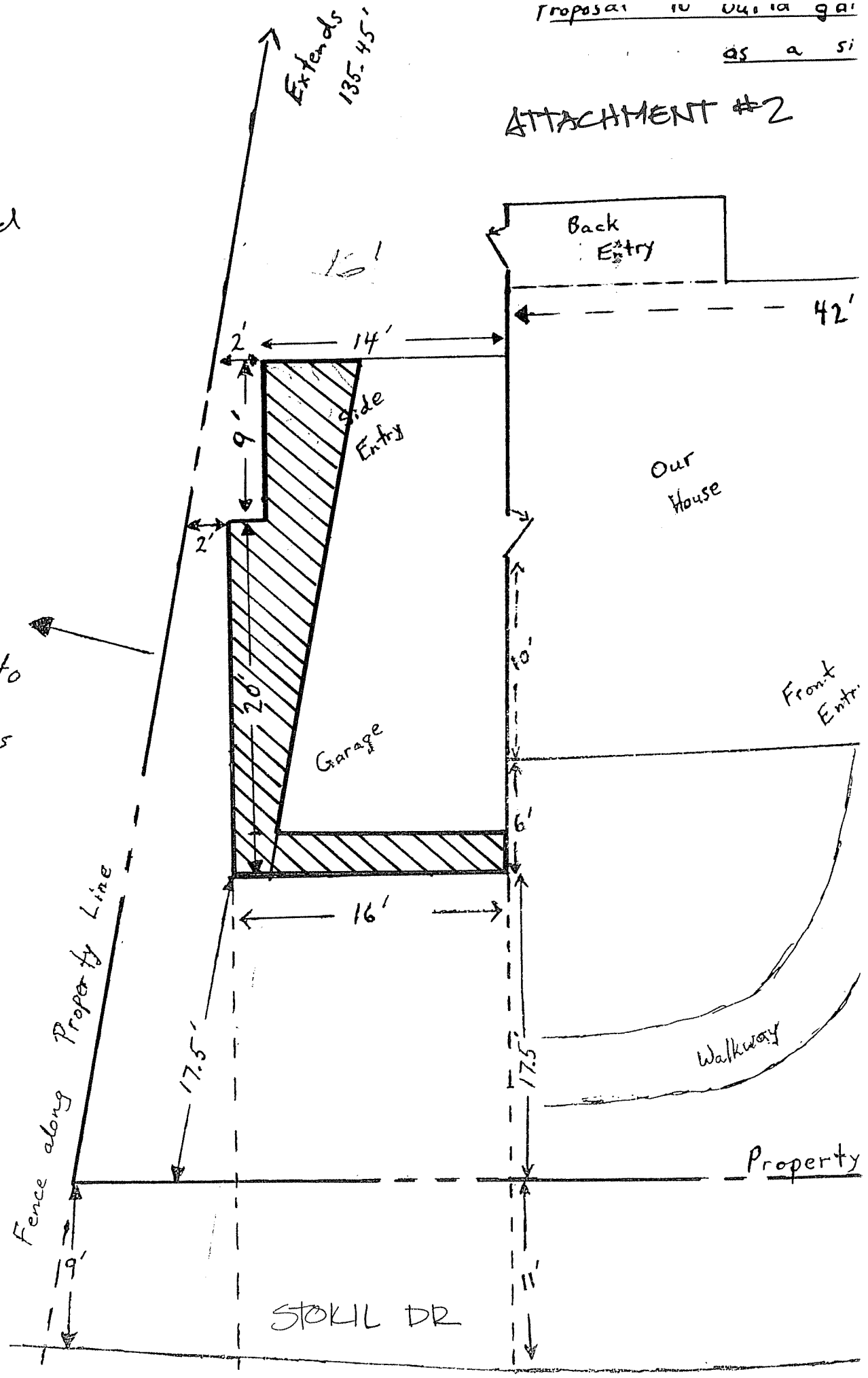
7 Stokil Drive and Surrounding Neighbourhood



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.

ATTACHMENT #2

Revised app.



43' to neighbours house

Fence along Property Line

STOKIL DR

Road

Extends 135.45'

Back Entry

Side Entry

Garage

Our House

Front Entry

Walkway

Property