

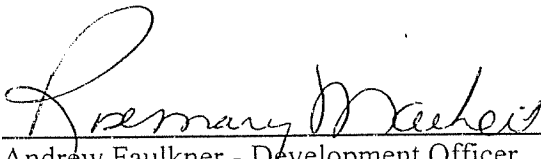


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Peninsula Community Council
March 9, 2009

TO: Chairman and Members of Peninsula Community Council

SUBMITTED BY:


for Andrew Faulkner - Development Officer

DATE: February 26, 2009

SUBJECT: Appeal of the Development Officer's decision to refuse an application for a
Variance 15162 - 6825 Edward Arab Ave

ORIGIN

This report deals with an appeal of the Development Officer's decision to refuse a variance for a front yard setback requirements of the Halifax Peninsula Land Use By-law to permit the addition to a 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 6825 Edward Arab Ave on the Halifax peninsula (see location plan - Attachment 1). The property is zoned R-1 in the Peninsula Centre Secondary Plan in the Halifax Peninsula Land Use By-law.

The proposal is for an addition to the front of an existing single unit dwelling. The proposed addition is comprised of a 177 square foot enclosed 2 storey addition and an unenclosed covered porch which is approximately 8 feet deep.

The existing dwelling has a 22 foot setback from the front property line. The proposal does not meet the front yard setback requirements of 15 feet in the Land Use Bylaw. The proposal is for the setback to be reduced to 7 feet (see Attachments 2 and 3).

One of the goals in planning policies adopted for the established neighbourhoods of the Halifax Peninsula is to maintain the character and stability of these area through Municipal Planning Strategy (MPS) policies such as Policy 2.4 which states:

"...the City encourages the retention of the existing residential character of predominantly stable neighbourhoods and will seek to ensure that any change it can control will be compatible with these neighbourhoods."

The applicant has stated that the variance is required in order to facilitate the addition of additional space and for a "safe and reasonably sized entrance". Development Services cannot approve the request for variance as it violates the intent of the land use bylaw and the difficulty experienced is general to the area.

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 the front yard setback requirement is to provide adequate separation of buildings from the public right of way and ensures a buffer between public space and private living space. This is necessary to ensure compatibility of uses, and to minimize potential conflicts between adjoining users. To permit the variance would violate the intent of the land use bylaw.

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

The area consists of single unit dwellings which are setback uniformly from the front property lines. To approve the variance would alter the character of the neighbourhood and invite future applications for variance from other properties in the area. The difficulty in this case is 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 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

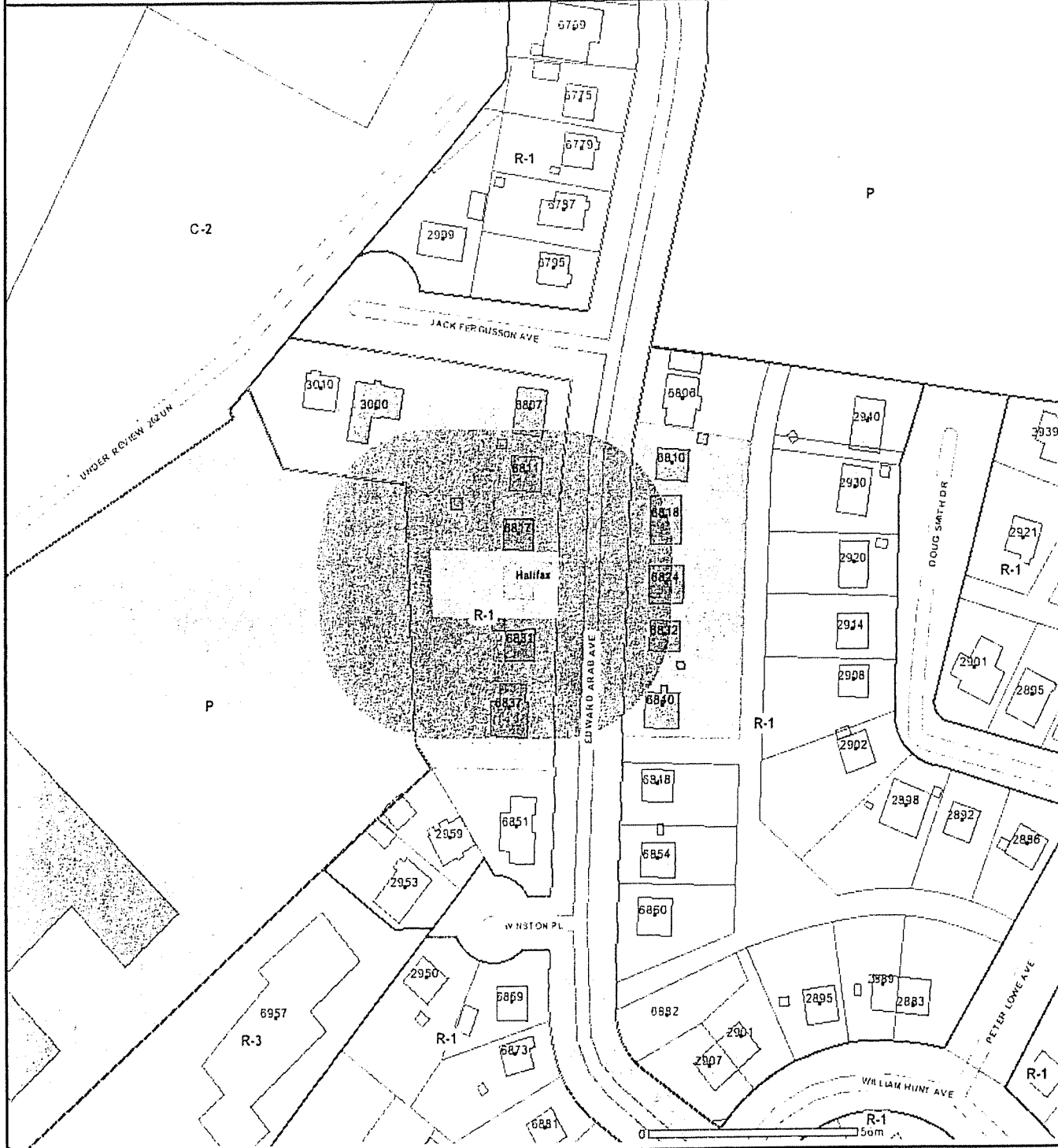
1. Council could uphold the decision of the Development Officer to refuse the variance. This is staff's recommended alternative.
2. Council could overturn the decision of the Development Officer and allow the applicant to proceed with the application for an addition to a single unit dwelling.

ATTACHMENTS

1. Location Map
2. Site Plan
3. Proposed Front Elevation

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: Mike Cowper - Development Technician (490-7455)

Halifax Regional Municipality



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.

NOTE:
The property line description was taken from a Surveyor's Location Certificate prepared by Gerald B. Boyland N.S.L.S. - Member no 334 and dated October 22, 2008

Lot 462

Public Walkway

Property Line 50' 1"

Lot 464
PID No 00017301
C.V.C. 6825

Property Line 107' 5"

Play House

Shed

Existing Deck

25'-4"

Existing House

24'-4"

Addition

Porch

Property Line 50' 0"

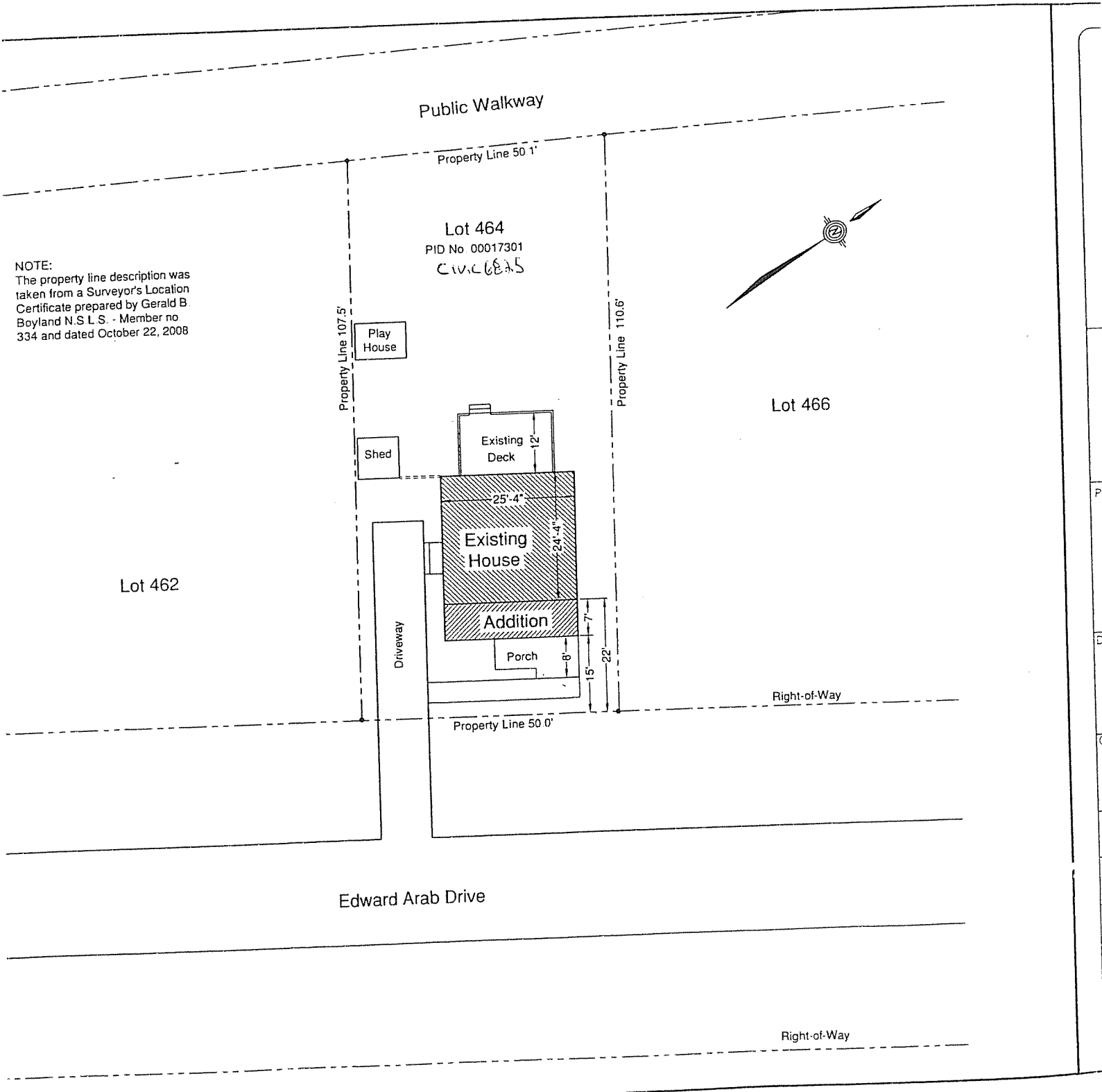
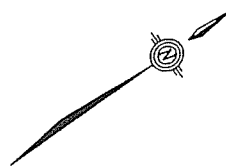
Property Line 110' 6"

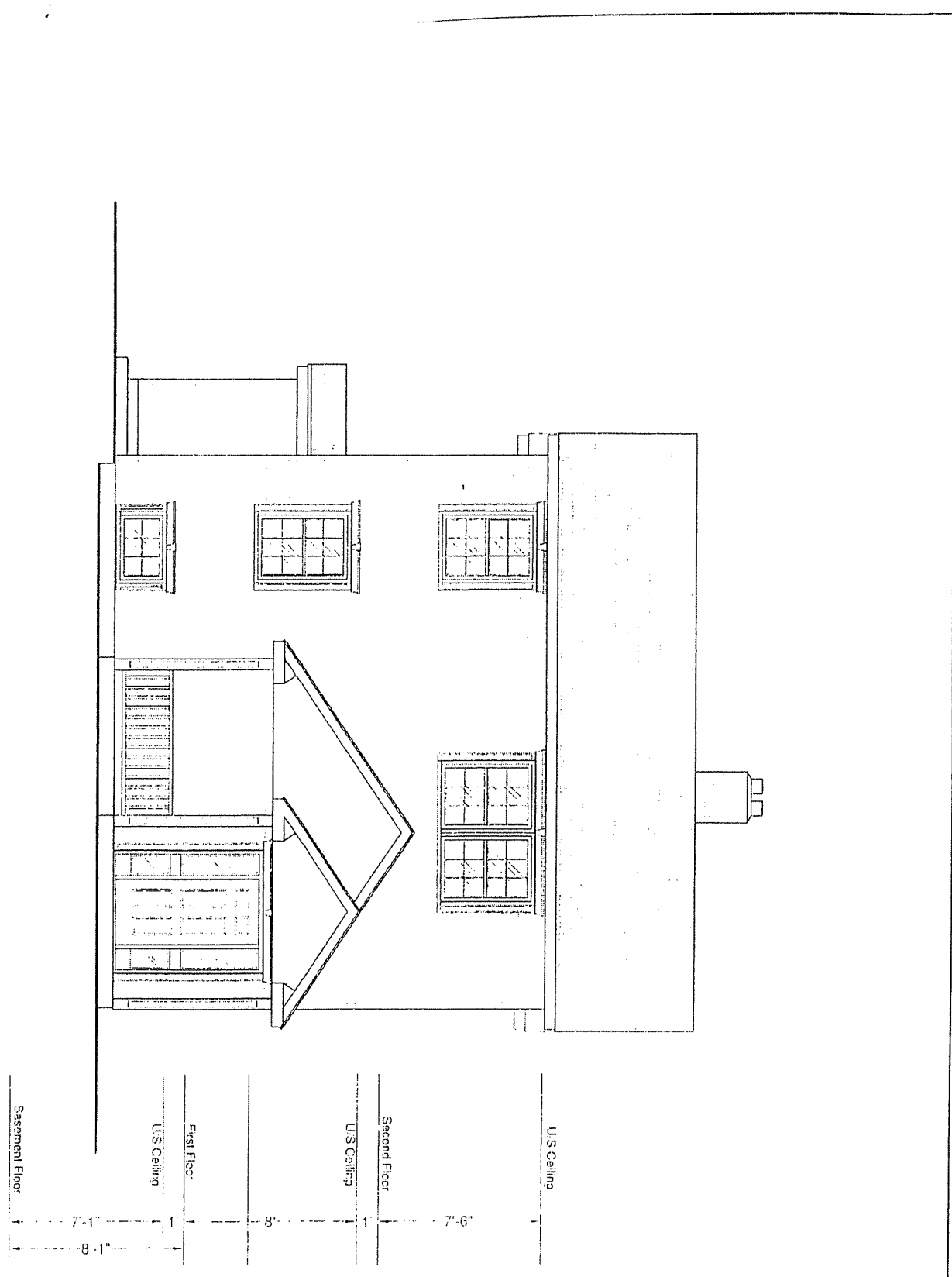
Lot 466

Right-of-Way

Edward Arab Drive

Right-of-Way





U.S. Ceiling

Second Floor

U.S. Ceiling

First Floor

U.S. Ceiling

Basement Floor

7'-6"

8'-0"

7'-1"

8'-1"