




PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Peninsula Community Council
August 14, 2006

TO: Chairman and Members of Peninsula Community Council

SUBMITTED BY: 
Andrew Faulkner - Development Officer

DATE: August 8, 2006

SUBJECT: Appeal of the Development Officer's decision to refuse an application for a Variance - 1377 Robie Street, Halifax; **Variance 13178**

ORIGIN

This report deals with an appeal of the Development Officer's decision to refuse a variance from the Angle Control requirements of the Halifax Peninsula Land Use Bylaw to permit construction of a 49 unit dwelling with rental office.

RECOMMENDATION

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

BACKGROUND

The subject properties are located at 1377 Robie Street & 5987 College Street in Halifax. The properties are zoned R-3, Multiple Dwelling Zone, Peninsula Centre Area Plan, Spring Garden Road Sub Area, Schedules A & B in the Halifax Peninsula Land Use Bylaw. If these 2 existing lots were consolidated zoning would allow for construction of a multi unit dwelling.

There was an original development permit applied for on this property for a five story, 43 unit dwelling on May 3, 2006. This development permit was approved in principle pending lot consolidation and resolution of unit mix on May 17, 2006. A variance was then applied for on May 23, 2006 to allow for the indent on the north elevation of the building to be removed. This variance was approved by the Development Officer as there was no change in unit count, open space, density or parking and no visible change in mass from the street. That variance was subsequently appealed by an adjacent property owner and was to be heard at Peninsula Community Council on July 10, 2006, but was deleted from the agenda at the request of the appellant, applicant and property owner, and rescheduled to be heard by PCC in September. The appellant withdrew his appeal on August 8, 2006.

On July 25, 2006 there was a new variance applied for on this property. Subsequently, on August 2, 2006, there was a new Development Permit application, which proposed a six story, 49 unit dwelling with a rental office. This new design required a variance for angle controls of the Land Use Bylaw by requesting to vary the 80 degree angle at four separate locations for the proposed building and creating seven additional units on a sixth floor. The variance would also allow the building to be the minimum ten feet from all property lines. This variance was refused by the Development Officer on August 1, 2006. Subsequently, the applicant appealed the Development Officers decision on August 2, 2006.

It should be noted that the applicant must still comply with unit mix, open space, density and parking requirements of the land use bylaw.

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 ?

Angle controls were introduced in the Halifax Peninsula Land Use Bylaw in the late 1960's as a means to address siting and scale issues with respect to multi-unit residential dwellings. At the same time, provisions regulating lot area, population density and open space were adopted. The objectives were to regulate the intensity and form of residential development to strike an acceptable middle point between the desires of developers for maximum use and the desires of residents for good environments.

Setbacks are determined by applying a theoretical 60 degree horizontal and 80 degree vertical angle over the lot from the side property line. The 60 degree angle can be viewed on all the elevations, and the 80 degree angle can be viewed on the site plan.

The review for this variance found that the proposed structure at 1377 Robie Street resulted in a building configuration that could not meet the theoretical 80 degree angle from the property line on the north elevation of the building, and at three locations on the eastern elevation of the building. In order for the proposal to meet the 80 degree angles, large indents would be required in the building as identified on the site plan.

The variance would also allow for an additional seven units by dropping the ceiling height of the previous five storey design and adding an additional storey to the building.

The variance requested effectively eliminates all angle controls on the property. The variance would allow the applicant to maximize density and minimize setbacks. An additional storey could be added to the building at the minimum setback, which would be required to be setback if constructed as-of-right. The only benefit to the proposal is to the applicant and the increase in mass and density was determined to violate the intent of the bylaw, therefore the variance was refused.

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

The corner of Robie Street and College Street is zoned R-3 and with the exception of the two subject parcels, is developed as multi unit residential buildings. Records indicate that the property at 5969 College Street is a 17 unit apartment building; 5977 College Street is a 9 unit apartment building; and, 1389 Robie Street is a 24 unit apartment building.

1377 Robie Street, if consolidated with 5993 College Street, exceeds the lot frontage and area requirements of the R-3 zone. Of the three abutting R-3 properties only 5977 College Street can meet the lot frontage requirement. The other two lots, although zoned R-3, do not meet minimum requirements of the zone and could not be developed as multi unit dwellings by right.

The subject property can be developed by right as a multi unit dwelling, an option not available to two adjacent properties. There is no difficulty experienced on this property and the variance was refused.

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.

REGIONAL PLANNING IMPLICATIONS

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

ALTERNATIVES

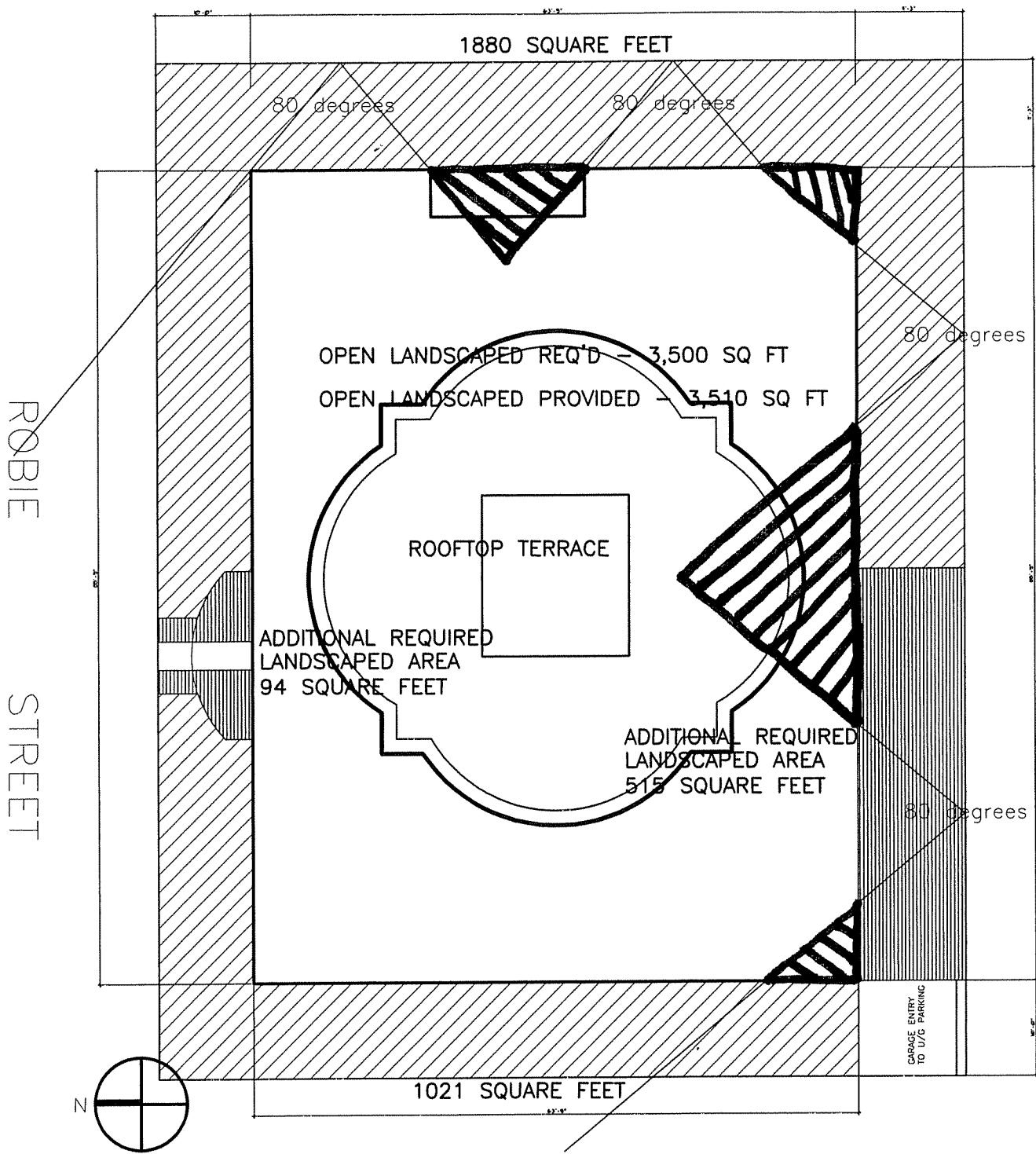
1. Council could uphold the decision of the Development Officer to refuse the variance.
2. Council could overturn the decision of the Development Officer and approve the variance.

ATTACHMENTS

1. Site Plan and Elevations of proposed construction
2. Location Map
3. Refusal Letters
4. Appeal from Tyler Lipsett, Geoff Keddy & Associates, for Mr. Peter Rouvalis

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: Andrew Faulkner - Development Officer (490-4402)



COLLEGE STREET

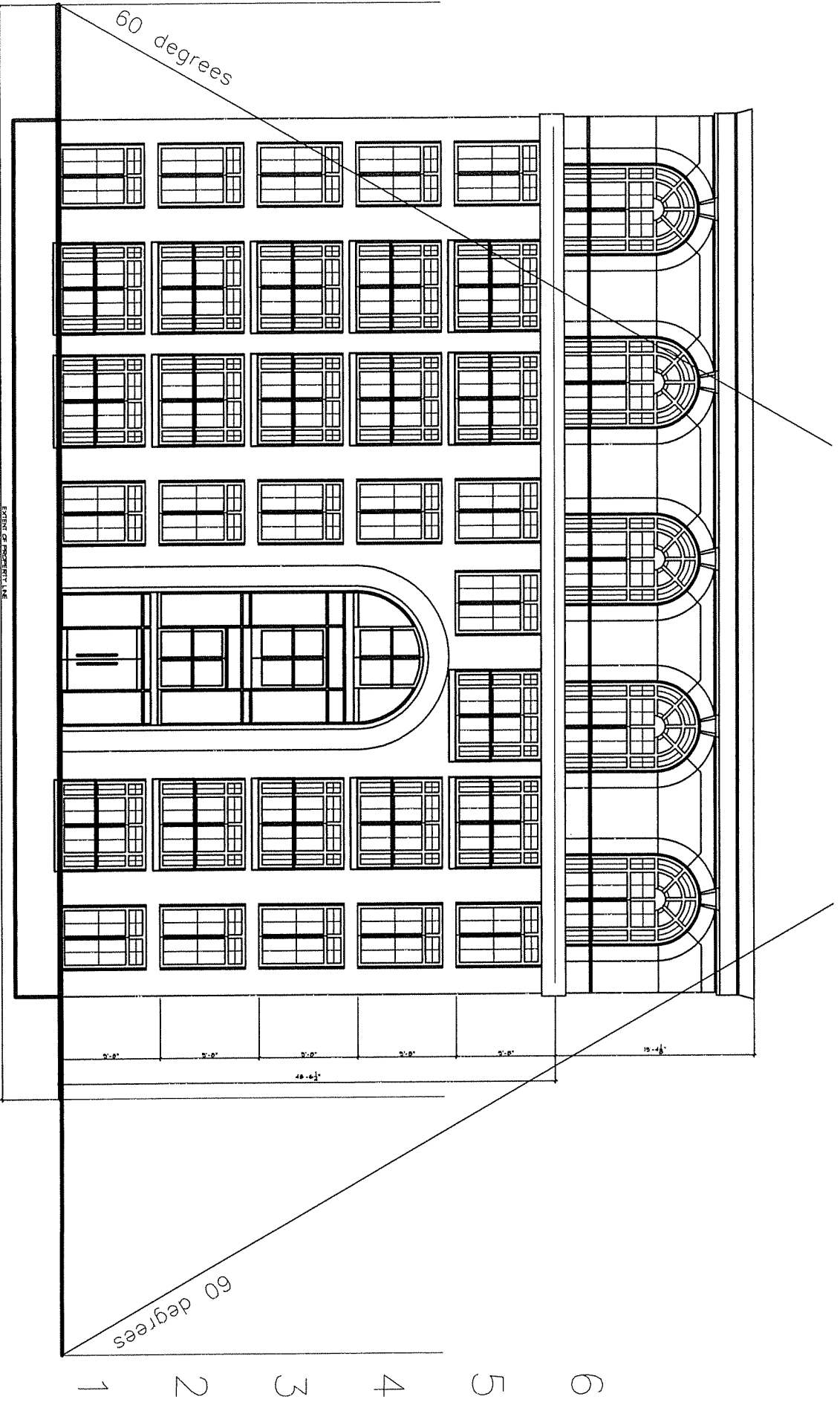
SITE & ROOF PLAN

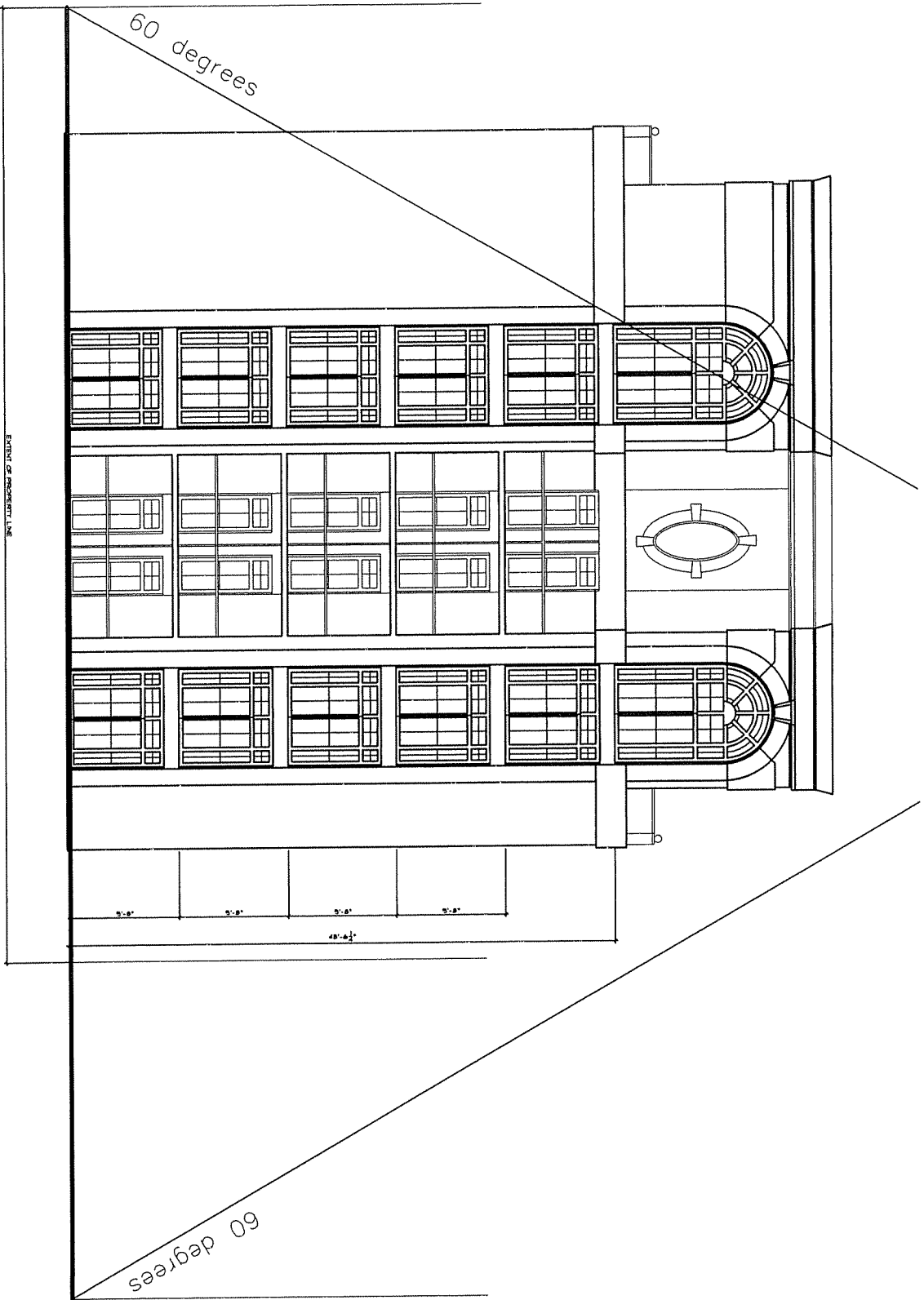
SCALE : 1/8" = 1'-0"

7 - Areas where 80 Degree Angles are to be Varied.

ROBIE STREET - WEST ELEVATION

SCALE : 1/8" = 1'-0"





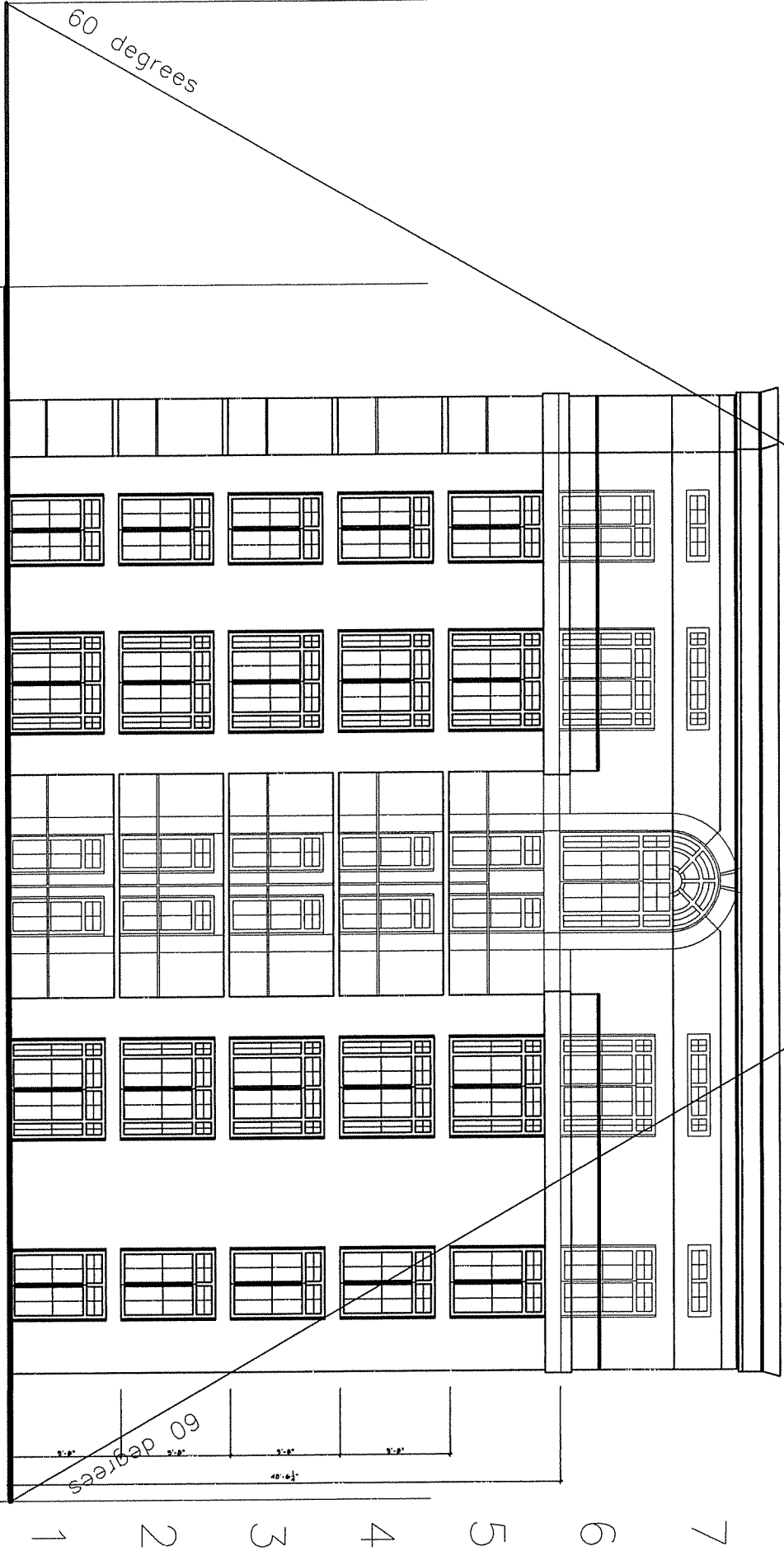
NORTH ELEVATION

SCALE : 1/8" = 1'-0"

1 2 3 4 5 6

EAST ELEVATION

SCALE : 1/8" = 1'-0"



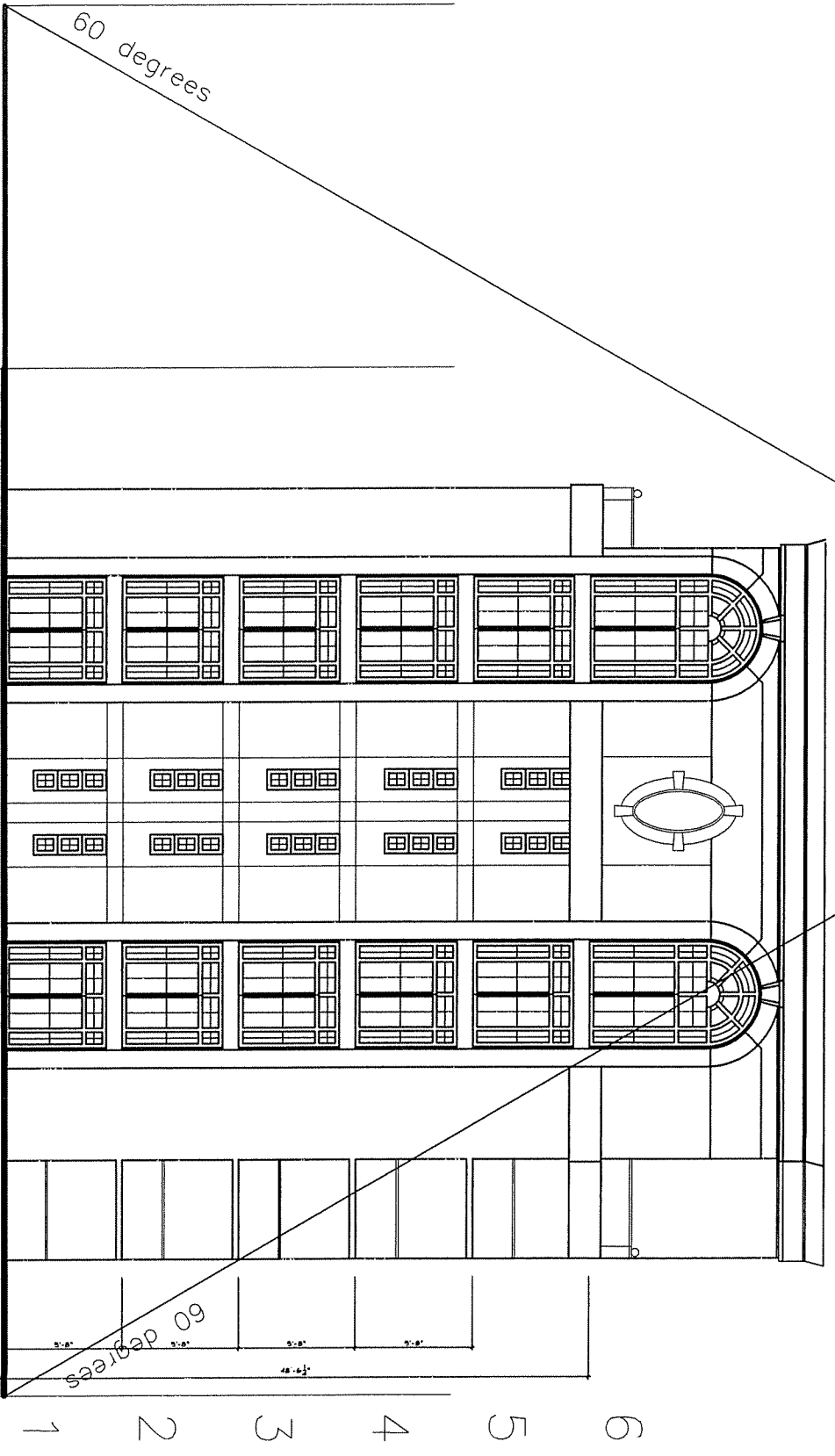
60 degrees

60 degrees

1 2 3 4 5 6 7

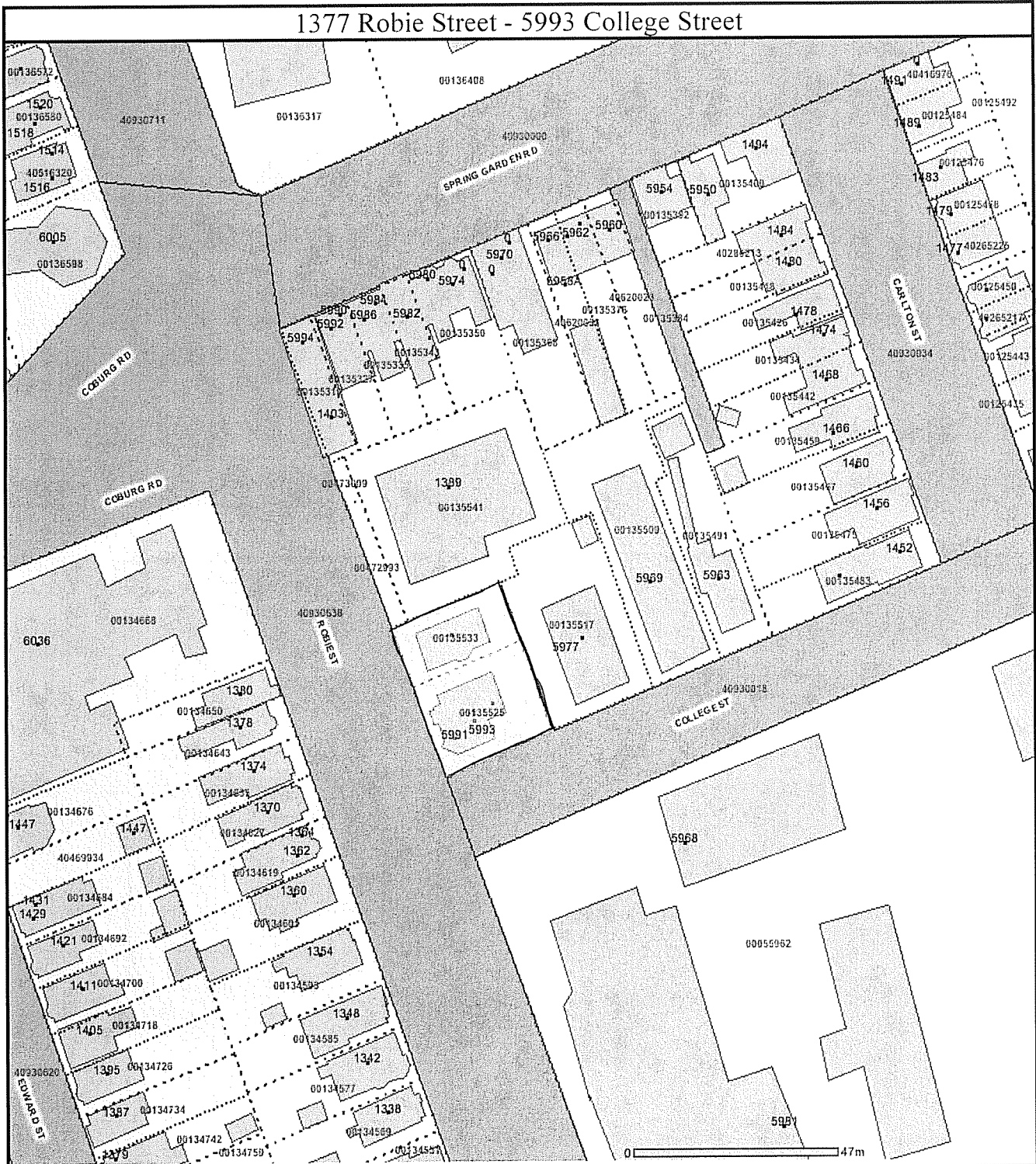
COLLEGE STREET — SOUTH ELEVATION

SCALE : 1/8" = 1'-0"



Location Map

1377 Robie Street - 5993 College Street



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



August 4, 2006

Dear Assessed Owner:

RE: Application for Variance, File No 13178 - 1377 Robie Street, Halifax

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

Location: 1377 Robie Street, Halifax
Applicant: Geoff Keddy & Associates for Mr. Peter Rouvalis
Project Proposal: Construct Multi-Unit Dwelling
Variance Requested: Vary 80 Degree Angle Control

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 the variance (a) violates the intent of the Land Use Bylaw, (b) the difficulties experienced is general to the area, therefore the request for a variance has been refused.

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

The appeal will be heard by the Peninsula Community Council on *August 14, 2006* at 1841 Argyle Street, Council Chamber at City Hall at 7:00 p.m.

If you have any questions or require additional information, please contact Steven Croft at 490-4338.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Faulkner".

Andrew Faulkner
Development Officer

cc. Jan Gibson, Municipal Clerk
Councillor Dawn Sloane

August 1, 2006

Tyler Lipsett
Geoff Keddy & Associates
5357 Inglis Street
Halifax, NS
B3H 1J4

Dear Mr. Lipsett:

RE: Application for Variance, File No. 13178 - 1377 Robie Street, Halifax

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

Location: 1377 Robie Street, Halifax
Project Proposal: Construct Multi-unit Dwelling
Variance Requested: Vary 80 Degree Angle Control

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 the variance violates the intent of the Land Use Bylaw.

Pursuant to Section 236(4) of the **Municipal Government Act** 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:

Municipal Clerk
c/o Andrew Faulkner, Development Officer
Halifax Regional Municipality
Development Services - *Western Region*
P.O. Box 1749
Halifax, NS B3J 3A5

Your appeal must be filed on or before *August 10, 2006.*

If you have any questions or require additional information, please contact Steven Croft at 490-4338.

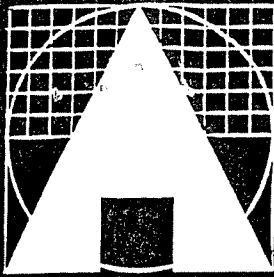
Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Faulkner". The signature is stylized with a large initial "A" and a long horizontal stroke at the end.

Andrew Faulkner
Development Officer

cc.

Jan Gibson, Municipal Clerk
Councillor Dawn Sloane



**GEOFF KEDDY
& ASSOCIATES
ARCHITECTURE
INTERIOR DESIGN**

GEOFF KEDDY MRAIC
B.A. B.Sc. B.Ed. B. Arch.

357 INGLIS ST.
HALIFAX, N.S. B3H 1J4
PHONE/FAX 420-9400

August 2, 2006

RECEIVED AUG 02 2006

Municipal Clerk
c/o Andrew Faulkner, Development Officer
Halifax Regional Municipality
Development Services – Western Region
P.O. Box 1749
Halifax, NS B3J 3A5

Dear Mr. Faulkner,

RE: Application for Variance, File No. 13178 – 1377 Robie Street

Please be advised that Geoff Keddy & Associates will be appealing the decision of the Development Officer to the Municipal Council and are requesting the relaxation of angle controls on the East (back) elevation.

We do not feel an 80 Degree Angle Control Variance violates the intent of the Land Use Bylaw. Our prime concerns are construction logistics, aesthetics, and quality living spaces. The proposed Variance will enhance the Architecture of the new complex and contribute to the surrounding urban fabric considerably.

Please note, that the Principle of Geoff Keddy & Associates is currently a volunteer member of The Urban Design Task Force which is intent on supporting excellence in architectural design. This is evident in the project, complete with variance, which we will present to Municipal Council.

We sincerely thank you for your time and consideration and look forward to a proactive and positive response.

Sincerely,

Tyler Lipsett
BA BEds BArch

Geoff Keddy & Associates