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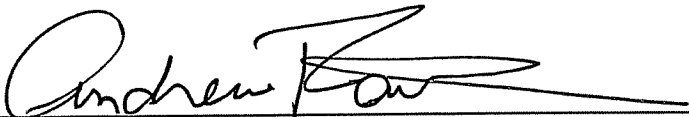


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Peninsula Community Council
December 12, 2005

TO: Chairman and Members of Peninsula Community Council

SUBMITTED BY:



Andrew Faulkner - Development Officer

DATE: December 6, 2005

SUBJECT: Appeal of the Development Officer's decision to refuse an application for a
Variance - 1064 Ridgewood Drive, Halifax

ORIGIN

This report deals with an appeal of the Development Officer's decision to refuse a variance from the Gross Floor Area Ratio requirements of the Halifax Peninsula Land Use Bylaw to permit construction of 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 1064 Ridgewood Drive in Halifax (see location plan - Attachment 1). The property is zoned R-1, Single Family Zone, South End Secondary Plan in the Halifax Peninsula Land Use Bylaw.

On October 11, 2005, a permit application was received to "Construct Single Unit Dwelling". The review, completed on October 14 found that the proposed dwelling resulted in a Gross Floor Area Ratio (GFAR) of 48%. The permitted GFAR is 35%. A Variance application was received on October 25 and was refused on November 2 (see refusal letter - Attachment 3).

The applicant was advised of the refusal on November 2 and subsequently appealed the Development Officer's decision.

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 ?

In many cases, the intent of a specific regulation in a land use bylaw can be quite general in nature and determining the intent sometimes requires subjective judgement. However, in this case, due to the recent review and subsequent adoption of the affecting GFAR requirements staff believe the intent is clear.

It should be noted that the GFAR makes no distinction between "invisible mass", that is sub-grade basement area and "visible mass" which would be floor area above the grade. In this case approximately 1,500 square feet of floor area is in the basement and not "visible mass". Given the definition of Gross Floor Area which includes basement area this was not a consideration in the review.

The GFAR requirements were adopted to achieve two objectives. Firstly, to limit the size of dwellings which could be converted to create an excessive number of bedrooms. That is not an issue with this application.

Secondly; 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 areas 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.”

In determining whether the proposed variance violated the intent of the bylaw to “maintain the character and stability” of the neighbourhood an assessment of the GFAR of housing stock in the immediate area was undertaken. Floor areas were determined using building permit records and site inspection. On those properties where no building permit record was available, the GFAR has been rounded upwards to the nearest denominator of 5% to address any potential errors in floor area estimations.

The following is a list of addresses and GFAR for nearby properties. It is noted whether the calculation is based upon permit information or on-site assessment. The property subject to the variance is bold.

Civic Address	Floor Area (sqft)	Lot Area (sqft)	GFAR
1074 Ridgewood Drive	5,584 (permit)	22000	25%
1068 Ridgewood Drive	Vacant	20000	N/A
1064 Ridgewood Drive	8,580 (permit)	17900	48%
1062 Ridgewood Drive	Vacant	40800	N/A
1060 Ridgewood Drive	6,500 (assessment)	26000	25%
1054 Ridgewood Drive	2,500 (assessment)	14750	20%
1040 Ridgewood Drive	3,385 (permit)	20000	17%
1036 Ridgewood Drive	3,000 (assessment)	19000	20%

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

The application of a GFAR is consistent across all low and medium density residential zones on the Peninsula. Therefore, the property at 1064 Ridgewood Drive is subject to the same restrictions as all other parcels regardless of their size.

As the difficulty experienced is general to all properties in the area 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 and this was not a consideration when refusing the variance application.

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 allow the applicant to proceed with construction.

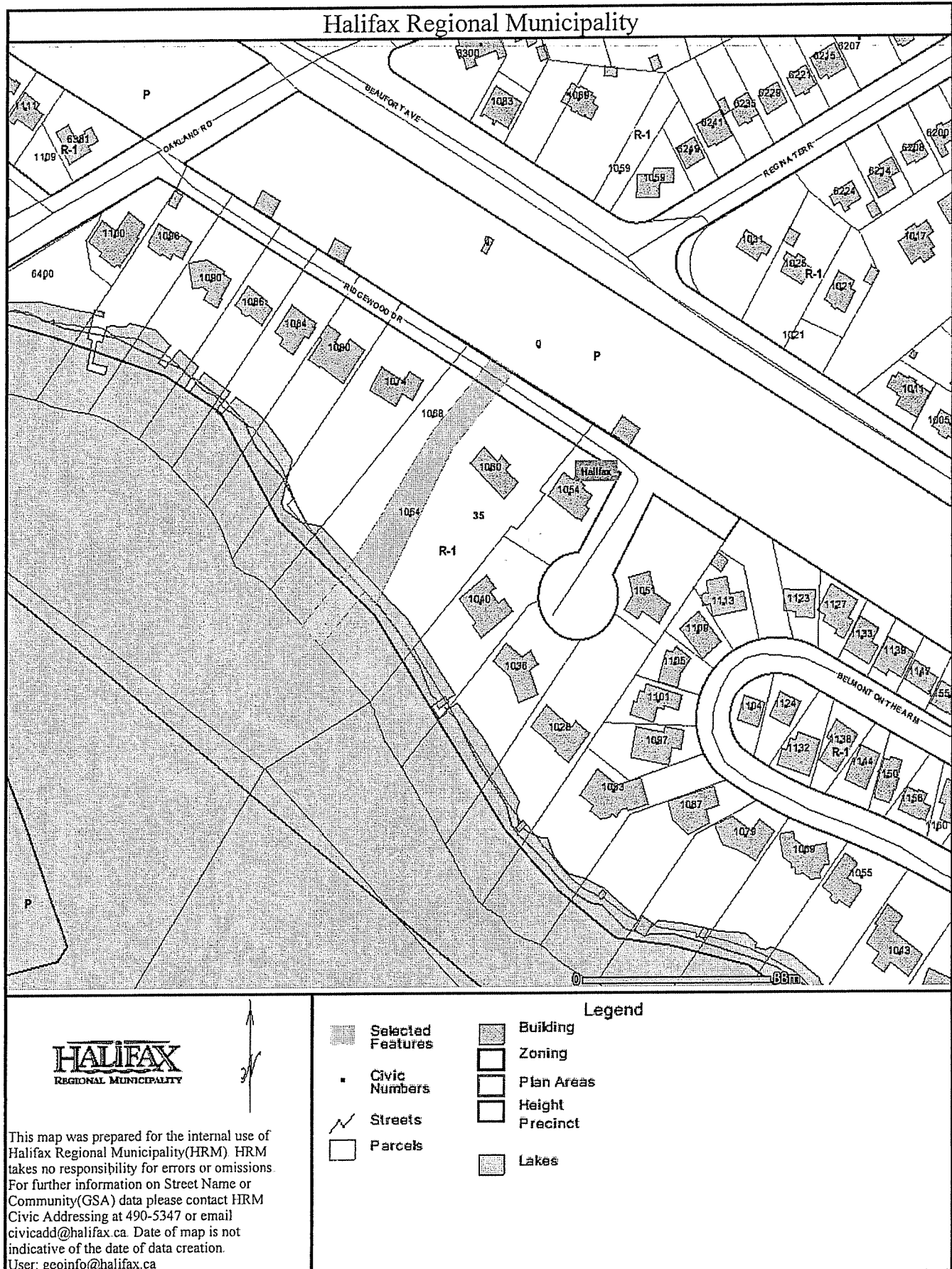
ATTACHMENTS

1. Location Map
2. Site Plan and Elevations of proposed construction
3. Refusal Letter
4. Appeal letter dated November 4, 2005, from Erla Laurie.

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.

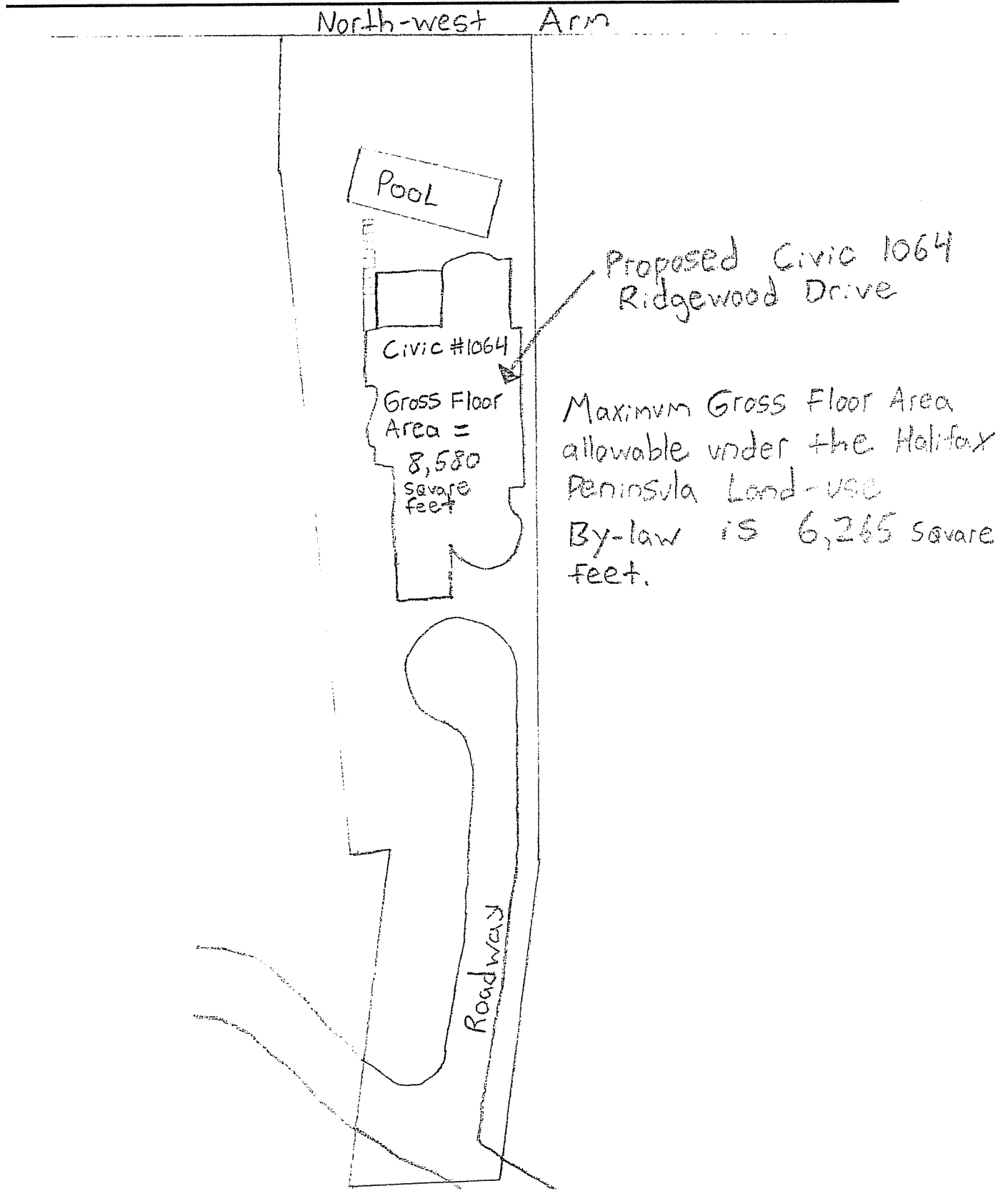
Report Prepared by: Andrew Faulkner - Development Officer (490-4402)

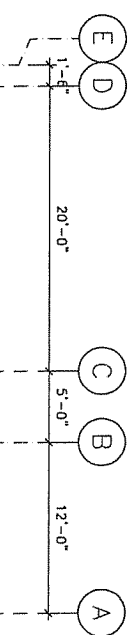


DATE: October 27, 2005

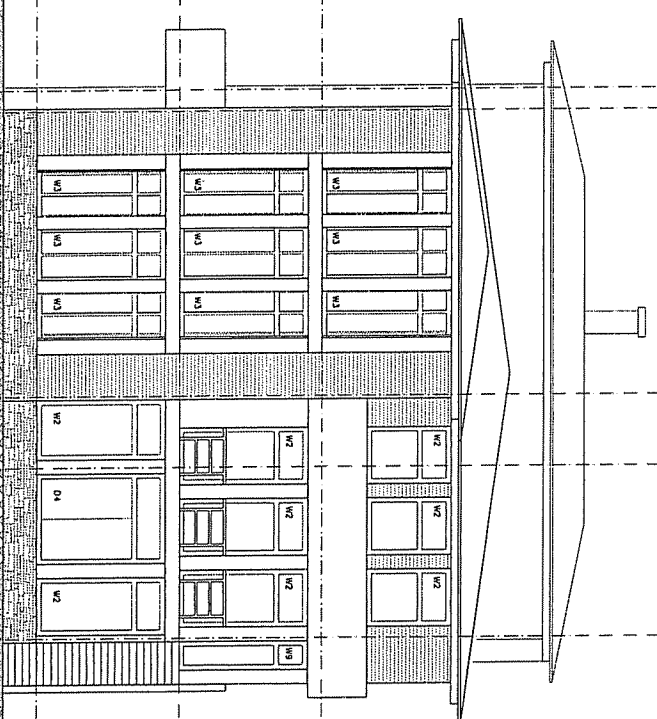
SUBJECT: Case No. 12391 - Variance at 1064 Ridgewood Drive, Halifax

SITE PLAN





48'-6" UPPER FLOOR
 38'-6" MAIN FLOOR
 28'-6" LOWER FLOOR



1 NORTH ELEVATION
 1/4" = 1'-0"

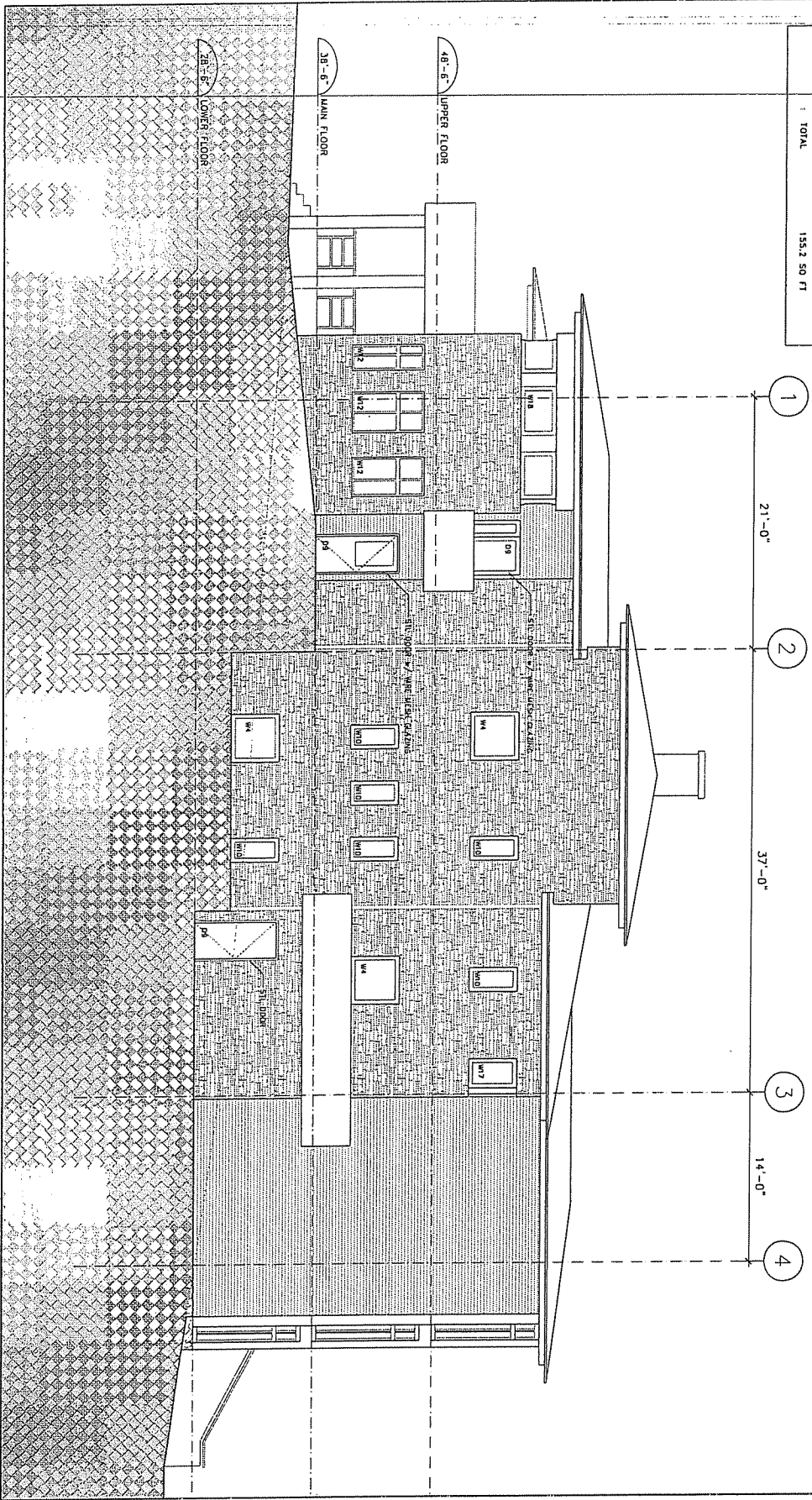
IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE ACCURACY OF ALL DIMENSIONS AND MATERIALS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.

1. CHECK ALL DIMENSIONS AND MATERIALS.
 2. OBTAIN ALL NECESSARY PERMITS AND APPROVALS.
 3. OBTAIN ALL NECESSARY PERMITS AND APPROVALS.

COOBY / MILLER
 RESIDENCE

NORTH ELEVATION
 A10 of 11

AREA OF EXPOSED BUILDING FACE	: 2300.50 FT ²	
AREA OF UNPROTECTED OPENING	: 158.50 FT ²	
ALLOWABLE AREA	: 7X = 161.50 FT ²	
BREAKDOWN OF OPENINGS		
WA	: 11.50 FT X 3	: 33.50 FT ²
WD	: 4.00 FT X 8	: 28.00 FT ²
WI7	: 5.00 FT X 1	: 5.00 FT ²
WI8	: 30.00 FT X 1	: 30.00 FT ²
DB	: N/A	: 0.00 FT ²
TOTAL		: 155.20 FT ²



1 EAST ELEVATION
9 1/4" = 1'-0"

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INTERNATIONAL LLC
10000 W. 16th Ave., Suite 100
Denver, CO 80202
Tel: 303.427.1100
Fax: 303.427.1101
www.studioworks.com

NOTES

1. CHECK AND VERIFY THAT ALL DIMENSIONS, MATERIALS, AND FINISHES SHOWN ON THIS DRAWING ARE IN ACCORDANCE WITH THE CONTRACT DOCUMENTS AND THE LATEST REVISIONS TO THE SAME.
2. VERIFY ALL DIMENSIONS AND MATERIALS WITH THE CONTRACTOR BEFORE PROCEEDING WITH THE WORK.
3. VERIFY ALL DIMENSIONS AND MATERIALS WITH THE CONTRACTOR BEFORE PROCEEDING WITH THE WORK.
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CADY / MILLER RESIDENCE

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A. Scale: 1/4" = 1'-0"
B. Drawing No.: 17-01-01-01
C. Drawing Title: EAST ELEVATION

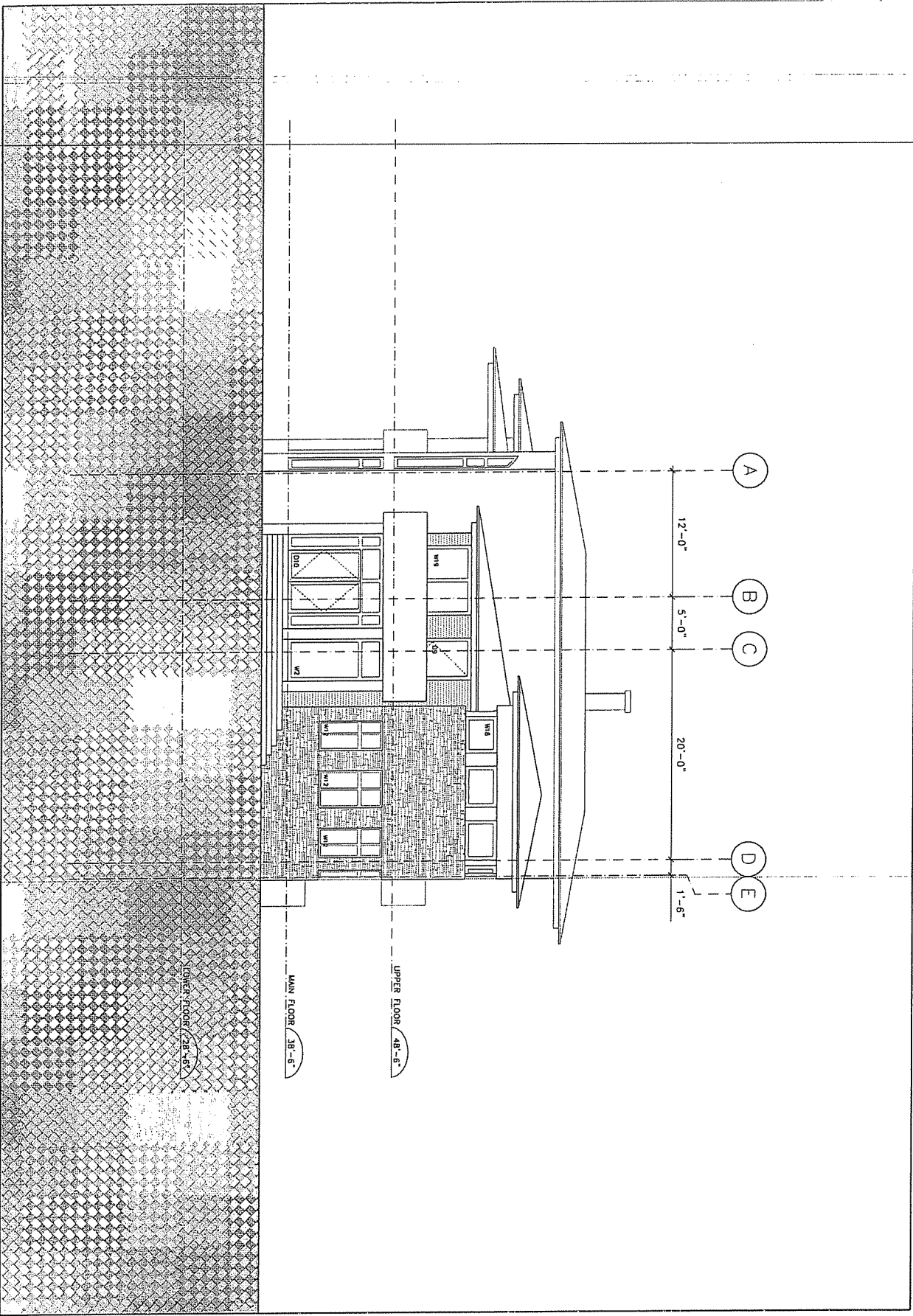
NO.	DATE	DESCRIPTION

EAST ELEVATION

SCALE	1/4" = 1'-0"
DRAWN BY	
CHECKED BY	
DATE	
PROJECT	
FLOOR	

A9 of 11

1 SOUTH ELEVATION
 8 1/4" = 1'-0"



STUDIO WORKS

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 Email: info@studio-works.com
 Web: www.studio-works.com

PROJECT
 Coady / Miller Residence

DATE
 10/15/11

SCALE
 1/4" = 1'-0"

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 1111

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PLANNING AND DEVELOPMENT SERVICES - WESTERN REGION

November 2, 2005

Erlas Project Management
1060 Ridgewood Drive
Halifax, NS
B3H 3Y4

Dear Sir/Madam:

RE: Application for Variance, File No. 12391 - 1064 Ridgewood Drive, 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: 1064 Ridgewood Drive, Halifax
Project Proposal: Construct Single Unit Dwelling
Variance Requested: Vary Gross Floor Area requirements from 6,265 square feet to 8,580 square feet.

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.

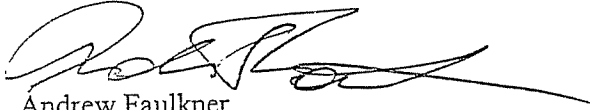
Pursuant to Section 236(4) of the **Municipal Government Act** you have the right to appeal the decision of the Development Officer to the Municipal Council. The appeal must be in writing, stating the grounds of the appeal, and be directed to:

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 *November 10, 2005*.

If you have any questions or require additional information, please contact this office at *490-4402*.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrew Faulkner', with a long horizontal flourish extending to the right.

Andrew Faulkner
Development Officer

cc.

Jan Gibson, Municipal Clerk
Councillor Sue Uteck

1060 Ridgewood Drive,
Halifax, NS B3H 3Y4

facsimile transmittal

To: *Andrew Faulkner* Fax: 902- *490-4645*
Development Officer

From: Eria's Project Management Ltd. Date: 11/7/2005

Re: Appeal for Variance, File No. 12391 Pages: 3

CC: Jan Gibson, Municipal Clerk -
Councilor Sue Uteck

Urgent For Review Please Comment Please Reply Please Recycle

Note: Attached please find Letter of Appeal for Council Meeting – November 7, 2005

please confirm receipt of document.
484-6779 (FAX)

Thank you,
Eria

.....

1060 Ridgewood Drive,
Halifax, N.S.
B3H 3Y4
902-497-8117 cell
902-484-6779 fax

ERLA'S PROJECT
MANAGEMENT LTD.

November 4, 2005

Mr. Andrew Faulkner, Development Officer
Halifax Regional Municipality
Development Services – Western Region
P. O. Box 1749
Halifax, N. S.
B3J 3A5

Dear Mr. Faulkner:

RE: Application for Variance, File No. 12391 – 1064 Ridgewood Drive, Halifax

Owners: Dr. Cathy Coady and Mr. Blair Miller

Location: 1064 Ridgewood Drive, Northwest Arm Waterfront – Residential Dwelling

Variance Requested: Vary Gross floor area – total including storage & mechanical – 8,580 sq. ft.

As the project manager for Dr. Coady and Mr. Miller's family residence I have been instructed to exercise the right to appeal the decision of the Development Officer (Pursuant to Section 236(4) of the Municipal Government Act). As noted in your letter dated November 2, 2005 – "It is the opinion of the Development Officer that the variance violates the intent of the Land Use Bylaw."

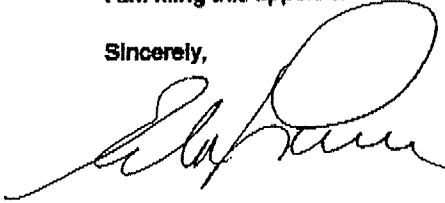
The plans for my client's home were designed by Studio Works, a Halifax Architectural firm. These plans were initially set to paper some 6 months ago. We were not aware of the new Land Use Bylaw limiting a personal residence to only 5 bedrooms and a maximum of 6,265 sq. ft. It was not written into the Land Use Bylaws at our disposal. Apparently this law came into existence within days of the application of permit for their home in October, 2005. This is a family with 5 young children and has spent months planning their home, with much excitement. We found it very difficult to believe that there was a new bylaw limiting bedrooms and living space for a personal residence with a land mass of approximately 18,000 sq. ft., plus a pre-confederation water lot.

I would also like to state that Michael Laurie & I also own two adjoining properties to this lot and are very happy with the design and size of the Coady – Miller proposed home. They, along with their young family will make a joyful addition to the neighborhood. Dr. Dan O'Brien and Dr. & Mrs. Mike Reardon are the abutting neighbors to the north of the lot.

November 4, 2005 Page 2

I am filing this appeal to be heard at the November 7, 2005 council meeting.

Sincerely,



Erla Laurte

Erla's Project Management Ltd.

C.c. Jan Gibson, Municipal Clerk ✓

Councillor Sue Uteck ✓

THIS APPEAL IS FAXED, considering the short length of time allowed for the appeal

Erla's Project Management Limited