



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Chebucto Community Council
December 6, 2010

TO: Chair and Members of Chebucto Community Council

SUBMITTED BY:



Sean Audas - Development Officer

DATE: November 26, 2010

SUBJECT: Appeal of the Development Officer's decision to approve an application
for a Variance of Lot 47, Winona Crescent, Halifax

STAFF REPORT

ORIGIN

This report deals with the appeal of the Development Officer's decision to approve a Variance for the front yard setback, for a single unit dwelling, on Lot 47, Winona Crescent, PID #00290619, Halifax.

RECOMMENDATION

It is recommended that Council uphold the Development Officer's decision to approve the Variance.

BACKGROUND

Zoning:

The property is zoned R-1, Single Family Dwelling Zone under the Land Use By-Law for Halifax Mainland.

Existing Use:

The lot is currently vacant. The lot area is approximately 6, 207 square feet.

Proposal:

The applicant wishes to build a single unit dwelling on the property. The lot is very steep and irregular shaped which will prove challenging for construction. Where there is a dramatic slope towards the rear of the property, the applicant is requesting to place the dwelling closer to the street. The Variance requested is to reduce the required front yard setback of 20 feet to 10 feet.

DISCUSSION

The *Halifax Regional Municipality Charter* sets out criteria in part 250(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 development agreement or 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 development agreement or 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 required yards, street frontage, lot area and lot coverage for residential, commercial and industrial use.
- The intent of the front yard setback is both aesthetic and functional. Front yard setbacks provide a consistent appearance and also provide room for off street vehicle parking.
- The applicant wishes to reduce the required setback from 20 feet to 10 feet. The lot is steeply sloped from front to back. The applicant has indicated that a reduction in the minimum front yard setback will allow a smaller retaining wall at the rear which they feel will be more aesthetically pleasing than if the minimum front yard setback of 20 feet is maintained.
- Where the lot is on a curve, it is not felt that a front yard reduction will be as dramatic in terms of aesthetics to the neighborhood, as it would be if the Variance request occurred

- mid-block.
- As outlined above, it was not felt that this request violates the intent of the land use by-law

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

- This lot is unique from other lots in the neighborhood. Other lots in the neighborhood do have sloping properties, however this lot has a dramatic slope, is narrow in width compared to adjacent lots, and is located on a curve in the road.
- The Development Officer feels that this is a unique circumstance which is not general to the properties in the area.

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

- The property owner has applied for the Variance request. No construction has started and it is not felt that this results in intentional disregard for the requirements of the land use by-law.

In summary, staff have reviewed the information for this case. As a result of that review, the Variance was approved as it was determined not to be contrary to the provisions of the Halifax Regional Municipal Charter.

As per the requirements outlined in the Halifax Charter, all property owners have been notified within 30 meters. One appeal was received (Attachment 4) . The appeal letter indicates that they have concerns for large oversized dwellings, increased property taxes, dwellings that do not meet the character of the neighborhood, and privacy concerns.

BUDGET IMPLICATIONS

None.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

The procedure for public notification is mandated by the HRM Charter. If the Variance request is appealed a public hearing is held which is the opportunity for residents (within 30 meters) to speak to staff's recommendation.

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. Elevation Drawings
3. Approval Letter
4. Appeal Letter

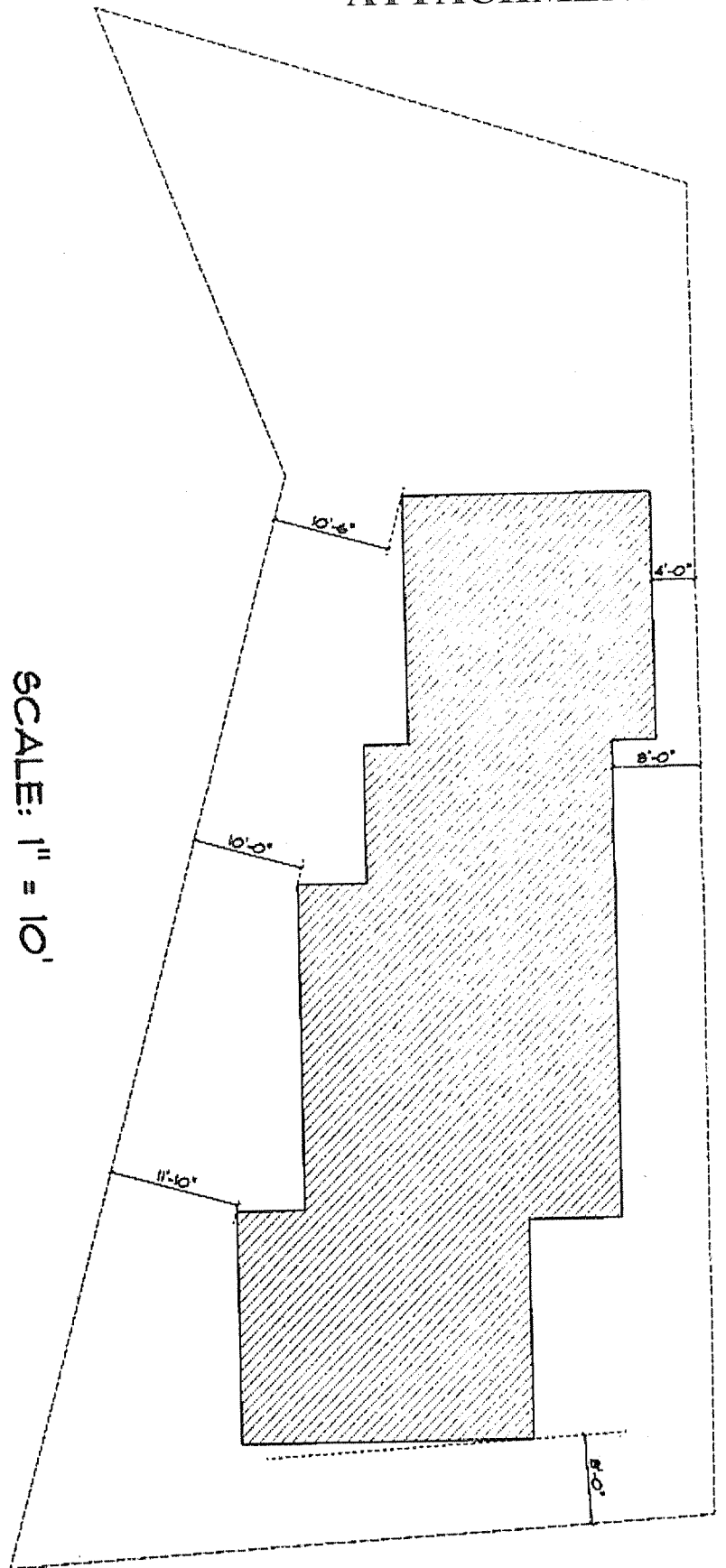
INFORMATION BLOCK

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: Marc Ouellet, Development Technician (490-5985)

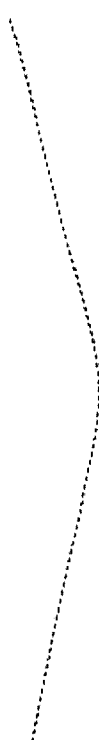
Report Approved by: Sean Audas, Development Officer (490-4341)

ATTACHMENT 1

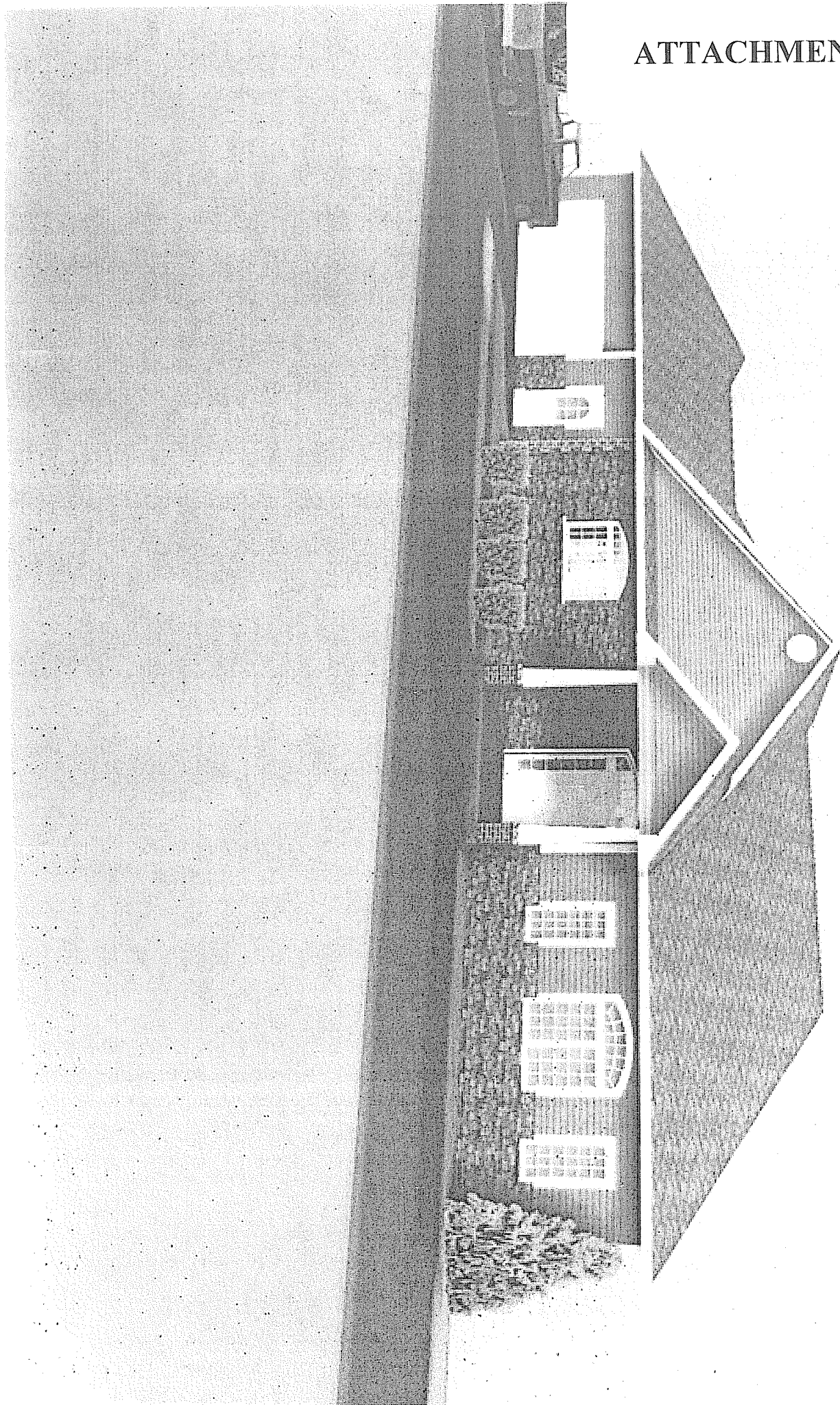


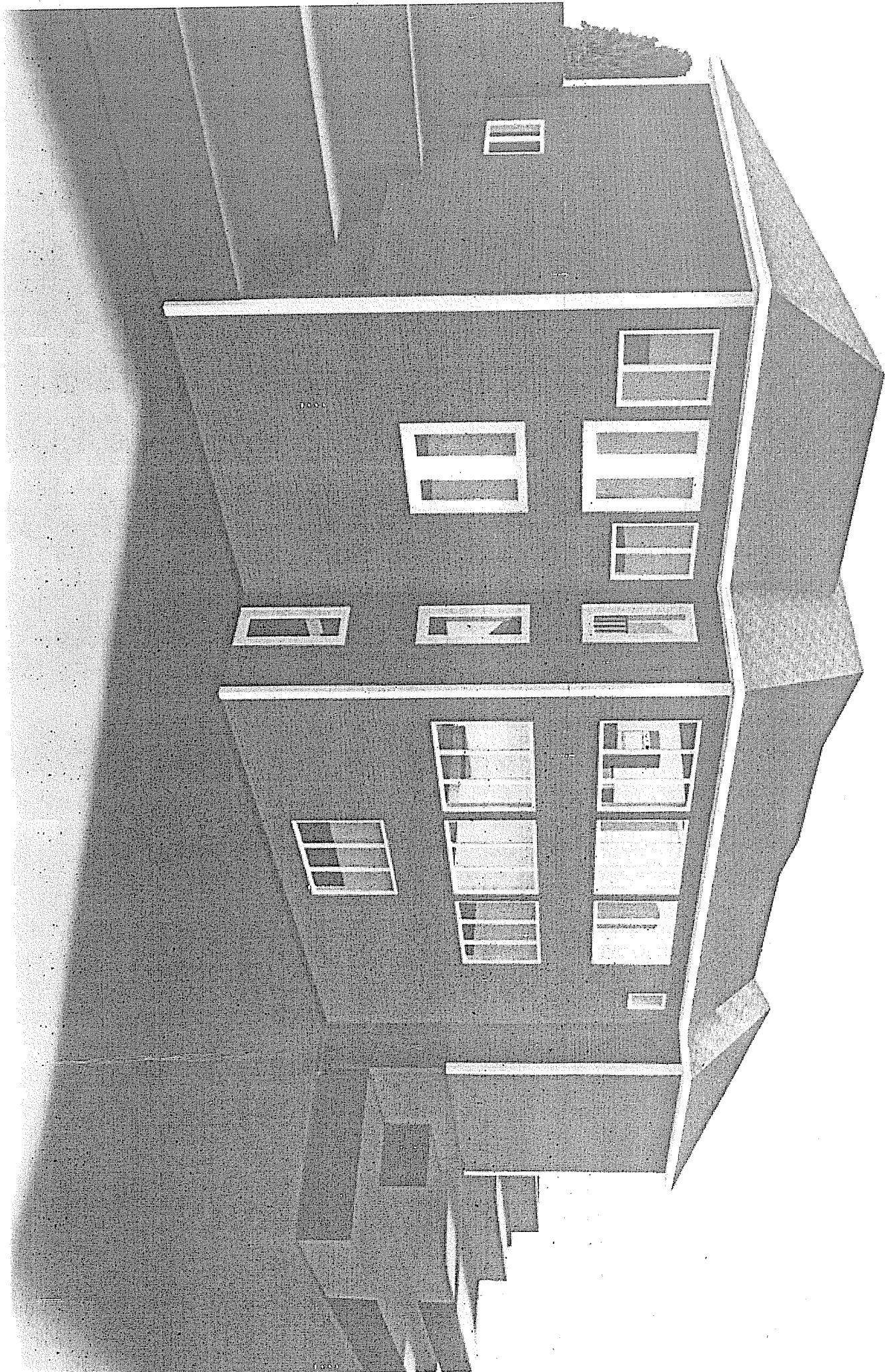
SCALE: 1" = 10'

WINONA CRESCENT



ATTACHMENT 2





ATTACHMENT 3

HALIFAX REGIONAL MUNICIPALITY

**Planning & Development Services
Eastern District, Alderney Gate Office**

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

October 29, 2010

Dear Sir or Madame:

Re: Case No. 16444 - Variance at PID 00290619, Winona Crescent, Halifax, NS

As you have been identified as a property owner within 30 metres of the above noted address you are being notified of the following variance as per requirements of the Halifax Regional Municipality Charter, Section 251.

Location:	PID 00290619, Winona Crescent, Halifax
Project proposal:	Construction of a single unit dwelling
Minimum front yard setback:	20 feet from front property line
Approved variance:	10 feet from front property line

In accordance with Section 251 of the **Halifax Regional Municipality Charter**, all assessed owners of property within 30 metres (100 feet) of PID 00290619, Winona Crescent, Halifax, NS, have been notified of this variance. As one of these property owners you have the right to appeal the decision of the Development Officer to the Municipal Council. An appeal must be in writing, stating the grounds of the appeal, and be directed to:

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

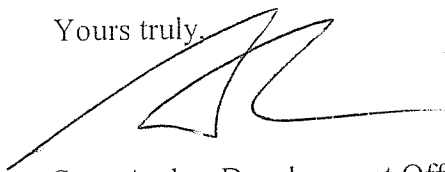
Notice of the appeal must be filed on or before November 15, 2010.

Please note, this does not preclude further construction on this property provided the proposed construction does not require a variance.

Please find enclosed area map, as well as proposed site plan and elevations.

If you have any questions or require clarification of any of the above, please call Marc Ouellet at 490-5985.

Yours truly,



Sean Audas, Development Officer
Halifax Regional Municipality

copy to: Cathy Mellett, Municipal Clerk
Debbie Hum, Councillor District 16

Encl.

ATTACHMENT 4

Municipal Clerk
c/o Sean Audas, Development Officer
Halifax Regional Municipality
Development Services – Eastern Region
PO Box 1749
Halifax, NS
B3J 3A5

Re: Case No. 16444 - Variance at PID 00290619, Winona Crescent, Halifax NS

Dear Mr Audas


I would like to appeal the application for a variance to at PID 00290619, Winona Crescent, Halifax NS.

What was once a lovely, older treed neighbourhood is slowly being destroyed by tasteless people building homes that are too large for the lot it was originally designed. As a result, residents like myself find their property taxes sky rocketing and we struggle to financially maintain the homes we have been living in for years. I'm all for making renovations to improve the property value of one's home but what some are building do not fit into the character of the neighbourhood and have an adverse effect on our tax bills. Yes, I realize it can bring up the property value of my own home but what good will that do me if I have to sell my home because I can't afford the property taxes?

As well, this proposed building will mean a loss of privacy for us. All those trees will be cut down to make room for this building and due to the layout, the people living there will be so close they will be able to look right into our back yards and into our houses. Yes, I have curtains but one of the reasons I moved to this neighbourhood was for the privacy I have in my own back yard. If I wanted to live with someone's house right up next to me, I would have moved one of those new subdivisions where they have huge homes so close together, you could shake your neighbour's hand without leaving your house.

The law states that the front property line is 20 feet. All I'm asking is that the person building on that lot adheres to the law and that you enforce the law that is already in place.

Thank you



Dianne Ouellette
14 Cascade Drive
Halifax, NS
B3M 1Z3
446-5089
diouellette@eastlink.ca