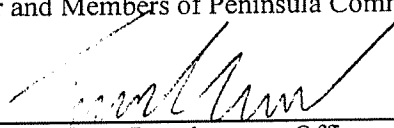


Peninsula Community Council
December 12, 2011

TO: Chair and Members of Peninsula Community Council

SUBMITTED BY:



Trevor Creaser, Development Officer

DATE: December 5, 2011

SUBJECT: Appeal of the Refusal of Variance # 17304 for 6475 London Street,
Halifax

ORIGIN

This report deals with the appeal of the Development Officer's decision to refuse a variance from the lot frontage, lot area and gross floor area requirements of the Land Use Bylaw for Halifax Peninsula to replace a two unit dwelling with a three unit dwelling at 6475 London Street, Halifax.

RECOMMENDATION

It is recommended that Council uphold the decision of the Development Officer to refuse the request for variance.

BACKGROUND

The subject property is located at 6475 London Street, Halifax and is zoned R-2 (General Residential) Zone under the Land Use Bylaw for Halifax Peninsula (refer to Attachment 1). The property contains an existing two unit dwelling which is deficient under the current land use bylaw requirements for the lot frontage and lot area. A two unit dwelling requires 50' of street frontage and 5000 sqft. of lot area.

An application for variance was made on October 7, 2011 to vary the requirements of the land use bylaw for the construction of a three unit dwelling. The application requested the following requirements to be varied:

| | Required | Proposed |
|------------------|--------------------|------------|
| Lot Frontage | 80 feet minimum | 48 feet |
| Lot Area | 8000 sqft. minimum | 4800 sqft. |
| Gross Floor Area | 2925 sqft. maximum | 3280 sqft. |

The Development Officer refused the application for variance on November 14, 2011 (refer to Attachment 3). This decision was subsequently appealed by the applicant on November 23, 2011 (refer to Attachment 4).

DISCUSSION

The *Halifax Regional Municipality Charter* 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 if:*
- (a) the variance violates the intent of the development agreement or land-use by-law;*
 - (b) the difficulty experienced is general to properties in the area;*
 - (c) the difficulty experienced results from the intentional disregard for the requirements of the development agreement or land-use by-law."*

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 by-law;

The R-2 zone stipulates lot size and area requirements for specific types of residential uses. The intent of the R-2 zone requirements is where there is an increase in residential density, the lot size requirements are further increased. This is a means of controlling density. To permit an increase to a three unit dwelling on a property that does not meet the requirements for lot size and area for a two unit dwelling *violates the intent of the land-use by-law.*

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

Properties within the general area have similar lot size and configuration. Further, records indicate that within the notification area, the majority of properties contain single unit dwellings and a small percentage of two unit dwellings. There is only one property which contains two buildings with three units in each. As most of the properties are of similar size or smaller and would, therefore, experience the same difficulties, it is determined that the *difficulty experienced is general to properties in the area.*

(c) difficulty experienced results from an intentional disregard for the requirements of the land-use by-law;

Intentional disregard was not a consideration.

BUDGET IMPLICATIONS

There are no budget implications related to this variance.

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.

COMMUNITY ENGAGEMENT

Community Engagement as described by the Community Engagement Strategy is not applicable to this process. 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

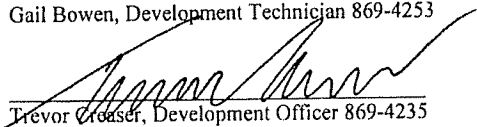
1. Uphold the decision of the Development Officer to refuse the application for variance.
This is the recommended alternative.
2. Overturn the decision of the Development Officer, thereby permitting the reduction in the lot frontage, lot area and gross floor area requirements.

ATTACHMENTS

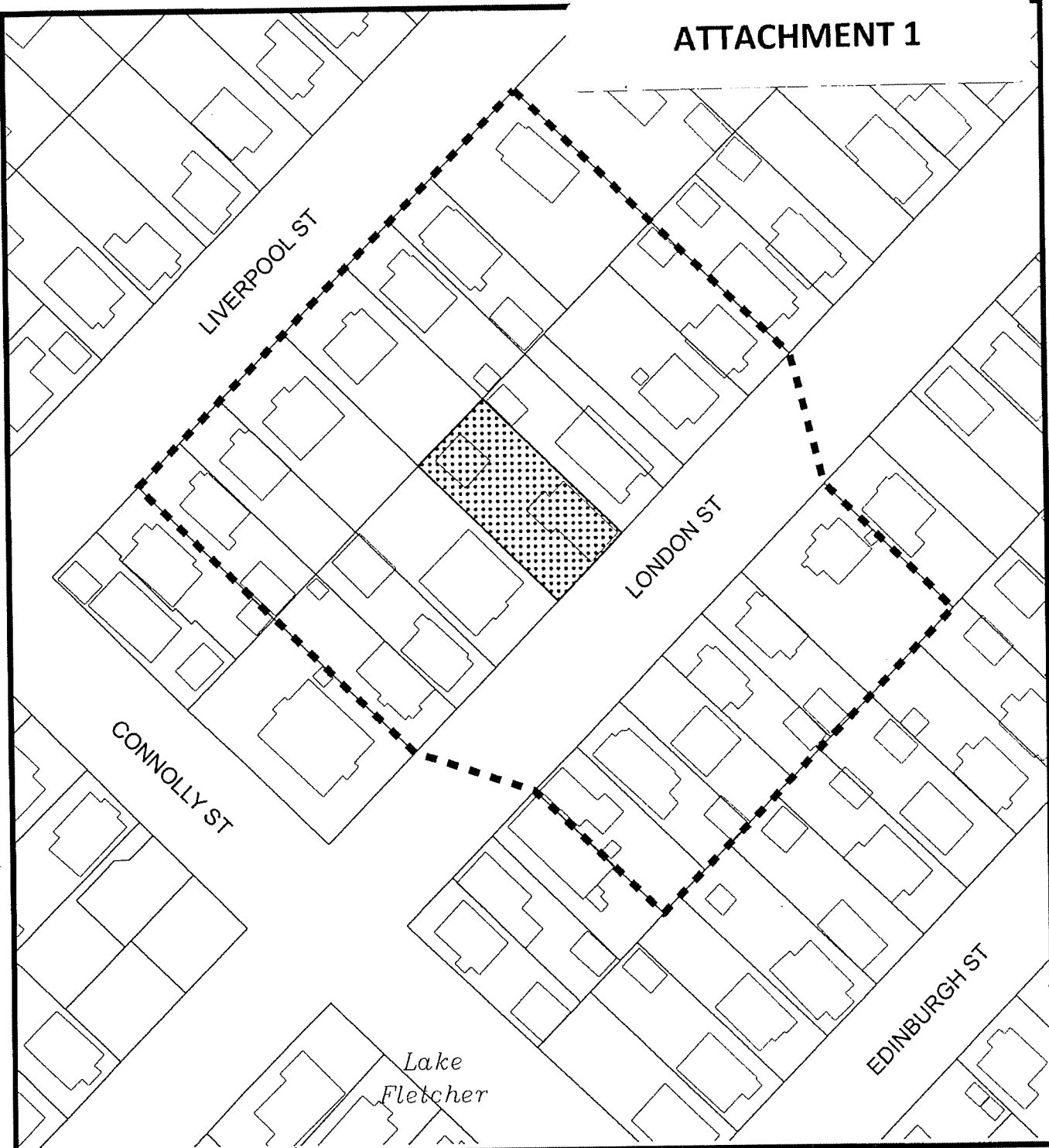
1. Location Map
2. Site Plan
3. Variance Refusal Letter
4. Appellants' Letter
5. Building Elevations (3 pages)

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by : Gail Bowen, Development Technician 869-4253

Report Approved by 
Trevor Crozier, Development Officer 869-4235

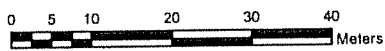
ATTACHMENT 1



Map 1
Notification Area

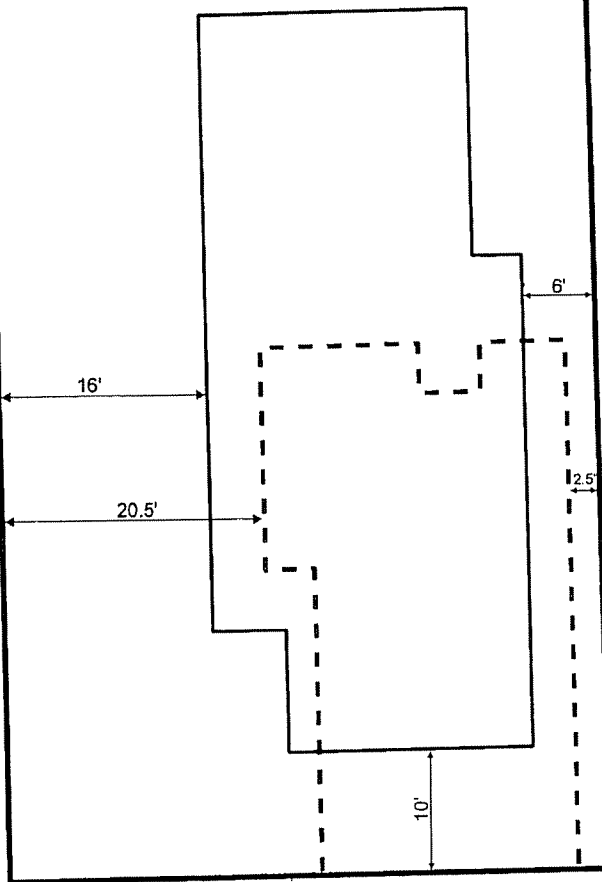
■ ■ ■ ■ ■ Notification Area

■ ■ ■ ■ ■ Subject Property



ATTACHMENT 2

Civic # 6475
London Street





LONDON STREET

Map 2
Site Plan



HALIFAX
REGIONAL MUNICIPALITY
Planning Services

-  Proposed Building
-  Existing Building

ATTACHMENT 3



COMMUNITY DEVELOPMENT - CENTRAL REGION
636 Sackville Drive
PO Box 1749
Halifax, NS B3J 3A5
Ph: (902) 869-4375
Fax: (902) 869-4254

November 14, 2011

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

Att: Geoff Keddy

RE: Variance # 17304 – 6475 London Street, Halifax

This will advise that I have refused your request for a variance from the requirements of the Land Use Bylaw for Halifax Peninsula as follows:

Location: 6475 London Street, Halifax
Project Proposal: Construct a three unit dwelling

| | Required | Proposed |
|------------------|--------------------|------------|
| Lot Frontage | 80 feet minimum | 48 Feet |
| Lot Area | 8000 sqft. minimum | 4800 sqft. |
| Gross Floor Area | 2925 sqft. Maximum | 3280 sqft. |

Section 250(3) of the Halifax Regional Municipality Charter states that:

A variance may not be granted if

- (a) the variance violates the intent of the development agreement or land-use by-law;
- (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 development agreement or land-use by-law.

It is the opinion of the Development Officer that this variance *violates the intent of the Land Use By-Law and is general to properties in the area.*

Pursuant to Section 251 (4) of the **Halifax Regional Municipality Charter** 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:

Trevor Creaser
Development Officer
Halifax Regional Municipality
Development Services - Central Region
636 Sackville Drive
Sackville, NS B4C 2S3

Your appeal must be filed on or before December 1, 2011.

If you have any questions or require additional information, please contact **Gail Bowen** at 869-4235.

Sincerely,



Trevor Creaser
Development Officer

cc. Cathy Mellett, Municipal Clerk
Councillor Jennifer Watts

ATTACHMENT 4

Geoff Keddy & Associates
5357 Inglis Street
Halifax, NS B3H 1J4
Ph: 902.420.9400

RECEIVED
NOV 23 2011
DEPARTMENT OF PLANNING
AND DEVELOPMENT

23 November 2011

Trevor Creaser
Development Officer
Halifax Regional Municipality
Development Services – Central Region
636 Sackville Drive
PO Box 1749
Halifax, NS B3J 3A5

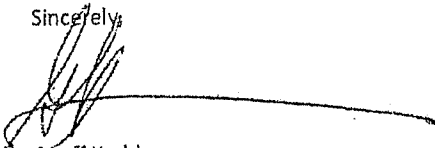
RE: Variance #17304 – 6475 London Street, Halifax

Dear Mr. Creaser:

In response to your letter dated 14 November 2011, and pursuant to Section 251 (4) of the Halifax Regional Municipality Charter, I am writing to appeal your decision in regards to variance #17304 on the grounds that:

- although the proposed three unit development *violates the intent of the Land Use By-Law and is general to the properties in the area*, it meets the call for a higher population density on the Halifax Peninsula as outlined by HRMbyDESIGN.
- the proposed development will replace an aging building that is currently in a state of disrepair. It is our opinion that by replacing said building the street's character and vitality will be improved.
- the existing building sits on the front property line, which is contrary to the to the general street condition that sees buildings set back at least 10' from the property line.
- replacing the current building would only prove financially viable as proposed, i.e., a three unit development.

Sincerely,

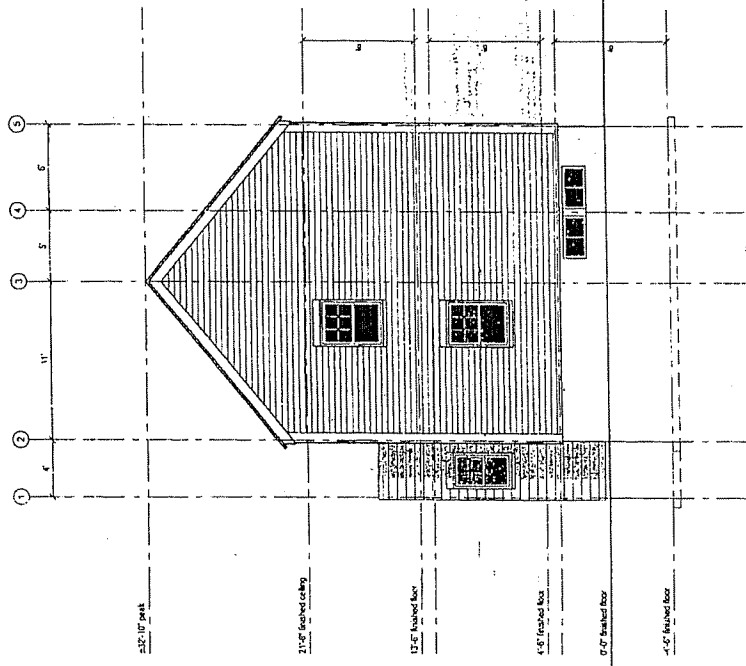


Geoff Keddy

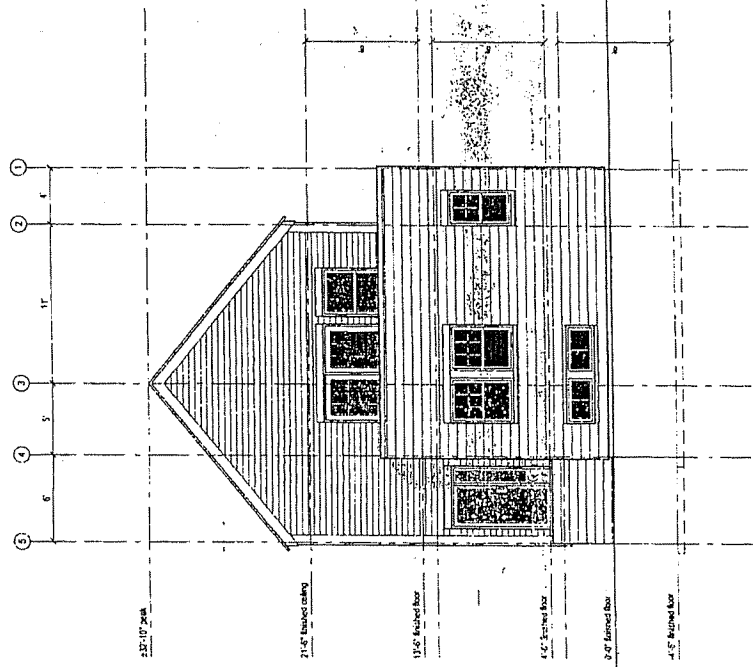
Geoff Keddy Architect & Associates

ATTACHMENT 5

G
5357 INGLIS ST.
HALIFAX, NOVA SCOTIA B3H 1J4
TEL: 902.420.9400 FAX: 902.420.1478
www.gedffkedy.com

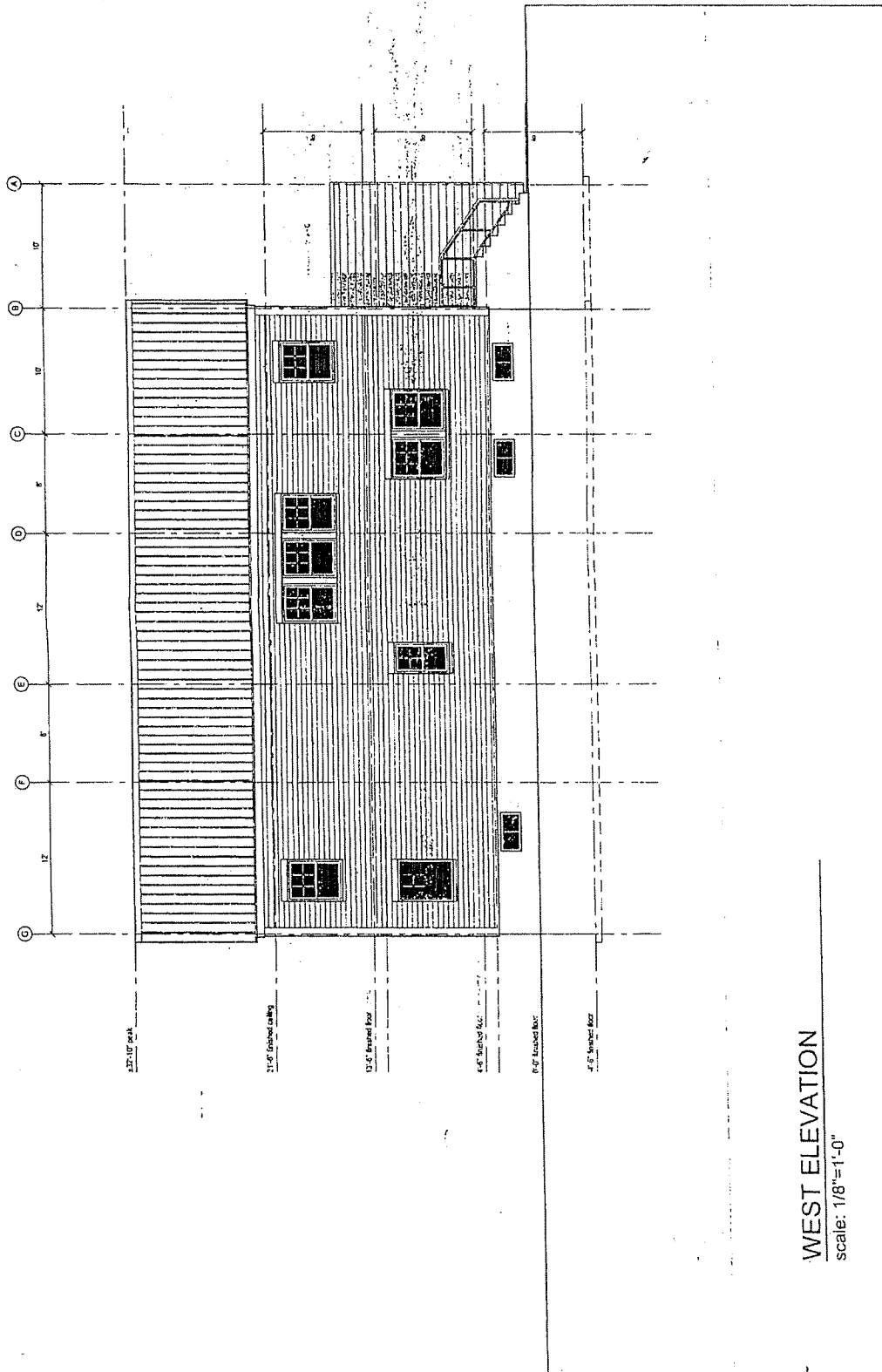


NORTH ELEVATION
scale: 1/8"=1'-0"



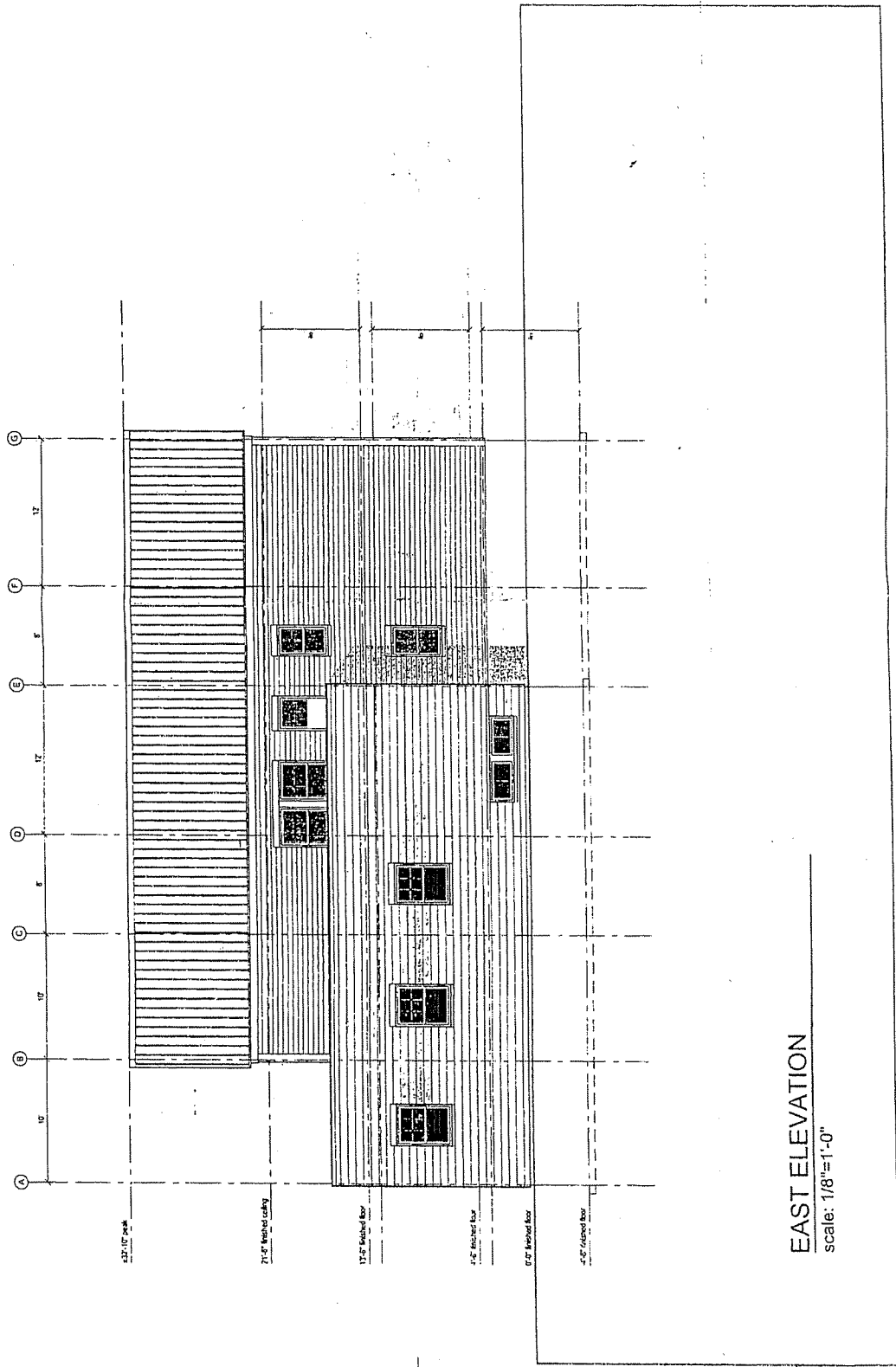
SOUTH ELEVATION
scale: 1/8"=1'-0"

Geoff Keddy Architect
and Associates Ltd.
5357 Inglis St.
Halifax, Nova Scotia B3H 1J4
Tel: 902.420.9400 Fax: 902.420.1478
www.geoffkeddy.com



WEST ELEVATION
scale: 1/8"=1'-0"

GEOFF KEDDY ARCHITECT
AND ASSOCIATES LTD.
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HALIFAX, NOVA SCOTIA B3H 1J4
TEL 902.420.9400 FAX: 902.420.1478
www.geoffkedy.com



EAST ELEVATION
scale: 1/8"=1'-0"