

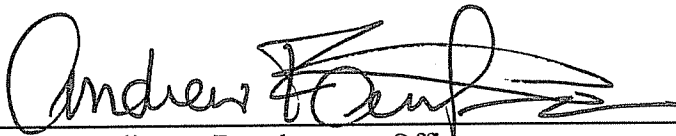


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Peninsula Community Council
September 11, 2006

TO: Chairman and Members of Peninsula Community Council

SUBMITTED BY:



Andrew Faulkner - Development Officer

DATE: August 29, 2006

SUBJECT: Appeal of the Development Officer's decision to deny an application for a
Variance - 6266 London Street, Halifax

ORIGIN

This report deals with an appeal of the Development Officer's decision to deny a variance from the Gross Floor Area Ratio requirements of the Halifax Peninsula Land Use Bylaw to permit an 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 **6266 London Street** in Halifax. The property is zoned R-2 (General Residential Zone) under the Halifax Peninsula Land Use Bylaw. The subject property is a 4000 ft² lot which would permit a maximum Gross Floor Area Ratio of 0.65 (equal to a floor area of 2800 ft sq).

The property currently contains a 2263.5 ft² single unit dwelling having a GFAR of .57, which existed at the time of the adoption of GFAR amendments. The subject property is a 4000 sq ft lot which would permit a maximum Gross Floor Area Ratio of 0.65 (equal to a floor area of 2,800 ft²). The applicant has proposed removing an existing 23' x 11' section of the single unit dwelling and constructing a three storey 30' x 16' addition plus basement to the home. The height of the existing basement is < 64" resulting in a 0 gross floor area. The proposed addition would add 495 sq ft for the basement, 495 sq ft on the first level, 495 sq ft on the second level and 335 sq ft on the third level for a total of 1820 sq ft increase of the gross floor area for a proposed GFAR of .96 (3828 ft sq of floor area). The intention of the proposed addition is to replace kitchen and an addition of one bedroom to accommodate a child family. There are 5 bedrooms in the existing dwelling.

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.

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, an assessment of the GFAR of the surrounding properties was undertaken. As there were few recent permits for adjacent properties; GFARs were determined using HRM mapping and visual assessments during inspection.

The following is a list of properties within the notification buffer detailing estimated floor area and GFAR of the dwellings. The property subject to the variance is in bold.

Civic Address	Floor Area (ft ²)	Lot Area (ft ²)	GFAR
6265 London St	34 unit bldg	22330	
6266 London St	3828 (proposed)	4000	.96
6270 London St	2128	3300	.64
6274 London St	2074.8	3300	.63
6276 London St	2409	2700	.89
2878 Windsor St (R-3)	1378	3040	.45
2890 Windsor St (R-3)	840	3960	.42
6251 Edinburgh St (2UD)	2516	4645	.54
6255-61 Edinburgh St (4UD)	8190	5959	1.37
6263 Edinburgh St	2475	3333	.74
6269 Edinburgh St	1924.8	3300	.58
6273 Edinburgh St	3276	3300	.99
6281 Edinburgh St	9 unit bldg	8580	
		AVG. GFAR	.73

The properties in the surrounding area are varied, ranging from 2,300 - 4645 ft sq. There are larger properties, however they are 9 and 34 unit buildings. Based on lot size, the GFAR average that would be allowed surrounding properties would be .75. The average estimated GFAR for the 12 dwellings in the buffer area was calculated at .73. The applicants are proposing a GFAR of .96, which is much higher than the “allowed” GFAR and would not be in keeping with the character of the neighborhood. Based upon this, staff believe that the proposed variance does represent a violation of the intention of the LUB.

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. This lot is 4000 ft sq which is slightly higher than the majority of Single Unit Dwelling properties in the surrounding area. The GFAR requirements would permit a maximum GFAR of .75 (2800 ft sq) if the lot was vacant. Therefore this difficulty is general to the properties in the area.

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

There has been no intentional disregard for the requirements of the Land Use Bylaw. The applicant applied for the additions under permit #78943. This lot is 4000ft with a present GFAR of .57. The GFAR requirements permits a maximum GFAR of .65 (2800 ft) which leaves room for a 536.5 sq ft expansion. The applicant has an existing 5 bedroom dwelling and is looking to add another bedroom. The applicant has proposed removing an existing 23' x 16' section of the single unit dwelling and constructing a three storey 30' x 16' addition plus basement of the home resulting in an increase of the GFAR by .39.

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 approve the variance. This is the recommended alternative.
2. Council could overturn the decision of the Development Officer and refuse the variance.

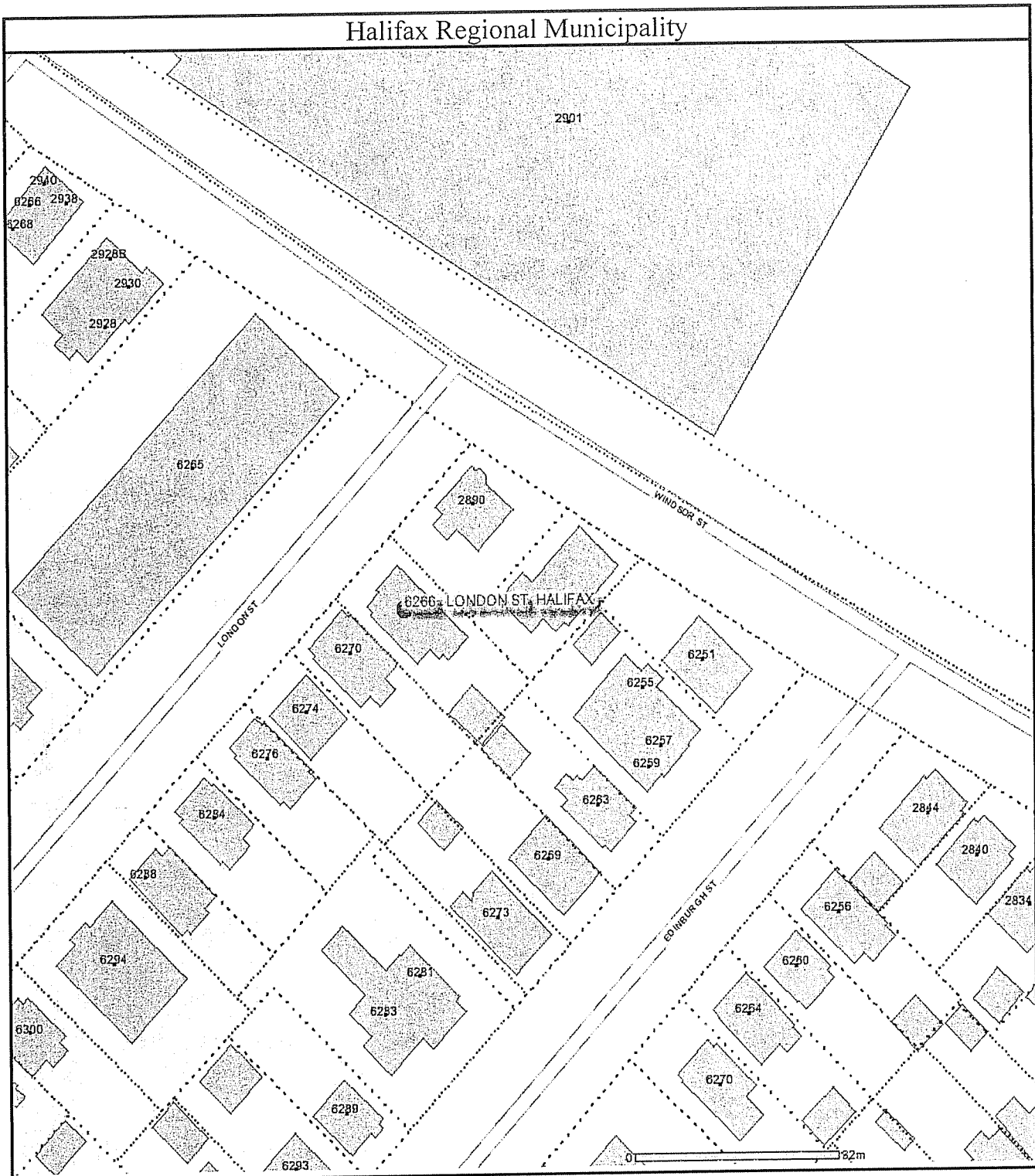
ATTACHMENTS

1. Location Plan
2. Notification Letter
3. Site and Elevation Plans.
3. 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: Brenda Seymour - Development Technician (490-7455)



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.



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

August 25, 2006

Mr. John Newton
6266 London Street
Halifax, Nova Scotia
B3L 1X1

Dear Mr. Newton:

Re: Application for Variance, File No. 13201 - 6266 London 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: 6266 London Street, Halifax
Project Proposal: Addition to Single Unit Dwelling
Variance Requested: Vary Gross Floor Area requirements from 2263.5 sq ft to 3828 sq ft

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, therefore your request for a variance has been refused,

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 Rosemary MacNeil, **Development Officer**
Halifax Regional Municipality
Development Services - Western Region
P.O. Box 1749
Halifax, NS B3J 3A5

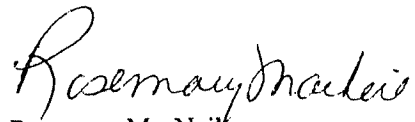
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John Newton
August 25, 2006

Your appeal must be filed on or before *September 4, 2006*.

If you have any questions or require additional information, please contact this office at **490-4650**.

Sincerely,



Rosemary MacNeil
Development Officer

cc

Jan Gibson, Municipal Clerk
Councillor Sheila Fougere

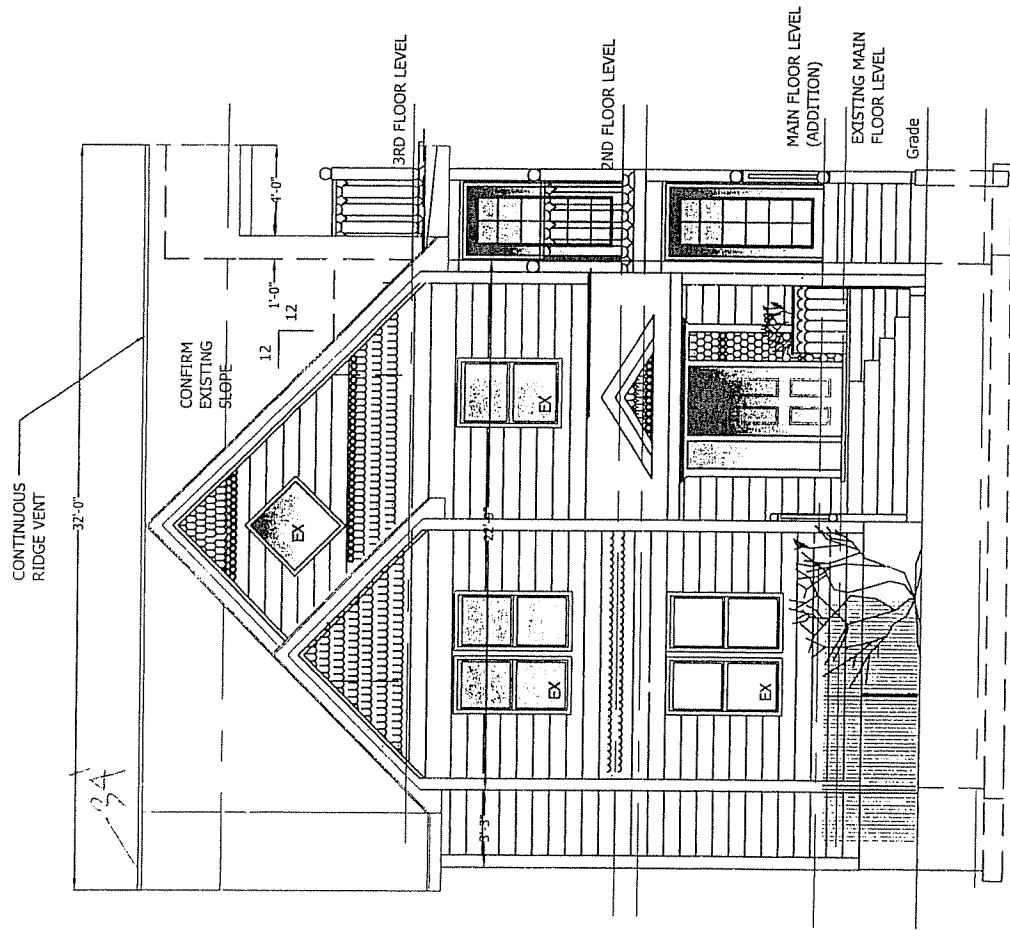
NOTE:
 PROVIDE NEW EAVES TROUGH AND
 DOWNSPOUTS ON NEW AND EXISTING
 CONSTRUCTION. PROVIDE CONCRETE
 SPASHPADS AT BOTTOM OF
 DOWNSPOUTS AND ENSURE THAT
 THE GRADE SLOPES AWAY FROM THE
 BUILDING.

ALL CONSTRUCTION TO MEET
 NATIONAL BUILDING CODE
 STANDARDS AND ALL REQUIREMENTS
 OF THE AUTHORITY HAVING
 JURISDICTION.

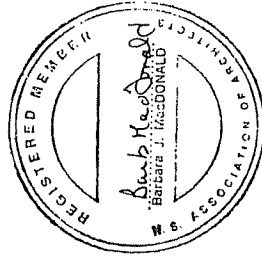
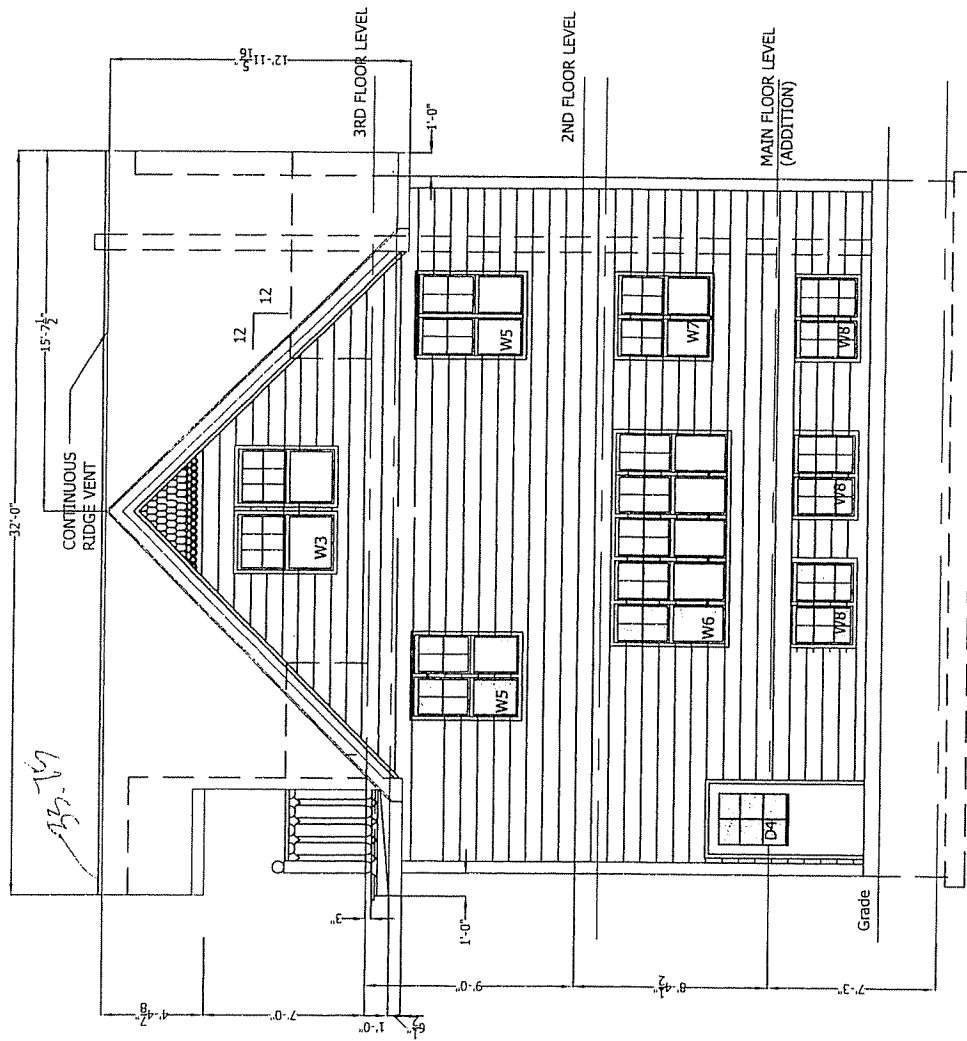
CONTRACTOR TO OBTAIN BUILDING
 PERMIT.

CONTRACTOR TO VERIFY ALL
 DIMENSIONS PRIOR TO COMMENCING
 CONSTRUCTION AND NOTIFY THE
 ARCHITECT (BARB MACDONALD) OF
 ANY ERRORS OR OMISSIONS.

CLIENT: Tara & John Newton 6266 London St. Halifax	PROJECT TITLE: ADDITION	DWG NO.:A-8
	DWG TITLE: REVISED FRONT ELEVATION	SCALE: 3/16" = 1'-0"
		DATE: JULY 19/06

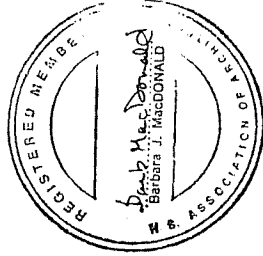


1 REVISED FRONT ELEVATION
 Scale: 1/16" = 1'-0"



CLIENT:	Tara & John Newton 6266 London St. Halifax
PROJECT TITLE:	ADDITION
DWG TITLE:	REVISED REAR ELEVATION
SCALE:	$\frac{3}{16}'' = 1'-0''$
DWG NO.:	A-9
DATE:	JULY 19/ 06

4 REVISED REAR ELEVATION
Scale: 3/16" = 1'-0"



CURR: Tara & John Newton
6266 London St. Halifax

PROJECT TITLE
ADDITION

DWG TITLE
REVISED
RIGHT ELEVATION

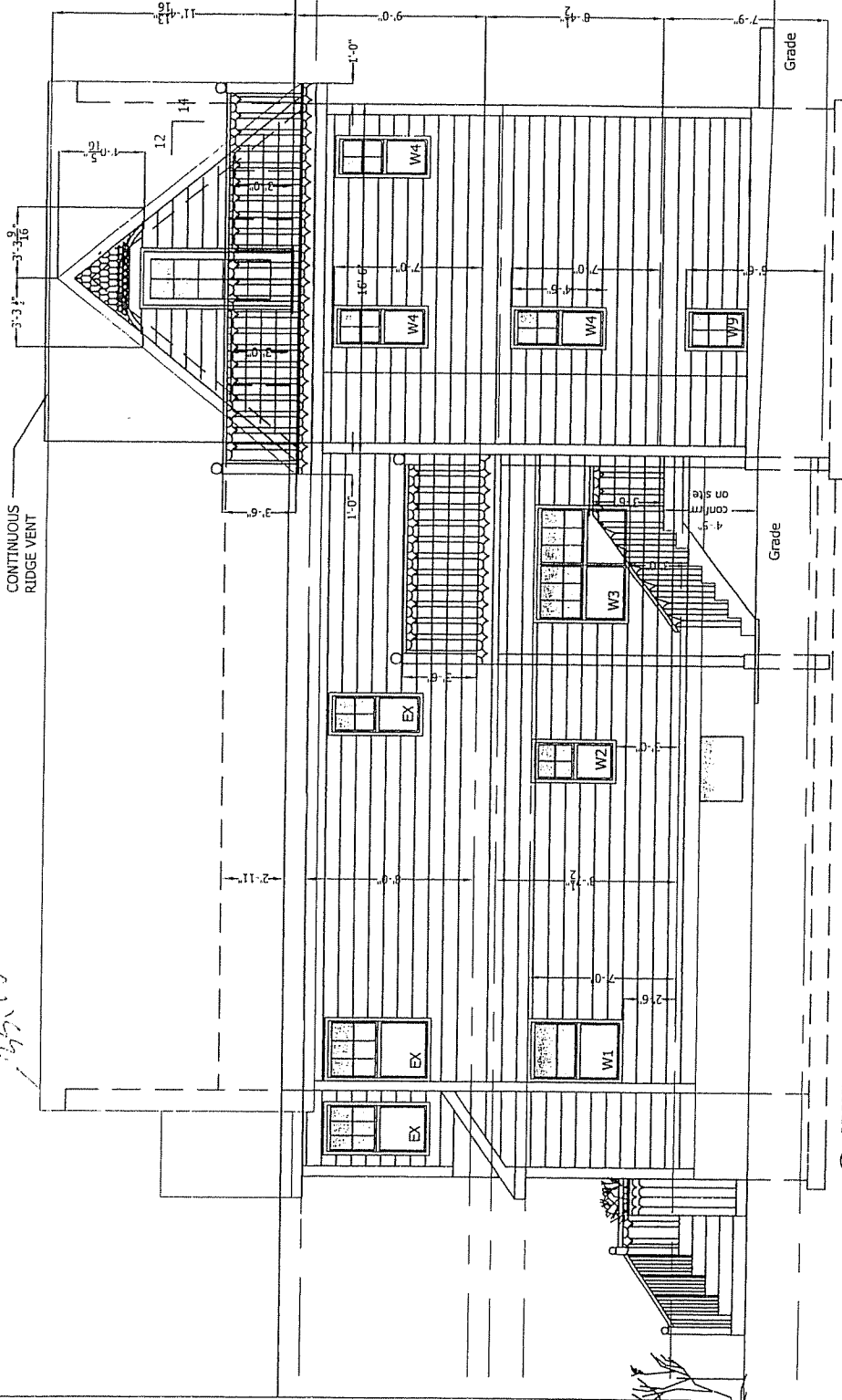
DWG NO.

A-10

SCALE
 $\frac{3}{16}'' = 1'-0''$

DATE
JULY 19/ 06

CONTINUOUS
RIDGE VENT



2 REVISED RIGHT ELEVATION
Scale: 3/16" = 1'-0"

August 28, 2006
Halifax

Dear Municipal Clerk,

I wish appeal the
decision by Development Officer
Rosemary MacNeil for application
variance # 13201 (6266 London St).

Jana Newton