

HALIFAX

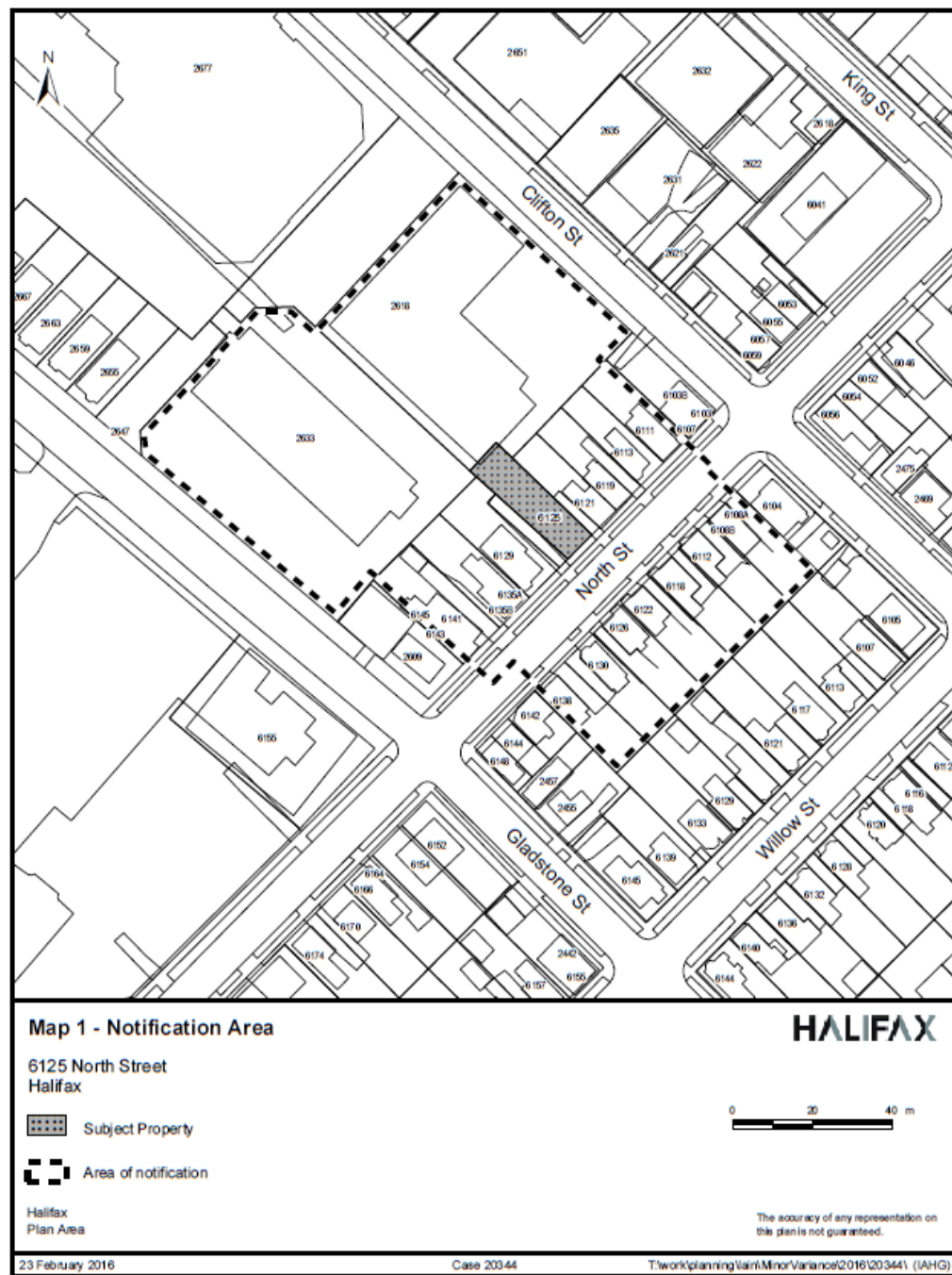
Case 20344: Variance Hearing 6125 North Street, Halifax

Halifax and West Community Council

March 29, 2016

Site Details

- 6125 North Street, Halifax
- 3,395 square feet
- 31 feet of frontage
- R-2 (General Residential) Zone under the Halifax Peninsula LUB, Peninsula North Secondary Plan Area, Sub Area 2





Background

- On January 20, 2014, a permit was issued to demolish a single unit dwelling.
- On April 14, 2015, a permit was then issued to construct a new single unit dwelling, but was cancelled by the applicant on May 1, 2015.
- On May 1, 2015, the applicant applied for variances to allow for the construction of a two unit dwelling (duplex). The Development Officer approved the variances and no appeals were submitted.

Background

Variances granted for new two unit dwelling

	Zone Requirement	Variance Granted
Lot area:	5000 sf	3395 sf
Lot frontage:	50 ft	31 ft
Left side yard setback:	5 ft	2 ft
Right side yard setback:	5 ft	3 ft

Request

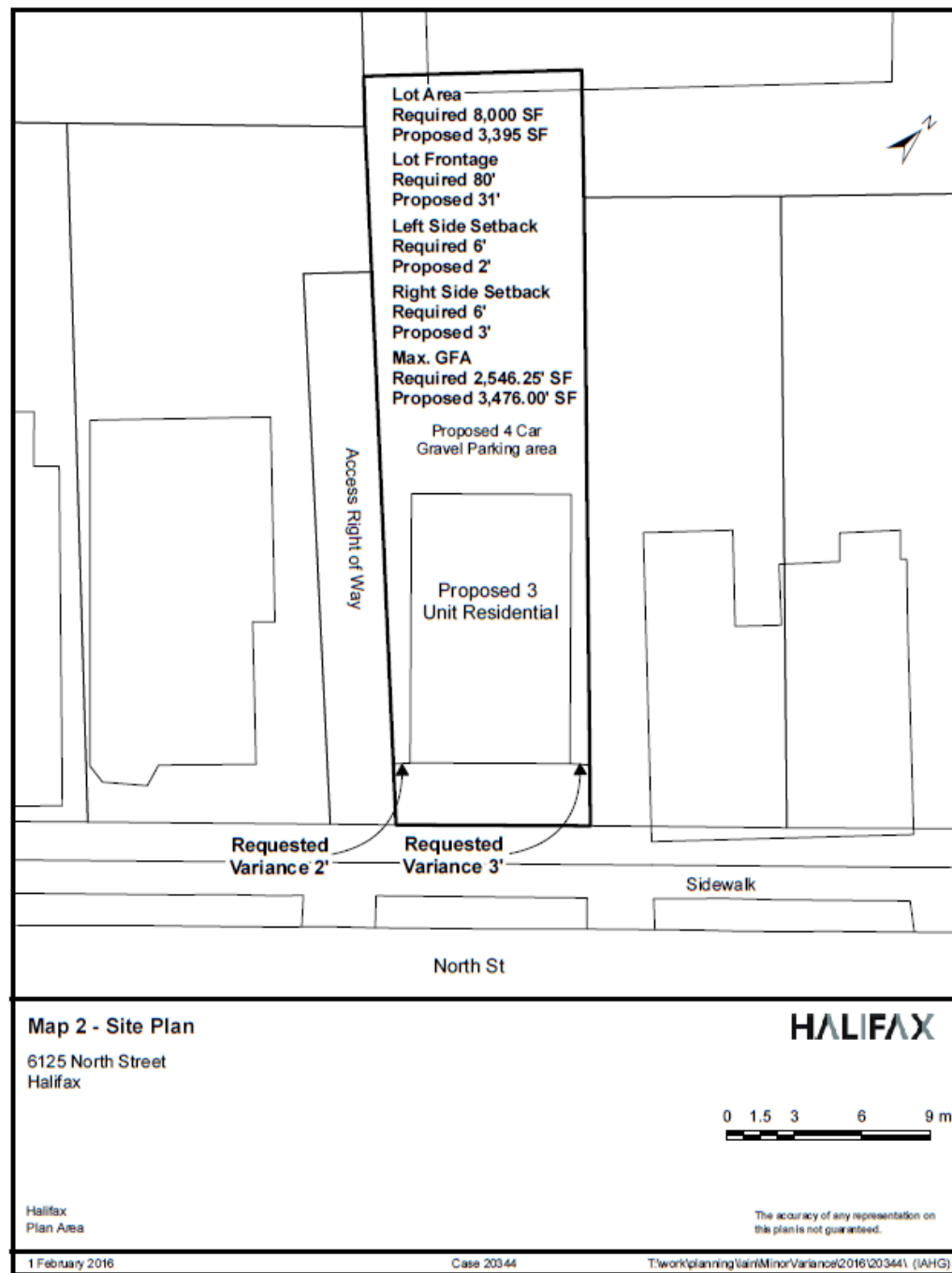
- Variance request is to construct a new three unit dwelling
- The proposed three unit dwelling would not meet the side yard setbacks, minimum lot area, minimum lot frontage, or maximum gross floor area requirements of the Halifax Peninsula Land Use By-law
- The request was denied, and the Development Officer's refusal has been appealed

Request

Variances requested for new three unit dwelling

	Zone Requirement	Variance Requested
Lot area:	8000 sf	3395 sf
Lot frontage:	80 ft	31 ft
Left side yard setback:	6 ft	2 ft
Right side yard setback:	6 ft	3 ft
GFA maximum:	2546.25 sf	3476 sf

Site Plan



Consideration of Proposal

250 (3) A variance may **not** be granted where

- (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 an **intentional disregard** for the requirements of the development agreement or land use by-law.

Discussion

1. Does the proposed variance violate the intent of the Land Use By-law?

In every case for low density residential development, it is clear that the By-law intends to restrict properties with a higher number of dwelling units to lots with comparatively larger areas

- For example, the standard lot area requirements of the R-2 Zone are 4,000 sf for SUDs, 5,000 sf for duplexes, and 8,000 sf for three and four unit dwellings.
- Side yard setbacks are also increased along with unit density, from 4 ft for SUDs, 5 ft for duplex dwellings, and 6 ft for three and four unit dwellings

Discussion

1. Does the proposed variance violate the intent of the Land Use By-law?

- Some exemptions exist in the By-law to allow internal conversions for two units, however there are no such exemptions to permit three units, or to permit the construction of new buildings.
- While the previous single unit dwelling had legal non-conforming status under Section 253 of the *HRM Charter*, the proposed construction of a new three unit dwelling does not satisfy the requirements for the reconstruction of a non-conforming residential structure because it would not be occupied by the same use, would not be substantially the same, and would result in an increase in the non-conformity of the property.
- Based on these requirements, **the variances requested are substantial and represent a significant departure from the intent of the By-law.**

Discussion

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

- The majority of adjacent properties in the R-2 Zone would not be able to meet the zone requirements for a three unit dwelling use. Many of the properties are developed with single unit dwellings. A number of two and three unit dwellings exist in the surrounding neighbourhood, but many are non-conforming structures and would not meet several lot requirements, including setbacks and lot area, if they were proposed as new projects.
- The difficulty experienced on the subject property is general to properties in the area.

Discussion

3. Is the difficulty experienced the result of an intentional disregard for the requirements of the Land Use By-law?

- It is the Development Officer's opinion there was no intentional disregard for the requirements of the land use by-law.

Decision

Whereas the Variance request;

- a) does violate the intent of the land use by-law; and
- b) the difficulty experienced is general to properties in the area

The variance **was not granted**

- An appeal was submitted by the applicant
- Properties with the 30m notification area were notified of the appeal hearing

Appeal

Appellant's Comments

The condition of the building was an impediment to its renovation.

Staff Response

The physical condition of the building is not a factor in considering a variance request. Owners are expected to maintain their properties in good repair and in keeping with community standards.

Appeal

Appellant's Comments

In order to make financial sense, and due to the high costs of construction, it is required that the building be a triplex.

Staff Response

The economic viability of a proposal is not a consideration in assessing a variance request. The requirements of the LUB must be observed and the subject property does not meet standards contained within the R-2 Zone.

Appeal

Appellant's Comments

A triplex would be suitable for the area as there are two others in the immediate area.

Staff Response

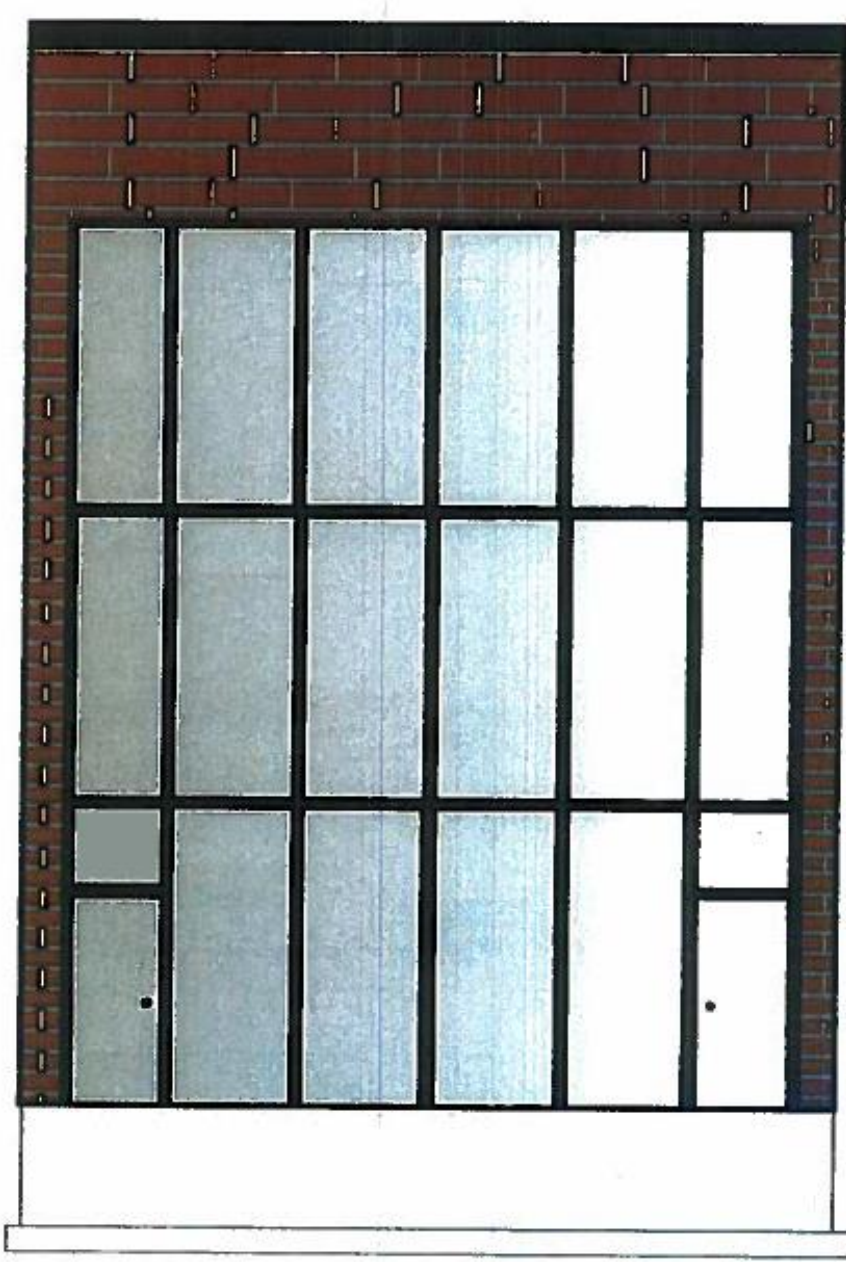
Notwithstanding that other three unit buildings may exist in the area, the LUB requirements are not met for the development of a three unit dwelling on this property.

Alternatives

Council may uphold the Development Officer's decision and refuse the variance.

Or

Council may overturn the decision of the Development Officer and approve the variance.

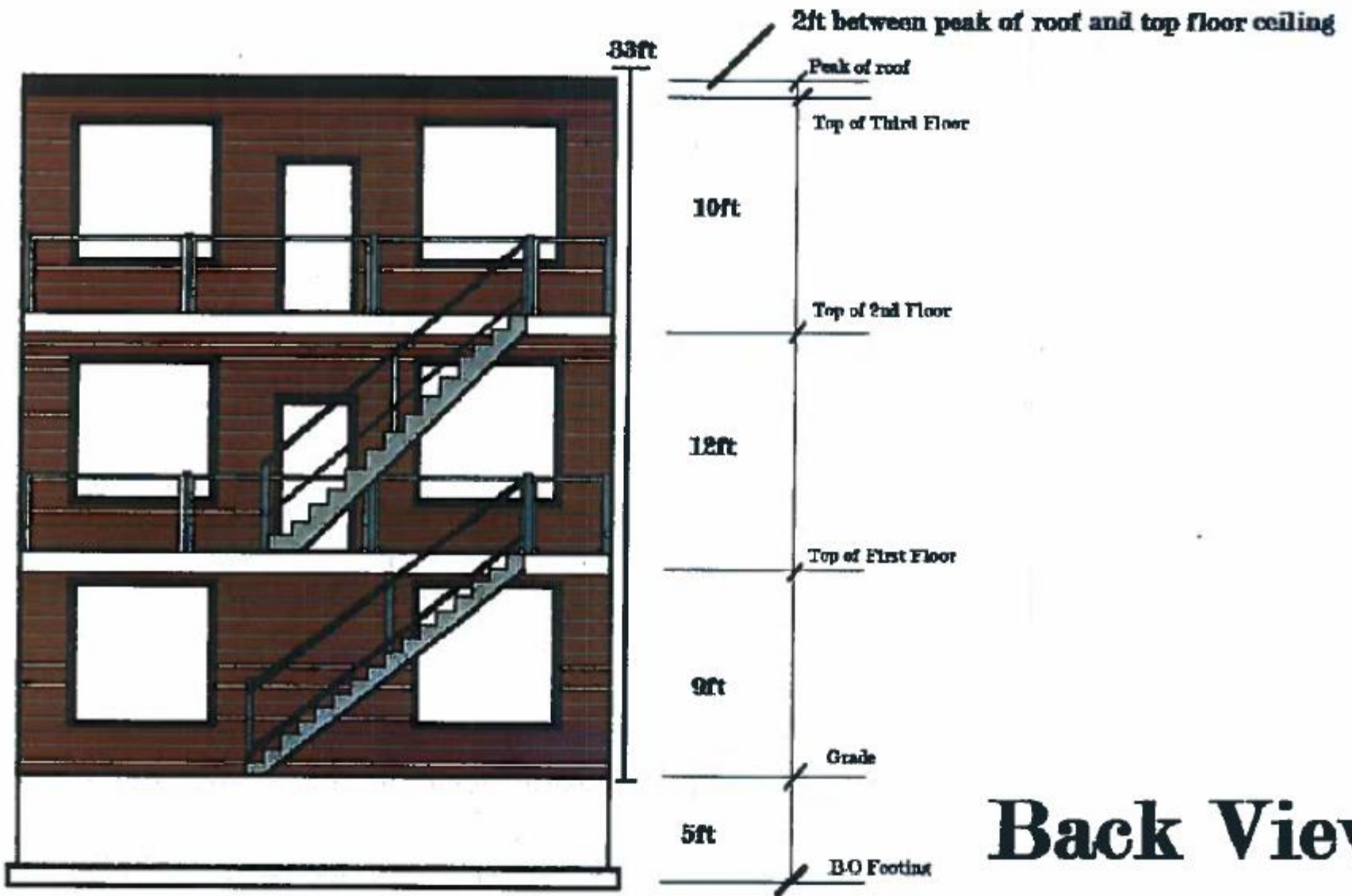


Specs

Materials:

- Siding: Shingles or Stone
- Window/door trim: Black
- Front step: Stone pathway at grade.
- Glass window wall

Front View

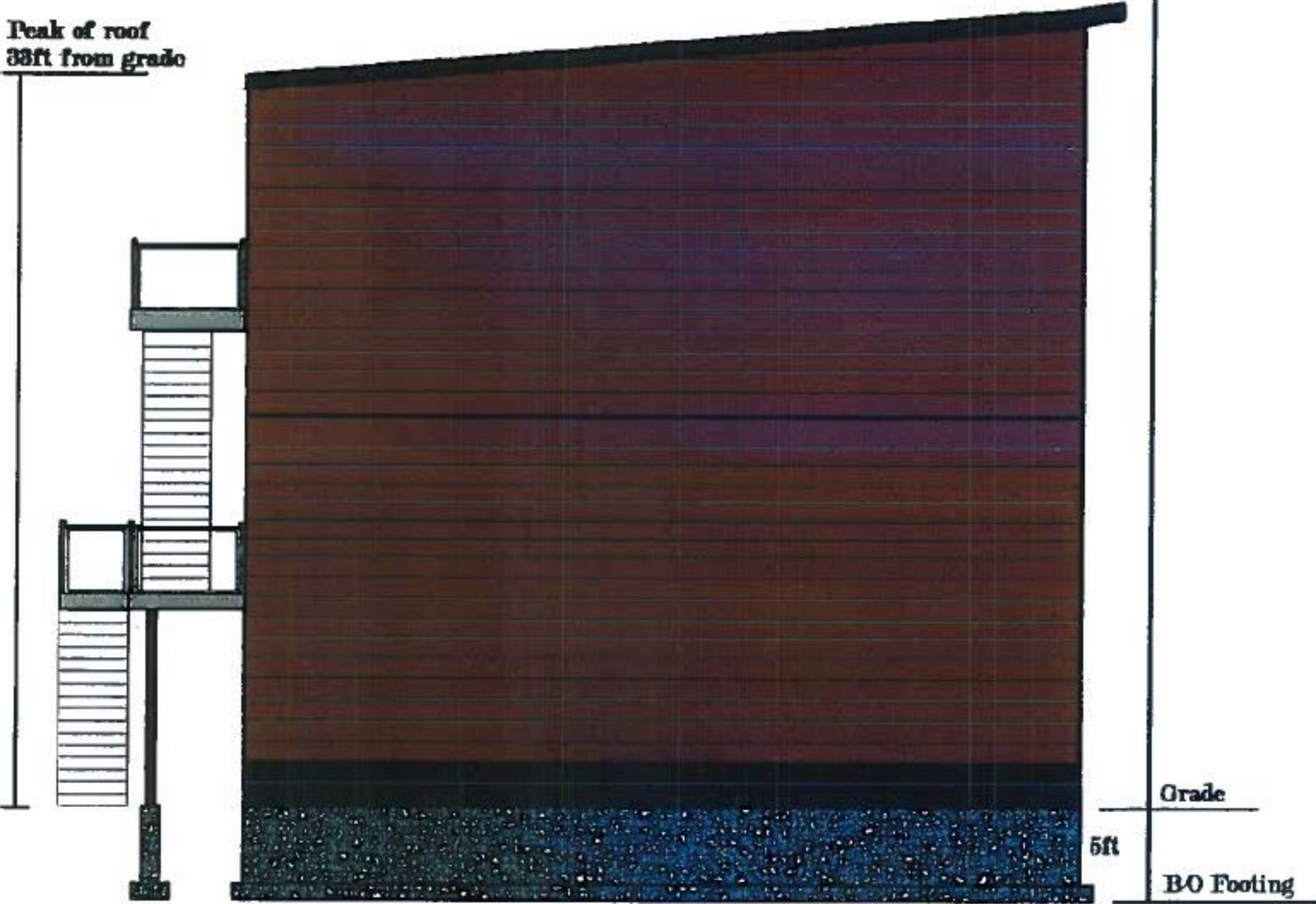


Back View

Side Elevation

**Peak of roof
33ft from grade**

35ft From Grade



Grade

5ft

BO Footing

29ft

24ft

Proposed 4 car gravel
Parking access via
right-of-way

10ft

10ft

10ft

10ft

2ft

5ft

88ft

44ft

6125 North
Street, Halifax
New 3 Unit
Residential

Proposed
Property Layout

2ft 9ft

3ft

Property Line

3ft

111ft

3,395 Sq. Feet Lot