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A.094/12
Ethan Ling

TO:	CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE
FROM:	GEORGE KOTSIFAS P.ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL
SUBJECT:	OMB APPEAL 642 PRINCESS AVENUE MEETING ON JANUARY 22, 2013

RECOMMENDATION

That, on the recommendation of the Managing Director, Development & Compliance Services & Chief Building Official in response to the letter of appeal to the Ontario Municipal Board, dated October 1, 2012, and submitted by Biagio E. Iaboni relating to the minor variance application concerning 642 Princess Avenue:

- a) The Ontario Municipal Board **BE ADVISED** that the Municipal Council supports the recommendation of staff to support the requested variance pursuant to the provisions under Section 45(2) of the Planning Act; and,
- b) the City Solicitor **BE DIRECTED** to represent Council's position in this matter.

BACKGROUND

The Committee of Adjustment circulated the Notice of Application on August 24, 2012 under Section 45.2 of the Planning Act for the following approvals at 642 Princess Avenue:

1. Extend the legal non-conforming east interior side yard 0.5m (1.6.);
2. Extend west interior side yard 1.3m (4.2'); and,
3. Extend front yard 2.1 m (6.8')

The purpose of the application was to construct a second storey addition to an existing single detached dwelling (See Appendix "A"). Planning and Development Services Staff provided comments to the Committee of Adjustment on September 10, 2012. Staff comments are attached to this report as *Appendix "B"*.

On September 10, 2012 the City of London Committee of Adjustment refused the minor variance application by Biagio E. Iaboni, based on, "...the opinion that the variance requested is not minor and is not desirable for the appropriate development of the land and is not in keeping with the general intent and purpose of the By-law and Official Plan." The Committee's Decision is attached as *Appendix "C"*.

On October 1, 2012 Biagio E. Iaboni, (the applicant) submitted an appeal (attached as *Appendix "D"*) to the Ontario Municipal Board, opposing the Committee of Adjustment's decision to refuse the variance. The basis of the appeal, as stated by the appellant, is:

1. *That the Committee of Adjustment hearing was, "...corrupted, unfair... and slanderous".*
2. *That information submitted/discussed, which influenced the Committee's decision, was contradictory to the opinion of City departments'.*

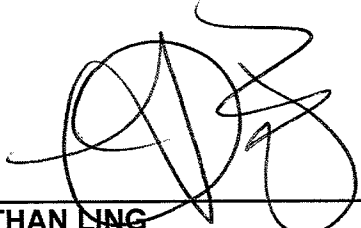



While Planning and Development Services staff supported the requested permission(s) pursuant to the provisions of Section 45(2) of the Planning Act, this position was disputed by a neighbourhood representative who contended that the matter was not minor in nature and not considered under the "tests" described in Section 45(1) of the Planning Act.

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It is recommended that the staff recommendation pursuant to Section 45(2) of the Planning Act be confirmed and that the City Solicitor's office be directed to attend the hearing in support of Council's position.

The hearing date for this appeal has been scheduled for February 6, 2013 (PL121186). Development Services maintains its position on the minor variance application.

PREPARED AND RECOMMENDED BY:	REVIEWED BY:
	
ETHAN LING DEVELOPMENT POLICY COORDINATOR DEVELOPMENT SERVICES	JENNIE RAMSAY P.ENG. MANAGER, DEVELOPMENT SERVICES AND ENGINEERING REVIEW
REVIEWED BY:	SUBMITTED BY:
	
TERRY GRAWEY, MCIP, RPP MANAGER, DEVELOPMENT SERVICES AND PLANNING LIAISON	GEORGE KOSTIFAS P.ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL

EL/el
"Attachments"

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Appendix "A" - Notice of Public Hearing

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August 24, 2012

**LONDON COMMITTEE
OF ADJUSTMENT**

SUBMISSION NO.
A.094/12

NOTICE OF PUBLIC HEARING UNDER SECTION 45 OF THE PLANNING ACT, R.S.O. 1990.

OWNER:
Biagio E. Iaboni
642 Princess Ave
London, ON N5W 3M1

WARD 4

LOCATION:
642 Princess Avenue, Plan 212 Block E Pt Lot 20 RP33R-9092 Parts 4 & 6, on the north side of Princess Avenue, west of Elizabeth Street.

PURPOSE: To construct a second storey addition to a single detached dwelling.

VARIANCE(S) REQUESTED UNDER SECTION 45.2 OF THE PLANNING ACT:

1. Extend the legal non-conforming east interior side yard 0.5m (1.6');
2. Extend west interior side yard 1.3m (4.2'); and,
3. Extend front yard 2.1m (6.8').

OFFICIAL PLAN:
Low Density Residential

ZONING:
By-law No. Z-1
Residential (R3-2)

WHEN & WHERE:

The Applicant and/or Authorized Agent shall attend this Hearing on Monday, September 10, 2012, at 2:10 p.m., Second Floor, City Hall to respond to any inquiries raised by members of the Committee or by the public. As the applicant, if you do not attend or are not represented at this hearing, the Committee may proceed to render a decision in your absence.

For members of the public, if you do not attend or are not represented at this hearing, the Committee may proceed and you will not be entitled to any further notice of the proceedings.

This is a Public Hearing and if you are aware of any person interested or affected by this application, who has not received a copy of this Notice, it would be appreciated if you would so inform them. The Committee is required under the provisions of the Planning Act of Ontario, to give notice of this application to all assessed property owners of land lying within 60 metres (200 feet) of the subject land.

Written comments may be submitted to the Secretary-Treasurer prior to the hearing, and all written material received prior to the hearing will be tabled with the Committee.

Planning and Development Department and Environmental and Engineering Services Department reports will be available at the Planning Division - Committee of Adjustment Office, 206 Dundas Street, London, Ontario one week prior to the public hearing.

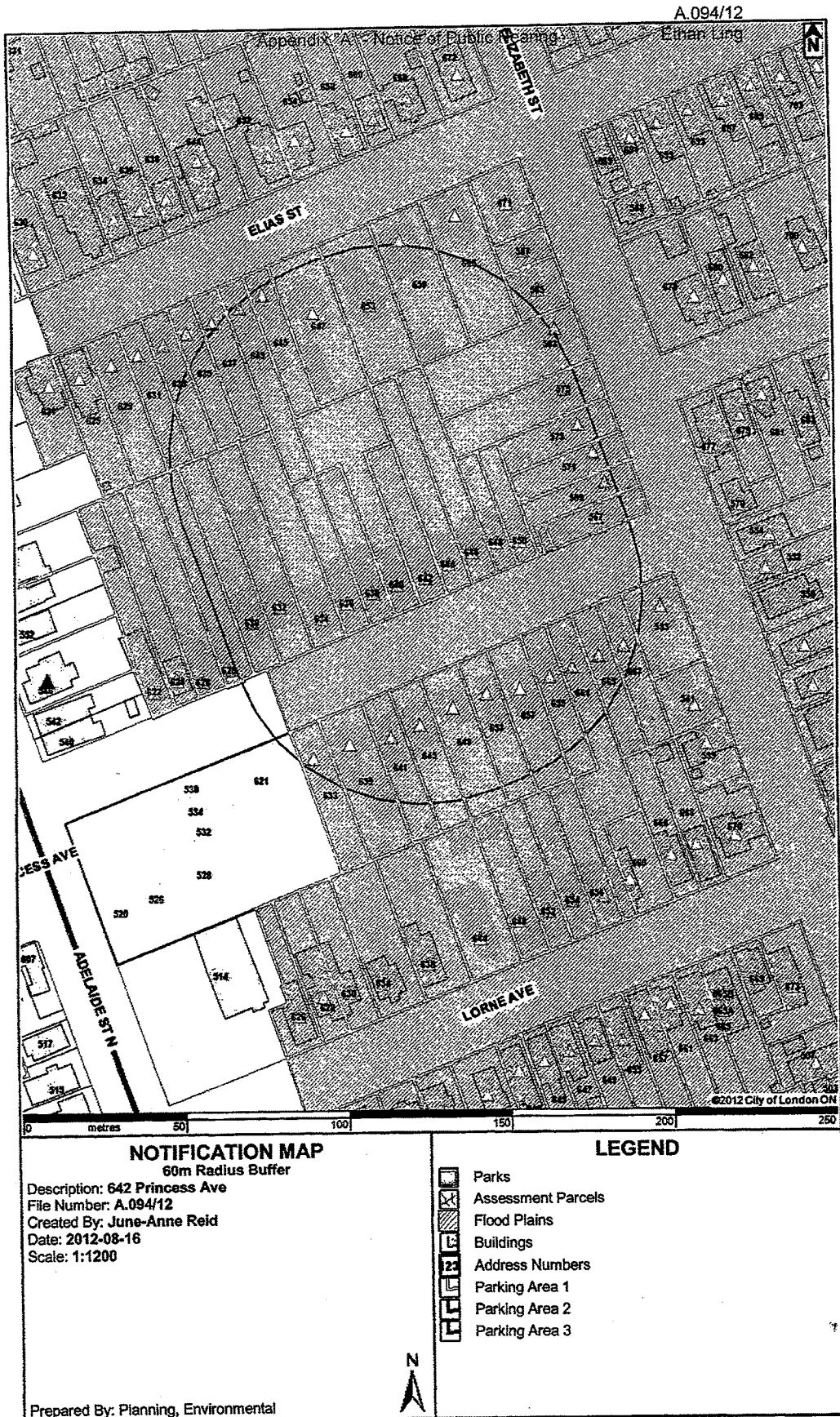
IF YOU WISH TO BE NOTIFIED OF THE DECISION OF THE LONDON COMMITTEE OF ADJUSTMENT IN RESPECT OF THIS APPLICATION, YOU MUST SUBMIT A WRITTEN REQUEST TO THE SECRETARY-TREASURER. This will also entitle you to be advised of a possible Ontario Municipal Board hearing. Even if you are the successful party, you should request a copy of the decision since the London Committee of Adjustment decision may be appealed to the Ontario Municipal Board by the applicant or another member of the public.

Peter Sikic, Secretary-Treasurer
London Committee of Adjustment
/jar

The Corporation of the City of London
Phone: 519-661-2500 ext 4988
Fax: 519-661-5397
psikic@london.ca
www.london.ca

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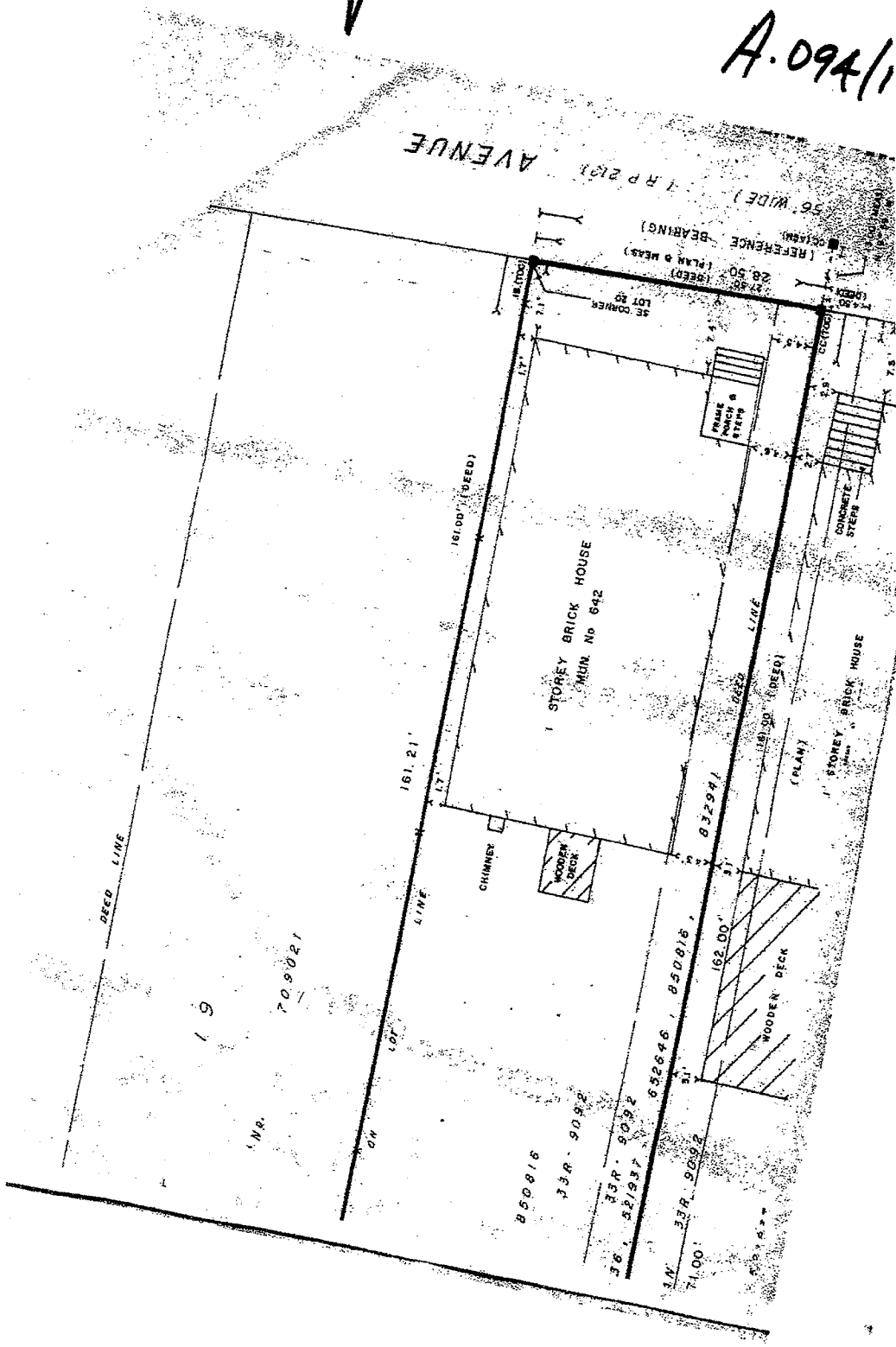
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Appendix A - Notice of Public Hearing

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Appendix "B" (Staff Comments)

FROM:	DEPARTMENT OF PLANNING AND DEVELOPMENT
SUBJECT:	APPLICATION BY: BIAGIO E. IABONI 642 PRINCESS AVE PUBLIC PARTICIPATION MEETING ON SEPTEMBER 10, 2012 @ 2:10 PM

APPLICATION(S) UNDER SECTION 45(2)(a)(i) OF THE PLANNING ACT

1. To maintain an existing east interior side yard setback of 0.5m (1.6ft)
2. To maintain an existing west interior side yard setback of 1.3m (4.2ft)
3. To maintain an existing front yard setback of 2.1m (6.8ft)

PURPOSE OF REQUEST:

To construct a second storey addition to an existing single detached dwelling by enlarging exterior walls above the first floor.



EVALUATION

The second floor addition has the effect of maintaining the existing interior side and front yard setbacks – the application does not represent a “horizontal” expansion of the dwelling, but a vertical expansion. Committee may permit expansion of a non-complying use as per Section

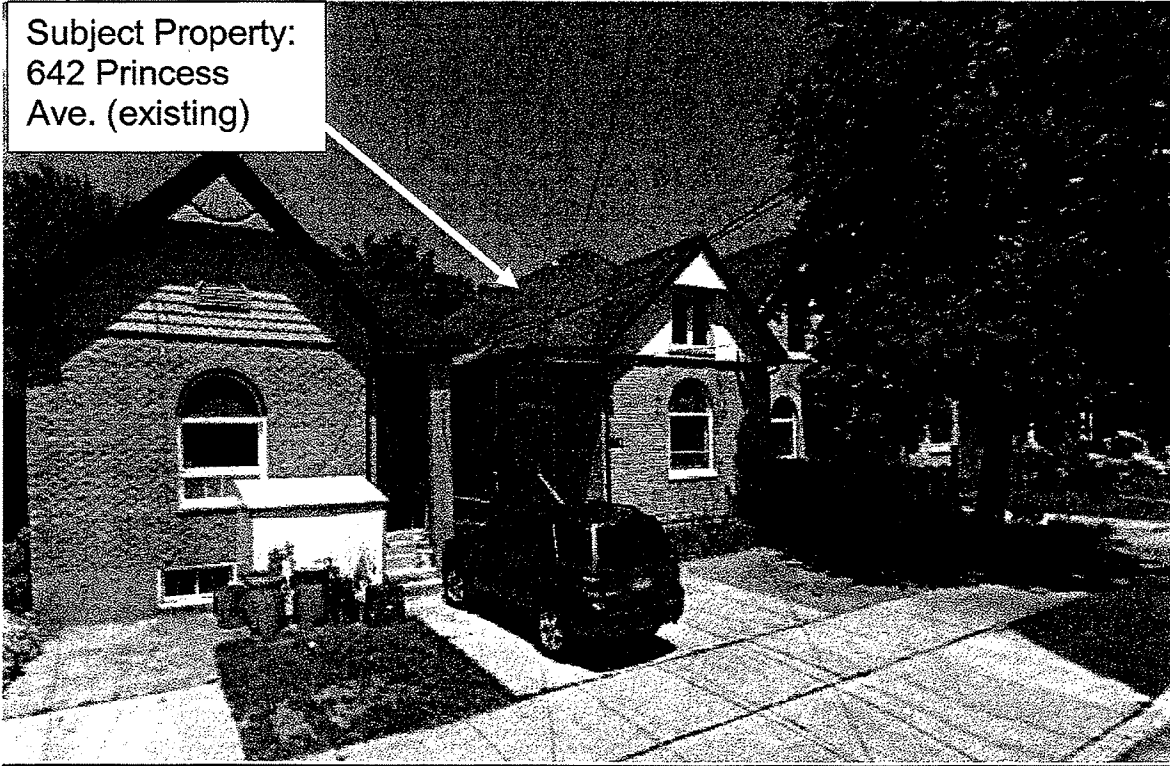
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45.2 (a)(i) of the Planning Act where the use has continued since before the date of passing of the by-law until the date of the application to the committee.

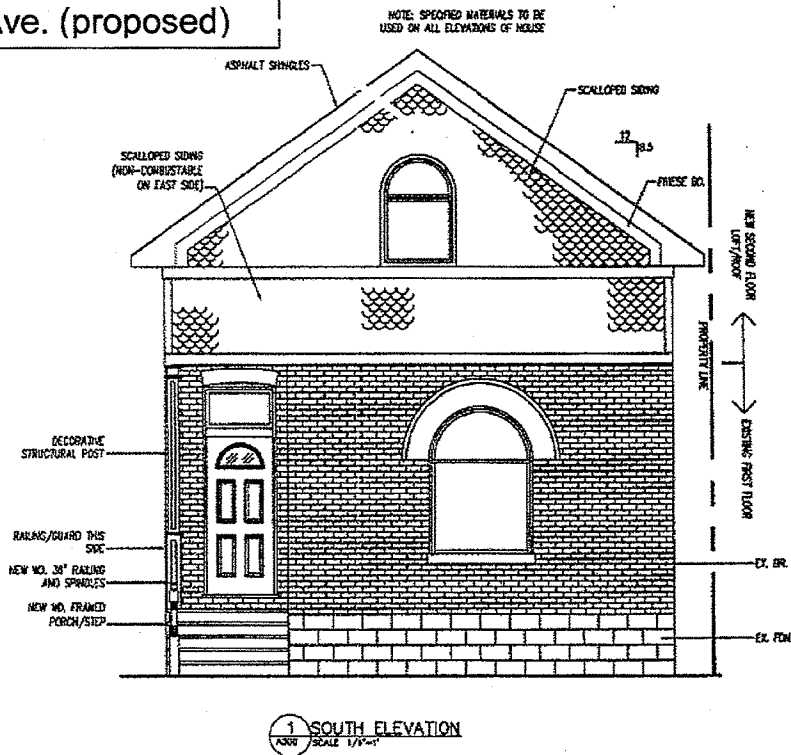
Subject Property:
642 Princess
Ave. (existing)



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Subject Property:
642 Princess
Ave. (proposed)



<small> INFORMATION MUST CHECK AND VERIFY ALL DIMENSIONS AND REPORT ANY DISCREPANCY TO THE FIRM BEFORE PROCEEDING WITH THE WORK. THIS DRAWING IS NOT TO BE USED FOR CONSTRUCTION PURPOSES. USE IT TO BE COPIED OR REPRODUCED BY ANYONE OR IN ANY MANNER TO ANY OTHER PARTY WITHOUT THE WRITTEN CONSENT OF RYLETT ENGINEERING ARCHITECTURAL. RYLETT ENGINEERING ARCHITECTURAL 15 KENNEDY CTR. ST. CATHARINES, ONTARIO, CANADA L7M 1G5 TEL: 905.709.2200 FAX: 905.709.2201 WWW.RYLETTENGINEERING.COM </small>	RYLETT ENGINEERING <small>ARCHITECTURAL</small>	ARCHITECTURAL ELEVATION 642 PRINCESS AVE. LONDON, ON.	SOUTH ELEVATION
			<small>DATE: 09/04/2012 BY: AS00</small> <small>CHECKED: 09/04/2012 BY: AS00</small> <small>SCALE: 1/4\"</small>

Elevation plan provided September 4, 2012 @ 4:30pm

Official Plan

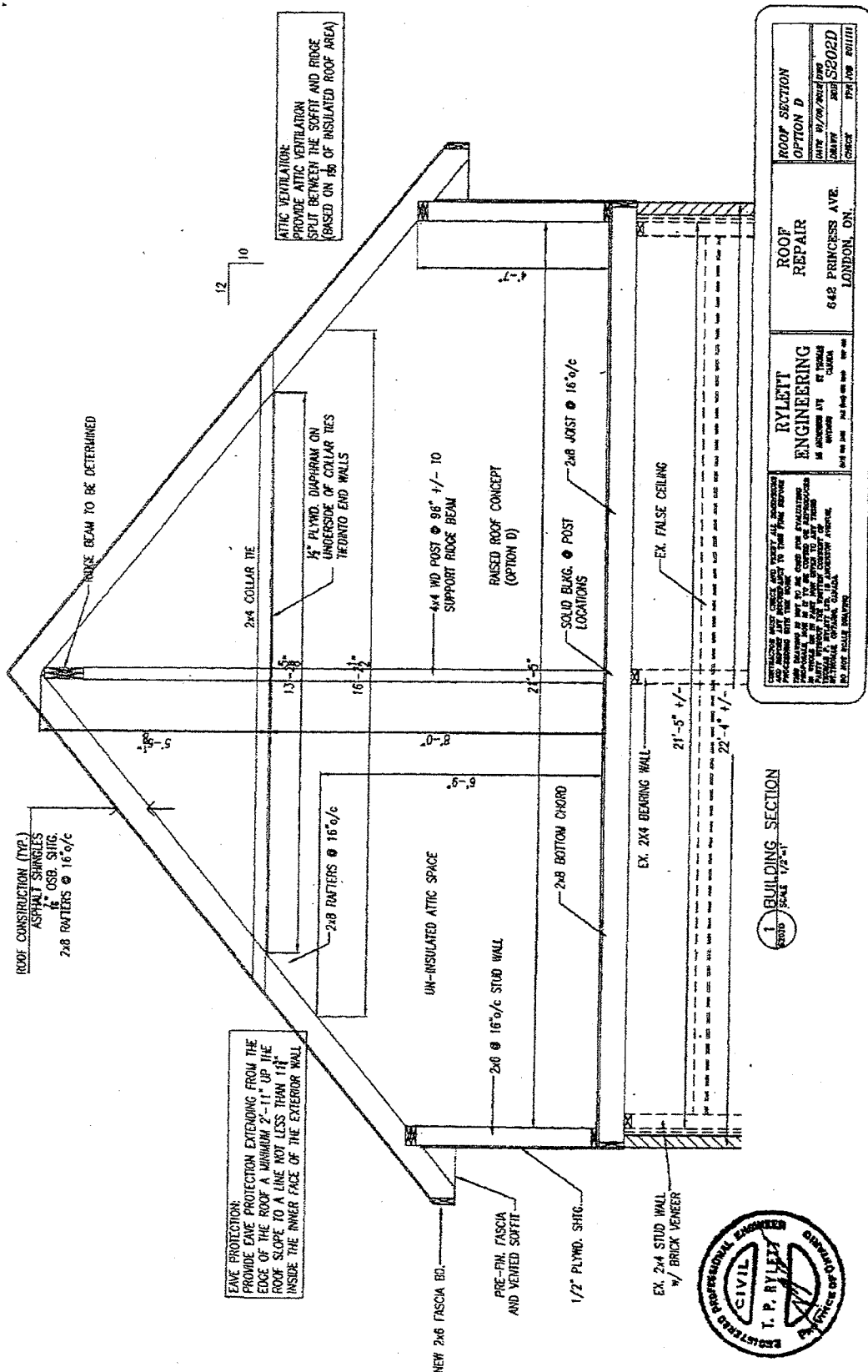
The Official Plan designation is Low Density Residential the Official Plan permits single detached dwellings. The Low Density Residential designation is applied to lands that are primarily developed or planned for low-rise, low density housing forms including detached, semi-detached, and duplex dwellings. Policies in this Plan promote development which shall enhance the character of the residential area. Where expansion of an existing dwelling may not detract from the character of the average residential area, this neighbourhood is designated under the Ontario Heritage Act and therefore alterations to the exterior of buildings within the borough must be considered under the policies of the Old East Heritage Conservation District.

Zoning

The zone is Residential R3-2 which permits single detached, semi detached, triplex, fourplex and converted dwellings which under certain conditions may permit up to four units per lot. The home is currently being used as a single unit detached dwelling, however the enlargement is being undertaken to increase ceiling heights in the "attic" and to permit easier access to that space in the future.

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Plans demonstrating the proposed expansion from the interior – 642 Princess Ave.

In the opinion of Planning Division the requested application will not create significant impacts on the immediately adjacent properties. The application is minor in nature, does not represent an inappropriate development or use of the land, building or structure and is a matter of local consideration. Planning and Development recommend the application be approved with the following conditions:

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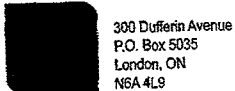
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- 1) The applicant satisfies the London Advisory Committee on Heritage (LACH) with regard to their consideration pertaining to the Old East Heritage Conservation District Conservation and Design Guidelines; and
- 2) That final building permit elevations are signed off by the Heritage Planner prior to building permit issuance to ensure that the construction satisfies the Council Resolution following from the LACH report cited in 1) above.

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Appendix "C" - Notice of Decision



300 Dufferin Avenue
P.O. Box 5035
London, ON
N6A 4L9

London
CANADA

NOTICE OF DECISION
LONDON COMMITTEE OF ADJUSTMENT SUBMISSION NO. A.094/12

September 10, 2012

OWNER:

Biagio E. Iaboni
642 Princess Ave
London, ON N5W 3M1

WARD 4

LOCATION:

642 Princess Avenue, Plan 212 Block E Pt Lot 20 RP33R-9092 Parts 4 & 6, on the north side of Princess Avenue, west of Elizabeth Street.

At its meeting on September 10, 2012 the London Committee of Adjustment **REFUSED** the requested Minor Variance to Zoning By-law Z-1:

PURPOSE: To construct a second storey addition to a single detached dwelling.

VARIANCE(S) REQUESTED UNDER SECTION 45.2 OF THE PLANNING ACT:

1. Extend the legal non-conforming east interior side yard 0.5m (1.6);
2. Extend west interior side yard 1.3m (4.2); and,
3. Extend front yard 2.1m (6.8').

REASON: In all the circumstances, the Committee is of the opinion that the variance requested is not minor and is not desirable for the appropriate development of the land and is not in keeping with the general intent and purpose of the By-law and Official Plan.

APPEAL PERIOD

This refusal is not final until the expiration of a statutory appeal period of twenty (20) days from the decision date or until 4:30 p.m. on October 1, 2012, during which appeal period any objector may file with the Secretary-Treasurer an appeal against this decision of the London Committee of Adjustment.

Any appeal must set out the reasons for the appeal and must be accompanied by the \$125.00 fee prescribed by the Ontario Municipal Board Act in the form of a *certified cheque or money order* made payable to the Minister of Finance and *must* be accompanied by an *Appellant Form (A1)* found on omb.gov.on.ca or from the Office of the Secretary Treasurer of the Committee of Adjustment. A copy of the regulations governing appeals is enclosed. If you have any questions regarding the OMB process, please contact the OMB Citizen Liaison Office at (416) 326-8800 or toll free 1-866-887-8820, or in person at 655 Bay Street, Suite 1500, Toronto.

Note: The Planning Act provides for appeals to be filed by "persons". As groups or associations, such as residents or ratepayers groups which do not have incorporated status, may not be considered "persons" for purposes of the Act, groups wishing to appeal this decision should do so in the name or names of individual group members, and not in the name of the group.

Peter Sikic, Secretary -Treasurer
London Committee of Adjustment

/asm

The Corporation of the City of London
Phone: 519-661-2500 ext 4980
Fax: 519-661-5184
psikic@london.on.ca
www.london.ca

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**APPEALS TO THE ONTARIO MUNICIPAL BOARD - FINANCE
SECTION 45 - PLANNING ACT, 1990**

The following extracts from section 45 of the Planning Act outline the appeal process for appealing variance decisions made by the Committee of Adjustment.

Appeal to O.M.B.

45 (12) The applicant, the Minister or any other person or public body who has an interest in the matter may within 20 days of the making of the decision appeal to the Municipal Board against the decision of the committee by filing with the secretary-treasurer of the committee a notice of appeal setting out the objection to the decision and the reasons in support of the objection accompanied by payment to the secretary-treasurer of the fee prescribed by the Municipal Board under the Ontario Municipal Board Act as payable on an appeal from a committee of adjustment to the Board. 1994, c. 23, s. 26 (2).

Note: The fee for an appeal is \$125.00 and \$25.00 for a related appeal and should be in the form of a certified cheque or money order made payable to the Minister of Finance of Ontario.

45 (13) The secretary-treasurer of a committee, upon receipt of a notice of appeal filed under subsection (12), shall forthwith forward the notice of appeal and the amount of the fee mentioned in subsection (12) to the Municipal Board by registered mail together with all papers and documents filed with the committee of adjustment relating to the matter appealed from and such other documents and papers as may be required by the Board. R.S.O. 1990, c. P.13, s. 45 (13).

Exception

45 (13.1) Despite subsection (13), if all appeals under subsection (12) are withdrawn within 15 days after the last day for filing a notice of appeal, the secretary-treasurer is not required to forward the materials described under subsection (13) to the Municipal Board. 1999, c. 12, Sched. M, s. 28.

Decision final

45 (13.2) If all appeals under subsection (12) are withdrawn within 15 days after the last day for filing a notice of appeal, the decision of the committee is final and binding and the secretary-treasurer of the committee shall notify the applicant and file a certified copy of the decision with the clerk of the municipality. 1999, c. 12, Sched. M, s. 28.

45 (14) If within such 20 days no notice of appeal is given, the decision of the committee is final and binding, and the secretary-treasurer shall notify the applicant and shall file a certified copy of the decision with the clerk of the municipality. R.S.O. 1990, c. P.13, s. 45 (14); 1994, c. 23, s. 26 (3).

45 (15) Where all appeals to the Municipal Board are withdrawn, the decision of the committee is final and binding and the secretary of the Board shall notify the secretary-treasurer of the committee who in turn shall notify the applicant and file a certified copy of the decision with the clerk of the municipality. R.S.O. 1990, c. P.13, s. 45 (15); 1994, c. 23, s. 26 (4).

45 Hearing

45 (16) On an appeal to the Municipal Board, the Board shall, except as provided in subsections (15) and (17), hold a hearing of which notice shall be given to the applicant, the appellant, the secretary-treasurer of the committee and to such other persons or public bodies and in such manner as the Board may determine. R.S.O. 1990, c. P.13, s. 45 (16); 1994, c. 23, s. 26 (5).

Dismissal without hearing

45 (17) Despite the Statutory Powers Procedure Act and subsection (16), the Municipal Board may dismiss all or part of an appeal without holding a hearing, on its own motion or on the motion of any party if,

- (a) it is of the opinion that,
 - (i) the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the Board could allow all or part of the appeal,
 - (ii) the appeal is not made in good faith or is frivolous or vexatious, or
 - (iii) the appeal is made only for the purpose of delay;
- (b) the appellant has not provided written reasons for the appeal;
- (c) the appellant has not paid the fee prescribed under the Ontario Municipal Board Act; or
- (d) the appellant has not responded to a request by the Municipal Board for further information within the time specified by the Board. 1994, c. 23, s. 26 (6).

Representation

45 (17.1) Before dismissing all or part of an appeal, the Municipal Board shall notify the appellant and give the appellant the opportunity to make representation on the proposed dismissal but this subsection does not apply if the appellant has not complied with a request made under clause (17) (d). 2000, c. 26, Sched. K, s. 5 (3).

Dismissal

45 (17.2) The Municipal Board may dismiss all or part of an appeal after holding a hearing or without holding a hearing on the motion under subsection (17), as it considers appropriate. 2000, c. 26, Sched. K, s. 5 (3).

Powers of O.M.B.

45 (18) The Municipal Board may dismiss the appeal and may make any decision that the committee could have made on the original application. R.S.O. 1990, c. P.13, s. 45 (18).

Amended application

45 (18.1) On an appeal, the Municipal Board may make a decision on an application which has been amended from the original application if, before issuing its order, written notice is given to the persons and public bodies who received notice of the original application under subsection (5) and to other persons and agencies prescribed under that subsection. 1993, c. 26, s. 56; 1994, c. 23, s. 26 (7).

Exception

45 (18.1.1) The Municipal Board is not required to give notice under subsection (18.1) if, in its opinion, the amendment to the original application is minor. 1996, c. 4, s. 25 (1).

Notice of intent

45 (18.2) Any person or public body who receives notice under subsection (18.1) may, not later than thirty days after the day that written notice was given, notify the Board of an intention to appear at the hearing or the resumption of the hearing, as the case may be. 1993, c. 26, s. 56; 1994, c. 23, s. 26 (8).

Order

45 (18.3) If, after the expiry of the time period in subsection (18.2), no notice of intent has been received, the Board may issue its order. 1993, c. 26, s. 56.

Hearing

45 (18.4) If a notice of intent is received, the Board may hold a hearing or resume the hearing on the amended application or it may issue its order without holding a hearing or resuming the hearing. 1996, c. 4, s. 25 (2).

Notice of decision

45 (19) When the Municipal Board makes an order on an appeal, the secretary of the Board shall send a copy thereof to the applicant, the appellant and the secretary-treasurer of the committee. R.S.O. 1990, c. P.13, s. 45 (19).

Idem

45 (20) The secretary-treasurer shall file a copy of the order of the Municipal Board with the clerk of the municipality. R.S.O. 1990, c. P.13, s. 45 (20).

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Appendix "D" - OMB Appeal



300 Dufferin Avenue
P.O. Box 5035
London, ON
N6A 4L9

London
CANADA

October 16, 2012

Ontario Municipal Board
655 Bay St, Suite 1500
TORONTO ON M5G 1E5

RE: VARIANCE APPEAL BY: Biagio E. Iaboni
SUBMISSIONS NO.: A.094/12
LOCATION: 642 Princess Avenue
LEGAL DESCRIPTION: BLK E PT LOT 20 PLAN 212, PARTS 4 & 6 RP 33R-9092

Last date for filing Notice of Appeal - October 1, 2012

Date Notice of Appeal delivered by hand - October 1, 2012

I hereby certify that the requirements of subsection 45(10) of the Planning Act have been complied with.

Peter M. Sikic
Secretary-Treasurer
London Committee of Adjustment

/asm

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Appendix "D" - OMB Appeal



Environment and Land Tribunals Ontario
Ontario Municipal Board
655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
TEL: (416) 212-6348 or Toll Free: 1-866-448-2248
FAX: (416) 328-5370
www.eltb.gov.on.ca

MUNICIPAL SUBMISSION FORM (R3)
PLANNING ACT
MINOR VARIANCE

Reference Number (OMB Office Use Only):

Material and information is to be forwarded to the Ontario Municipal Board by the Secretary-Treasurer under the following subsection of the Planning Act, R.S.O. 1990, c. P. 13, as amended: Please print clearly throughout the submission form.

Part 1: Appeal Type

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input checked="" type="checkbox"/> Appeal against a decision of the Committee of Adjustment to approve or refuse the application	45(12)

Municipality: City of London Municipal File Number: A-094/12
Upper Tier: _____

Part 2: Municipal Contact Information

First Name: Peter Last Name: Sikic
Professional Title: Minor Variance Co-ordinator
E-mail Address: psikic@london.ca
By providing an e-mail address you agree to receive communications from the OMB by e-mail.
Telephone #: 519 661-2500 ext. 4988 Fax #: 519 661-2332
Mailing Address: 300 Dufferin Ave. P.O. 5035 London
Street Address City/Town
ON N6A 4L9
Province Postal Code

Part 3: Location Information

Address and/or Legal Description of property subject to the appeal:

Part 4: Related Matters

- (a) Is this variance appeal connected with a consent application? YES NO
If yes, has a decision on the consent application been appealed to the Board? YES NO
Consent submission: B- _____ O.M.B. File No.: _____
If the decision on the consent application has not been appealed to the Board, please enter the date on which the consent approval lapses: _____
- (b) Other matters at municipality or Board or required to be filed?: N/A

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Appendix "D" - OMB Appeal

Part 5: Minor Variance Information

1. Variance from Zoning By-law Number: Z-1

2. Does the by-law seeking to be varied have conditions? YES NO

3. DATE APPLICATION SUBMITTED TO MUNICIPALITY: July 27, 2012

4. Give a brief outline of the purpose of the minor variance and the nature of the issues raised in the appeal(s):

See attached.

Part 6: Scheduling Information

How many days do you estimate are needed for hearing this appeal? 1/2 Number of days

How many witnesses do you expect to have at the hearing? 1 Number of witnesses

Describe witness(es)' area of expertise. Planner

Do you believe this matter would benefit from mediation? YES NO

If yes, do you believe all parties would consent to participating in mediation? YES NO
(Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference? YES NO
(Prehearing conferences are generally not scheduled for variances or consents)

If yes, why? _____

Part 7: Municipal Representative Information (Legal or Planning) *Person attending OMB hearing

First Name: Lou Last Name: Pompili

Company Name: City of London

Professional Title: Manager, Zoning & Public Property Compliance

E-mail Address: L.Pompili@London.ca
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 519 661-2500 ext 4998 Alternate Telephone #: _____

Fax #: 519 661-2372

Mailing Address: 300 Dufferin Ave. P.O. Box 503 London
Street Address Apt/Suite/Unit# City/Town

ON USA AL9
Province Country (if not Canada) Postal Code

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Appendix "D" - OMB Appeal

Part 8: Required Documentation (Please check boxes to indicate document included in filing)

I confirm that I have attached the following items to this form.

Signature of Secretary-Treasurer: *Ethan Ling*

Date: October 16, 2012

The following material **must** be attached to this form where applicable, in the order which it is listed:

- Original or true copy of each notice of appeal received and reasons for appeal with indication of the date on which each notice was filed. Attach a typed list of the names, addresses and telephone numbers of all appellants.
- Board fee paid by each appellant made payable to the Minister of Finance. The appeal will not be processed without this fee being paid by each appellant. Ensure that cheque/fee payment is affixed to each appeal.
- Original or certified copy of the application for Minor Variance.
- Decision of the Committee of Adjustment with reasons and the date the decision was made.
- Last date for filing notice of appeal to Secretary-Treasurer.
- Authorization, if application made by other than the owner.
- Minutes of Committee of Adjustment hearing (in written/printed format).
- Name and addresses of all legal counsel and all persons, officials and agencies who were sent a copy of the Committee's decision and of those who requested to receive notice from the Board.
- All plans and sketches considered by the Committee.
- A copy of any planning report considered by the Committee, if applicable.
- Original or a copy of all written submissions and comments received by the Committee from any persons, officials and agencies.
- Sworn declaration by the Secretary-Treasurer of compliance with the requirements for giving notice of the Committee's decision under subsection 45(10) of the *Planning Act*.
- Copy of relevant extracts from the Official Plan.
- Copy of relevant extracts from the Zoning By-law.

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Appendix "D" - OMB Appeal

**Environment and Land Tribunals
Ontario**
Ontario Municipal Board

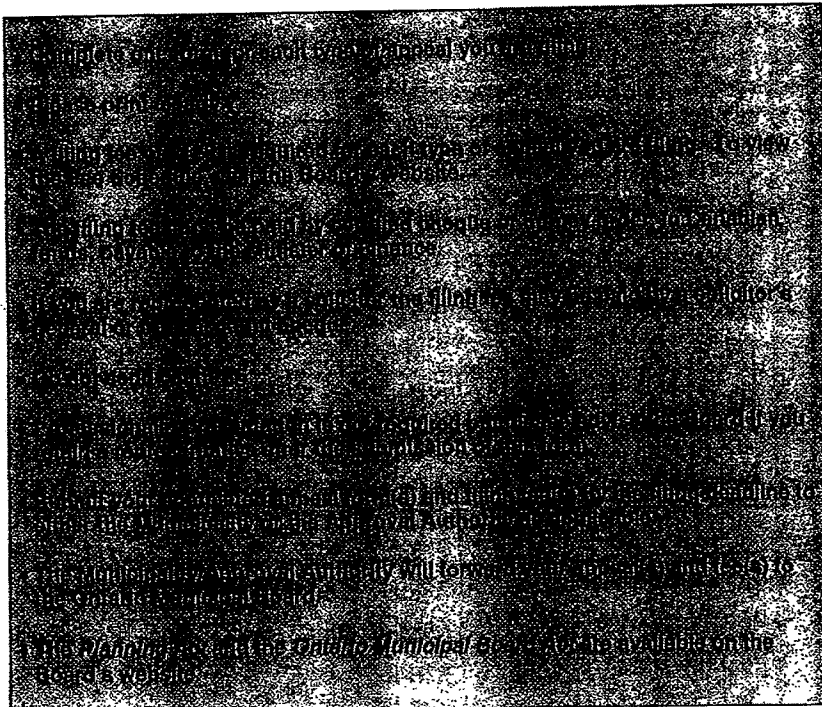
655 Bay Street, Suite 1500
Toronto ON M5G 1E5
Telephone: (416) 212-6349
Toll Free: 1-866-448-2248
Fax: (416) 326-5370
Website: www.eltio.gov.on.ca

**Tribunaux de l'environnement et de
l'aménagement du territoire Ontario**
Commission des affaires municipales
de l'Ontario

655 rue Bay, suite 1500
Toronto ON M5G 1E5
Téléphone: (416) 212-6349
Sans Frais: 1-866-448-2248
Télécopieur: (416) 326-5370
Site Web: www.eltio.gov.on.ca



Instructions for preparing and submitting the Appellant Form (A1)



RECEIVED
OCT 01 2012
BUILDING DIVISION

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A.094/12
Ethan Ling

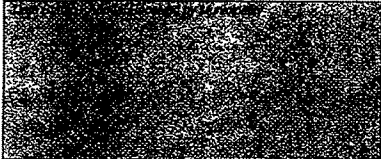
Appendix "D" - OMB Appeal



Environment and Land Tribunals Ontario
Ontario Municipal Board
655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
TEL: (416) 212-6349 or Toll Free: 1-866-448-2248
FAX: (416) 326-6370
www.eltb.gov.on.ca

APPELLANT FORM (A1)
PLANNING ACT

SUBMIT COMPLETED FORM
TO MUNICIPALITY/APPROVAL AUTHORITY



Part 1: Appeal Type (Please check only one box)

Minor Variance	<input checked="" type="checkbox"/> Appeal a decision	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

Part 2: Location Information

Address and/or Legal Description of property subject to the appeal: **642 Princess Avenue, London, ON.**

Municipality/Upper tier: _____

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Part 3: Appellant Information

First Name: Biagio E. Last Name: Iaboni

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____

E-mail Address: _____
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone: _____ Alternate Telephone #: _____

Fax #: _____

Mailing Address: 642 Princess Avenue London
Street Address Apt/Suite/Unit# City/Town

Ontario N5W 3M1
Province Country (if not Canada) Postal Code

Signature of Appellant: Biagio E. Iaboni Date: Oct 1, 2012
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: _____ Last Name: _____

Company Name: _____

Professional Title: _____

E-mail Address: _____
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

Mailing Address: _____
Street Address Apt/Suite/Unit# City/Town

Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

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Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print) **Appealing Variance Municipal File Number: A-94-12 decision.**

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print) **I am appealing because the September 10, 2012 meeting was allowed to be conducted with comments in a corrupted, unfair, lengthy, and slanderous manner with items not related to the variance application so as to taint the Committee and their would-be decision thereby resulting in an appalling process. I had been informed that a variance approval was a requirement prior to review of the engineered plans I had Rylett Engineering prepare for my second storey addition. As there were no objections by City of London departments and none from related agencies either, there were no foreseeable items that I had to follow up with for the meeting. Planning Department had evaluated the Zoning Bylaw and Official plan and had made their recommendation for approving this application with two conditions which are in the process of being met along with the variance approval leading to a building permit. In preparation of my front building elevation plan that I included proposed renewed items that will facilitate features and construction to promote Heritage Committee approvals. In the preparation and progression of that plan I met with the City of London's Heritage Planner and the also the Manager of Urban Design to incorporate suggestions in the design to make even more well suited and appropriate land use desirable decisions for the proposed works. The written reason from the Committee's decision "In all circumstances, the Committee is of the opinion that the variance requested is not minor and is not desirable for the appropriate development of the land and is not in keeping with the general intent and purpose of the By-law and Official Plan" besides being vague and un-clarified, is entirely contradictory to the City Planning department's recommendations for approval, contrary to what the engineering front Elevation plan shows and outlines for new work, and disregards the plan's comparison to the existing views of neighbouring homes that would show that it to be even more well suited to the Heritage character of the homes.**

Undue delays before the meeting for the application could be heard and with this application being outright denied and not postponed until another meeting date, precluded any fair chances of gaining a variance approval for 2012 and aiming to start work a short time after as I had originally hoped and envisioned.

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Part 9: Other Applicable Information **Attach a separate page if more space is required.

Part 10: Required Fee

Total Fee Submitted: \$ 125.00

Payment Method: Certified cheque Money Order Solicitor's general or trust account cheque

- The payment must be in Canadian funds, payable to the Minister of Finance.
- Do not send cash.
- PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.