



P.O. Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Item No. 12.1.1**  
**Halifax Regional Council**  
**April 28, 2026**

**TO:** Mayor and Members of Regional Council  
**FROM:** Brad Anguish, Acting Chief Administrative Officer  
**DATE:** April 16, 2026  
**SUBJECT:** **Case VAR-2025-01872: Appeal of Variance Approval – 41 Cowie Hill Road, Halifax**

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### **ORIGIN**

Appeal of the Development Officer's decision to approve a variance.

### **EXECUTIVE SUMMARY**

This report recommends that Regional Council deny the appeal of the Development Officer's approval of a variance to reduce the minimum rear yard setback for the existing multi-unit dwelling at 41 Cowie Hill Road from 8 metres to 7 metres. The purpose of the variance request is to facilitate a future subdivision to accommodate development of a new multi-unit dwelling on the resulting lot. No application for subdivision or development of the proposed lot has been submitted. Staff recommend that Regional Council deny the appeal, which would uphold the Development Officer's approval of the variance.

### **RECOMMENDATION**

In accordance with Administrative Order One, the following motion shall be placed on the floor:

**That the appeal be allowed.**

Regional Council approval of the appeal will result in refusal of the variance.

Regional Council denial of the appeal will result in approval of the variance.

Staff recommend that Regional Council deny the appeal.

### **BACKGROUND**

A variance request has been submitted to reduce the minimum required rear yard setback from a proposed property line for a new lot, from the existing multi-unit dwelling located at 41 Cowie Hill Road in Halifax (Maps 1 and 2). The purpose of the reduction in the minimum required rear yard setback is to accommodate a subdivision for a future multi-unit building on a new lot. The setback reduction will provide additional area for future development on the proposed lot, and for that proposed development to meet all requirements,

including setbacks, of the Suburban Housing Accelerator Land Use By-Law (SHA LUB). Subdivision is required, as only one main building is permitted on a lot within the SHA LUB.

This variance appeal is being considered at Regional Council instead of Halifax and West Community Council in accordance with Section 3C of Administrative Order 48, Respecting the Creation of Community Council (AO). The AO allows Halifax and West Community Council to hear appeals of the granting or refusal of a variance, except for properties within the Suburban Housing Accelerator plan area. Therefore, the decision on this appeal must be made by Regional Council.

### **Site Details:**

#### **Zoning**

The property is zoned HA (Housing Accelerator) Zone under the SHA LUB. The relevant requirements of the LUB and the related variance request is as identified below:

	<b>Zone Requirement</b>	<b>Variance Requested</b>
<b>Minimum Rear Yard</b>	8 metres	7 metres

For the reasons detailed in the Discussion section of this report, the Development Officer approved the requested variance (Attachment A). The owners of one property within the notification area have appealed the approval (Map 1, Attachment B) and matter is now before Council for decision.

#### **Process for Hearing an Appeal**

Administrative Order Number One, the *Procedure of the Council Administrative Order* requires that Council, in hearing any appeal, must place a motion to “allow the appeal” on the floor, even if the motion is in opposition to the staff recommendation. The recommendation section of this report contains the required wording of the appeal motion as well as a staff recommendation.

For the reasons outlined in this report, staff recommend that Council **deny** the appeal and uphold the decision of the Development Officer to approve the variance.

### **DISCUSSION**

#### **Development Officer’s Assessment of Variance Request:**

In hearing a variance appeal, Council may make any decision that the Development Officer could have made, meaning their decision is limited to the criteria provided in the *Halifax Regional Municipality Charter*.

The *HRM Charter* sets out the following criteria by which the Development Officer may not grant variances to requirements of the Land Use By-law:

“250(3) 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 an intentional disregard for the requirements of the development agreement or land use by-law.”

To be approved, any proposed variance must not conflict with any of the criteria. The Development Officer’s assessment of the proposal relative to each criterion is as follows:

#### **1. Does the proposed variance violate the intent of the land use by-law?**

Building setbacks help to ensure that structures maintain adequate separation from adjacent structures, streets and property lines for access, safety, and aesthetics. The proposed reduction in setback causes no concern with respect to access and safety, as 7 metres is sufficient to maintain access around property as well as the below-grade entrance along the rear wall of the building. Any proposed future development on a new lot will need to meet the minimum 3-metre side setback requirement of the SHA LUB, which alongside the proposed 7 metre rear setback through this variance, will result in a total separation distance of 10 metres between buildings. Regarding aesthetics, the rear wall of the existing multi-unit dwelling is primarily blank, as it is occupied by an internal staircase. The reduction in separation from this wall to a potential new building will not negatively impact the aesthetic of the area. It is the opinion of the Development Officer that this proposal does not violate the intent of the Land Use By-Law.

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

In evaluating variance requests, staff must determine if general application of the by-law creates a specific difficulty or hardship that is not broadly present in the area. If these circumstances exist, then consideration can be given to the requested variance. If the difficulty is general to properties in the area, then the variance should be refused.

The difficulty experienced is not general to other properties in the area. Unlike most other lots within the Suburban Housing Accelerator Land Use By-Law, the subject lot already contains an 11-storey building on the lot. As the SHA LUB does not permit more than one dwelling on a lot, subdivision of the lot is required to develop a new building on a separate lot. Additionally, the lot is uniquely shaped which further limits developable space. Reducing the rear yard setback from the existing building would accommodate the placement of a new building on the resulting lot that could meet the SHA LUB requirements – including the 6-metre transition line setback abutting the low-density residential properties along the northern boundary of the site.

**3. Is the difficulty experienced the result of an intentional disregard for the requirements of the land use by-law?**

In reviewing a proposal for intentional disregard for the requirements of the Land Use By-law, there must be evidence that the applicant had knowledge of the requirements of the by-law relative to their proposal and then took deliberate action which was contrary to those requirements.

The applicant has applied for a variance in good faith and requested the variance prior to applying for subdivision or a development permit. Intentional disregard of by-law requirements was not a consideration in this variance request.

**Appellant's Submission**

While the criteria of the *HRM Charter* limits Council to making any decision that the Development Officer could have made, the appellants have raised certain points in their letters of appeal (Attachment B) for Council's consideration. These points are summarized and staff's comments on each are provided in the following table:

Appellant's Appeal Comments	Staff Response
<i>"The reason I'm appealing this is because I'm concerned about the potential of property loss as well as property damage. Many of the houses surrounding this building are older and have been there for years which gives a higher risk of damage like a broken foundation from this expansion if things like blasting were to take place."</i>	Engineering concerns for potential future development is not within the scope of review for this variance request. Lot grading and blasting permits for future development, if applicable, will be reviewed in conjunction with relevant by-laws at the time of permit applications, to ensure that impacts of development on the nearby properties are mitigated.

### Conclusion

Staff have reviewed all the relevant information in this variance proposal. As a result of that review, the variance request was approved as it was determined that the proposal does not conflict with the statutory criteria provided by the *HRM Charter*. The matter is now before Council to hear the appeal and render a decision.

### FINANCIAL IMPLICATIONS

The HRM costs associated with processing this application can be accommodated with the approved 2026/2027 operating budget for Planning and Development.

### RISK CONSIDERATION

There are no significant risks associated with the recommendation contained within this report.

### 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*. Where a variance approval is appealed, a hearing is held by Council to provide the opportunity for the applicant, appellants and anyone who can demonstrate that they are specifically affected by the matter, to speak.

### ENVIRONMENTAL IMPLICATIONS

There are no environmental implications.

### LEGISLATIVE AUTHORITY

*Halifax Regional Municipality (HRM) Charter*; Part VIII, Planning and Development, sections 250 to 252:

- 250(1)** A development officer may grant a variance in one or more of the following terms in a development agreement, if provided for by the development agreement, or in land-use by-law requirements:
- (a) percentage of land that may be built upon;
  - (b) size or other requirements relating to yards;
  - (c) lot frontage or lot area, or both, if
    - (i) the lot existed on the effective date of the by-law, or
    - (ii) a variance was granted for the lot at the time of subdivision approval. ...

**250(3)** 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 an intentional disregard for the requirements of the development agreement or land use by-law.

**252(1)** Where the Council hears an appeal from the granting or refusal of a variance, the Council may make any decision that the development officer could have made.

### **ALTERNATIVES**

As noted throughout this report, Administrative Order One requires that Council's consideration of this item be in context of a motion to allow the appeal. Council's options are limited to denial or approval of that motion.

1. Denial of the appeal would result in the approval of the variance. This would uphold the Development Officer's decision, and this is staff's recommendation.
2. Approval of the appeal motion would result in the refusal of the variance. This would overturn the decision of the Development Officer.

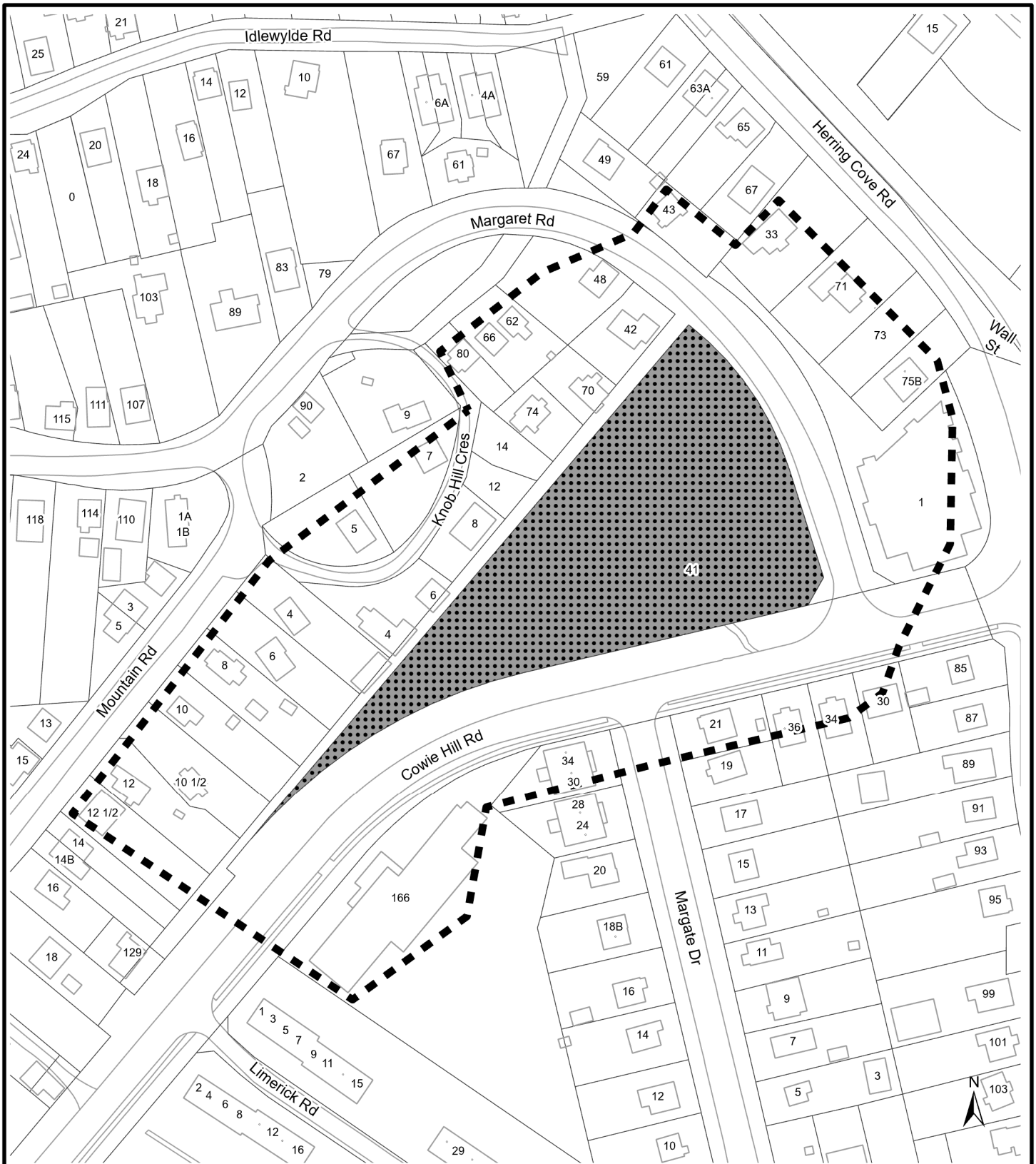
### **ATTACHMENTS**

Map 1: Notification Area  
Map 2: Site Plan  
  
Attachment A: Variance Approval Notice  
Attachment B: Letter of Appeal from Abutter

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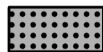
Report Prepared by: Aidan MacFarlane, Planner II/Development Officer, 902.478.7841  
Trevor Creaser, Principal Planner/Development Officer, 902.476.1591

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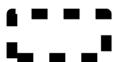


**Map 1 - Location and Notification Area**

41 Cowie Hill Road  
Halifax

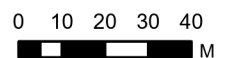


Subject Property



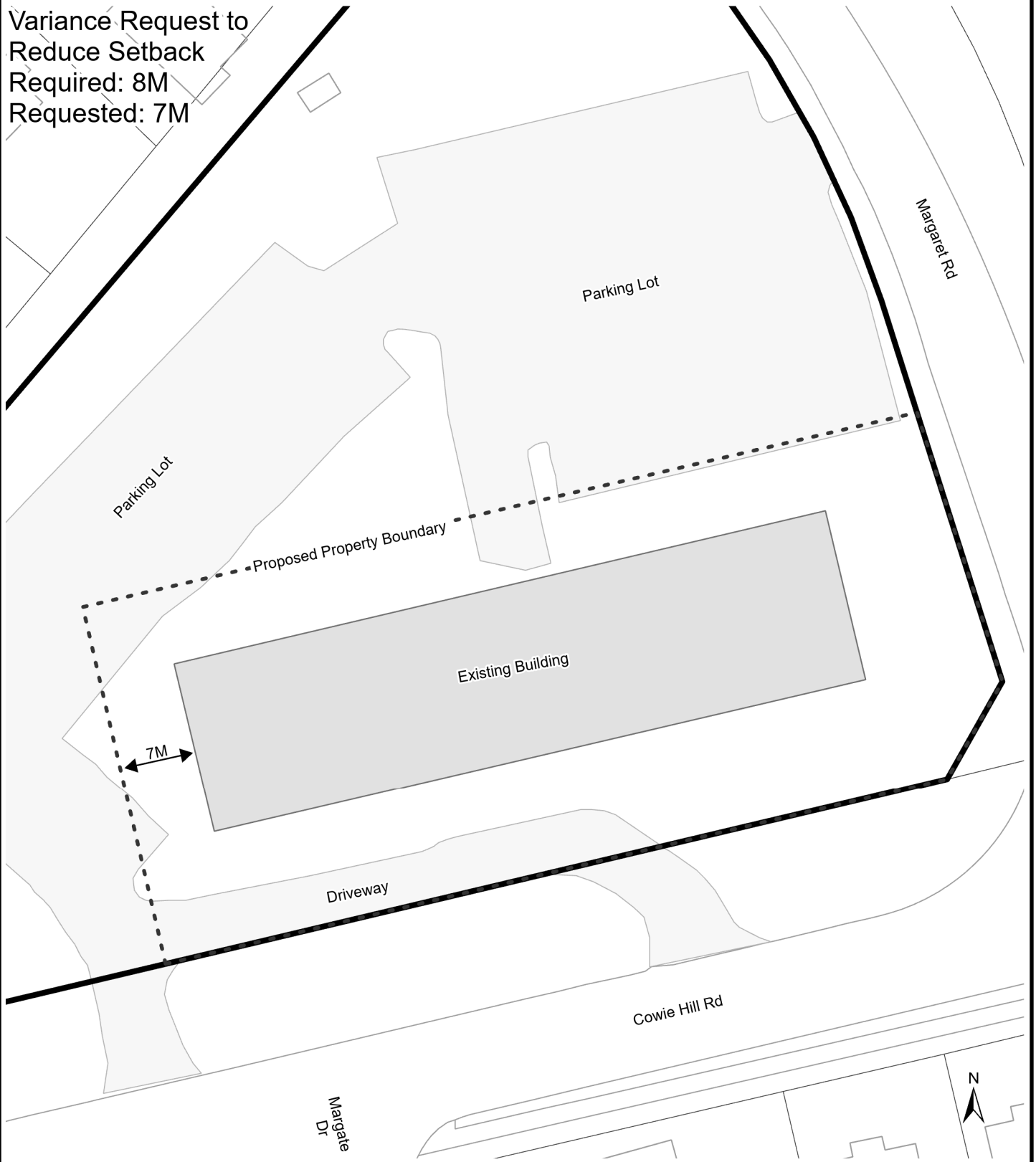
Notification Area

**HALIFAX**



The accuracy of any representation on this plan is not guaranteed.

Variance Request to  
Reduce Setback  
Required: 8M  
Requested: 7M



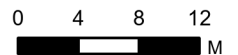
**Map 2 - Site Plan**

41 Cowie Hill Road  
Halifax



Subject Property

**HALIFAX**



The accuracy of any representation on this plan is not guaranteed.

# Attachment A

October 29, 2025

## ASSESSED OWNERS

Dear Resident:

**RE: VARIANCE APPLICATION VAR-2025-01872, 41 COWIE HILL ROAD, HALIFAX, NS. PID 00274241**

**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 Municipal Charter, Section 251.**

This will advise you that, as a Development Officer for the Halifax Regional Municipality, I have approved a request for a variance from the requirements of the **Suburban Housing Accelerator Land Use By-Law** as follows:

**Location:** 41 Cowie Hill Road, Halifax  
**Project Proposal:** Reduce the rear yard setback from the existing multi-unit apartment building to the proposed property line.

LUB Regulation	Requirements	Proposal
140(1)(b) Minimum rear yard setback	8 metres	7 metres

An application to subdivide the property will be required to create the proposed lot.

Pursuant to Section 251 of the Halifax Regional Municipal Charter, assessed property owners within 30 metres of the above noted address are notified of this variance. If you wish to appeal, please do so in writing, **on or before November 17, 2025**, and address your appeal to:

**Municipal Clerk**  
**Halifax Regional Municipality**  
**P.O. Box 1749, Halifax, N.S. B3J 3A5**  
[clerks@halifax.ca](mailto:clerks@halifax.ca)

If filing an appeal, be advised that your submission and appeal documents will form part of the public record and will be posted on-line at [www.halifax.ca](http://www.halifax.ca). If you feel that information you consider to be personal is necessary for your appeal, please attach that as a separate document, clearly marked "PERSONAL". It will be provided to the committee and/or council members and staff, and will form part of the public record, but it will not be posted on-line. You will be contacted if there are any concerns.

Please note, this does not preclude further construction on this property provided the proposed construction does not require a variance. If you have any questions or require clarification of any of the above, please contact Aidan MacFarlane at 902.478.7841.

Yours truly,



**Trevor Creaser**, Principal Planner / Development Officer  
Halifax Regional Municipality

cc. Office of the Municipal Clerk- [clerks@halifax.ca](mailto:clerks@halifax.ca)  
Councilor Patty Cuttell

Dear Whomever it may concern,

Im looking to appeal the varince of 41 cowie hill road. The reason Im appealing this is because im concerned about the potential of property loss as well as property damage. Many of the houses surrounding this building are older and have been there for years which gives a higher risk of damage like a broken foundation from this expansion if things like blasting were to take place.

[Redacted]

Donna Coleman

VAR-2025-01872

PID 00274241

HALIFAX REGIONAL MUNICIPALITY  
NOV 19 2025  
[Redacted]  
MUNICIPAL CLERK

[Redacted]

MUNICIPAL CLERK

19 2025

HALIFAX REGIONAL MUNICIPALITY

Box 1749, Halifax NS B3J 3A5

Municipal Clerk  
Regional Municipality

