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Halifax, Nova Scotia
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Chebucto Community Council
December 1, 2008

TO: Chairman and Members of Chebucto Community Council

SUBMITTED BY:

A handwritten signature in black ink that reads "Andrew Faulkner".

Andrew Faulkner - Development Officer

DATE: November 21, 2008

SUBJECT: Appeal of the Development Officer's decision to approve an application for
a **Variance #14936 - PID#00326447, Levis St, Halifax**

ORIGIN

This report deals with an appeal of the Development Officer's decision to approve a variance for front yard setback requirements of the Halifax Mainland Land Use Bylaw.

RECOMMENDATION

It is recommended that Council uphold the Development Officer's decision to grant the variance.

BACKGROUND

Ms. Stanton from L & T Stanton Enterprises Limited applied for a development permit to construct a semi-detached dwelling on the property on Levis Street, PID# 00326447 on June 3, 2008. After several revisions to meet the Halifax Mainland Land Use Bylaw, the development application was approved to construct a semi-detached dwelling with each unit at 36 ft wide and 15 ft deep. Subsequent to the approval of the development permit to construct this semi-detached dwelling at 15 ft deep to fit the orientation of the lot, Ms. Stanton applied for a variance on September 11, 2008 to allow for an additional 2 ft to the depth for more habitable space within each dwelling unit. The proposed variance requires the reduction of the front yard setback from 15 ft to 13 ft. The Development Officer approved this variance on September 22, 2008. Notice to the assessed property owners within the 30 metre buffer area expired on November 3, 2008. Two assessed owners within the buffer area appealed the variance.

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?

This property is regulated under the *Halifax Mainland Land Use By-Law* and is zoned R-2P (General Residential Zone). The following sections of the *Land Use By-law* pertain to this application.

Section 28AB(2) ***Front yard shall be 15 feet minimum;***
Rear yard shall be 20 feet minimum.

The proposal does not meet the following requirements:

- Minimum front yard setback of 15; **proposed is 13 feet**

The proposed variance does not violate the intent of the land use bylaw. The R-2P Zone in the Halifax Mainland Land Use Bylaw permits the proposed semi-detached dwellings. The shape of the property for a semi-detached dwelling provides limited living space area. By adding two feet to the front of the dwelling, it allows for a more reasonable living space and design options.

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

The configuration of abutting parcels of land zoned R-2P would permit construction of a semi-detached dwelling without the need of a variance. This parcel is unique in that respect.

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

There is no intentional disregard for the requirements of the land use by-law.

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.

ALTERNATIVES

1. Council could uphold the decision of the Development Officer to grant the variance.
2. Council could overturn the decision of the Development Officer and refuse the variance.

ATTACHMENTS

1. Location Plans: 1 site plan; 1 map of neighbourhood
2. Notification Letter: Variance approval by Development Officer; Notice of Appeal Hearing
3. Appeal Letters (2): Belinda and Christian Collins; Shelby Edwards

INFORMATION BLOCK

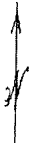
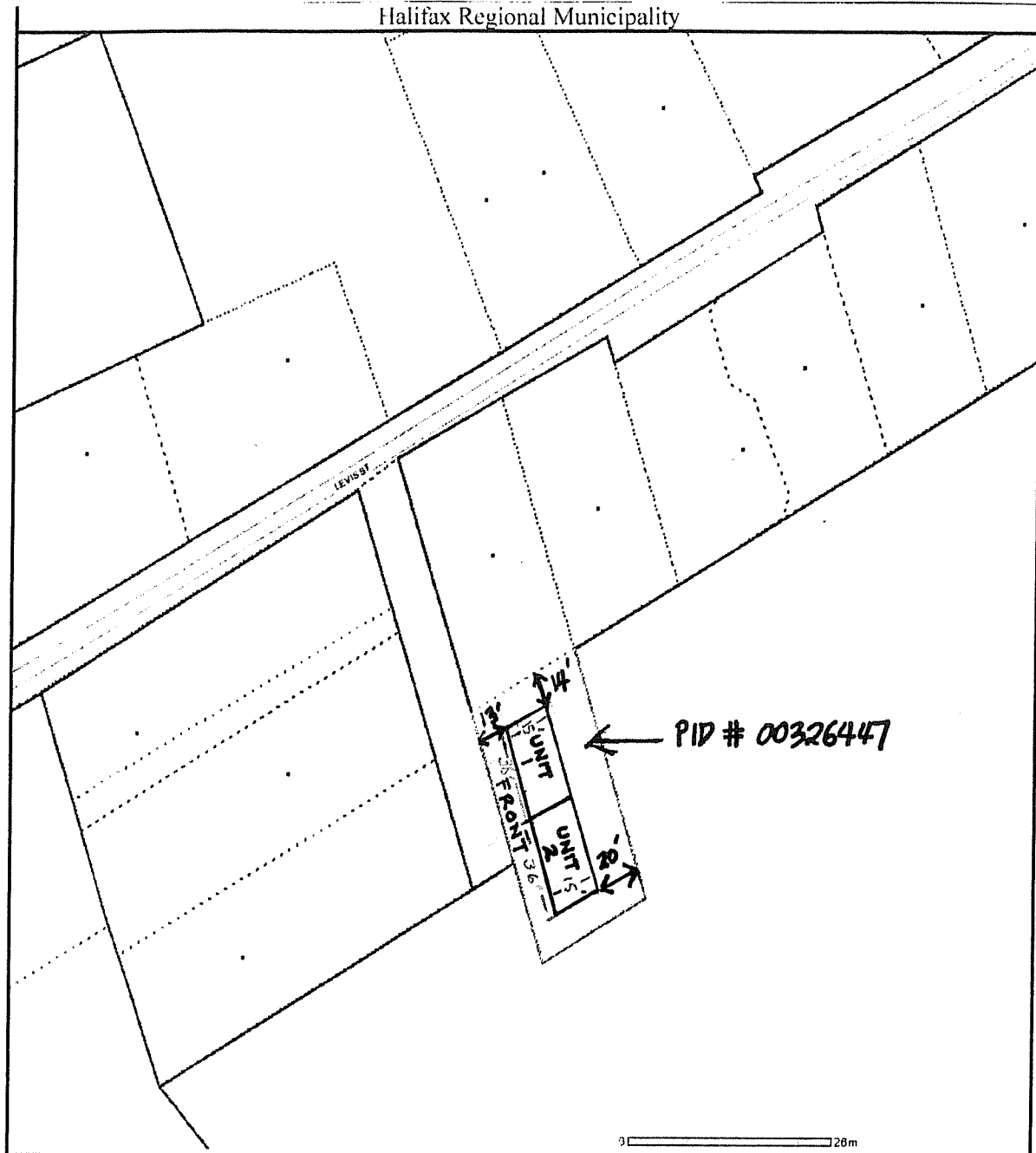
Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-6521..

Report Prepared by: Mary Wong - Development Technician (490-6796)

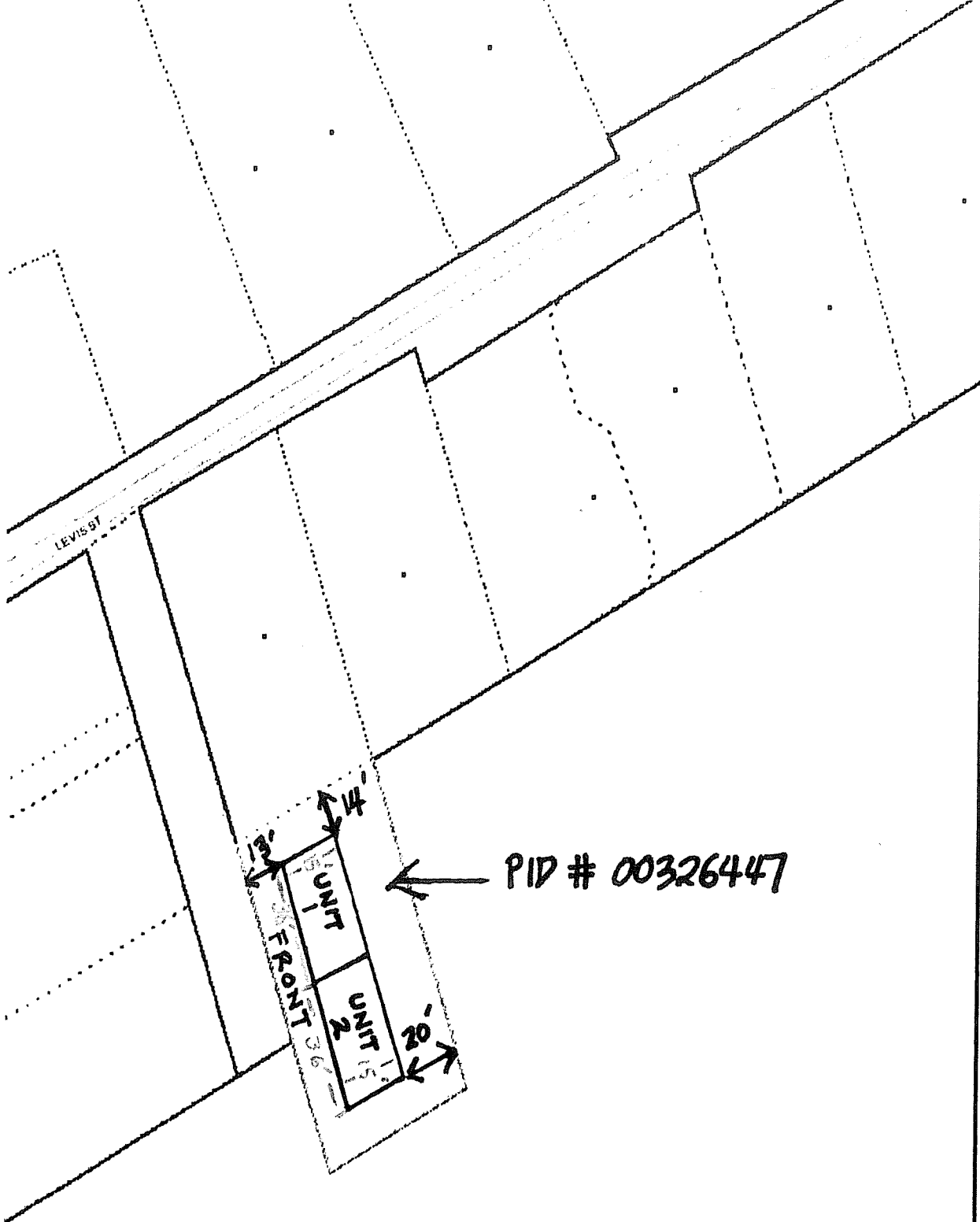
DATE: October 17, 2008 AMENDED SITE PLAN

SUBJECT: Application for Variance, File No. 14936 - 13 Levis St., Halifax

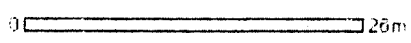
Vary front yard setback from 15 ft to 13 ft



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PID # 00326447



Halifax Regional Municipality



Levis Street, PID# 00326447



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