



**City of Kingston  
Report to Committee of Adjustment  
Report Number COA-17-037**

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**To:** Chair and Members of Committee of Adjustment  
**From:** Tim Fisher, Planner  
**Date of Meeting:** November 27, 2017  
**Application for:** Minor Variance  
**File Number:** D13-028-2017  
**Address:** 1337 Thornwood Crescent  
**Owner:** Tammy and Patrick Major  
**Applicant:** Patrick Major

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**Executive Summary:**

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variance for the property located at 1337 Thornwood Crescent. The applicant is proposing to recognize the setback of a deck from the rear lot line and reduce the setbacks of a shed located in the rear yard.

The first variance requested is to reduce the required setback from the rear lot line for a deck. Section 5(25)(b) requires decks at grade to 0.6 metres in height to be setback 2.0 metres from the rear lot line. The owner/applicant constructed the deck 0 metres from the rear lot. A variance is requested to reduce the 2.0 metre rear yard setback to 0 metres to permit the existing deck to remain in its current location.

The second variance is requested to reduce the setback from the rear and side yard for a 10 square metre utility shed located in the northeast corner of the rear yard. Section 5(1)(e)(ii) requires a setback of 1.2 metres from the side and rear yard. The owner/applicant constructed a shed 0.6 metres from the side and rear lot line therefore a variance is requested to reduce the setback for the shed from 1.2 metres to 0.6 metres to recognize its current location.

The requested minor variances are consistent with the general purpose and general intent of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The variance is considered to be appropriate and minor, and meet all four tests under the *Planning Act*.

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**Recommendation:**

It is recommended that minor variance application, File Number D13-028-2017, for the property located at 1337 Thornwood Crescent to recognize the setback of a deck from the rear lot line and reduce the setbacks for a shed located in the rear yard, be **approved**.

**Variance Number 1 – Deck**

**By-Law Number 76-26:** 5(25)(b) – Yard, Setback and Height Encroachment  
**Requirement:** rear lot line - 2.0 metres  
**Proposed:** 0 metres  
**Variance Requested:** 2.0 metres

**Variance Number 2 – Shed (rear yard)**

**By-Law Number 76-26:** 5(1)(e)(ii) – Accessory Uses, Yards and Setbacks  
**Requirement:** 1.2 metres  
**Proposed:** 0.6 metres  
**Variance Requested:** 0.6 metres

**Approval of the foregoing variance shall be subject to the following conditions:**

**1. Limitation**

That the approved variance applies only to the location of the ground deck and rear yard utility shed as shown on stamped approved drawings attached to the notice of decision.

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**2. No Adverse Impacts**

The owner/applicant shall demonstrate to the satisfaction of the city that there are no adverse impacts on neighbouring properties as a result of any modifications to on-site grading or drainage.

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**3. Building Permit Application Requirements**

The owner/applicant shall provide to the Building Division a copy of the decision of the Committee of Adjustment, together with a copy of the approved drawings, when they make an application for a Building Permit.

The drawings submitted with the Building Permit application must, in the opinion of the city, conform to the general intent and description of the approved drawing(s), including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. It must be noted that additional planning approvals may be required should further zoning deficiencies be identified through the Building Permit application process.

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**4. Standard Archaeological Condition**

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In the event that deeply buried or previously undiscovered archaeological deposits are discovered in the course of development or site alteration, all work must immediately cease and the site must be secured. The Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132) and the City of Kingston's Planning Division (613-546-4291, extension 3180) must be immediately contacted.

In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Registrar of Cemeteries Regulation Section of the Ontario Ministry of Consumer Business Services (416-326-8404), the Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132), and the City of Kingston's Planning Division (613-546-4291, extension 3180) must be immediately contacted.

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**Authorizing Signatures:**



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**Tim Fisher, Planner**

**In Consultation with the following Management of the Community Services Group:**

Paige Agnew, Director, Planning, Building & Licensing Services

Lanie Hurdle, Commissioner, Community Services

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**Options/Discussion:**

On July 17, 2017, a minor variance application was submitted by Patrick Major, with respect to the property located at 1337 Thornwood Crescent. The variance application is requested to recognize the setback of a deck from the rear lot line and reduce the setbacks of a shed located in the rear yard.

Two additional variances were originally applied for however they are no longer required. A variance was requested from the rear yard setback requirement for a future gazebo to be located on the deck in the rear yard. This variance is no longer required as a gazebo is an accessory structure and subject to Section 5(1) Accessory Uses of the zoning by-law. The gazebo is permitted to be located 1.2 metres from the rear and side lot lines. Therefore, the location of the proposed future gazebo on the deck would comply. The second variance was to permit two sheds to be located 0 metres from the northern side lot line. The owner has since relocated one of the sheds to the rear yard abutting the deck which complies with the setback provisions the second shed was sold and removed from the property. Therefore the requested variance is no longer required.

In support of the application, the applicant has submitted the following:

- Site Plan (Exhibit C)

All submission materials are available online through the Development and Services Hub (DASH) at the following link, [DASH](#), using "Look-up a Specific Address". If there are multiple addresses, search one address at a time, or submission materials may also be found by searching the file number.

**Site Characteristics**

The subject property is located on the west side of Thornwood Crescent and is developed with one half of a semi-detached dwelling containing a single family dwelling unit. The rear yard is developed with an in-ground pool, elevated deck, at grade deck and two utility sheds.

The subject property is designated Residential in the Official Plan and zoned 'R2-8' in Zoning By-Law Number 76-26. The property abuts a semi-detached dwelling to the north and south and a single family dwelling to the east and west.

**Application**

A minor variance is not a mathematical calculation, but rather an assessment of whether the general intent of the Official Plan and zoning by-law are maintained. To do this, the impact of the variance on the surrounding land uses and the appropriateness of the development are considered.

When reviewing applications for minor variance, the approval authority must be satisfied that each of the four tests of the *Planning Act* are met. The following provides this review:

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**1) The proposal shall be consistent with the Provincial Policy Statement (PPS) and the general intent and purpose of the Official Plan**

**Provincial Policy Statement**

The Provincial Policy Statement provides policy direction on matters of provincial interest related to land use planning and development which are complemented by local policies addressing local interests. The application being considered is site specific to accommodate a specific proposal and does not involve any major policy considerations and as much, the proposal conforms to and is consistent with the PPS.

**Official Plan**

The subject property is designated Residential in the City of Kingston Official Plan (2010). The residential designation permits single family and semi-detached dwelling units. The goal of the Residential designation is “to respond to the housing needs of the city’s citizens by retaining and augmenting a broad range of housing within a safe, convenient and stable setting, organized primarily into neighbourhoods”.

The impact of the proposal and the requested variances are deemed minor as they will maintain the residential use and character of the neighbourhood, and are not subject to a zoning by-law amendment application process. In considering whether the proposal is desirable, the Committee of Adjustment will have regard to the requirements included within the Official Plan, specifically Section 9.5.19.

The semi-detached dwelling was developed without an attached garage. The neighbourhood is developed with a mixture of single family and semi-detached dwellings with and without attached garages which provides additional storage of household items. The owner/applicant erected the three sheds to store household items such as lawn/yard equipment, shovels, toys, pool equipment/supplies and patio furniture, etc. Two sheds were located within the side yard along the north property line while the third shed is located along the rear property line. The owner removed one of the sheds in the side yard and relocated the second shed within the rear yard as per zoning by-law requirements.

The deck located at grade in the rear yard provides a level area for a passive amenity space and the 10 square metre utility shed provides storage of household items such as pool equipment/supplies and lawn furniture. The location of the deck and shed will not have any adverse effect on the abutting residential uses as a 1.8 metre wooden privacy fence encloses the rear yard. Mature vegetation such as shrubs and trees are located on the abutting properties which assist with further screening.

The rear yard development is in keeping with the residential character of the neighbourhood as utility sheds, decks, patios and swimming pools are commonly located in the rear and side yard. The proposal will not have any negative impacts on the character of the neighbourhood.

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The structures are located in the rear and side yard and will not be visible from Thornwood Crescent, therefore the variances will not have any impacts on the streetscape or traffic on Thornwood Crescent.

The subject property is not a designated or listed property and is in an area which has been cleared of archaeological potential. As such, an archaeological assessment is not required. The standard archaeological condition regarding accidental discovery is included in the recommendation for future excavation or development.

The proposal meets the intent of the Official Plan, as the proposal will not result in any negative impacts to adjacent properties or to the neighbourhood.

## 2) The general intent and purpose of the zoning by-law varied is maintained

The subject property is zoned 'R2-8' Special Residential Type 8 in the City of Kingston Zoning By-Law Number 76-26, entitled "Township of Kingston Restricted Area By-Law", as amended. The 'R2-8' zone permits single family and semi-detached dwelling therefore the existing semi-detached dwelling is a permitted use. Accessory uses such as sheds, swimming pools and decks are subject to Section 5, General Provisions in the zoning by-law.

The owner/applicant is requesting a reduction in Section 5(25)(b) Yard, Setback and Height Encroachment from 2.0 metres to 0 metres to recognize the location of an existing deck. The intent of the 2.0 metre rear yard setback is to provide a separation between the structure and the property line to accommodate drainage and separation of abutting property uses. The owner/applicant has not altered the grade and drainage as the deck and shed are elevated along the rear lot line and open underneath the structure which does not negatively affect drainage.

### Variance Number 1 – Ground Deck

<b>By-Law Number 76-26:</b>	5(25)(b) – Yard, Setback and Height Encroachment
<b>Requirement:</b>	rear lot line - 2.0 metres
<b>Proposed:</b>	0 metres
<b>Variance Requested:</b>	2.0 metres

A second variance is requested to reduce the setback of a 10 square metre utility shed located in the northwest corner of the rear yard. Section 5(1)(e)(ii) requires accessory uses in the rear yard to be setback 1.2 metres from a lot line. The shed was erected 0.6 metres from the side and rear lot line, therefore a variance is requested to reduce the setback from 1.2 metres to 0.6 metres. The intent of the 1.2 metre yard setback is to provide a separation between the structure and the property line to accommodate drainage and separation of abutting property uses and maintenance of the structure. The owner/applicant has not altered the grade. The deck was constructed to be level with the concrete pool skirting. The 0.6 metre setback will provide drainage and allow for maintenance of the structure. The eave and eave-trough may project 0.3 metres into the required yard.

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**Variance Number 2 – Shed (rear yard)**

**By-Law Number 76-26:** 5(1)(e)(ii) – Accessory Uses, Yards and Setbacks

**Requirement:** 1.2 metres

**Proposed:** 0.6 metres

**Variance Requested:** 0.6 metres

The rear yard is developed with an in-ground swimming pool and an elevated deck at the rear of the dwelling which comply with the setback requirements of the zoning by-law.

**3) The variance is minor in nature**

The cumulative impact of the proposal and the requested variances are deemed minor, and are therefore not subject to a zoning by-law amendment application process. The requested variances will recognize the location of a shed and deck in the rear yard of a single family dwelling use. The variances will not alter the character of the neighbourhood as sheds and decks are located in the rear yards in the residential neighbourhood.

**4) The variance is desirable for the appropriate development or use of the land, building or structure**

The rear yard slopes towards the rear property line from the rear of the dwelling. The deck and shed appear to be constructed on the ground however they are elevated along the rear lot line and open underneath the structures which allows drainage to flow along the rear lot line. The Engineering Department has no concerns with the locations of the deck and the shed as long as the property owner maintains the approved lot grading and drainage patterns under the deck and around the shed. Drainage is not to be directed onto the adjacent properties. The requested variances and continued use of the shed and deck will not have any adverse effects on the abutting land owners. As a condition of approval, the owner applicant shall ensure that there are no adverse impacts on neighbouring properties from increased runoff as a result of any alteration to grading or downspout orientation.

The continued use of the shed and deck will continue to serve the functional needs of the single family use. A privacy fence has been constructed around the perimeter of the rear yard which provides additional visual screening and privacy from the adjacent residential uses.

**Technical Review: Circulated Departments and Agencies**

- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> Building Division | <input checked="" type="checkbox"/> Engineering Department | <input checked="" type="checkbox"/> Heritage (Planning Division)            |
| <input checked="" type="checkbox"/> Finance           | <input checked="" type="checkbox"/> Utilities Kingston     | <input checked="" type="checkbox"/> Real Estate & Environmental Initiatives |
| <input checked="" type="checkbox"/> Fire & Rescue     | <input type="checkbox"/> Kingston Hydro                    | <input type="checkbox"/> City’s Environment Division                        |
| <input type="checkbox"/> Solid Waste                  | <input type="checkbox"/> Parks Development                 | <input type="checkbox"/> Canadian National Railways                         |
| <input type="checkbox"/> Housing                      | <input checked="" type="checkbox"/> District Councillor    | <input type="checkbox"/> Ministry of Transportation                         |
| <input type="checkbox"/> KEDCO                        | <input type="checkbox"/> Municipal Drainage                | <input type="checkbox"/> Parks of the St. Lawrence                          |



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|---|--|--|
| <input checked="" type="checkbox"/> Building Division | <input checked="" type="checkbox"/> Engineering Department | <input checked="" type="checkbox"/> Heritage (Planning Division) |
| <input type="checkbox"/> CRCA                         | <input type="checkbox"/> KFL&A Health Unit                 | <input type="checkbox"/> Trans Northern Pipelines                |
| <input type="checkbox"/> Parks Canada                 | <input type="checkbox"/> Eastern Ontario Power             | <input type="checkbox"/> CFB Kingston                            |
| <input type="checkbox"/> Hydro One                    | <input type="checkbox"/> Enbridge Pipelines                | <input type="checkbox"/> TransCanada Pipelines                   |
| <input type="checkbox"/> Kingston Airport             |  |  |

**Technical Comments**

This application was circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude this application from moving forward. Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

**Public Comments**

At the time this report was finalized, no written public comments or objections were received. Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

**Previous or Concurrent Applications**

There are no concurrent or relevant historic planning applications on the subject property.

**Conclusion**

The requested variance is consistent with the general purpose and general intent of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The variance meets all four tests under the *Planning Act* and as such the application is being recommended for approval, subject to the proposed conditions.

Approval of this application will permit the owner/applicant to maintain the existing shed and ground deck in its current location.

**Existing Policy/By-Law:**

The proposed application was reviewed against the policies of the Province of Ontario and City of Kingston to ensure that the changes would be consistent with the Province's and the City's vision of development. The following documents were assessed:

**Provincial**

Provincial Policy Statement, 2014

**Municipal**

City of Kingston Official Plan, 2010  
Zoning By-Law Number 76-26

**Notice Provisions:**

A Committee of Adjustment Meeting is going to be held respecting this application on November 27, 2017. Pursuant to the requirements of the *Planning Act*, a notice of Statutory Public Meeting

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was provided by advertisement in the form of signs posted on the subject site 10 days in advance of the meeting. In addition, notices were sent by mail to a total number of 55 property owners (according to the latest Assessment Roll) within 60 metres of the subject property and a courtesy notice was placed in The Kingston Whig-Standard.

Once a decision has been rendered by the Committee of Adjustment, a Notice of Decision will be circulated in accordance with the provisions of the *Planning Act*.

**Accessibility Considerations:**

Not applicable

**Financial Considerations:**

Not applicable

**Contacts:**

Paige Agnew, Director, Planning, Building & Licensing Services 613-546-4291 extension 3252

Marnie Venditti, Manager, Development Approvals 613-546-4291 extension 3256

Tim Fisher, Planner 613-546-4291 extension 3215

**Other City of Kingston Staff Consulted:**

The application was circulated to the relevant internal departments and external agencies for review and comment. The responses to the technical circulation have been addressed in the technical review and included in this report.

**Exhibits Attached:**

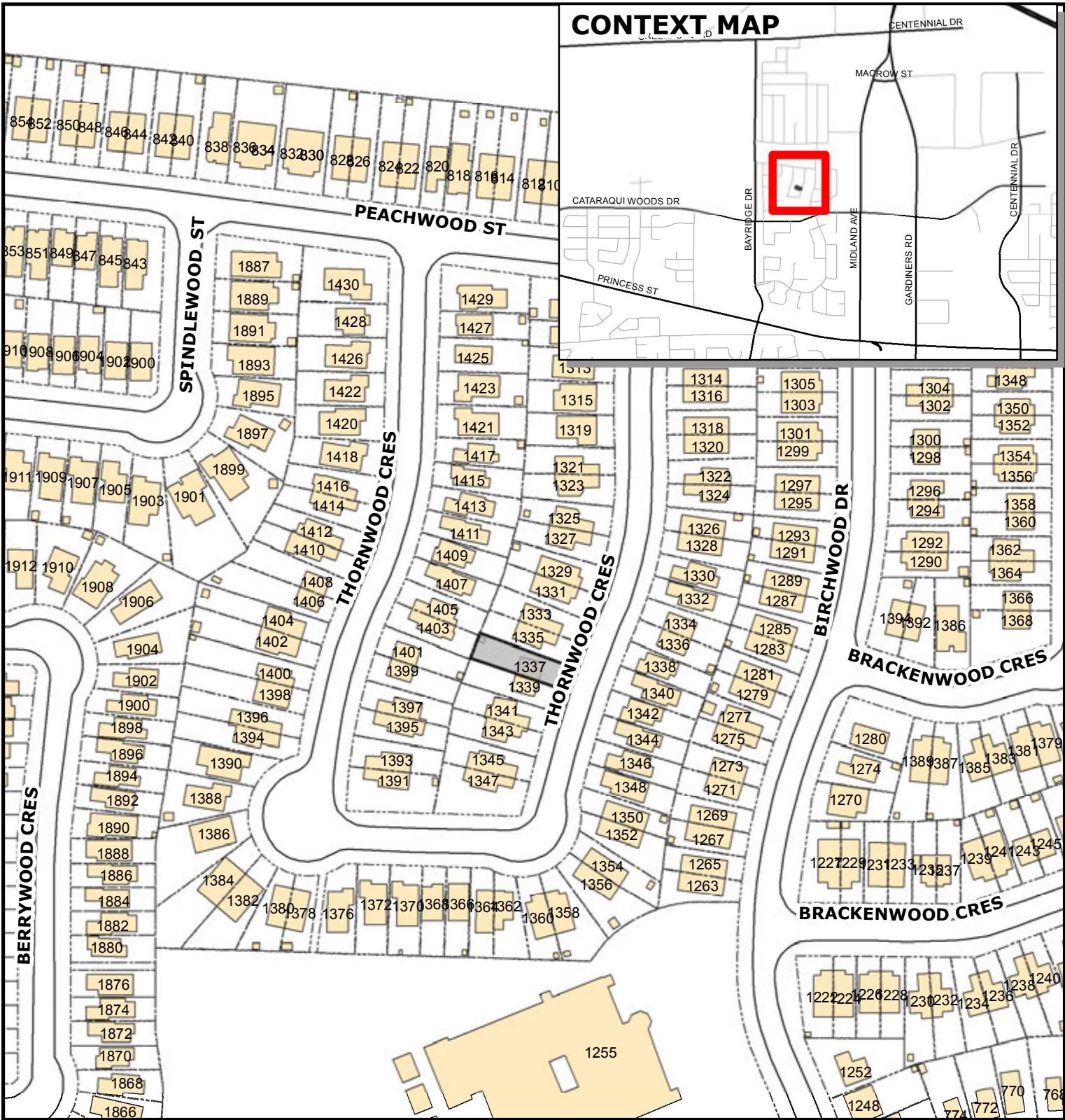
Exhibit A Key Map

Exhibit B Public Notification Map

Exhibit C Site Plan

Exhibit D Site Photos

**CONTEXT MAP**



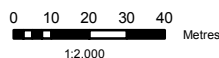
Planning, Building & Licensing Services  
a department of Community Services

COMMITTEE OF ADJUSTMENT  
**KEY MAP**

Applicant: Pat Major  
Owner: Tammy and Patrick Major  
File Number: D13-028-2017  
Address: 1337 Thornwood Cres

**LEGEND**

Lands Subject to Minor Variance



PREPARED BY: J. Partridge  
DATE: 8/3/2017







Planning, Building & Licensing Services  
 a department of  
 Community Services

COMMITTEE OF ADJUSTMENT  
**PUBLIC NOTICE NOTIFICATION MAP**

Applicant: Pat Major  
 Owner: Tammy and Patrick Major  
 File Number: D13-028-2017  
 Address: 1337 Thornwood Cres

**LEGEND**

-  Lands Subject to Minor Variance
-  60 m Public Notice Boundary
-  Property Boundaries
-  55 Properties in Receipt of Notice

