



**City of Kingston  
Report to Committee of Adjustment  
Report Number COA-20-016**

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**To:** Chair and Members of Committee of Adjustment  
**From:** Tim Fisher, Planner  
**Date of Meeting:** February 24, 2020  
**Application for:** Minor Variance  
**File Number:** D13-063-2019  
**Address:** 1885 Westbrook Road  
**Owner/Applicant:** Robert Geran

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**Council Strategic Plan Alignment:**

Theme: 2. Increase housing affordability

Goal: See above

**Executive Summary:**

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variance for the property located at 1885 Westbrook Road. The applicant is proposing to reduce the minimum interior side yard setback from 12 metres to 1.2 metres and increase the maximum height of an accessory use from 4.5 metres to 7.6 metres in order to construct a 200 square metre detached garage.

The requested minor variances are consistent with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The requested minor variances are desirable for the appropriate development or use of the land, building or structure and are minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval.

**Recommendation:**

**That** minor variance application, File Number D13-063-2019, for the property located at 1885 Westbrook Road to reduce the minimum interior side yard setback and increase the maximum height of an accessory use, to construct a 200 square metre detached garage, be approved.

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**Variance Number 1:**

By-Law Number 76-26:	Section 5(1)(c) Maximum Height of Accessory Structure
Requirement:	4.5 metres
Proposed:	7.6 metres
Variance Requested:	3.1 metres

**Variance Number 2:**

By-Law Number 76-26:	Section 10(2)(e)(iii) Minimum Interior Side Yard
Requirement:	12 metres
Proposed:	1.2 metres
Variance Requested:	10.8 metres

**Approval of the foregoing variances shall be subject to the following conditions:****1. Limitation**

That the approved variances apply only to the location and height of the detached garage as shown on the approved drawings attached to the notice of decision.

**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.

**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.

**4. Standard Archaeological Condition**

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

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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, Commissioner of Community Services

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**Options/Discussion:**

On November 30, 2019, a minor variance application was submitted by the owner, Robert Geran, with respect to the property located at 1885 Westbrook Road. The variances are requested to reduce the minimum interior side yard setback and increase the maximum height of an accessory use, to construct a 200 square metre detached garage.

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

- Site Plan (Exhibit E);
- Survey (Exhibit F); and
- Septic Location Plan (Exhibit G).

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 at 1885 Westbrook Road (Exhibit A). The subject property has 6151 square metres of lot area and 64 metres of road frontage on Westbrook Road. The property is developed with a single family dwelling on private on-site services.

The subject property is designated Rural Lands in the Official Plan and zoned General Agricultural 'A2' in Zoning By-Law Number 76-26. The property abuts undeveloped rural lands to the north, east and west, and an industrial use to the south (Gheran Maintenance Ltd.).

**Application**

The review of an application for minor variance is not a simple mathematical calculation, but rather a detailed assessment of whether the variances requested, both separately and together, meet the four tests of a minor variance outlined in Subsection 45(1) of the *Planning Act*. The following provides this review:

**Provincial Policy Statement**

In addition to the four tests of a minor variance detailed above, Subsection 3(5) of the *Planning Act* requires that a decision in respect of the exercise of any authority that affects a planning matter shall be consistent with the Provincial Policy Statement (the PPS). The PPS 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 such, the proposal conforms to and is consistent with the PPS.

**1) The general intent and purpose of the Official Plan are maintained**

The subject property is designated Rural Lands in the City of Kingston Official Plan. It is the intent of the Plan to maintain a permanent and viable agricultural industry as a

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component of the economic base of the City, to provide employment and a sustainable source of local food. The Rural Lands designated on Schedule 3 reflects areas of the City outside of the Urban Boundary that generally have Classes 5, 6, and 7 soils with less suitability to sustain viable agriculture and existing non-farm development that may limit the future of intensive farm activity. There are small areas of high capability farmland, existing livestock operations as well as other uses that are designated Rural Lands.

Permitted uses in Rural Lands include all agricultural uses, agriculture related uses, and on-farm diversified uses as permitted in the Prime Agricultural Area designation, sports and outdoor recreation activities in accordance with Section 3.12.4, and detached dwellings in accordance with Section 3.12.10 and that are compatible with adjacent land uses. Limited non-farm growth is permitted in Rural Lands if it does not limit or interfere with agricultural use, agriculture-related uses, on-farm diversified uses or a broader range of rural uses, and if it meets the environmental objectives of this Plan. The detached garage is accessory to the permitted single family dwelling use.

The subject property is located within a limestone plain and an aggregate – bedrock reserve area as identified on Schedule 12 of the Official Plan. The property is also within 500 metres of an active quarry (Lafarge). The accessory use will not inhibit the continued removal of the resource in the future.

In considering whether this proposed variance is desirable, the Committee of Adjustment will have regard to the nine requirements included in Section 9.5.19 of the Official Plan. The following provides these nine requirements and an assessment of how the proposal is consistent with each.

1. The proposed development meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of this Plan;

The proposed application meets the intent of Section 2 of the Official Plan and is consistent with the City Structure and Principle Growth policies for Rural Areas. The existing single detached dwelling is consistent with the residential uses on Westbrook Road south of Unity Road. The use is permitted by the zone and is compatible with adjacent development in terms of the proposed built form.

The proposed garage is located within the 500 metre area of influence of an active Quarry (Lafarge) however the detached garage will not impede on the continued use and function of the quarry.

2. The proposed development will be compatible with surrounding uses, buildings or structures and development standards associated with adjacent properties, and if necessary, incorporate means of alleviating adverse effects on abutting land uses as recommended in Section 2.7 of this Plan;

The subject lot is developed with a single-detached dwelling on private services. The lot is permitted to have a single-detached dwelling in the 'A2' zone in Zoning By-Law

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Number 76-26 as it is a lot less than 2 hectares in lot area. The single-family dwelling use is consistent with lots designated 'rural land' and the existing development along Westbrook Road south of Unity Road.

The detached garage will not result in any negative impacts on the abutting industrial use to the south. The detached garage will provide additional screening for the single-family dwelling. The proposed 1.2 metre side yard setback will provide access for maintenance and drainage. The height of the detached garage is compatible with other rural accessory structures such as farm implement buildings and larger workshops/garages.

The detached garage will provide additional storage for household items, vehicles and/or lawn maintenance equipment which is compatible with other residential lots in the rural area.

3. The ability of the site to function in an appropriate manner in terms of access, parking for vehicles and bicycles or any other matter and means of improving such function including considerations for universal accessibility;

The site will continue to function in an appropriate manner as road access from Westbrook road will be maintained. Parking will be maintained in the two bay, attached garage. The proposed detached garage and its location will be accessed using the existing driveway. The detached garage will not interfere with the continued use or function of the on-site services (well and sewage disposal system).

4. The conformity of the proposal to any applicable urban design policies endorsed by Council, particularly if the site includes or could impact a built heritage resource or is within a Heritage District;

The property is not designated under Part IV or Part V of the *Ontario Heritage Act*. The site is not within a Heritage Character Area.

5. If the site is designated under the *Ontario Heritage Act*, the application shall be reviewed by Heritage Kingston for approval. If the property is adjacent to a designated property under the *Ontario Heritage Act* or shown as a Heritage Area feature, or is affected by the protected views shown on Schedule 9 of this Plan, then a heritage impact statement may be required to assist staff to determine if the resulting development is desirable;

The property is not designated under Part IV or Part V of the *Ontario Heritage Act*. The site is not within a Heritage Character Area.

6. The resulting development has adequate municipal water and sewage services within the Urban Boundary, or is capable of providing individual on-site water and sewage services outside the Urban Boundary;

The subject property is located outside of the urban boundary, and is serviced by a private on-site water and sewage system.

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7. Whether the application and the cumulative impact of the proposed variances would be more appropriately addressed by a zoning amendment to the applicable zoning by-law;

The subject property is located outside of the urban boundary, and is serviced by a private on-site water and sewage system.

8. The Committee of Adjustment may attach such conditions as it deems appropriate to the approval of the application for a minor variance including any reasonable requirements, recommendations of City departments, or the submission of studies as listed in Section 9.12 of this Plan that may be required to properly evaluate the application;

There are conditions of approval associated with the recommendation.

9. The degree to which such approval may set an undesirable precedent for the immediate area.

It is not anticipated that an undesirable precedent may be set through the approval of the requested variances.

The proposal meets the intent of the Official Plan, as the proposed detached garage 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 are maintained**

The subject property is zoned General Agricultural ‘A2’ zone in the City of Kingston Zoning By-Law Number 76-26, entitled "Township of Kingston Restricted Area By-Law", as amended. The ‘A2’ zone permits a single-detached dwelling therefore the existing residential use is permitted.

The owner/applicant proposes to construct a detached garage. The detached garage is subject to Section 5(1), Accessory Uses of the zoning by-law. Section 5(1) does not permit the detached garage to be used for occupation for gain or profit (home business), for human habitation or any open storage area.

The proposal complies with the maximum percentage of lot coverage of 10 percent however the proposal exceeds the maximum height requirement of 4.5 metres. The proposal requires a variance to Section 5(1)(c) to increase the maximum height of the detached garage from 4.5 metres to 7.6 metres. The increase in height is requested to accommodate additional storage and ceiling height.

**Variance Number 1:**

By-Law Number 76-26:	Section 5(1)(c) Maximum Height of Accessory Structure
Requirement:	4.5 metres
Proposed:	7.6 metres
Variance Requested:	3.1 metres



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The intent of the zoning by-law regulation limiting the maximum height on an accessory structure on a residential lot is to inhibit the construction of an accessory structure that dominates the lot and main structure, which could undermine the integrity of the main use and surrounding similar uses.

Accessory uses and structures on lots which are in excess of 2.0 hectares are required to comply with the height and setback requirements of the principal zone. The 'A2' General Agricultural zone permits a maximum building height of 10.6 metres. The height of the detached garage will be in keeping with the intent of the 'A2' zone because the location of the subject property exhibits more rural characteristics than urban.

The location and setbacks of an accessory use on a lot is subject to Section 5(1)(d) and Section 5(1)(e) in the zoning by-law. A minimum setback of 1.2 metres from a side or rear lot line is required for a Residential Zone. The subject property is located in an Agricultural Zone therefore the location and setback of an accessory use is subject to the setbacks of the 'A2' zone therefore; the detached garage is required to be 12 metres from the side lot line. The owner/applicant is requesting a reduction in the side yard setback requirement in the 'A2' zone from 12 metres to 1.2 metre which is in keeping with the accessory uses setbacks in Section 5(1).

**Variance Number 2:**

By-Law Number 76-26:	Section 10(2)(e)(iii) Minimum Interior Side Yard
Requirement:	12 metres
Proposed:	1.2 metres
Variance Requested:	10.8 metres

The detached garage complies with all other requirements of the 'A2' zone and will not create a new dwelling unit or additional habitable space.

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

The requested variances are considered minor as the intent of the zoning by-law for Accessory Uses in residential and rural zones is complied with. The development will not have any negative impacts on the adjacent properties as the single family dwelling use is permitted in the Official Plan and zoning by-law and will be adequately separated from adjacent uses. The property will maintain the existing single-family dwelling use and provide secure parking and storage. The proposed 1.2 metre setback will provide adequate separation from the side lot line to provide maintenance and repair of the structure.

The proposal complies with the intent and purpose of the Official Plan and zoning by-law. It is the opinion of Planning Services that the location of the detached garage is considered minor in nature and will not have any impacts on adjacent uses.

The variances are minor in nature and meet the intent of the Official Plan.

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

The detached garage will provide enclosed parking and storage for the single-family residential use. The proposed location of the garage will make use of the existing driveway. There is no loss of privacy on the adjacent properties as a result of the variance.

Compliance with the required 12.0 metre interior side yard setback would locate the garage within the centre of the lot which will impact the sewage disposal system and access from the existing driveway. The height of the detached garage is in keeping with accessory structures in the rural area and will not dominate the existing development on the lot.

**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 type="checkbox"/> Utilities Kingston                | <input checked="" type="checkbox"/> Real Estate & Environmental Initiatives |
| <input checked="" type="checkbox"/> Fire & Rescue     | <input type="checkbox"/> Kingston Hydro                    | <input checked="" 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                          |
| <input type="checkbox"/> CRCA                         | <input checked="" 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, there were no written concerns or objections 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 variances maintain the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The proposal is desirable for the appropriate development or use of the land, building or structure and the requested variances are minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the

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*Planning Act* and the application is being recommended for approval, subject to the proposed conditions.

Approval of this application will allow for the construction of a detached garage which will provide additional storage to a single-family dwelling use in the rural area.

**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  
Zoning By-Law Number 76-26

**Notice Provisions:**

A Committee of Adjustment Meeting is going to be held respecting this application on February 24, 2020. Pursuant to the requirements of the *Planning Act*, a notice of Statutory Public Meeting 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 3 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:**

None

**Financial Considerations:**

None

**Contacts:**

Tim Park, Manager of Development Approvals 613-546-4291 extension 3223

Tim Fisher, Planner 613-564-4291 extension 3215

February 24, 2020

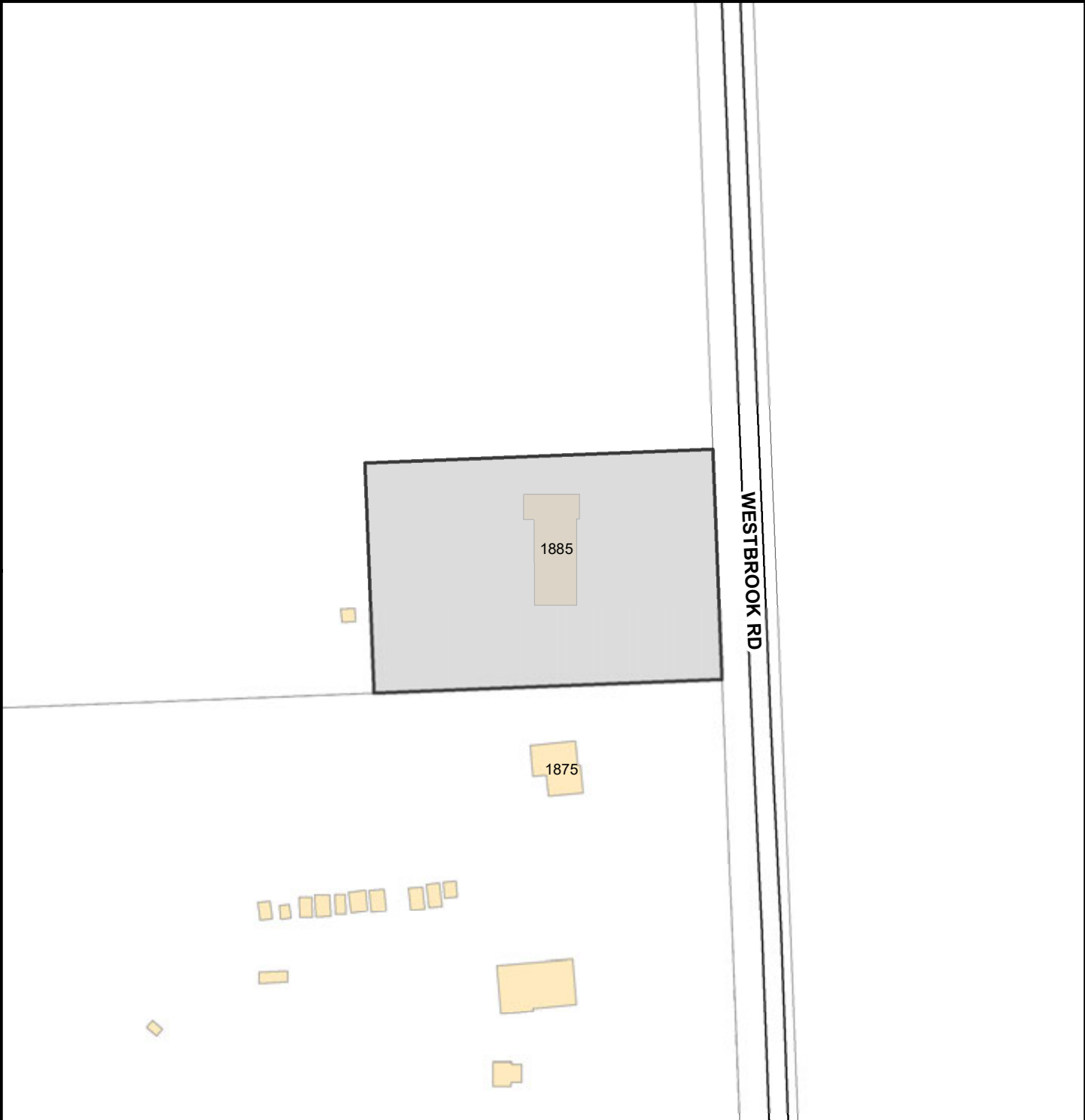
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**Other City of Kingston Staff Consulted:**

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 Notice Notification Map
- Exhibit C Official Plan Map
- Exhibit D Zoning By-Law Map
- Exhibit E Site Plan
- Exhibit F Survey
- Exhibit G Septic Location Plan
- Exhibit H Photo



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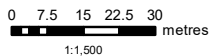


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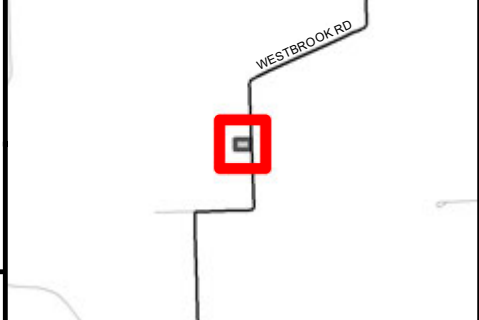
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COMMITTEE OF ADJUSTMENT  
**Key Map**

File Number: D13-063-2019  
Address: 1885 Westbrook Road

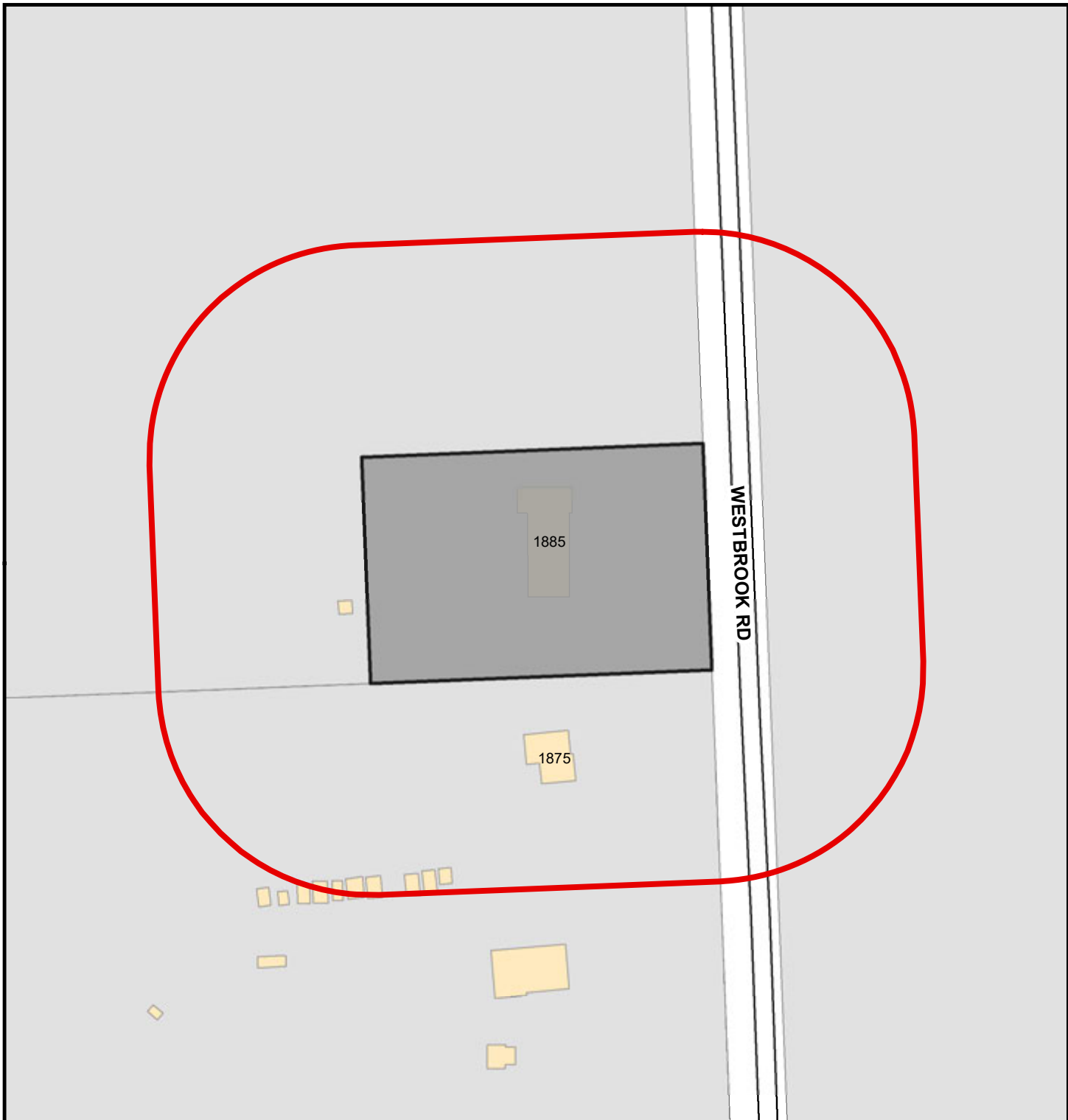


**CONTEXT MAP**



 Lands Subject to Minor Variance

DATE: 2019-12-27  
PREPARED BY: rrochefort

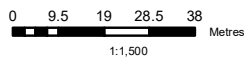


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COMMITTEE OF ADJUSTMENT  
**Public Notice Notification Map**

File Number: D13-063-2019  
Address: 1885 Westbrook Road



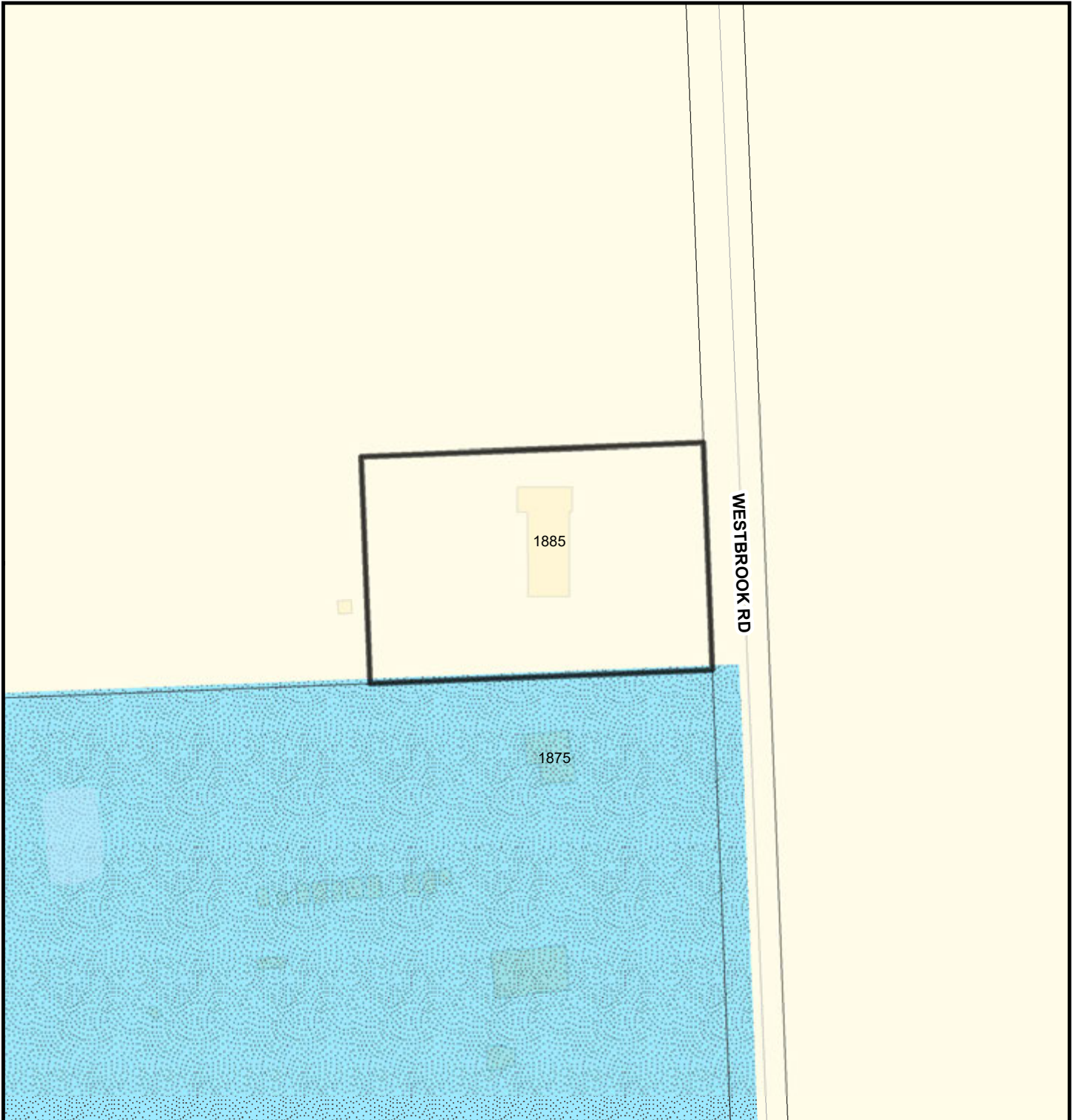
PREPARED BY: rochefort  
DATE: 2019-12-27

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**Legend**

- 60m Public Notification Boundary
- Subject Lands
- Property Boundaries
- Proposed Parcels
- 3 Properties in Receipt of Notice (MPAC)



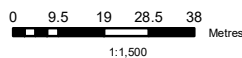


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COMMITTEE OF ADJUSTMENT  
**Official Plan, Existing Land Use**

File Number: D13-063-2019  
Address: 1885 Westbrook Road



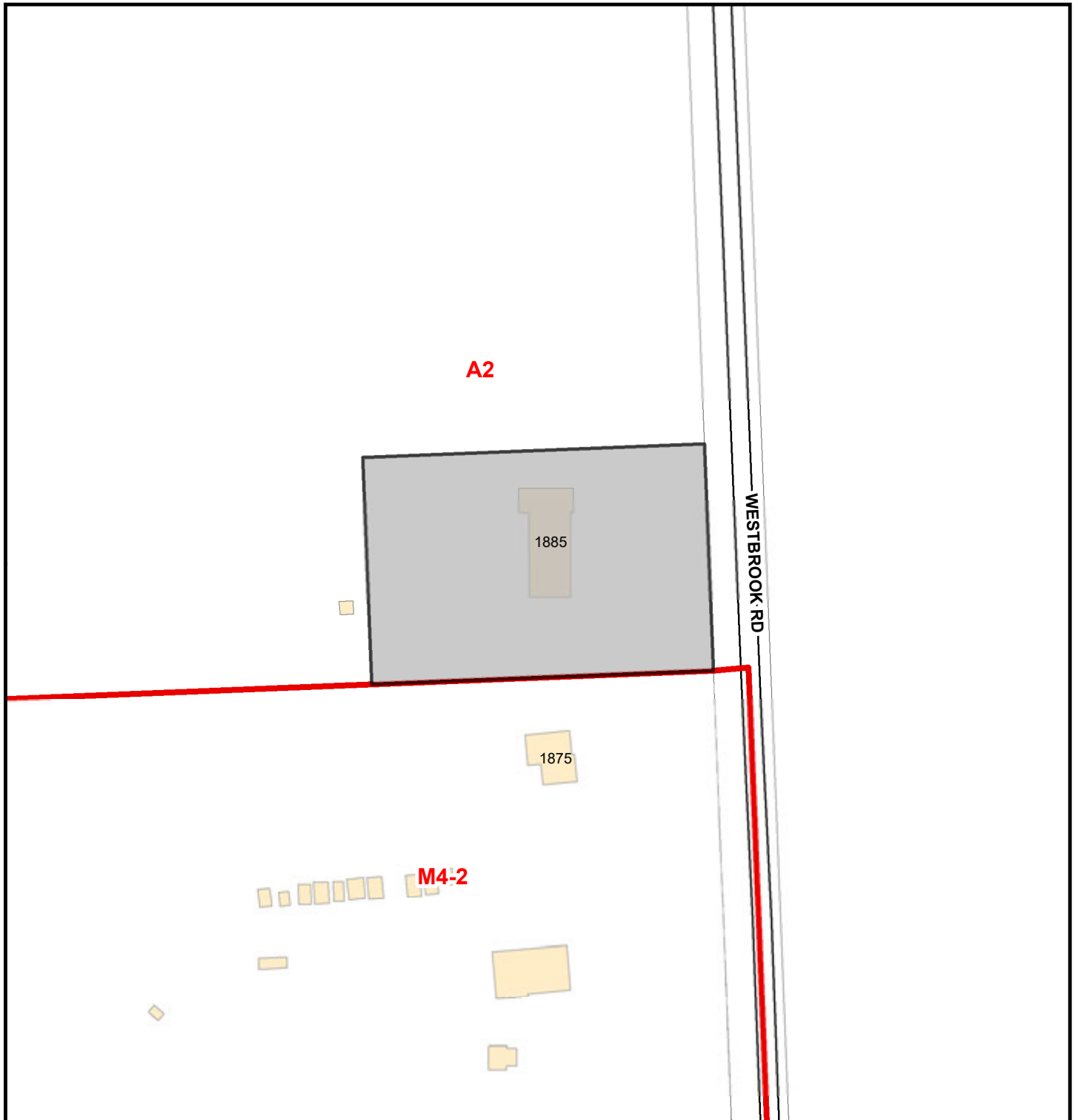
**Legend**

-  Subject Lands
-  RURAL
-  WASTE MANAGEMENT AREA



PREPARED BY: rrochefort  
DATE: 2019-12-27

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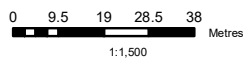


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COMMITTEE OF ADJUSTMENT  
**Existing Zoning - By-law 76-26, Map 1**

File Number: D13-063-2019  
Address: 1885 Westbrook Road



**Legend**

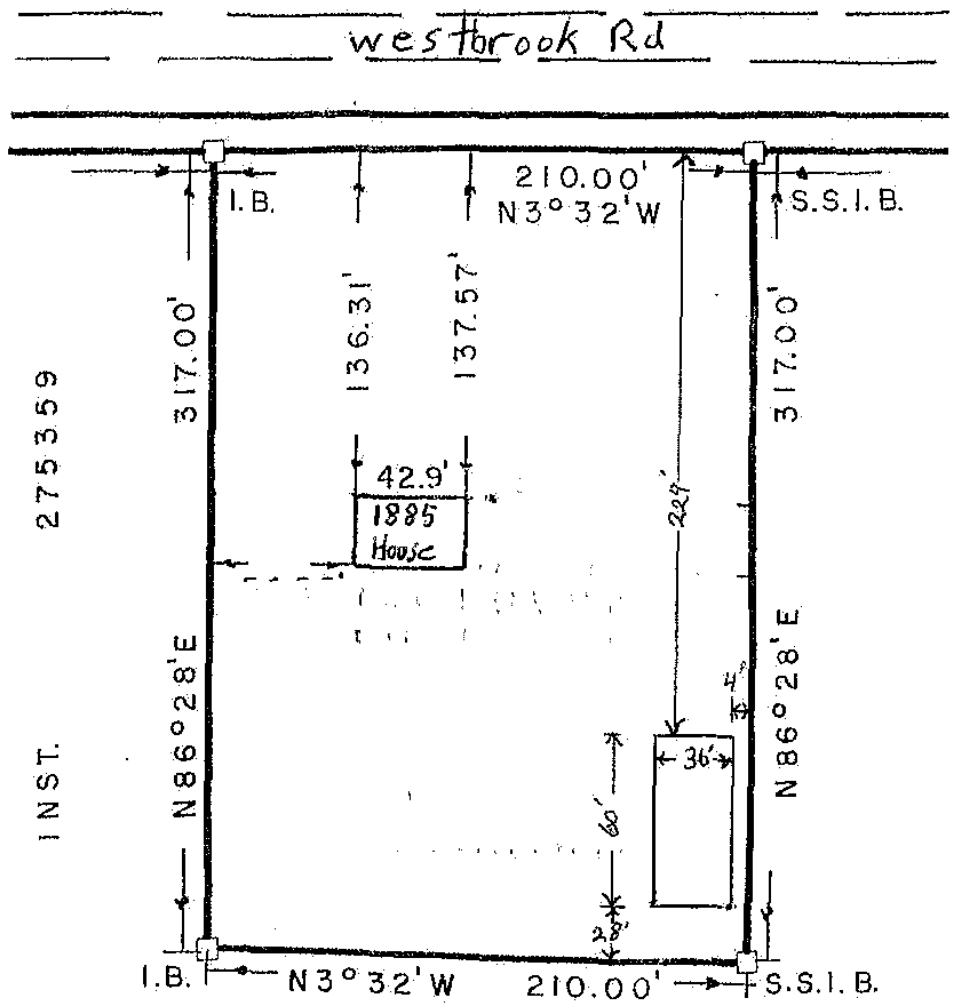
-  Subject Lands
-  Consolidated Zoning



PREPARED BY: rrochefort  
DATE: 2019-12-27

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