



**City of Kingston
Report to Committee of Adjustment
Report Number COA-20-020**

To: Chair and Members of Committee of Adjustment
From: Steven Chew, Senior Planner
Date of Meeting: April 20, 2020
Application for: Minor Variance
File Number: D13-004-2020
Address: 827 Woodbine Road
Owner/Applicant: Martin Smith

Council Strategic Plan Alignment:

Theme: 2. Increase housing affordability

Goal: 2.2 Build a significant number of new residential units with a range of affordability.

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variance for the property located at 827 Woodbine Road. The applicant is proposing to reduce the minimum required side yard from 8 feet to 5 feet for a building without an attached garage. The effect of the minor variance is to allow the existing garage to be converted into habitable space for a second residential unit. The minor variance is not required for the creation of the second residential unit; however, it allows it to be larger, have more windows and a more direct entrance.

The requested minor variance is 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 variance is desirable for the appropriate development or use of the land, building or structure and is 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.

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Recommendation:

That minor variance application, File Number D13-004-2020, for the property located at 827 Woodbine Road to reduce the minimum side yard requirement for a house without an attached garage, be approved.

Variance Number 1:

By-Law Number 76-26: Section 12(3)(e)(ii) Interior Side Yard, house, no garage
Requirement: 8 feet (2.44 metres)
Proposed: 5 feet (1.52 metres)
Variance Requested: 3 feet (0.9 metres)

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

2. 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.

3. 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 Service (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 Service (613-546-4291, extension 3180) must be immediately contacted.

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Authorizing Signatures:

Steven Chew, Senior Planner

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

Paige Agnew, Commissioner Community Services

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Options/Discussion:

On January 30, 2020, a minor variance application was submitted by Martin Smith, the owner, with respect to the property located at 827 Woodbine Road. The variance is requested to allow the garage to be converted into living space for a second residential dwelling unit. The second residential dwelling unit will be located on the lower level of the house. There would be two (2) parking spaces located on the existing driveway in the front yard. The exterior dimensions of the house will not change. The zoning by-law has different requirements for a house with an attached garage versus without a garage. Therefore, the conversion of the garage would require an 8 foot side yard rather than the existing 5 foot side yard.

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

- Survey Sketch [Site Plan];
- Proposed Design [Second Residential Unit];
- Original Design; and
- Elevation Drawing of Converted Garage Door.

The applicant's submissions are contained in Exhibit F.

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 3 houses from the western end of Woodbine Road. The house is located on the south side of Woodbine Road. This section of the road is a Local Road. The entire south side of this block is developed with single-detached houses. The entire north side of this block is developed with commercial buildings, two (2) single-storey plaza type buildings and one (1) two-story commercial building. The commercial properties have their primary access from Princess Street. This block of Woodbine Road is a local road with commercial and residential uses.

The subject property is designated Residential in the Official Plan and zoned R1-23 in Zoning By-Law Number 76-26. The property abuts single-detached residential properties on all lot lines. The lands across the street are designated Arterial Commercial in the Official Plan and zoned C2-44 and C2-17 in Zoning By-Law Number 76-26.

Application

The review of an application for minor variance(s) is not a simple mathematical calculation, but rather a detailed assessment of whether the variance(s) 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:

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Provincial Policy Statement

In addition to the four tests of a minor variance detailed later in this report, 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 Residential in the City of Kingston Official Plan.

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 second residential dwelling is a permitted use in the zone. The proposed development would comply with zoning by-law requirements except for the minimum required side yard for a house without an attached garage.

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 existing building will retain the existing dimensions. The façade of the building will be modified from a garage door to a standard building façade material. Parking will be on the existing driveway in the front yard, where cars are already allowed to park.

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 conversion of the garage will not alter the functionality of the property as a residential dwelling. The existing house and second residential dwelling unit will be serviced by two (2) parking spaces as required by the zoning by-law.

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;

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The building is not designated under the *Heritage Act* and is not located in a Heritage District. The only change to the building and property is the replacement of a garage door with a wall, door and windows. There are no urban design issues.

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 site is not designated under the *Ontario Heritage Act*.

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 property is serviced with municipal water, sewage services and is within the urban boundary.

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;

There is only one variance required. The variance would recognize the location of the existing building. There are no cumulative impacts.

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;

The recommendation contains the standard conditions for a minor variance except that there is no restriction limiting the minor variance the existing building only. The limitation is not required because once the garage is converted into living space. The provision is no longer applicable to any part of the property. With the minor variance the owner would be able to develop the property pursuant to all other provisions such as minimum yards and height.

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

No undesirable precedent is being set with this minor variance. There are no issues of urban design, intensity of use, or compatibility at issue.

The proposal meets the intent of the Official Plan, as a residential use in a residentially designated area. The proposed conversion of the garage into living space and will not result in any negative impacts to adjacent properties or to the neighbourhood.

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2) The general intent and purpose of the zoning by-law are maintained

The subject property is zoned R1-23 in the City of Kingston Zoning By-Law Number 76-26, entitled "Township of Kingston Restricted Area By-Law", as amended. The R1-23 zone permits a single detached dwelling house and a second residential dwelling unit.

The proposal requires a variance to Section 12(3)(ii)

Variance Number 1:

By-Law Number 76-26: Section 12(3)(e)(ii) Interior Side Yard, house, no garage

Requirement: 8 feet (2.44 metres)

Proposed: 5 feet (1.52 metres)

Variance Requested: 3 feet (0.9 metres)

The requested variance maintains the intent and purpose of the zoning by-law. The requested variance does not alter any access to any part of the property or alter the use of any part of the property. The spacing between buildings is the same and access to the back yard is the same. Parking is still provided in front yard where it is currently allowed. The requested variance maintains the visual character of the building. The site layout retains the same functionality for the lot. There are no negative impacts.

The requested minor variance maintains the purpose and intent of the zoning by-law.

3) The variance is minor in nature

The variance is considered minor as there are no negative impacts to the surrounding properties. The exterior location and dimensions of the existing building are unaltered. Despite the conversion of the garage, the two (2) parking spaces required are maintained. The proposed use is permitted in the zone.

The requested variance is minor in nature.

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

The neighbourhood and the subject lands are located in an area designated for residential uses. The conversion of the garage to living space will have no negative impacts on the residential character and design of the neighbourhood. The intended second residential dwelling unit will have a larger area, more windows and more exits. These changes would make the dwelling unit more desirable.

The requested variance is desirable to for the appropriate development and use of the land.

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Technical Review: Circulated Departments and Agencies

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> Building Division | <input checked="" type="checkbox"/> Engineering Department | <input checked="" type="checkbox"/> Heritage (Planning Service) |
| <input type="checkbox"/> Finance | <input checked="" type="checkbox"/> Utilities Kingston | <input type="checkbox"/> Real Estate & Environmental Initiatives |
| <input checked="" type="checkbox"/> Fire & Rescue | <input checked="" type="checkbox"/> Kingston Hydro | <input type="checkbox"/> City's Environment Division |
| <input type="checkbox"/> Solid Waste | <input checked="" 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 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.

At the time this report was finalized, the following comments were received:

Utilities Kingston:

Utilities Kingston has no concerns with the proposed minor variance.

The new dwelling unit is required to be serviced via the existing water and sanitary service. If those services are not sufficient for the new development they are required to be abandoned at the main and new services installed at the applicant's expense.

A service request can be submitted for separate meters.

Heritage Planning Service:

No comment.

Engineering Department:

The proposed dwelling wall is located at the bottom of the sloped driveway. It is the owner's responsibility to address any drainage issues. The owner required to ensure that lot drainage does not adversely affect neighbouring properties. All off-site drainage must maintain the existing volume and rates of flow.

Parks Development:

No comment.

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Fire and Rescue:

Kingston Fire & Rescue has no objections to the application to reduce the minimum side yard requirement for the existing house for the purpose of converting the existing garage into habitation space (bedroom) and access for a new second dwelling unit.

Public Comments

At the time this report was finalized, no public comments 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(s) maintain(s) 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 variance is minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and the application is being recommended for approval, subject to the proposed conditions.

Approval of this application will allow the conversion of an attached garage in to habitation space for a dwelling house. No exterior expansion of the building is proposed.

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 March 23, 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 19 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.

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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

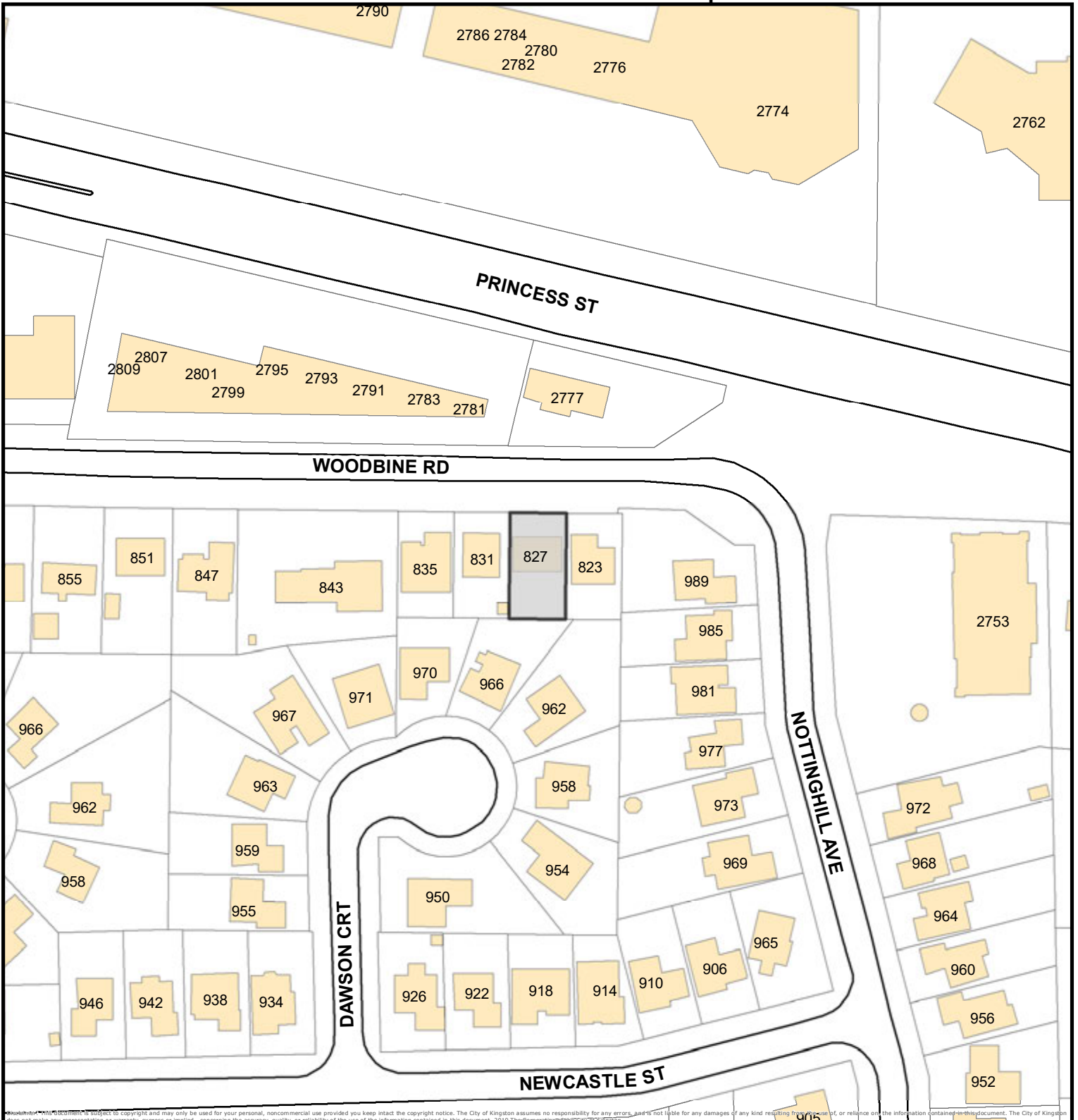
Steven Chew, Senior Planner 613-564-4291 extension 3273

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 Official Plan Map
- Exhibit D Zoning By-Law Map
- Exhibit E Neighbourhood Context
- Exhibit F Applicant's Submissions
- Exhibit G Photo

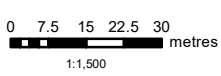


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COMMITTEE OF ADJUSTMENT
Key Map

File Number: D13-004-2020
Address: 827 Woobine Road

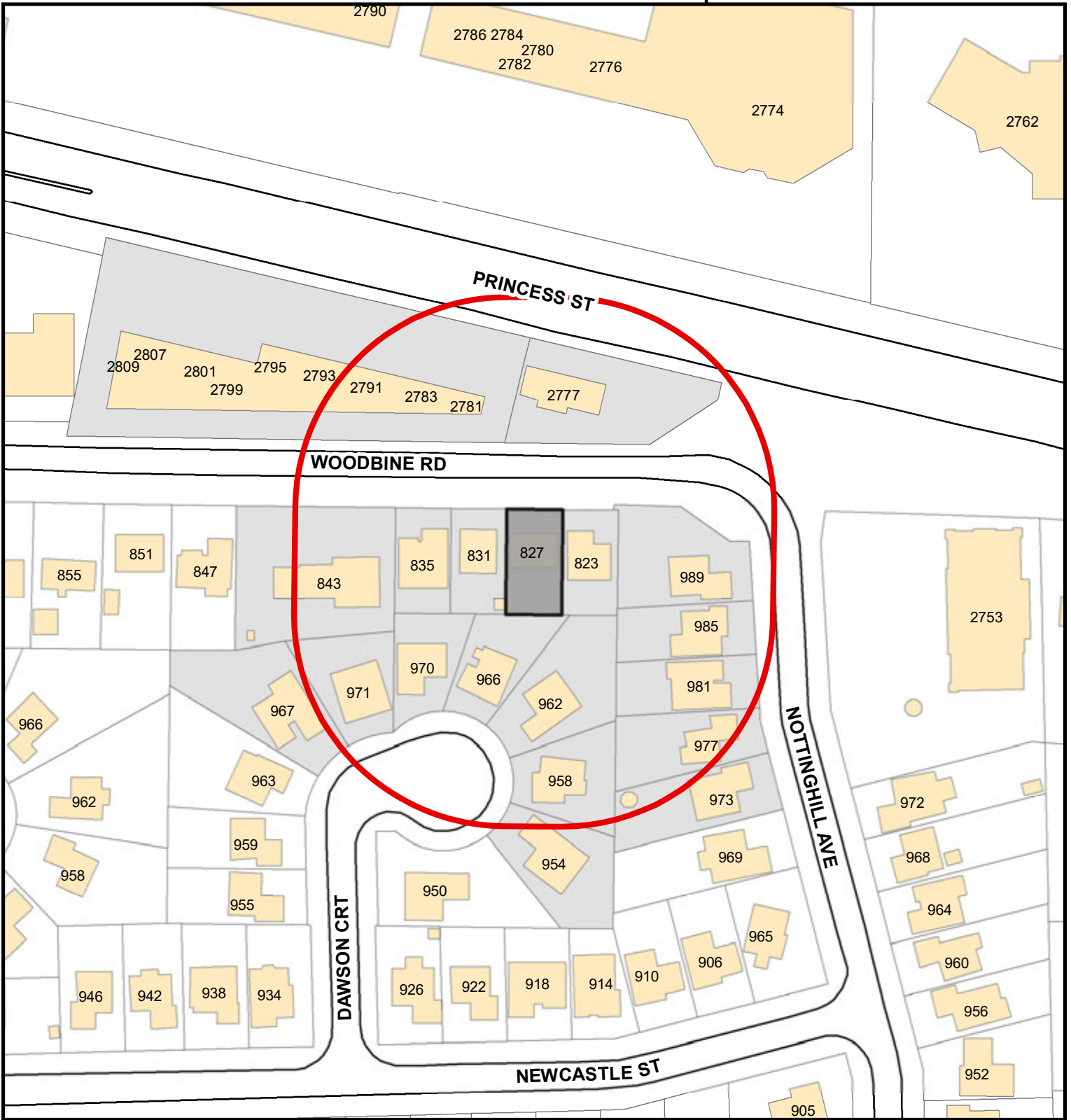


DATE: 2020-02-05
PREPARED BY: rrochefort



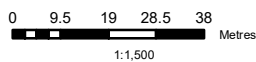
Lands Subject to Minor Variance





COMMITTEE OF ADJUSTMENT
Public Notice Notification Map

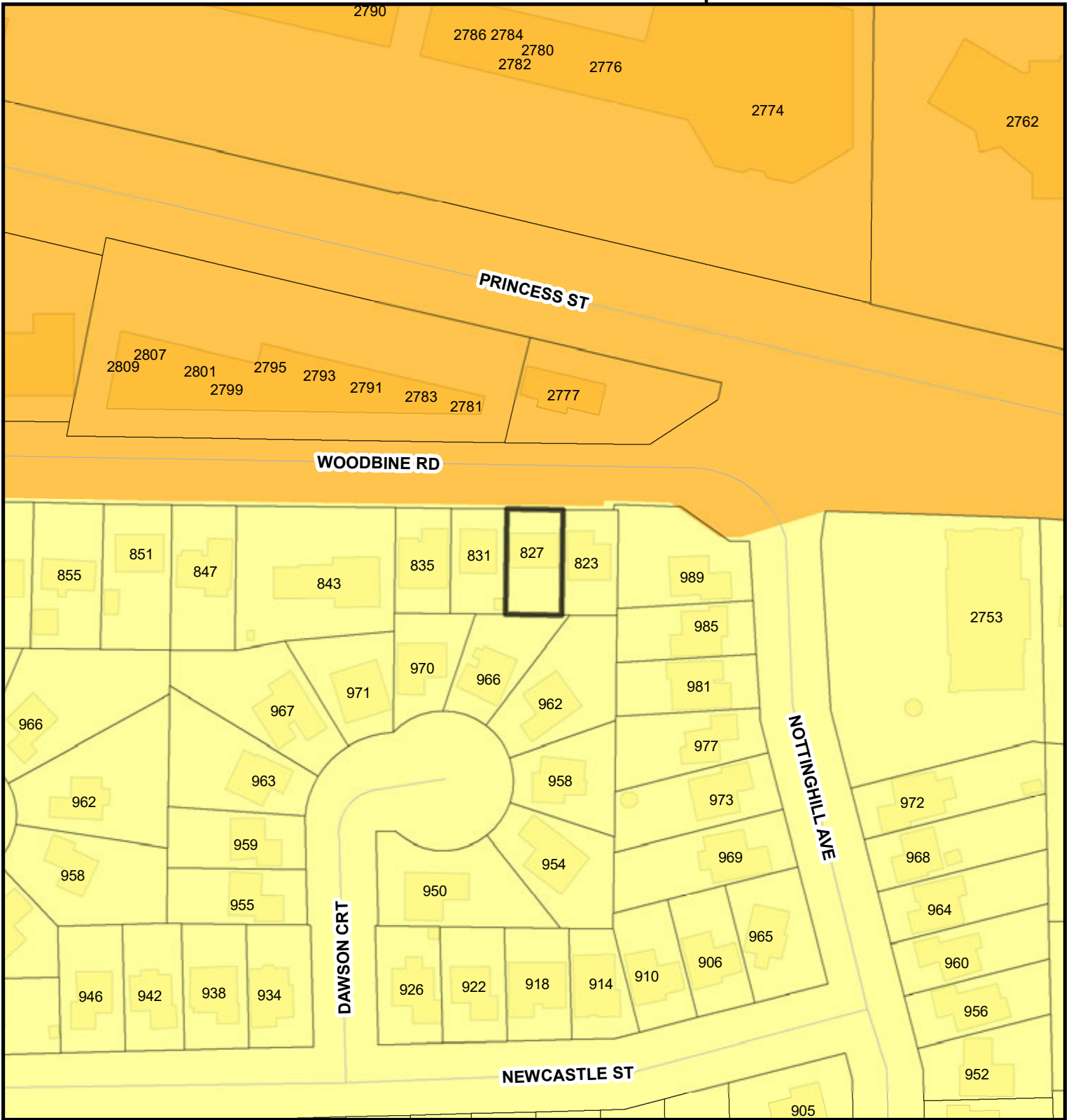
File Number: D13-004-2020
Address: 827 Woodbine Road



Legend

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



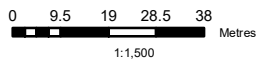


Planning Services




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Community
Services

COMMITTEE OF ADJUSTMENT
Official Plan, Existing Land Use

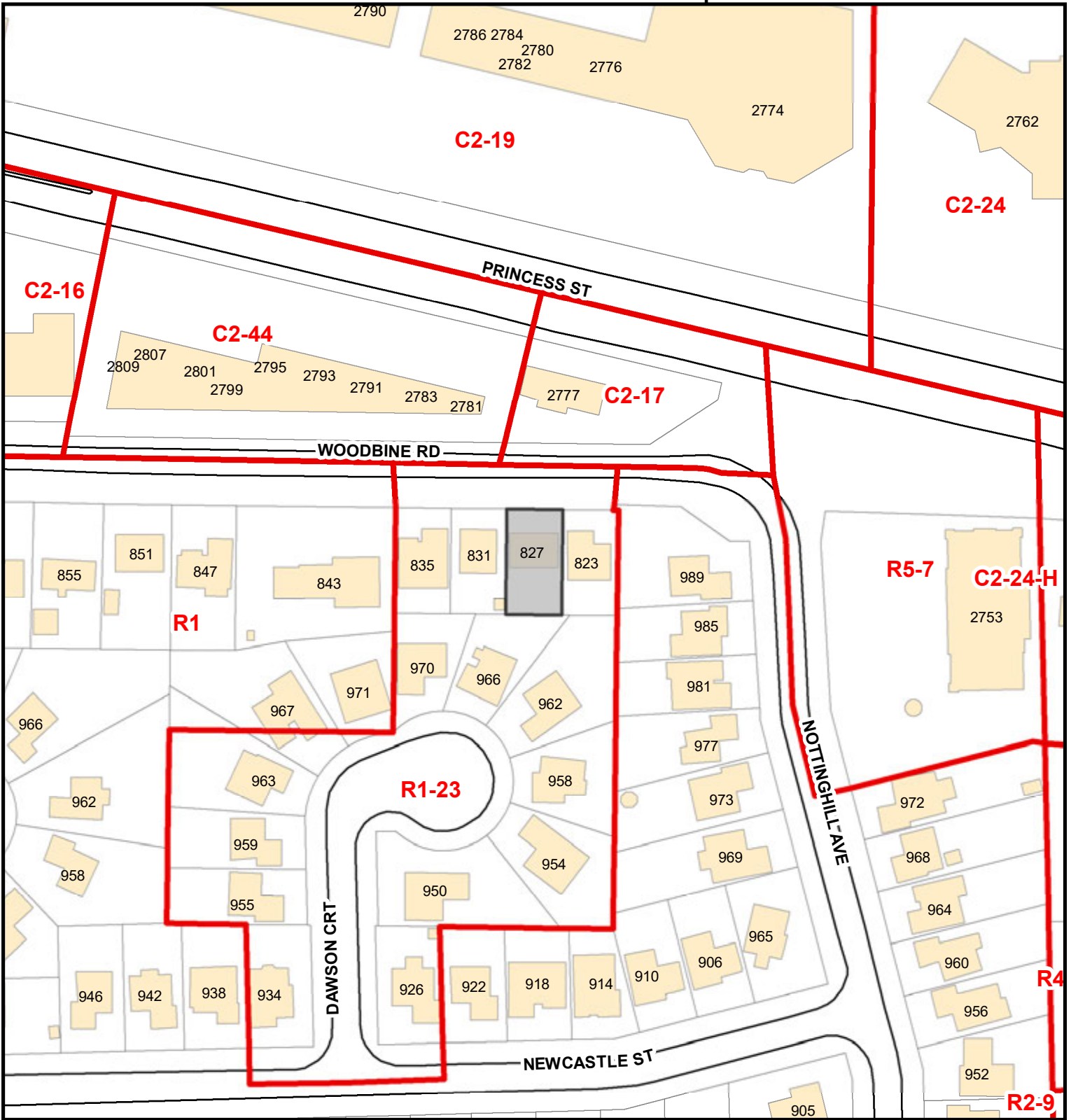
File Number: D13-004-2020
Address: 827 Woodbine Road



Legend

-  Subject Lands
-  ARTERIAL COMMERCIAL
-  RESIDENTIAL





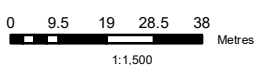


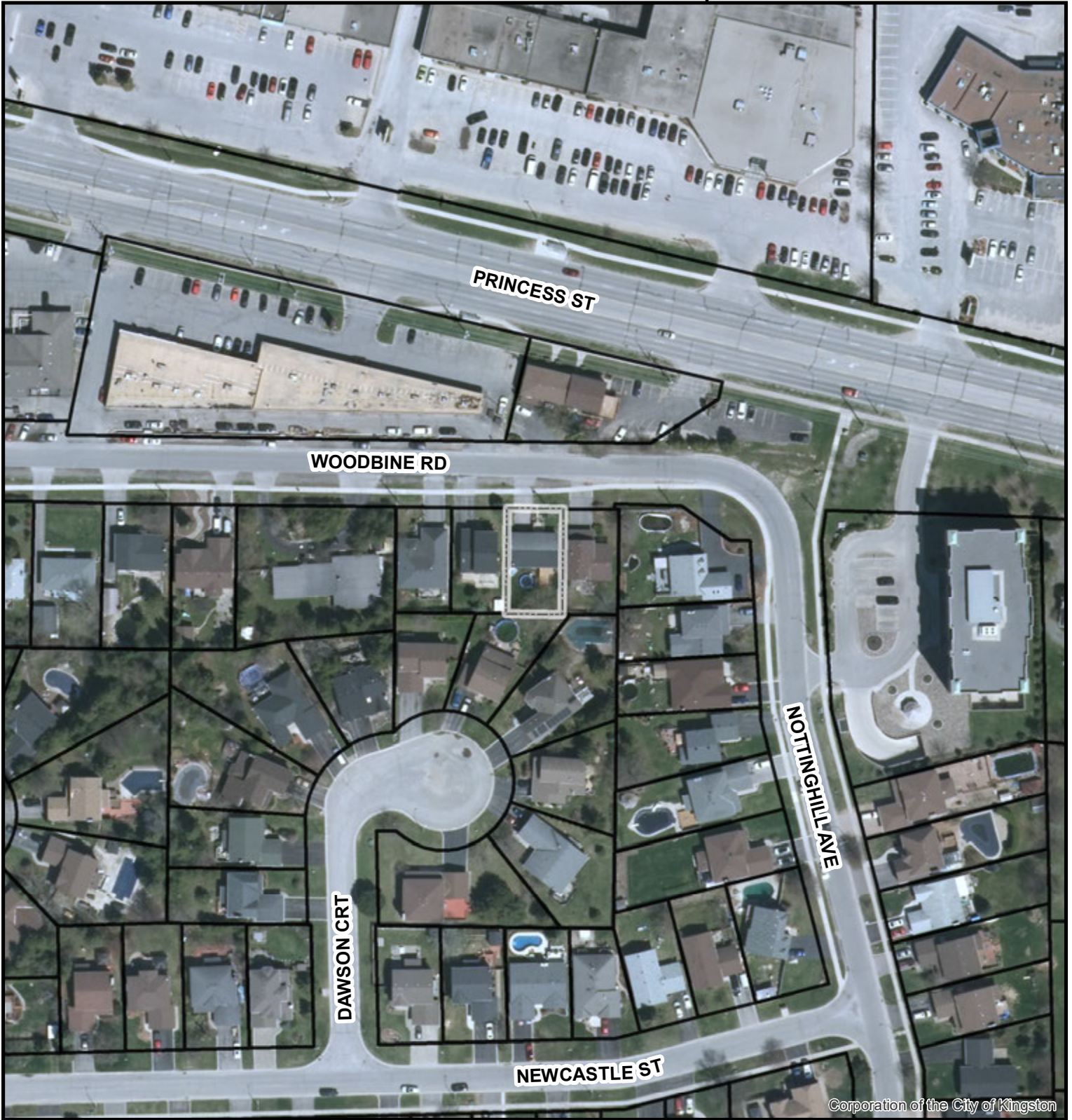
COMMITTEE OF ADJUSTMENT
Existing Zoning - By-law 76-26, Map 5

File Number: D13-004-2020
Address: 827 Woobine Road

Legend

-  Subject Lands
-  Consolidated Zoning





Corporation of the City of Kingston

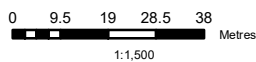


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COMMITTEE OF ADJUSTMENT
Neighbourhood Context (2018)

File Number: D13-004-2020
Address: 827 Woobine Road

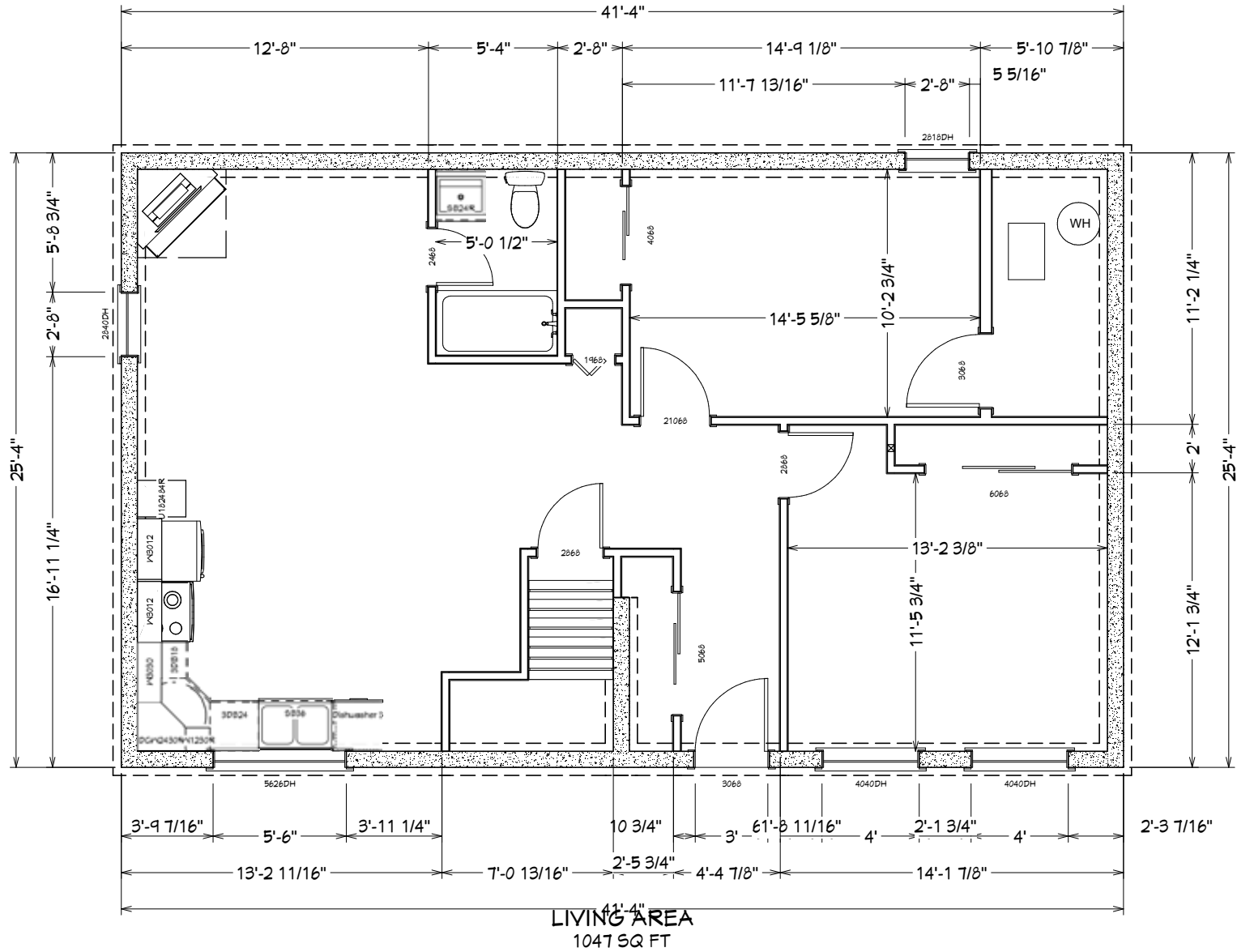


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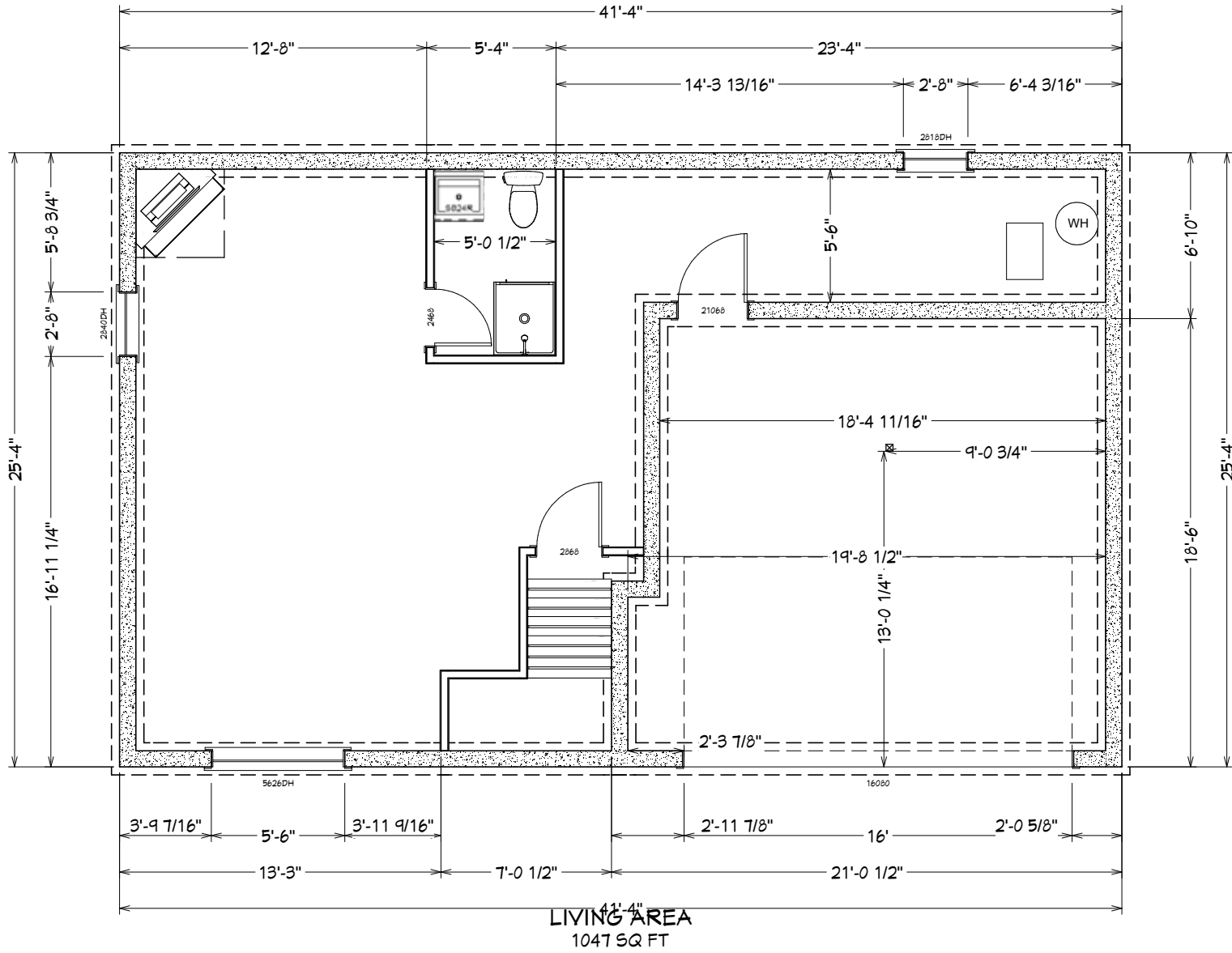
-  Subject Lands
-  Property Boundaries

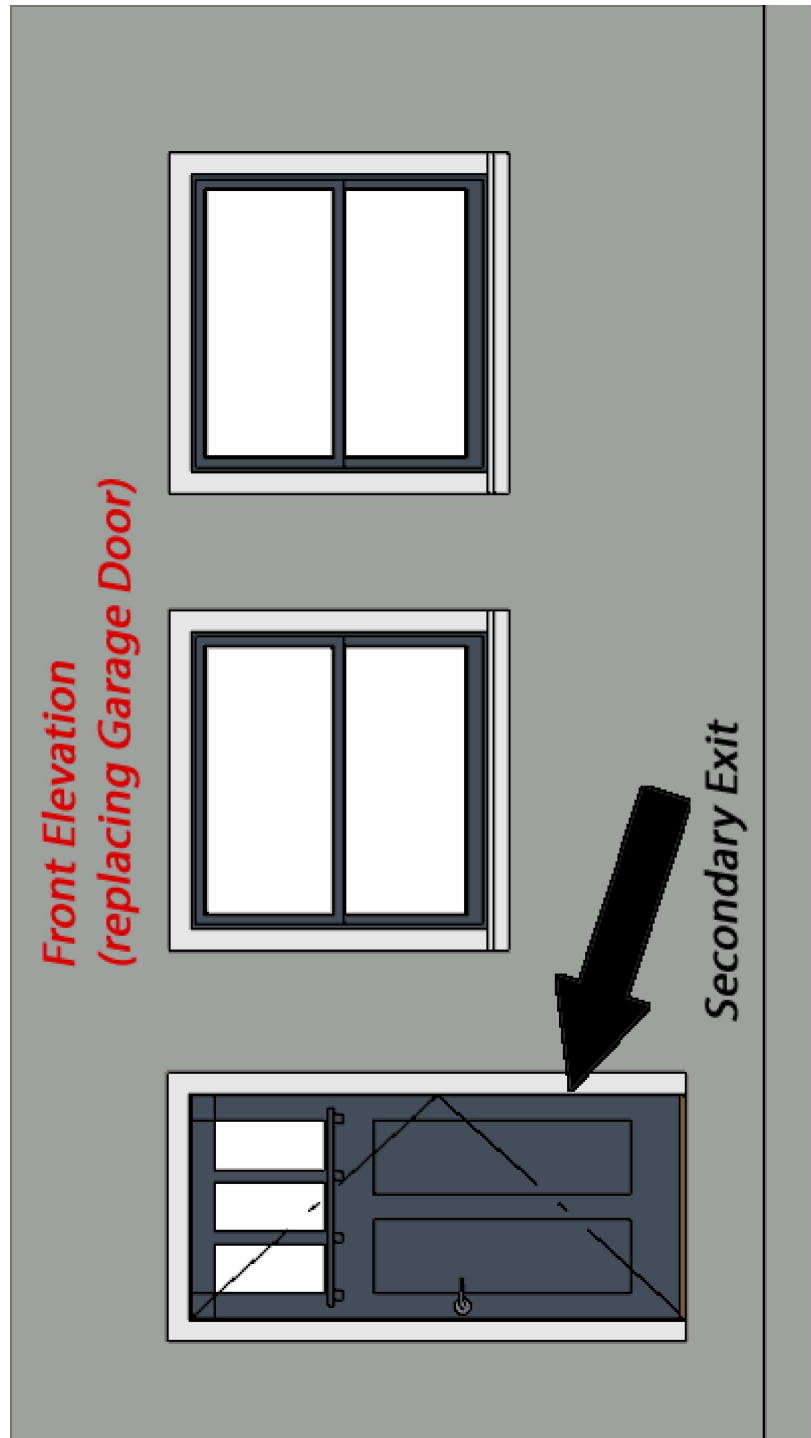


Proposed Design



Original Design





Facing 827 Woodbine Road



Facing South-East to 827 Woodbine Road



Facing West from Front of 827 Woodbine Road

