



**City of Kingston
Report to Committee of Adjustment
Report Number COA-20-043**

To: Chair and Members of the Committee of Adjustment
From: Steven Chew, Senior Planner
Date of Meeting: August 24, 2020
Application for: Minor Variance
File Number: D13-028-2020
Address: 3370 4th Concession Road
Owner/Applicant: J.D. Wylie and M.L.F. Wylie

Council Strategic Plan Alignment:

Theme: Policies & by-laws

Goal: 2.1 Pursue development of all types of housing city-wide through intensification and land use policies.

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for a minor variance for the property located at 3370 4th Concession Road. The applicant is proposing to add a storage shed to the property. The proposed shed is 3 metres x 4.27 metres (10 feet x 14 feet) with an area of 13 square metres (140 square feet) and a maximum height of 2.5 metres (8 feet). It will be located on the west side of the property. The only permitted use of the property is for a single detached house.

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 32-74. 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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Variance Number 1:

By-Law Number 32-74: Section 24(2)(e) Minimum Side Yard

Requirement: 12 metres

Proposed: 6 metres

Variance Requested: 6 metres

Recommendation:

That the minor variance application, File Number D13-028-2020, for the property located at 3370 4th Concession Road to reduce the minimum required side yard for a shed, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-20-043.

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 June 26, 2020, a minor variance application was submitted by the owner, J.D. Wylie and M.L.F. Wylie, with respect to the property located at 3370 4th Concession Road. The variance was requested to reduce the minimum side yard requirement from 12 metres to 6 metres, being a reduction of 6 metres. The effect of this reduction would be to allow a shed to be built approximately 6 metres from the side lot line on the west side of the property. The proposed shed is 3 metres x 4.27 metres (10 feet x 14 feet) with an area of 13 square metres (140 square feet) and a maximum height of 2.5 metres (8 feet).

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

- Site Plan – “Property Layout” (Exhibit F)
- Cover Letter – Description and Justification of the Application
- Building Plans for the Shed
- Brochure for the Shed

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 3370 4th Concession Road.

The subject property is designated “Rural Lands” in the Official Plan, nearby are some “Environmental Protection Areas” designated lands associated with streams and drainage ditches. The subject land and surrounding lands are zoned “General Rural Zone (A2) in Zoning By-Law Number 32-74”.

The property is in a row of 5 similar residential lots along this part of the 4th Concession Road. To the north of these residential lots is a rural lot which is 37 hectares in area, containing a house and no other buildings. All the surrounding lands are in the General Rural Zone (A2) of Zoning By-Law 32-74. Highway Number 401 is approximately 130 metres south; 60 metres to the west is the intersection with Findlay Station Road. The subject property and surrounding lands are designated as “Rural” in the Official Plan. A further 875 metres to the south side of Highway Number 401 are lands designated “Mineral Resource” in the Official Plan on which an active active quarry operates.

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 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” 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 existing residential use and zoning are consistent with the Rural Lands designation. The proposed shed is a minor accessory use to the permitted use and the minor variance requested only affects how close to a side lot line the accessory use is permitted.

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 proposed shed will be located 6 metres from the side lot line. This distance is appropriate for the area and configuration of the subject lands. There will be no impact on the abutting land uses.

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 proposed shed is functionally accessible for storage purposes. The lot is flat and there are no restrictions on universal accessibility.

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 size and location of the proposed shed has no impact on urban design; and, there are no matters of built heritage on this property.

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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 subject lands are not designated nor are they listed lands.

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 proposed shed is accessory to an existing residential house. It does not represent an increase in development or an increase in water or sewage services to the site or the City.

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 reduction to the minimum required side yard is the only change requested or required. 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:

No studies are required to reduce the minimum required side yard. Appropriate conditions have been added to the minor variance recommendation.

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

No precedents are represented by this minor variance. The reason for the proposed location of the shed is due to the existing location of the house and septic bed on the subject lands.

The proposal meets the intent of the Official Plan, as the proposed minimum required side yard will still be adequate to retain the rural character of the building setbacks and 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 Rural Zone (A2) in the City of Kingston Zoning By-Law Number 32-74, entitled "Township of Pittsburgh Zoning By-Law", as amended. The A2 zone permits: an accessory dwelling house, a detached single-family dwelling house, a

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cemetery, a farm, a farm produce outlet, a home occupation, a public use and, a specialized farm

The proposal requires a variance to Section 24

Variance Number 1:

By-Law Number: 32-74 Section 24(2)(3)

Requirement: 12 metres

Proposed: 6 metres

Variance Requested: 6 metres

3) The variance is minor in nature

The variance is considered minor as there is no negative impact to the neighbouring properties. There are no impacts on privacy, drainage, access or visual intrusion.

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

The existing house is permitted in the Zoning By-Law. The accessory shed is only 13 square metres in area. It serves the needs of the house for storage which enhances the functionality of the house.

The variance is desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> Building Services | <input checked="" type="checkbox"/> Engineering Department | <input checked="" type="checkbox"/> Heritage (Planning Services) |
| <input type="checkbox"/> Finance | <input type="checkbox"/> Utilities Kingston | <input 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 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 checked="" type="checkbox"/> Forestry | <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

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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 32-74. 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 construction of a small shed located 6 metres from the side lot line.

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, 2020

Municipal

City of Kingston Official Plan
Zoning By-Law Number 32-74

Notice Provisions:

A Committee of Adjustment Meeting will be held respecting this application on August 24, 2020. Pursuant to the requirements of the *Planning Act*, a notice of the Statutory Public Meeting was provided by advertisement in the Kingston Whig Standard at least 10 days in advance of the Public Meeting. A courtesy notice was also 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

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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:

None

Exhibits Attached:

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Neighbourhood Context Map
- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Map
- Exhibit F Site Plan

Recommended Conditions

The following conditions are recommended for a decision to approve Application D13-028-2020:

1. That the approved variance applies only to the location of the storage shed along the side yard as shown on the approved plans attached to the Notice of Decision. The variance does not include a reduction in the required setback along the entire width/length and depth of the property.
2. Applicant shall ensure that any altering of the grade and/or drainage patterns do not adversely affect adjacent properties.
3. 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.
4. 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.
5. If the shed is not built on blocks-on-grade or a concrete-slab-on-grade and the ground is disturbed, then the following shall be required:

“An Archaeological Assessment (beginning with a Stage One Assessment) and any subsequent or supporting studies are required on the property prior to the issuance of a Building Permit, as the site falls under several of the criteria for archaeological potential. Any area of development or site alteration, including access routes, on lands containing archaeological resources or areas of archaeological potential will need to be assessed by an archaeologist licensed in the Province of Ontario. The applicant shall contact the Planning Division to confirm their requirements for approval of this condition.

Two (2) copies of the study and all relative information shall be provided to the Building Division. The report shall be registered with

the Ministry of Tourism, Culture and Sport or an acceptance letter shall be obtained by the Ministry prior to the issuance of a Building Permit.

The City relies upon the report of the professional archaeologist as filed, but reserves the right to require further reports should further evidence be uncovered. The applicant may be required to further review the state of archaeological resources on the property depending on the recommendations of the report and subject to input and review from the Ministry of Tourism, Culture and Sport. The City shall not be restricted in its ability to determine requirements related to review, assessment and/or protection should archaeological resources be found on site. Any costs arising from such requirements of the City, or any other duly authorized Government body, shall be borne solely by the applicant.”

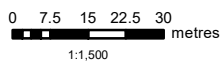


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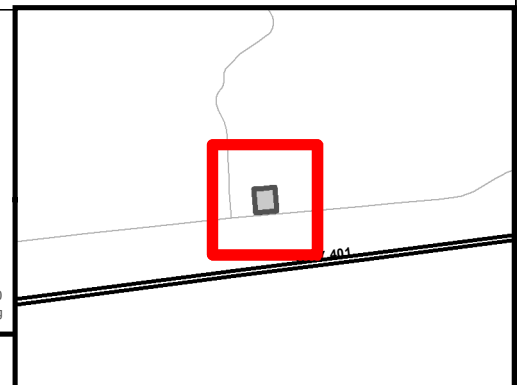
COMMITTEE OF ADJUSTMENT


Key Map

File Number: D13-028-2020
Address: 3370 4TH CONCESSION ROAD



DATE: 2020-07-10
PREPARED BY: akeeping



 Lands Subject to Minor Variance



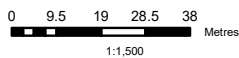
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COMMITTEE OF ADJUSTMENT
Neighbourhood Context (2019)

File Number: D13-028-2020
Address: 3370 4TH CONCESSION ROAD



Legend

-  Subject Lands
-  Property Boundaries



PREPARED BY: akeeping
DATE: 2020-07-10

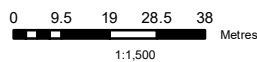
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COMMITTEE OF ADJUSTMENT
Official Plan, Existing Land Use

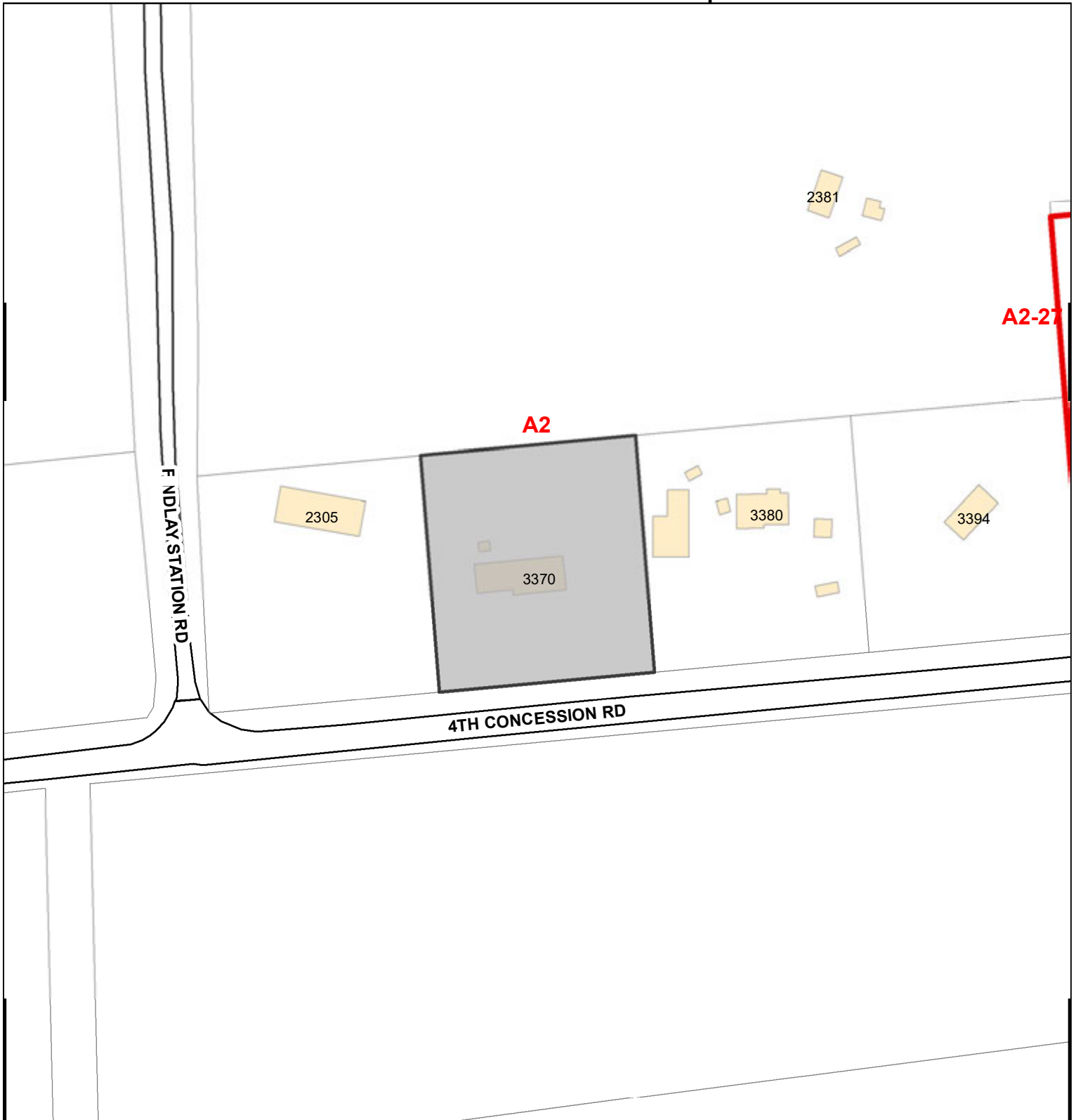
File Number: D13-028-2020
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Legend

-  Subject Lands
-  ENVIRONMENTAL PROTECTION AREA
-  RURAL





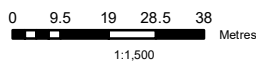


COMMITTEE OF ADJUSTMENT
Existing Zoning - By-law 32-74, Map 2

File Number: D13-028-2020
Address: 3370 4TH CONCESSION ROAD

Legend

-  Subject Lands
-  Consolidated Zoning



Application For 10x14 Shed

Proposed Side Minimum Side Yard is 19.9 feet (6 m)

