

City of Kingston Report to Committee of Adjustment Report Number COA-20-049

To: Chair and Members of the Committee of Adjustment

From: Phillip Prell, Planner

Date of Meeting: September 21, 2020

Application for: Minor Variance

File Number: D13-032-2020

Address: 2701 Patterson Road

Owners: Leonard & Katherine Winsor

Applicant: Leonard Winsor

Council Strategic Plan Alignment:

Theme: Business as usual

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 2701 Patterson Road. The applicant is requesting an increase in the maximum permitted height of an accessory building to construct a garage with a height of 18-feet (5.5 metres) where the maximum permitted height is 15-feet (4.6 metres). The applicant is also proposing a zone compliant patio attached to the garage. The proposed increase in building height is mitigated by existing mature trees, a generous 20-foot (6.1 metre) setback from the nearest abutting residential property line, and by the design of the garage.

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.

Page 2 of 10

Variance Number 1: Accessory Building or Structure Height

By-Law Number 76-26: Section 5(1)(c)

Requirement: 15 feet (4.6 metres) maximum

Proposed: 18 feet (5.5 metres) Variance Requested: 3 feet (0.9 metre)

Recommendation:

That minor variance application, File Number D13-032-2020, to increase the maximum permitted height of a detached garage for the property located at 2701 Patterson Road, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-20-049.

Page 3 of 10

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Phillip Prell, Planner

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

Paige Agnew, Commissioner, Community Services

Page 4 of 10

Options/Discussion:

On July 23, 2020, a minor variance application was submitted by Leonard Winsor, on behalf of the owners, Leonard & Katherine Winsor, with respect to the property located at 2701 Patterson Road. The variance is requested to increase the maximum permitted height of an accessory building to construct a garage with a height of 18-feet (5.5 metres) where the maximum permitted height is 15-feet (4.6 metres). The application also contains a zone complaint patio attached to the subject garage that will face onto the applicant's property.

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

- Plot Plan (Exhibit E); and
- Building Design (Exhibit F).

All submission materials are available online through the Development and Services Hub (DASH) at the following link, <u>DASH</u>, 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 off an arterial road (Battersea Road) on a local road known as Patterson Road near the boarder of the Township of South Frontenac (Exhibits C & D). 2701 Patterson Road has approximately 40 metres (131 feet) of road frontage.

The subject property is designated "Rural Lands" in the Official Plan and zoned "R1" in Zoning By-Law Number 76-26. The property abuts 4 other residential properties also zoned "R1" and one agricultural property zoned "A1" (Exhibit B – Key Map).

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:

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.

Page 5 of 10

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;
 - As the development is limited to providing a garage with 3 feet (0.9 metres) of additional building height on a rural residential parcel, there will be no negative impacts on the built and natural resources of the area. Due to the scale and existing permission to allow a 15-foot (4.6 metre) high garage on the property, this scale of development is appropriate for the designated rural area.
- 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;
 - As the proposed garage will be in the rear/side yard of the property, the requested variance for a 3-foot (0.9 metre) increase in permitted garage height has the potential to increase shadowing, and intrusive overlook on the eastern abutting residential property. However, this proposal controls these potential issues with the following mitigation measures: (1) providing a generous 20 foot (6.1 metre) setback, in excess of the 4 feet (1.2 metres) required in the zoning by-law (Exhibit E Plot Plan), (2) maintaining mature trees to screen the garage (Exhibit G Site Image (Mature Trees)), (3) designing the garage in such a way to avoid windows along the eastern wall of the garage, and (4) designing the garage to be used as a buffer for the attached proposed patio (Exhibit F Building Design). These 4 factors/mitigation measures should address the above listed potential issues with the proposed garage and maintain the existing level of privacy between neighbours.

There are no issues of compatibility as related to the protection of normal farm practices.

- 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 application for 2701 Patterson Road is not proposing any changes to the existing zone complaint driveway and parking spaces. Since Patterson Road is a local street and facilitates local traffic volumes, there should be no access/exit or parking concerns.
- 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;

Page 6 of 10

The proposal is not subject to urban design policies as the variance focuses on a residential garage that is accessory to a single-family dwelling. There are no abutting designated heritage buildings surrounding 2701 Patterson Road. The property is not within a heritage district.

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 property is not designated under the *Ontario Heritage Act*. The site is within an area with composite archeological potential. Archaeological clearance is required prior to ground disturbance.

 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 currently utilizes private water and sewage services to meet resident needs. Since the subject of this variance is to permit additional height to a garage that is only using electricity as an additional service, the property will not be increasing its on-site water and sewage service usage. The applicant has confirmed that the garage will be approximately 100 feet (30.5 metres) away from the existing septic system.

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 application and cumulative impact of the proposal does not warrant a zoning by-law amendment.

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 Committee of Adjustment may require additional conditions as it deems appropriate to the approval of the application. Recommended conditions are listed in Exhibit A, attached to this document. Conditions may be added, altered or removed at the Committee's discretion.

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

Page **7** of **10**

The approval of the requested variances will not set a precedent for the immediate area, as each minor variance is reviewed independently and judged on its own merits and metrics.

The proposal meets the intent of the Official Plan, as the proposed increase in accessory building height 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 "Residential Type 1" Zone "R1" in the City of Kingston Zoning By-Law Number 76-26, entitled "Township of Kingston Restricted Area By-Law", as amended. The "R1" zone permits two residential uses: a single-family dwelling house and a converted dwelling house. In addition, the "R1" zone permits two non-residential uses: a home occupation and a public use.

The proposal requires a variance to Section 5(1)(c).

Variance Number 1: Accessory Building or Structure Height

By-Law Number 76-26: Section 5(1)(c)

Requirement: 15 feet (4.6 metres) maximum

Proposed: 18 feet (5.5 metres) Variance Requested: 3 feet (0.9 metre)

The purpose of the accessory building or structure height regulations in Zoning By-Law Number 76-26 as amended, is to control for the: (1) potential overdevelopment on the subject property and (2) reduction in privacy on neighbouring/abutting residential properties that has the effect of impacting one's enjoyment of their own property (due to shadowing, visual disruption, etc.). The variance maintains the general intent and purpose of the zoning by-law since the property will be adding their first detached garage that requires a Building Permit, the lot is approximately 49,500 square feet (4,600 square metres), the setback between the neighbours is generous and there will be no windows along the eastern portion abutting the nearby residential use.

The addition of this 18-foot (5.5 metre) high garage is not considered an overdevelopment of lands as the property is permitted to have up to 10% of the lot coverage be for accessory buildings. As the property is approximately 49,500 square feet (4,600 square metres) and the proposed building would only occupy approximately 2% of the lot area, this proposed garage size (besides the height) is within the expected accessory building size envisioned by the 10% lot coverage regulation. In addition, this structure will be the first accessory building that requires a Building Permit on the property (Exhibit E – Plot Plan).

Building a garage that is 3 feet (0.9 metres) higher than the 15 foot (4.6 metre) maximum height requirement has the potential to affect how neighbouring properties can enjoy their property depending on how abutting properties are laid out and the design of the garage.

Page 8 of 10

In this case, the proposed garage provides for a generous 20 foot (6.1 metre) setback from the property line, and the distance from 2701 Patterson Road's lot line to the eastern neighbour's house is approximately 45 feet (13.7 metres) (Exhibit E – Plot Plan). In addition, there are mature trees that separate 2701 and 2711 Patterson Road, which provides a screen when the leaves are present that would obscure large portions of the garage above 10-12 feet (3-3.7 metres) (Exhibit G – Site Image (Mature Trees)). Finally, the garage was designed with windows facing back into the applicant's own yard and with no windows facing the abutting residential property. The proposed zone complaint patio will also not be visible from the 2711 Patterson Road as the garage will obscure it from view (Exhibit F – Building Design).

The general intent and purpose of the Zoning By-Law Number 76-26 is maintained.

3) The variance is minor in nature

The requested variance to allow a 3 foot (0.9 metre) increase in accessory building height is considered minor as the accessory building is not an overdevelopment of lands and there are multiple mitigating factors to maintain the privacy of abutting residential properties.

Overdevelopment is controlled due to the generous 20 foot (6.1 metre) setback from the property line, the large approximately 49,500 square foot (4600 square metre) property size, and the resulting approximately 2% lot coverage of the accessory building (garage) (Exhibit E – Plot Plan). Neighbouring privacy is maintained through the design of the building, which only proposed windows that look onto the applicant's property and the lack of windows facing the abutting residential property to the east (Exhibit F – Building Design). Furthermore, the existing mature trees between the two neighbours mitigates the view of extra height due to the tree canopies having dense foliage at approximately 10-12 feet (3-3.7 metres) in height (Exhibit G – Site Image (Mature Trees)). This should mitigate the view of the additional height of the garage during much of the year.

The proposed variance is considered minor in nature.

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

The requested variance to allow a 3 foot (0.9 metre) increase in accessory building height, is desirable for the appropriate development and use of land as there should be no land use compatibility matters that will negatively effect neighbouring residential properties due to the proposed location and design of the 18 foot (5.5 metre) high garage (Exhibits E & F). In addition, the scale of the proposed garage is appropriate for the rural location and size of the lot. Finally, mature trees between the proposed garage area and the abutting residential property should mitigate the view of the additional garage height for much of the year (Exhibit G – Site Image (Mature Trees)).

The variance is desirable and appropriate use of the land.

Page 9 of 10

Technical Review: Circulated Departments and Agencies

\boxtimes	Building Services		
	Finance	□ Utilities Kingston	☐ Real Estate & Environmental Initiatives
	Fire & Rescue		
	Solid Waste	□ Parks Development	□ Canadian National Railways
	Housing		☐ Ministry of Transportation
	KEDCO		□ Parks of the St. Lawrence
	CRCA	☐ KFL&A Health Unit	☐ Trans Northern Pipelines
	Parks Canada	☐ Eastern Ontario Power	☐ CFB Kingston
	Hydro One	☐ Enbridge Pipelines	☐ TransCanada Pipelines
	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, August 21, 2020. 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 maintains 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(s) 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.

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

Page 10 of 10

Zoning By-Law Number 76-26

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on September 21, 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

Financial Considerations:

None

Contacts:

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

Phillip Prell, Planner 613-564-4291 extension 3219

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

Exhibit A Recommended Conditions

Exhibit B Key Map

Exhibit C Official Plan Map

Exhibit D Zoning By-Law Map

Exhibit E Plot Plan

Exhibit F Building Design

Exhibit G Site Image (Mature Trees)

Recommended Conditions of Approval

Application for Minor Variance, File Number: D13-032-2020

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

1. Limitation

That the approved variance applies only to the detached garage at 2701 Patterson Road 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 Services 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 Services (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 Services (613-546-4291, extension 3180) must be immediately contacted.

5. Archaeological Clearance Required

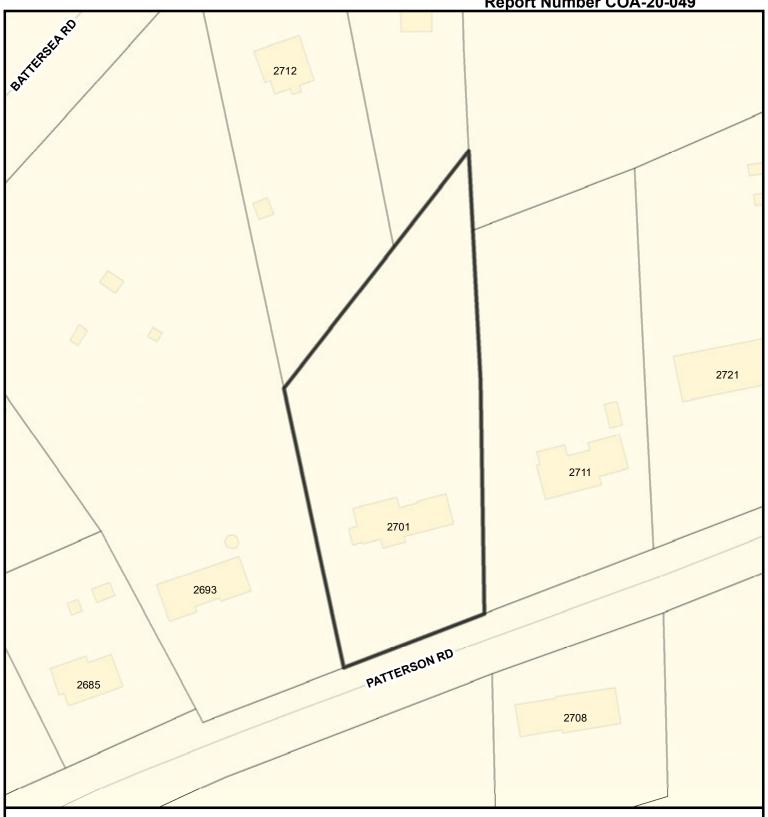
Archaeological clearance of the subject property is required, beginning with a Stage One Archaeological Assessment and including any subsequent assessments as required by the Ministry of Heritage, Sport, Tourism, and Culture Industries' Standards and Guidelines for Consultant Archaeologists, as amended from time to time, prior to any soil disturbance.

One digital copy of the assessment report(s) and any acceptance letter(s) from the Ministry of Heritage, Sport, Tourism, and Culture Industries shall be provided to the Secretary-Treasurer of the Committee of Adjustment, prior to the issuance of the Certificate of Official.

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 Heritage, Sport, Tourism, and Culture Industries. 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.

Exhibit B Report Number COA-20-049 2712 2721 2701 2693 PATTERSON RD 2685 2708 **CONTEXT MAP** COMMITTEE OF ADJUSTMENT **Key Map** File Number: D13-032-2020 **Planning Services** Address: 2701 Patterson Road a department of Community 5 10 15 20 metres Services DATE: 2020-07-28 PREPARED BY: rrochefort 95 Lands Subject to Minor Variance

Exhibit C Report Number COA-20-049





Planning Services a department of Community Services

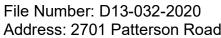
COMMITTEE OF ADJUSTMENT Official Plan, Existing Land Use

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Address: 2701 Patterson Road



PREPARED BY: rrochefort DATE: 2020-07-28



Legend

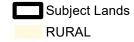




Exhibit D Report Number COA-20-049 SATILIZATION OF THE PROPERTY O 2712 **A1 R1** 2721 2701 2693 PATTERSON RD 2685 2708 COMMITTEE OF ADJUSTMENT Legend Existing Zoning - By-law 76-26, Map 1 File Number: D13-032-2020 Subject Lands **Planning Services** Address: 2701 Patterson Road Consolidated Zoning a department of Community Services PREPARED BY: rrochefort y only be used for your personal, nencommercial use provided you isepintact the copyright not in the provided provided provided the provided DATE: 2020-07-28

Planning and Development Map

Active
Development
Activity

About the map:

The Active Planning
Applications Service
provides a number of
active development
applications for the City of
Kingston Planning Area and
is intended to provide an
overview of each proposed
application.

For more information, please contact the Planning Building and Licensing Department at 1211 John Counter Boulevard, Phone: 613-546-4291 ext. 3180.

Permit Activity



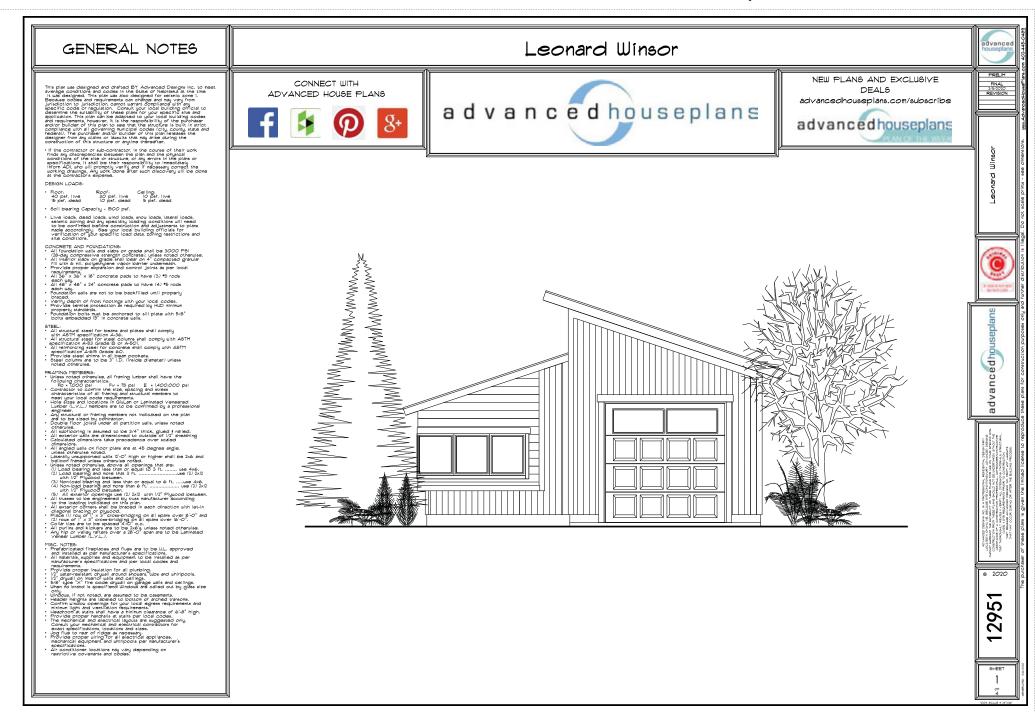


Exhibit F Report Number COA-20-049

