



**City of Kingston  
Report to Committee of Adjustment  
Report Number COA-20-055**

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**To:** Chair and Members of Committee of Adjustment  
**From:** Tim Fisher, Planner  
**Date of Meeting:** October 19, 2020  
**Application for:** Minor Variance  
**File Number:** D13-041-2020  
**Address:** 2616 Woodburn Road  
**Owner:** Steven Dicksen  
**Applicant:** The BLVD Group

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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 a minor variance for the property located at 2616 Woodburn Road. The applicant requests a reduction in the minimum side yard setback requirement in the 'Restricted Rural' A1 zone in Zoning By-Law Number 32-74 from 12 metres to 1.2 metres to construct a 70 square metre addition to the rear of an existing detached garage. The proposal will maintain the existing setback of the detached garage along the western lot line.

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 are minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act*.

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**Variance Number 1:**

By-Law Number 32-74:	Section 23(2)(e) Minimum Side Yard
Requirement:	12 metres
Proposed:	1.2 metres
Variance Requested:	10.8 metres

**Recommendation:**

**That** minor variance application, File Number D13-041-2020, for the property located at 2616 Woodburn Road seeking relief from the side yard setback in order to permit the construction of a 70 square metre addition to the rear of an existing detached garage in order to maintain the existing setback of the garage, be Approved; and

**That** approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-20-055.

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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 September 8, 2020, a minor variance application was submitted by The BLVD Group, on behalf of Steven Dickson, with respect to the property located at 2616 Woodburn Road. The request is for a reduction in the minimum side yard setback requirement in the 'Restricted Rural' A1 zone in Zoning By-Law Number 32-74 from 12 metres to 1.2 metres to construct a 70 square metre addition to the rear of an existing detached garage. The proposed addition at the rear of the existing garage will maintain the existing setback along the western lot line.

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

- Site Plan, (Exhibit F); and
- Justification Letter

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 2616 Woodburn Road, east of Joyceville Road. (Exhibit B and Exhibit C). The subject property is currently developed with a one-and-a-half-storey single-detached dwelling, detached garage, a barn, a livestock shelter and a coverall building. The subject property has a lot area of approximately 19 hectares with approximately 190 metres of road frontage along Woodburn Road. The site is adjacent to similar single detached residential dwellings and agricultural structures and uses.

The subject property is designated 'Prime Agricultural' in the Official Plan and is zoned Restricted Rural 'A1' in Zoning By-Law Number 32-74, as amended.

**Provincial Policy Statement**

In addition to the four tests of a minor variance detailed in this report, Subsection 3(5) of the *Planning Act* requires that a decision with respect to 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.

**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:

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**1) The proposal shall be consistent with the general intent and purpose of the Official Plan**

The subject property is designated 'Prime Agricultural and Environmental Protection Area' in the City of Kingston Official Plan (Exhibit D). Section 3.11 of the Official Plan specifies the goal of the Prime Agricultural designation is To protect land suitable for long term agricultural production from scattered development and other land uses that are unrelated to agriculture, and to preserve and protect its long term use for agricultural uses, agriculture-related uses, and on-farm diversified uses.

Permitted uses in the Prime Agricultural Area designation are limited to agricultural uses, agriculture-related uses, and on-farm diversified uses as defined in Section 1.4 of this Plan. All types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with provincial standards. Change from one agricultural use to another agricultural use will not require an Official Plan amendment or a zoning by-law amendment.

The applicant is proposing to expand an existing detached garage on the subject property. The expansion will not interfere with the continued agricultural use on the property nor will it impact abutting agricultural or residential uses. The location of the detached garage and the proposed addition is not subject to the Minimum Distance Separation (MDS) calculation as there is no livestock or living space being added.

The small eastern portion of the lot adjacent to the road frontage is designated Environmental Protection Area. This designation delineates a drainage ditch which flows south into Grass Creek. Section 3.10 of the Official Plan specifies the goal of the Environmental Protection Area designated lands to preserve the ecosystem role that Environmental Protection Areas play in sustaining the natural heritage system of the city and the broader region. The location of the garage and its addition is located along the western lot line and will be located approximately 105 metres from the closest point of the Environmental Protection Area lands. The addition to the garage will have no negative impacts on the watercourse along the eastern portion of the lot.

The impact of the proposal and the requested variance is minor, and it is therefore not subject to a zoning by-law amendment application process. In considering whether the proposed variance is desirable, the Committee of Adjustment will give 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.

- a. The proposed development meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of the Official Plan.

The existing residential and agricultural use and its zoning are consistent with the Prime Agricultural designation in the Official Plan. The detached garage and its proposed addition are an accessory use to the primary residential and agricultural uses on the lot. The proposed setback of the addition will maintain the existing setback of the detached

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garage. The proposal will not have any negative impacts on abutting properties or residential or agricultural uses and/or structures. The proposal is compatible with the surrounding rural uses and will not result in significant impacts or changes to the surrounding area.

- b. 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 per the plans provided by the applicant, the proposed addition to the garage will be located 1.9 metres from the side lot line (west). The applicant is requesting a 1.2 metre setback to accommodate for any discrepancy in measurement. This distance is appropriate for the area, configuration of the subject lands and existing garage. There will be no impact on the abutting land uses.

- c. The ability of the site to function in an appropriate manner in terms of access, parking or any other matter and means of improving such function.

There is no change proposed to the function of the site in terms of access routes, parking or universal accessibility. No deficits in these functions were identified through the review process.

- d. 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 proposal generally conforms to applicable urban design policies, as outlined in Section 8 of the Official Plan. The addition is located behind the existing detached garage and will be visually compatible with the surrounding dwellings and farm implement buildings.

- e. 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.

No built heritage concerns. The Master Plan indicates that the subject property has composite archaeological potential. An archaeological assessment is not required as the soil in the area of the addition has been previously disturbed.

- f. 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.

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The proposed addition to the detached garage 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 as the subject property is services with private on-site services.

- g. 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 proposal meets the four tests of a Minor Variance as outlined in the *Planning Act* and described herein.

- h. 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.

Conditions of approval are recommended in this report (Exhibit A).

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

The proposal is in keeping and compatible with the existing development in the surrounding area and will not set an undesirable precedent.

In summary, the proposal maintains the general intent and purpose of the Official Plan as the proposed development will not result in any negative impacts to adjacent properties or to the rural neighbourhood.

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

The subject property is located in a Restricted Rural 'A1' Zone in the City of Kingston Zoning By-Law Number 32-74, entitled "Township of Pittsburgh Zoning By-Law", as amended (Exhibit E).

The 'A1' zone permits: an accessory dwelling house, a detached single-family dwelling house, a cemetery, a farm, a farm produce outlet, a home occupation and a public use.

The existing detached garage was built in 1880 (based on MPAC data) and is deemed to have non-complying status as the structure does not comply with current zoning requirements of Zoning By-Law Number 32-74. The existing structure is setback 1.9 metres from the western lot line. The applicant is proposing a 1.2 metre setback to accommodate any possible error in measurement. A variance is requested to reduce the minimum side yard setback requirement to permit an addition to the rear of the detached garage and maintain its existing setback along the western lot line.

### Variance Number 1:

By-Law Number 32-74: Section 23(2)(e) Minimum Side Yard

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Requirement: 12 metres  
 Proposed: 1.2 metres  
 Variance Requested: 10.8 metres

The proposal complies with all other zoning requirements in the 'A1' zone.

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

The location and size of the detached garage and its proposed addition will not result in any impacts on the abutting residential and agricultural uses. The closest dwelling to the west is approximately 150 metres. The size of the garage will be smaller than typical farm accessory buildings and will be in keeping with development accessory to a residential use.

While the property is zoned 'A1' Restricted Rural, it is predominantly used for residential purposes. The proposed interior side yard setback of 1.2 metres is adequate for a residential property and is in keeping with the yard setbacks for the surrounding residential and agricultural development in the rural area.

The location of the detached garage in the rear yard is located to the rear of the existing dwelling. The proposed addition will be located behind the existing garage and will not be visible from Woodburn Road. Its location will not have any negative impacts on the streetscape, traffic or abutting properties.

The proposal is therefore minor in nature.

**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 detached garage and its addition serves the needs of the house for storage which enhances the functionality of the house and provides additional storage for the agricultural use.

The proposal is appropriate and desirable for the site and will be in keeping with the existing development in the rural neighbourhood.

**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 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 checked="" 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                          |



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- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> Building Division | <input checked="" type="checkbox"/> Engineering Department | <input checked="" type="checkbox"/> Heritage (Planning Service) |
| <input checked="" 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. No issues or concerns were raised. Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda. The comments below will be addressed through the Building Permit application process.

Heritage	No built heritage concerns. If there was prior deep ground disturbance, like a previous structure, then an archaeological assessment would not be required.
Engineering	Owner to ensure lot drainage does not adversely affect neighbouring properties.

**Public Comments**

At the time this report was finalized, no public comments have been received. Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda.

**Previous or Concurrent Applications**

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

**Conclusion**

The requested variance is consistent with the general purpose and general intent of both the City of Kingston Official Plan and Zoning By-Law Number 32-74. The variance meets all four tests under the *Planning Act* and as such the application is being recommended for approval, subject to the proposed conditions.

Approval of this application will allow for the construction of a 70 square metre addition to an existing detached garage located in the rear yard of the single detached dwelling. The proposed development is not anticipated to have any adverse impacts on the abutting properties.

**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:

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**Provincial**

Provincial Policy Statement, 2020

**Municipal**

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

**Notice Provisions:**

A Committee of Adjustment Meeting is going to be held respecting this application on October 19, 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, Development Approvals 613-546-4291 extension 3223

Tim Fisher, Planner 613-546-4291 extension 3215

**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

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Exhibit F Site Plan

Exhibit G Photo

## **Recommended Conditions**

### **Application for minor variance, File Number D13-041-2020**

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

#### **Limitation**

That the approved variance applies only to the 70 square metre addition to the detached garage as per the approved plans attached to the notice of decision.

#### **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.

#### **Building Permit Application Requirements**

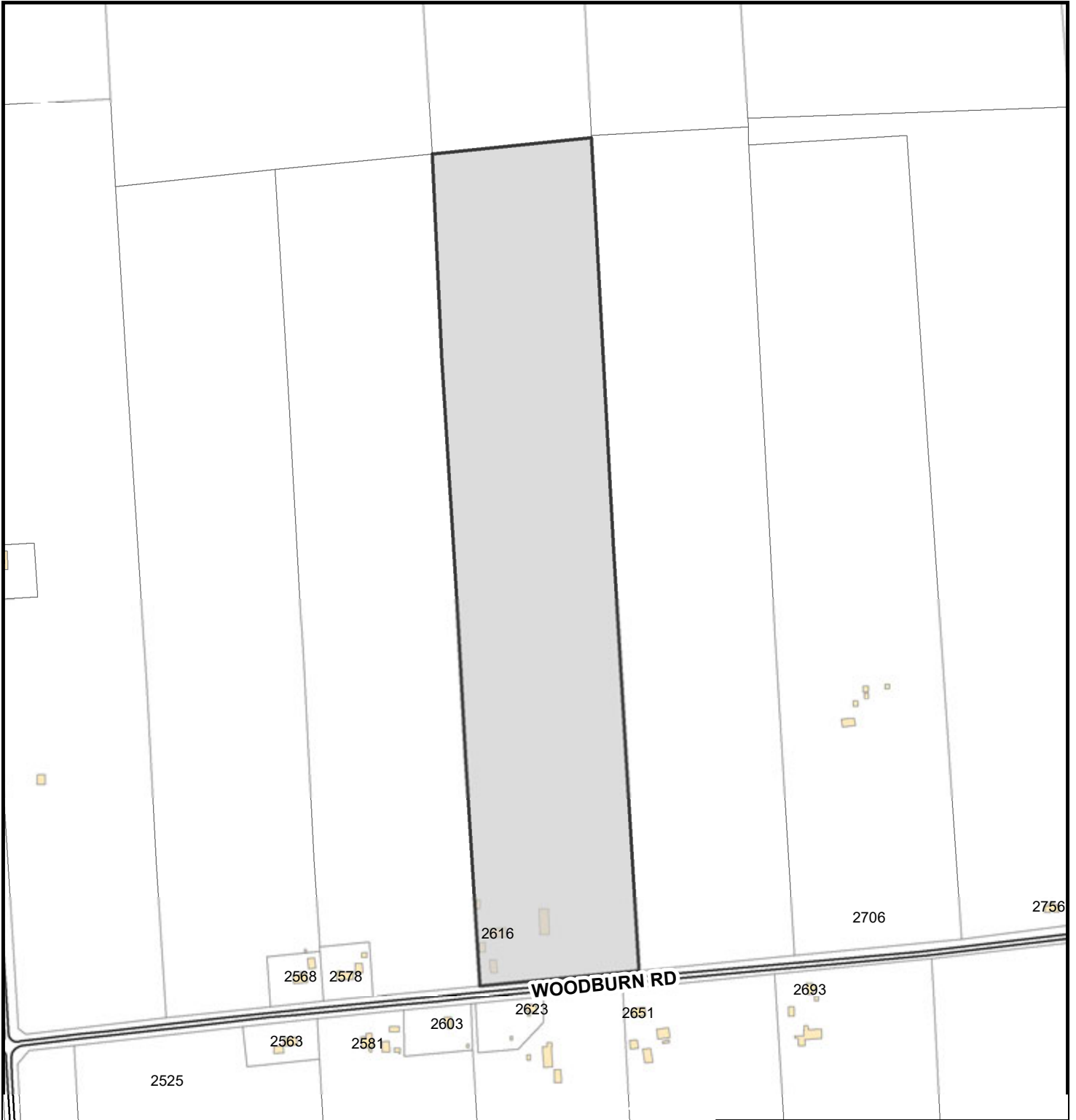
The owner/applicant shall provide to the Building Division a copy of the decision of the Committee of Adjustment, together with a copy of the approved drawings and Archaeological Assessment clearance letter, when they make an application for a Building Permit.

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.

#### **Standard Archaeological Condition**

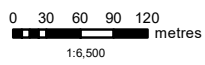
In the event that deeply buried, or previously undiscovered archaeological deposits are discovered in the course of development or site alteration, all work must immediately cease and the site must be secured. The Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132) and 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 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.



COMMITTEE OF ADJUSTMENT  
**Key Map**

File Number: D13-041-2020  
Address: 2616 Woodburn Road



DATE: 2020-09-08  
PREPARED BY: rrochefort

Lands Subject to Minor Variance



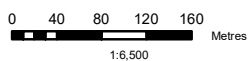
Corporation of the City of Kingston





Planning Services  
a department of  
Community  
Services

COMMITTEE OF ADJUSTMENT  
**Neighbourhood Context (2019)**

File Number: D13-041-2020  
Address: 2616 Woodburn Road



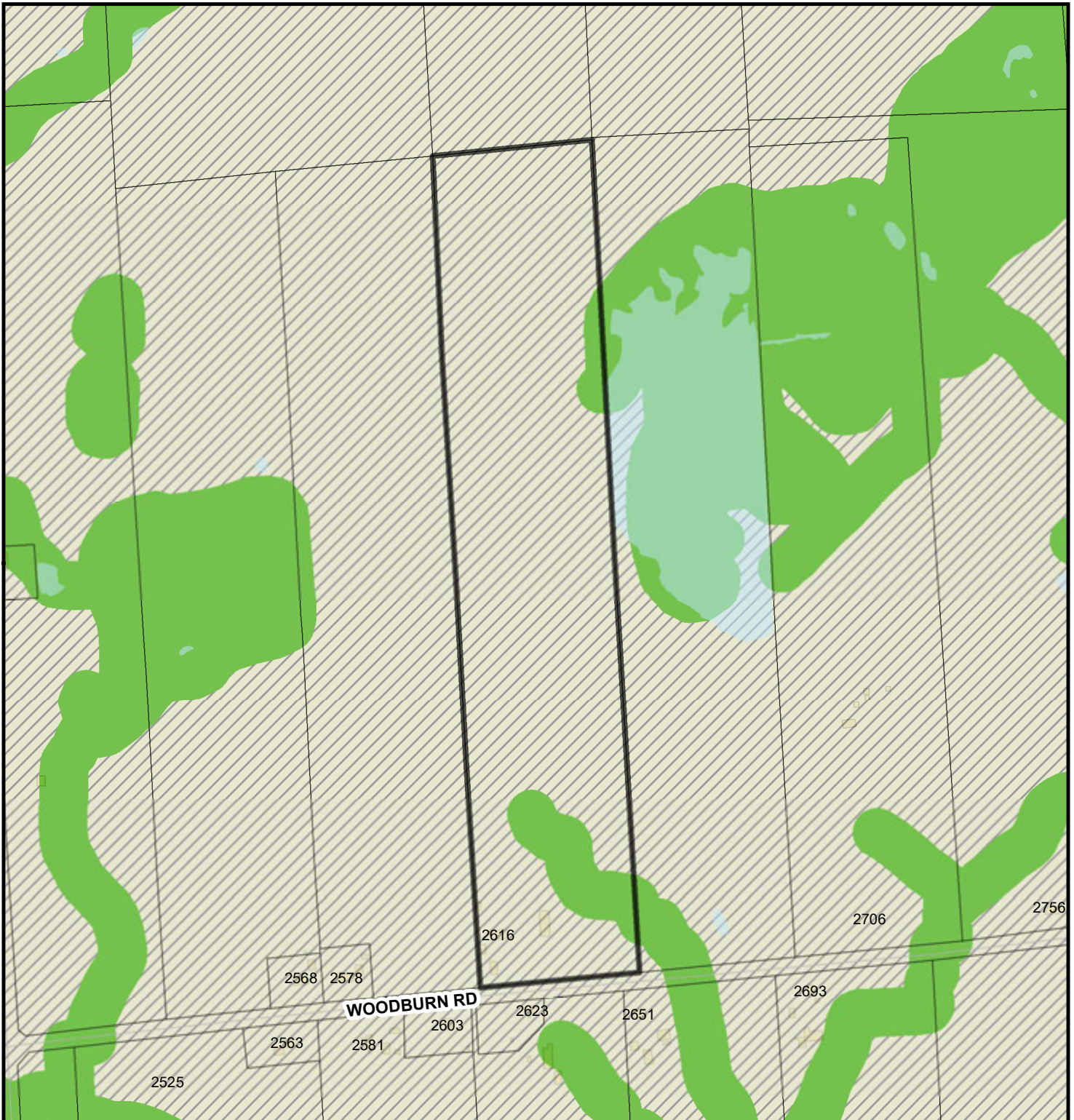
**Legend**

-  Subject Lands
-  Property Boundaries



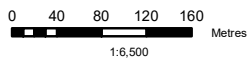
PREPARED BY: rochefort  
DATE: 2020-09-08

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

File Number: D13-041-2020  
Address: 2616 Woodburn Road



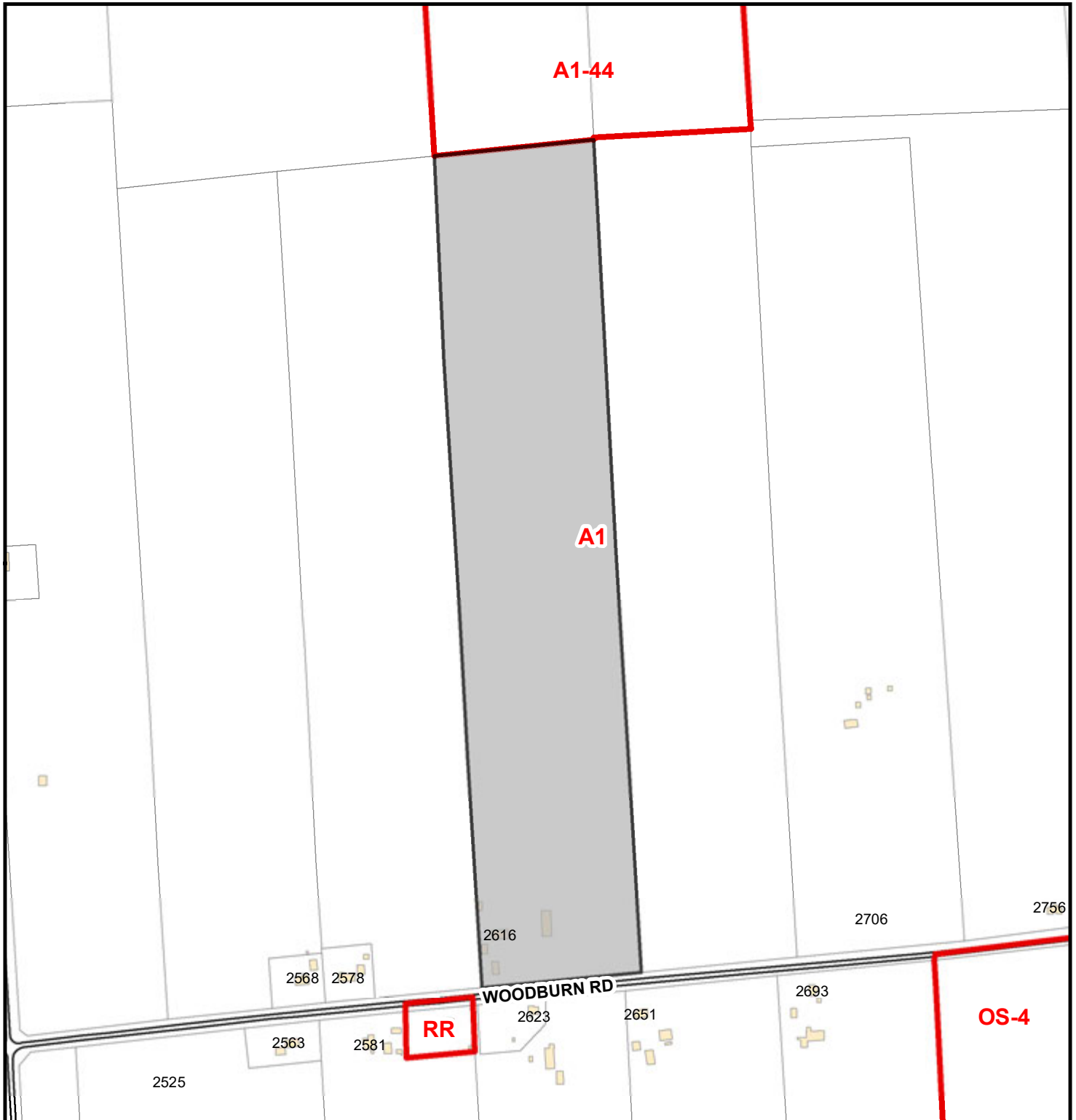
**Legend**

-  Subject Lands
-  PRIME AGRICULTURAL
-  ENVIRONMENTAL PROTECTION AREA
-  RURAL



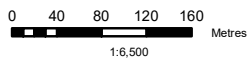
PREPARED BY: rochefort  
DATE: 2020-09-08

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

File Number: D13-041-2020  
Address: 2616 Woodburn Road



**Legend**

- Subject Lands
- Consolidated Zoning





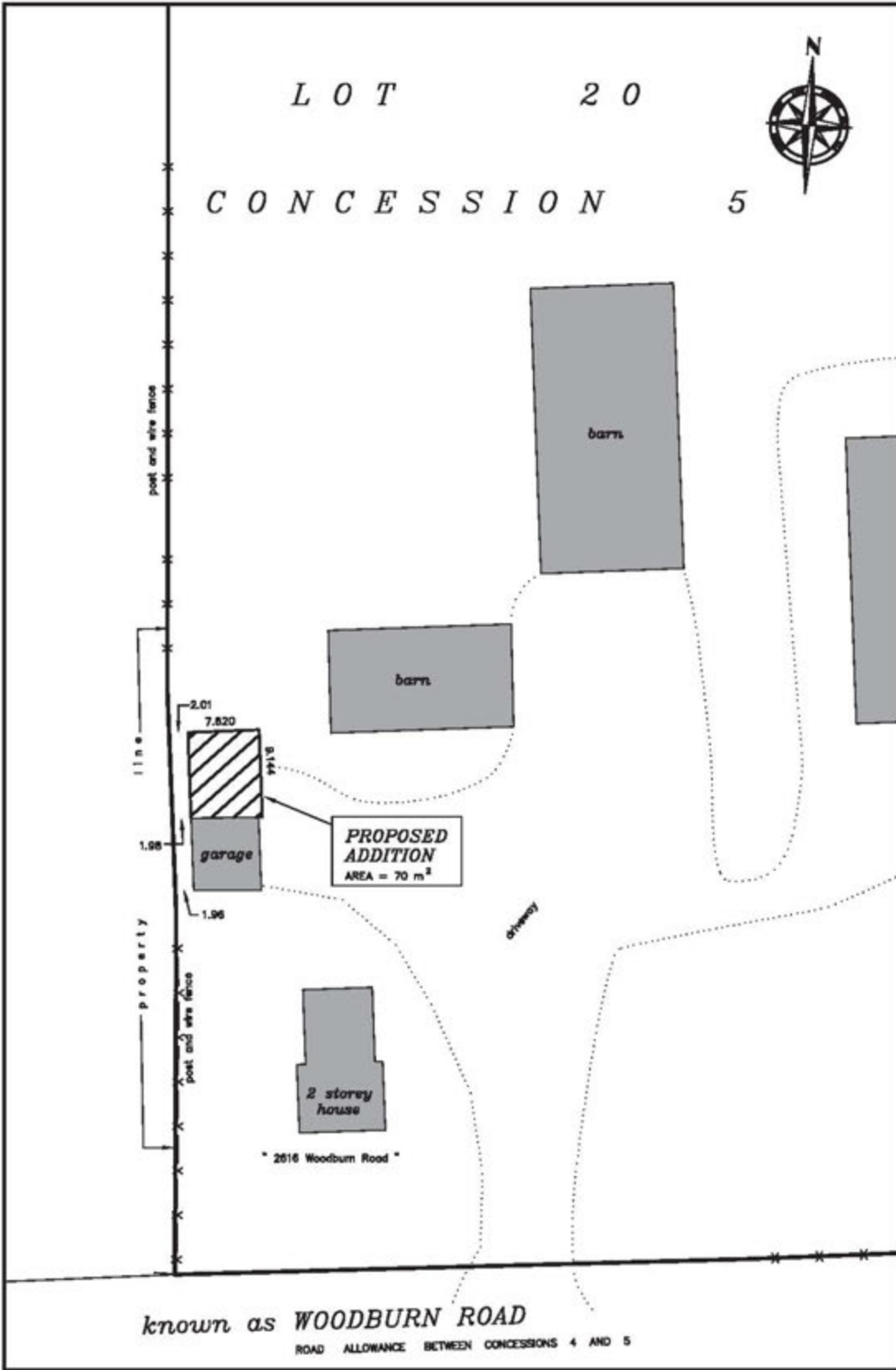
MINOR VARIANCE SKETCH

SHEET TWO

GRANTOR'S NAME .....

ADDRESS .....

LOCATION Part of LOT 20, CONCESSION 5, Geographic Township of Pittsburgh



Hopkins Chitty Land Surveyors Inc. 2020-485

