



**City of Kingston  
Report to Committee of Adjustment  
Report Number COA-21-038**

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**To:** Chair and Members of the Committee of Adjustment  
**From:** Steven Chew, Senior Planner  
**Date of Meeting:** May 17, 2021  
**Application for:** Minor Variance  
**File Number:** D13-022-2021  
**Address:** 2 Dale Street  
**Owner:** Chris Przontka  
**Applicant:** Chris Przontka

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**Council Strategic Plan Alignment:**

Theme: 2. Increase housing affordability

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 2 Dale Street. The applicant is proposing to add a second story on the existing house. The existing detached residential dwelling unit is one-story with an attached garage that is located too close to the exterior side lot line. As a result, the proposed bedroom over the garage is also too close to the exterior side lot line; therefore, a minor variance is required to allow that part of the addition.

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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**Variance Number 1:**

**By-Law Number:** 76-26:Section 12(2)(d) Exterior Side Yard Width (minimum):

**Requirement:** 20 feet (6.1 metres)

**Proposed:** 8 feet 8 inches (2.6 metres)

**Variance Requested:** 11 feet 4 inches (3.5 metres)

**Recommendation:**

**That** minor variance application, File Number D13-022-2021, for the property located at 2 Dale Street to reduce the minimum required exterior side yard, be approved; and

**That** approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-21-038.

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**Authorizing Signatures:**



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Steven Chew, Senior Planner

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

Tim Park, Acting Director, Planning Services  
James Bar, Acting Manager, Development Approvals

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**Options/Discussion:**

On March 29, 2021, a minor variance application was submitted by Chris Przontka the owner, with respect to the property located at 2 Dale Street. The variance is requested to change the minimum required side yard width from 20 feet (6 metres) to 8 feet 8 inches (2.6 metres), being a reduction of 11 feet 4 inches (3.5 metres). The effect of this minor variance is to allow the construction of an addition to the existing detached residential dwelling unit.

The existing detached residential dwelling unit is 1078 square feet (100 square metres) in area. The addition will add 223 square feet (20 square metres) on the ground floor and a new second floor of 1785 square feet (166 square metres). The ground floor will contain the kitchen, dining, living areas and the garage. The second floor will contain 5 bedrooms. The basement is unfinished. The main bedroom with an ensuite bathroom is located over the garage; it is this area that requires the minor variance; all the other areas comply with the zoning by-law. No additional dwelling units are being added.

The detached residential dwelling unit was built in 1967 at which time the location of the garage and its associated exterior side yard was permitted. The garage and its location are recognized today as being a permitted non-conforming use.

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

- Site Plan (Exhibit G)

All submission materials are available online through the Development and Services Hub (DASH) at the following link, [DASH](#), using "Look-up a Specific Address". If there are multiple addresses, search one address at a time, or submission materials may also be found by searching the file number.

**Site Characteristics**

The subject property is a parcel in a residential subdivision. It is 75 by 90 feet (23 by 27 metres) and 6,750 square feet (627 square metres) in area. The lot is serviced by piped municipal sanitary sewer and water services. The subject property is on the North-West corner of Dale Street and Sunny Acres Road. The abutting properties are similar residential lots.

The subject property is designated Residential in the Official Plan and zoned R1-74 in Zoning By-Law Number 76-26. The property is located the Reddendale residential neighbourhood, an area bounded by Front Road, Sunny Acres Road and Lake Ontario. It is dominated by detached residential dwelling units. There are no sidewalks abutting the roads and the roadways drain into swales.

The west side of Sunny Acres Road is made up entirely of detached residential dwelling units. Opposite the subject property, on Sunny Acres Road, are industrial uses including the City of Kingston West – Water Purification Plant and Invista Canada Co. (a large synthetic fiber manufacturing facility).

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## 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 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 subject lands are within a Housing District as per Section 2 of the Official Plan. The proposal maintains the existing use of the property as residential which is consistent with the intent of the Official Plan.

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 proposal is a detached residential dwelling unit the same as the existing use and surrounding uses. The abutting properties and many of the neighboring properties are single storey. However, the neighborhood has many examples with 2 stories. Due to the other examples and the fact the height of the building is permitted in the existing zoning, the addition is considered compatible with the neighborhood. The existing garage and proposed second floor bedroom and washroom are closer to the exterior side than the front yard of houses along the street. Normally the exterior side and front are the same in order to maintain building alignment along the street. There are similar examples of exterior side and front yard differences nearby at 10 Point Crescent, 12 Point Crescent,

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42 Point Crescent, 39 Montgomery Road, and 34 Crerar Boulevard. In this neighborhood the difference between the exterior side and front yard distance is common. Hence the proposal is consistent with the neighborhood characteristics.

The requested exterior side yard has been in place since 1967, the second story addition being proposed is within the same building footprint. The proposed bathroom on the second floor will face into the front yard of 61 Sunny Acres Road, which is the only affected residential property. Front yards do not have any expectation of privacy screening as they front a public street; additionally, bathrooms are typically screened for privacy. The rear yard of the subject property abuts the interior side yard of 61 Sunny Acres. In a regular interior side yard to interior side yard situation the building would only be 4 feet (1.2 metres) from the property line. In this case the distance is 20 feet (6.1 metres) which is 5 times the distance. The height of the building is 26 feet 4 inches (8 metres). Minimal shadowing will cross the property line given the height to distance ratio of the addition. There are no significant changes to the existing situation and no adverse impacts to the nearest abutting property in terms of shadowing or loss of privacy are anticipated.

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

The site will function identically to the existing situation.

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;

No urban design issues are raised by reducing exterior side yard requirement to match the existing situation. The site is not a built heritage resource or in 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 site is not designated nor is it adjacent to a designated site.

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 within the Urban Boundary and is serviced with municipal water and sewage services. There are no identified capacity issues for the area.

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;

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There is only one minor variance required and 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;

Appropriate conditions have been included in Exhibit A.

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

The approval of the requested variances will not set a precedent for the immediate area, as the requested 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 second story addition will not result in any negative impacts to adjacent properties or to the neighbourhood.

The proposal meets the intent of the Official Plan, as the proposal is consistent with the Official Plan 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 R1-74 in the City of Kingston Zoning By-Law Number 76-26, entitled "Township of Kingston Restricted Area By-Law", as amended. The R1-74 zone permits: a single-family dwelling house; a converted dwelling house, a home occupation; and a public use in accordance with the provisions of Section 5(18).

The proposal requires a variance to Section 12(d)

**Variance Number 1:**

<b>By-Law Number: 76-26</b>	Section 12(2)(d) Exterior Side Yard Width
<b>Requirement:</b>	20 feet (6.1 metres)
<b>Proposed:</b>	8 feet 8 inches (2.6 metres)
<b>Variance Requested:</b>	11 feet 4 inches (3.5 metres)

The variances maintain the general intent and purpose of the Zoning By-Law. Adequate setbacks to the street are maintained.

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

The variance is considered minor as there no changes to the footprint of the existing building. The second-floor bedroom addition does not alter the drainage function of the property. The visual impact does significantly or negatively alter the existing situation.

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

The proposed bedroom over the garage is appropriate residential development of an existing detached residential dwelling unit. It builds on existing structures and expands the usability of the property. Materials are conserved and the utility of existing land and city infrastructure is increased.

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 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 checked="" 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.

**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(s)



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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 bedroom and bathroom over the existing garage and the applicants second floor addition to proceed.

**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 76-26

**Notice Provisions:**

A Committee of Adjustment Meeting is going to be held respecting this application on May 17, 2021. 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 16 property owners (according to the latest Assessment Roll) within 60 metres of the subject property and a courtesy notice was placed in The Kingston Whig-Standard.

Once a decision has been rendered by the Committee of Adjustment, a Notice of Decision will be circulated in accordance with the provisions of the *Planning Act*.

**Accessibility Considerations:**

None

**Financial Considerations:**

None

**Contacts:**

James Bar, Acting Manager, Development Approvals, 613-546-4291 extension 3213

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Steve Chew, Senior Planner, 613-546-4291 extension 3273

**Other City of Kingston Staff Consulted:**

None

**Exhibits Attached:**

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Public Notification Map
- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Number 76-26, Map 5
- Exhibit F Neighbourhood Context Map (2020)
- Exhibit G Site Plan, Floor Plans and Elevations
- Exhibit H Photo

## **Recommended Conditions**

### **Application for minor variance, File Number D13-022-2021**

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

#### **1. Limitation**

That the approved minor variance applies only to 2 Dale Street 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 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.

The building site shall be graded so that water will not accumulate at or near the building and will not adversely affect adjacent properties.

#### **Comments:**

The applicant should verify that the existing services are of adequate size and condition for the proposed addition.

Any proposed construction, building size and construction type will be assessed for fee purposes.

Spatial separations and construction of exposing building faces to be considered.




Planning Services

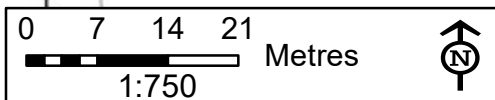
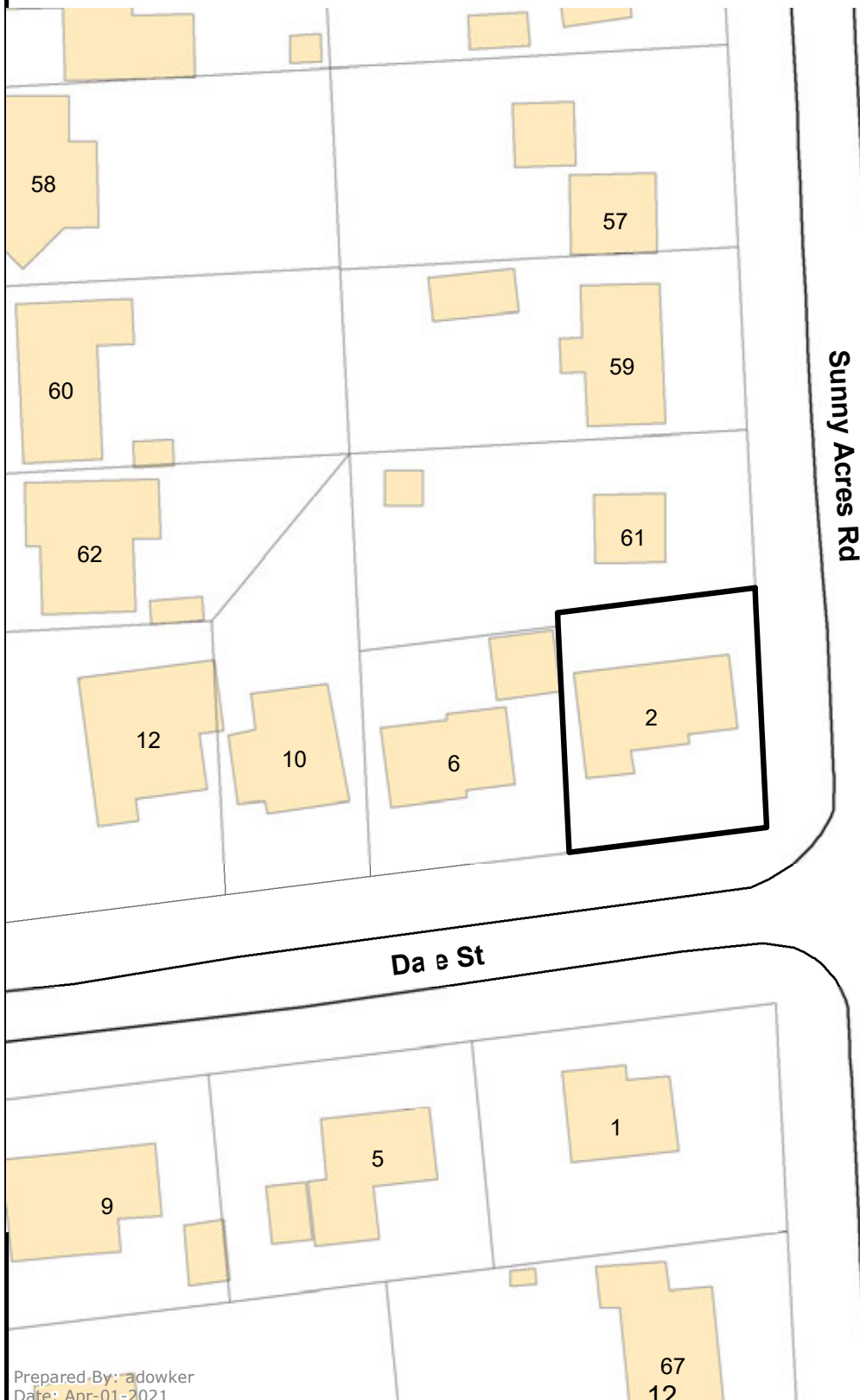
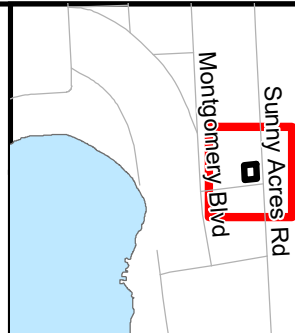
### Committee of Adjustment

### Key Map

Address: 2 Dale Street

File Number: D13-022-2021

 Lands Subject to Minor Variance



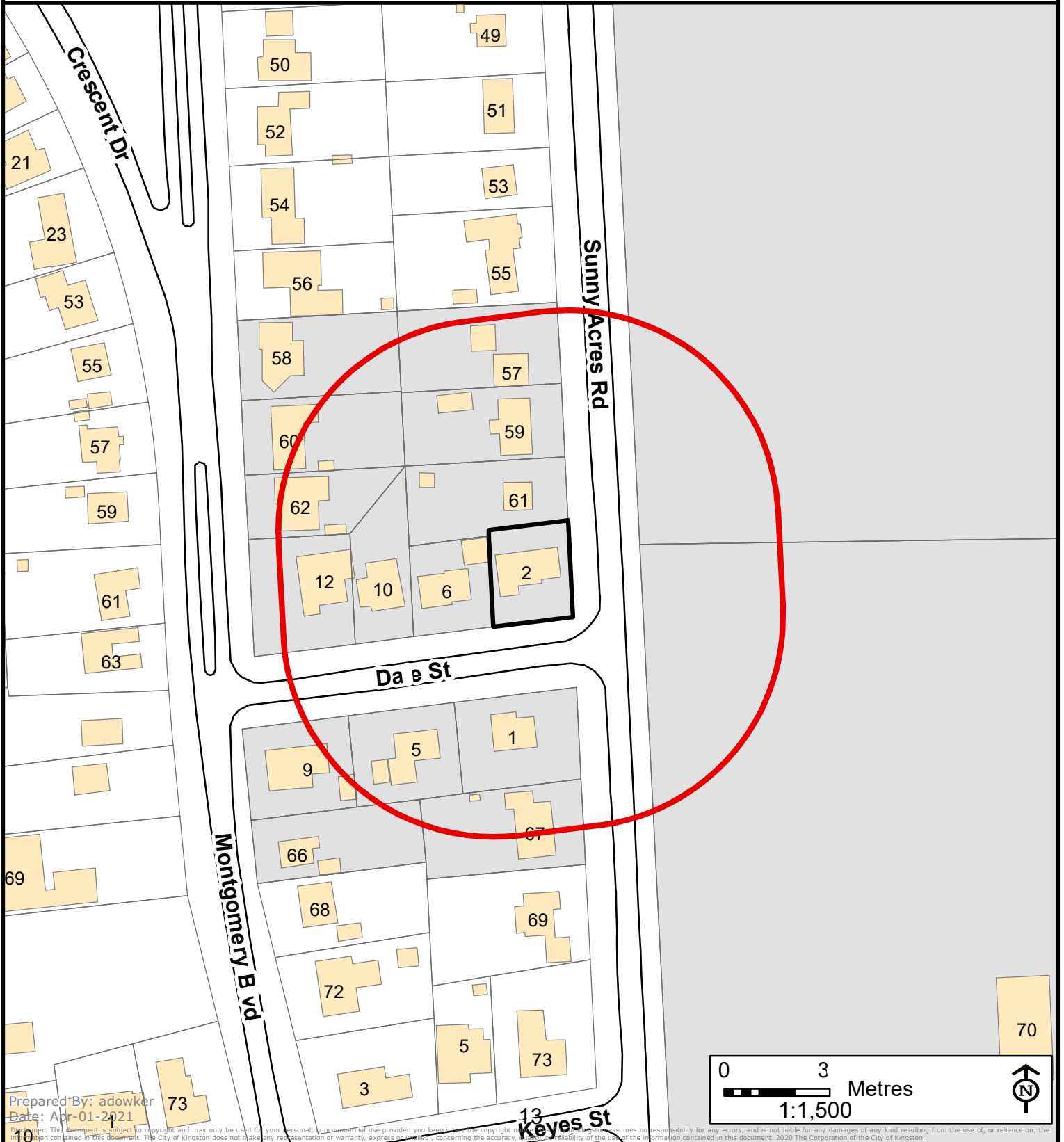
Prepared By: adowker  
Date: Apr-01-2021



# Committee of Adjustment Public Notice Notification Map

Address: 2 Dale Street  
File Number: D13-022-2021

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

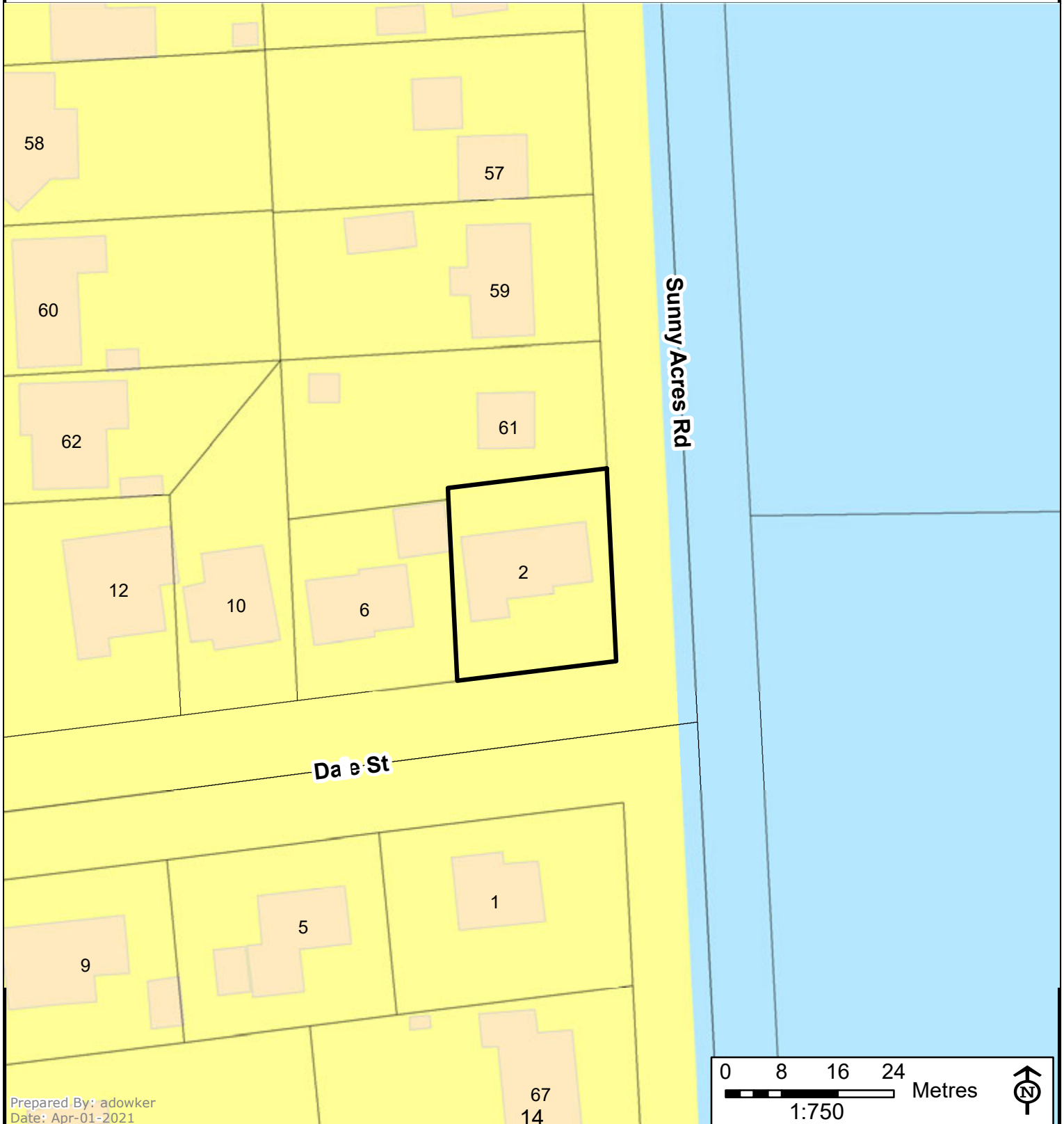




Committee of Adjustment  
**Official Plan, Existing Land Use**

Address: 2 Dale Street  
File Number: D13-022-2021

- Subject Lands
- GENERAL INDUSTRIAL
- RESIDENTIAL



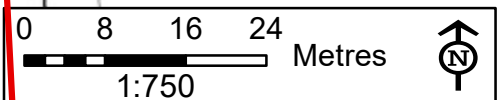
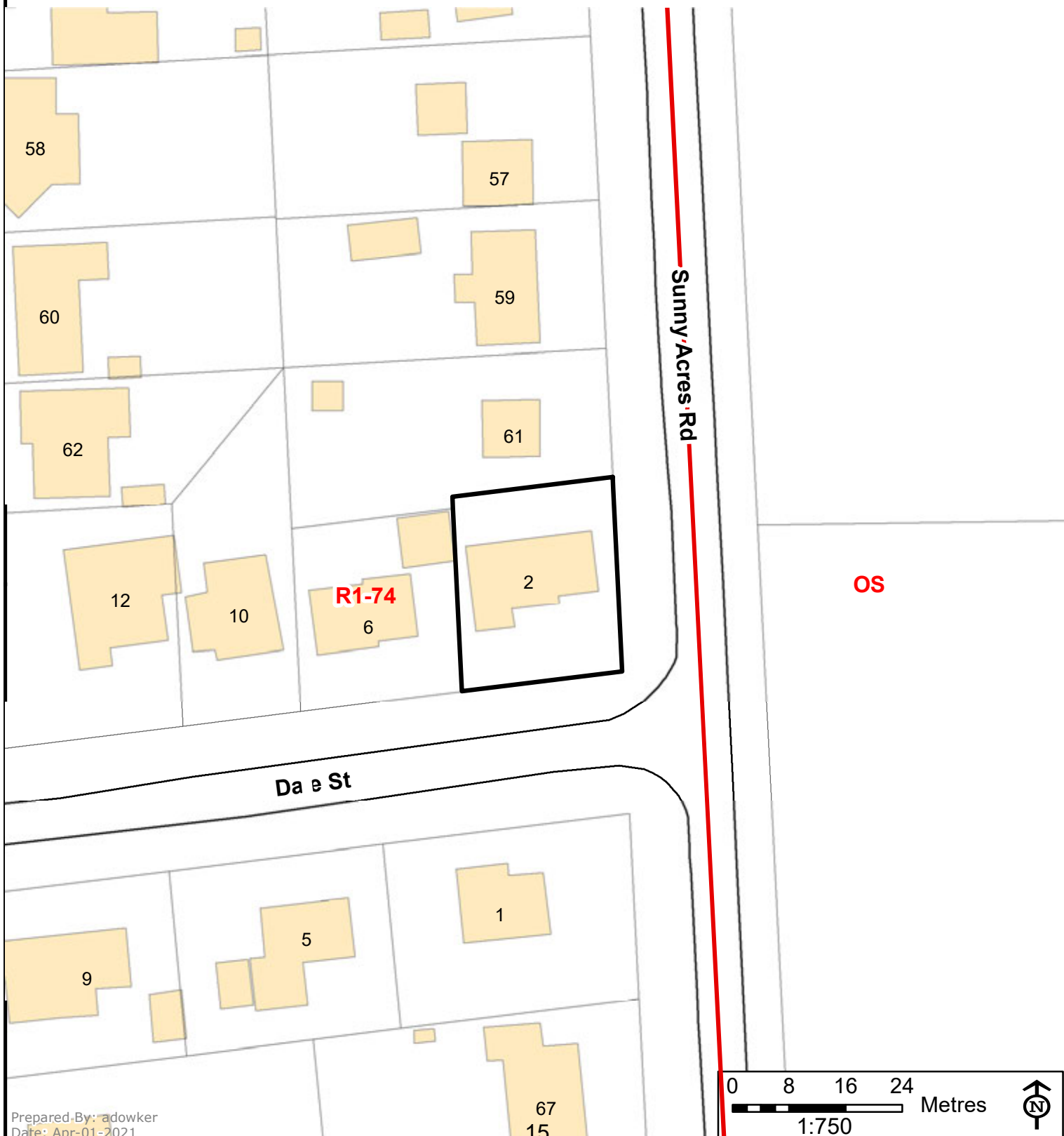


Planning Services

# Committee of Adjustment Existing Zoning - By-law 76-26, Map 5

Address: 2 Dale Street  
File Number: D13-022-2021

- Subject Lands
- Consolidated Zoning



Prepared By: adowker  
Date: Apr-01-2021

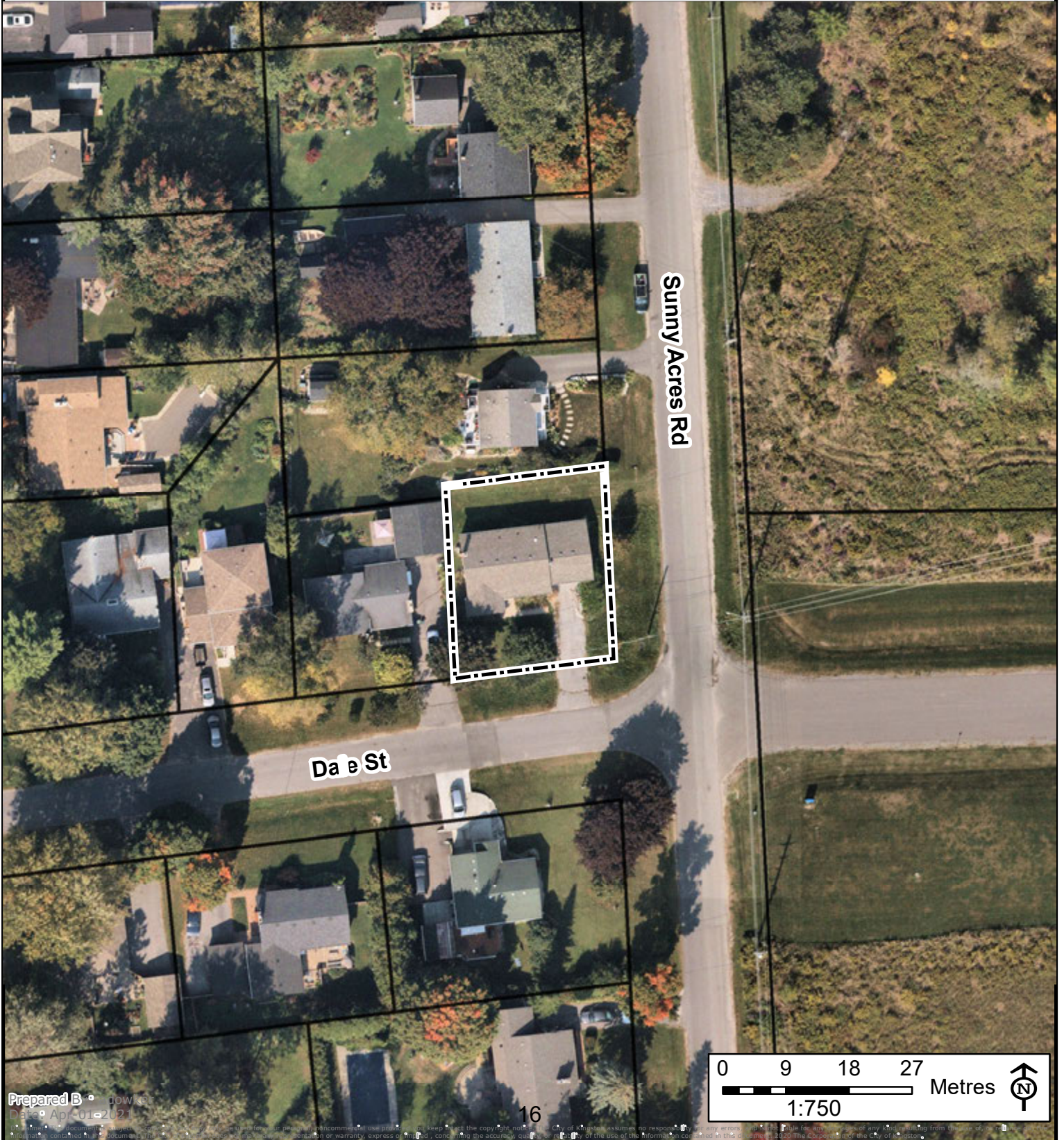




# Committee of Adjustment Neighbourhood Context (2020)

Address: 2 Dale Street  
File Number: D13-022-2021

- Subject Lands
- Property Boundaries
- Proposed Parcels





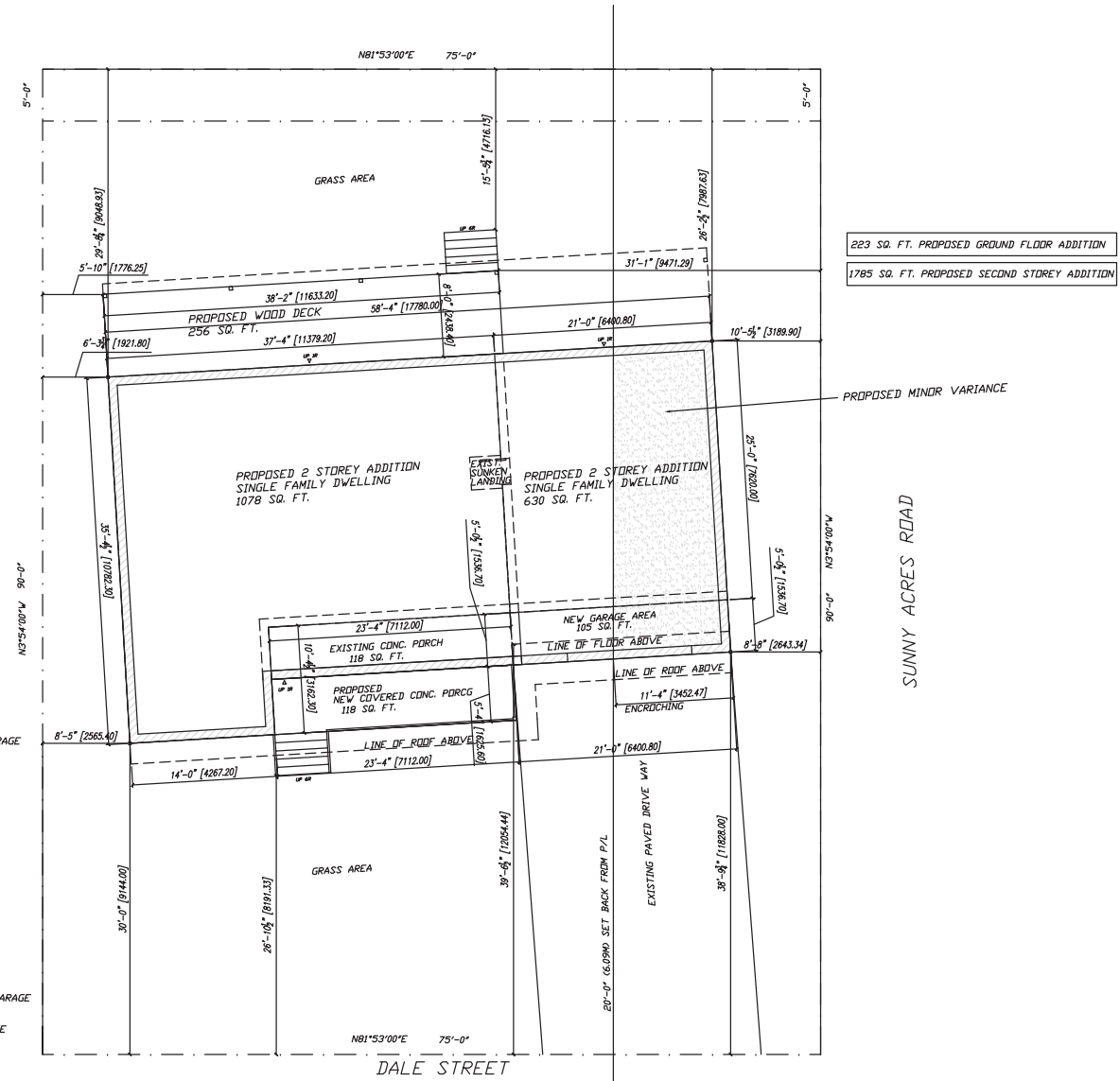


EXISTING SITE PLAN  
7125 SQ. FT. LOT AREA  
525 SQ. FT. EXISTING GARAGE AREA  
1078 SQ. FT. EXISTING GROUND FLOOR AREA

.15 F.S.I.  
1781 SQ. FT. EXISTING BUILDING AREA WITH PORCH AND GARAGE  
25 % COVERAGE

PROPOSED SITE PLAN  
7125 SQ. FT. LOT AREA  
525 SQ. FT. EXISTING GARAGE AREA  
105 SQ. FT. NEW GARAGE AREA  
630 SQ. FT. NEW GARAGE TOTAL AREA  
1078 SQ. FT. EXISTING GROUND FLOOR AREA  
118 SQ. FT. NEW GROUND FLOOR AREA

1196 SQ. FT. NEW TOTAL MAIN FLOOR AREA  
1785 SQ. FT. NEW SECOND FLOOR AREA  
2981 SQ. FT. NEW TOTAL FLOOR AREA  
.42 F.S.I.  
1781 SQ. FT. EXISTING BUILDING AREA WITH PORCH AND GARAGE  
25 % COVERAGE  
1944 SQ. FT. NEW BUILDING AREA WITH PORCH AND GARAGE  
26.8 % COVERAGE



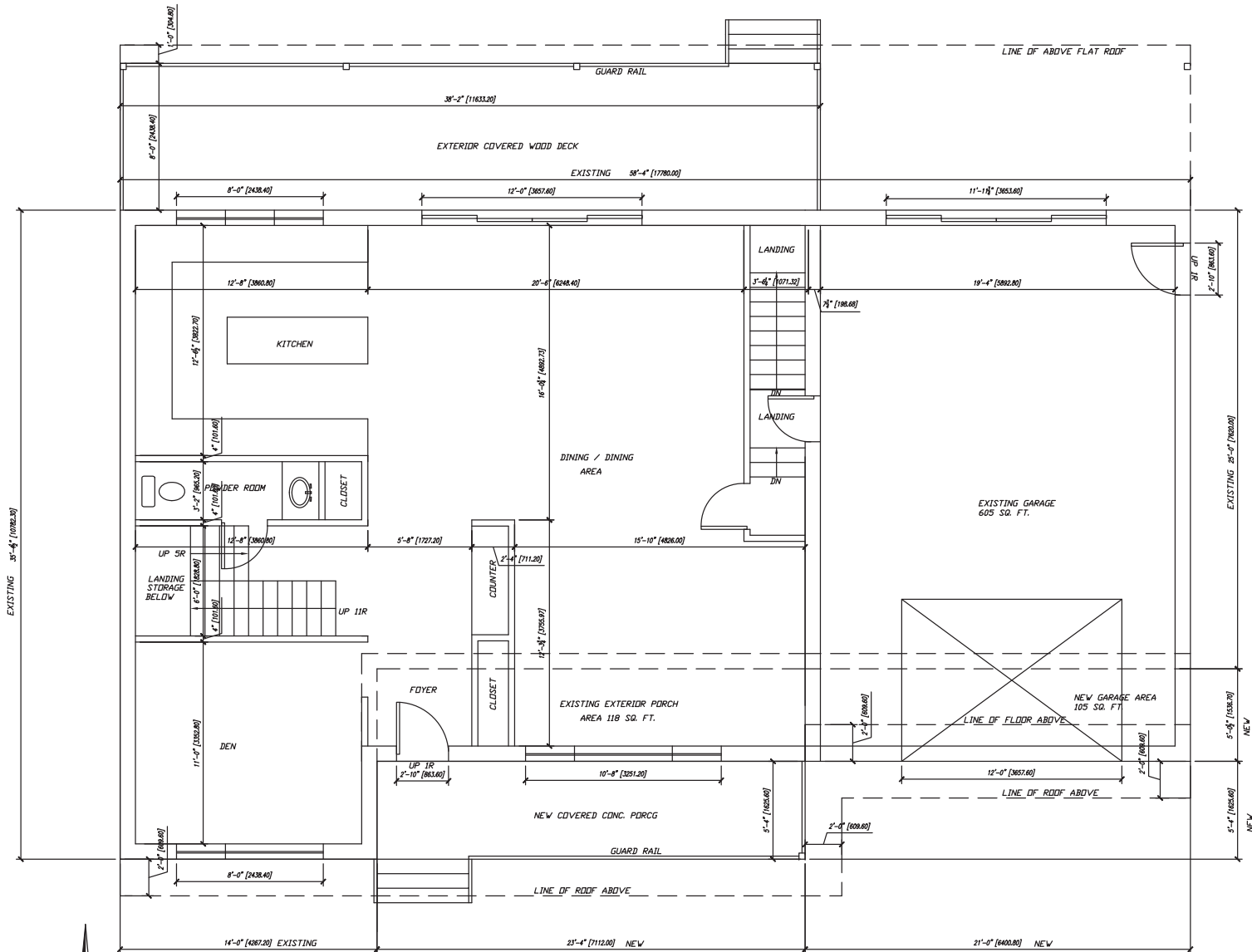
223 SQ. FT. PROPOSED GROUND FLOOR ADDITION  
1785 SQ. FT. PROPOSED SECOND STOREY ADDITION

PROPOSED MINOR VARIANCE

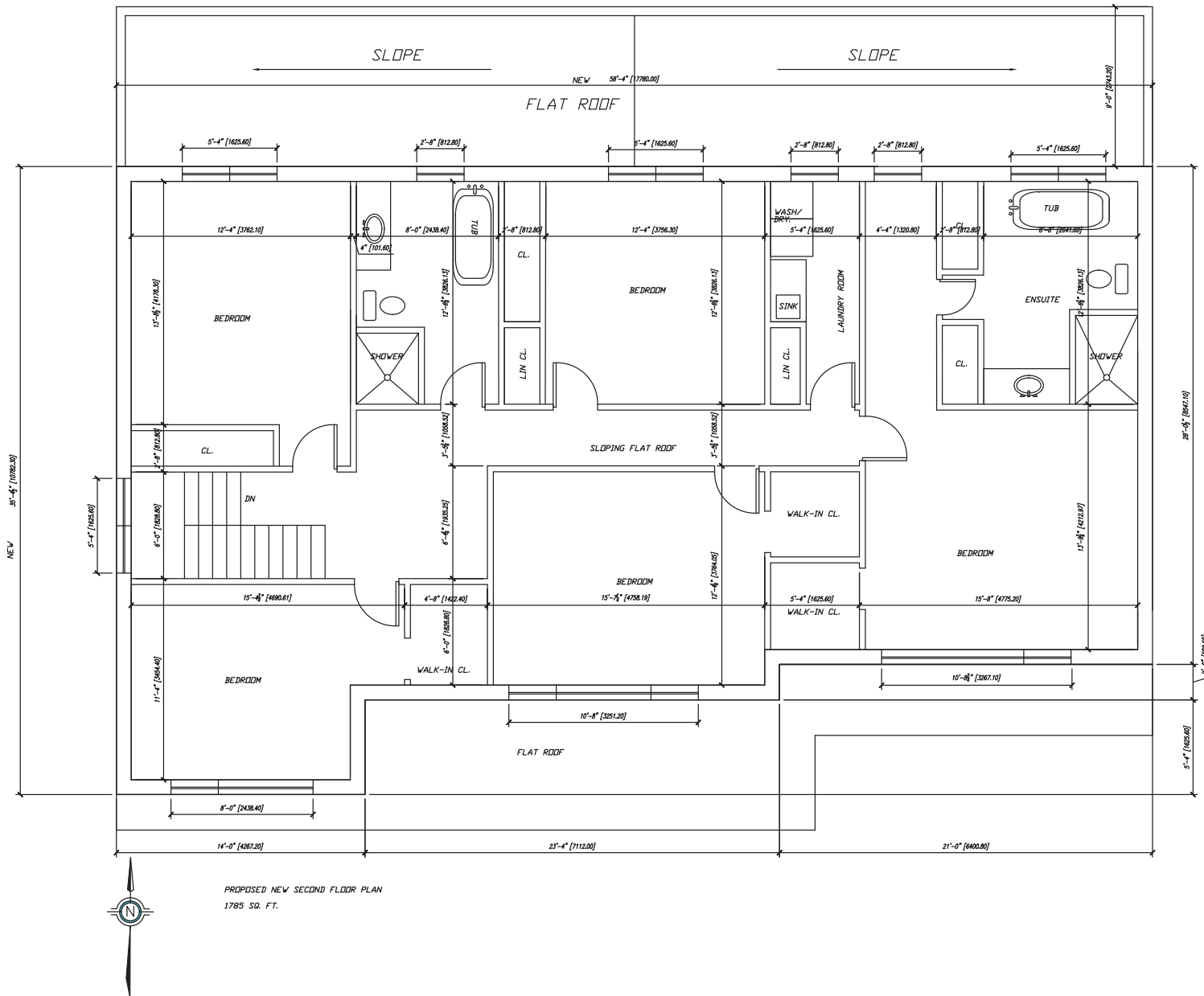
SUNNY ACRES ROAD

DALE STREET

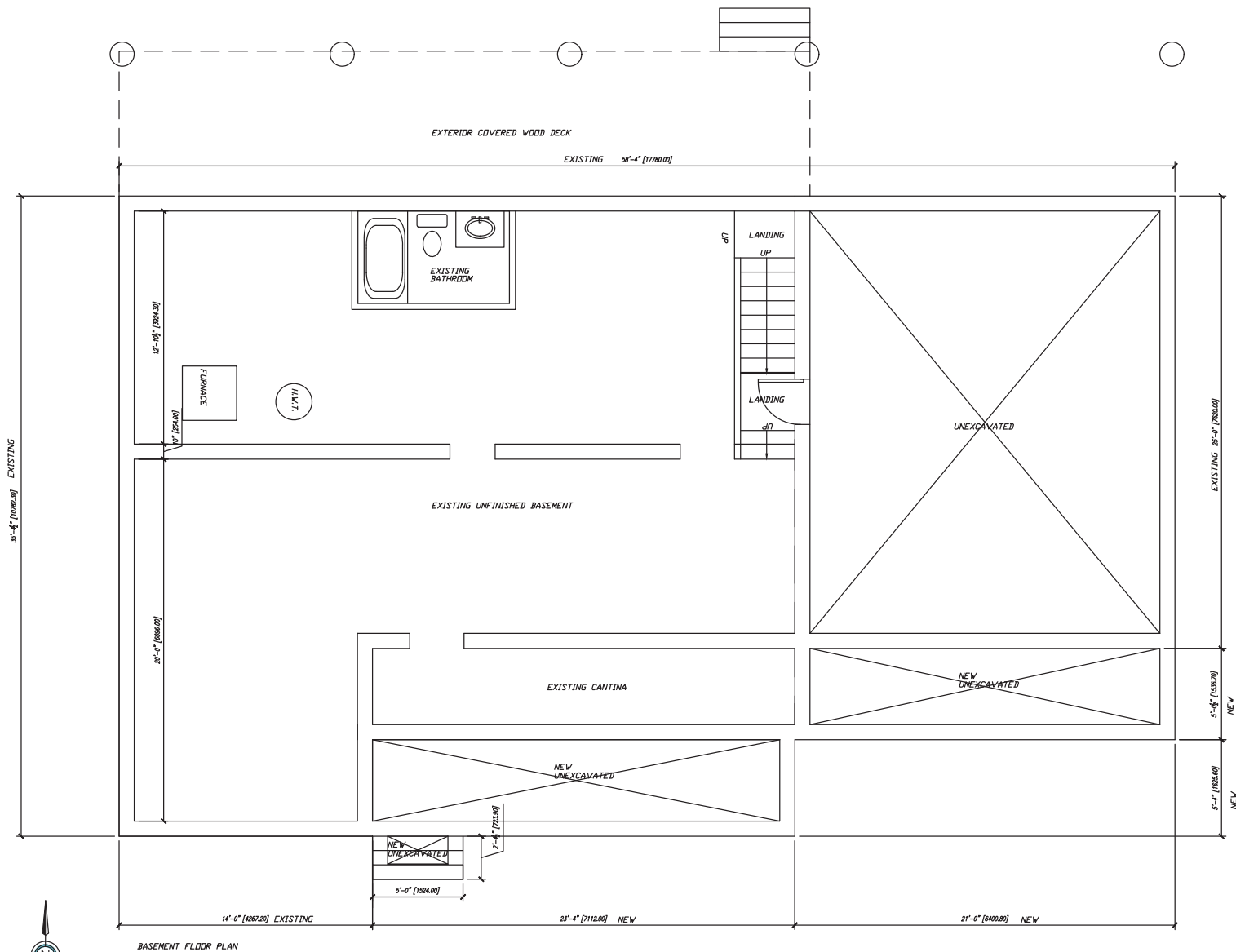
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<p>CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS &amp; REPORT ANY DISCREPANCIES TO THE ARCHITECT BEFORE PROCEEDING WITH WORK. THIS DRAWING IS THE PROPERTY OF THE ARCHITECT AND MUST BE RETURNED ON COMPLETION OF WORK. DRAWINGS ARE NOT TO BE SCALED.</p>					
<p>PROJECT 2 DALE STREET PROPOSED 2 STOREY ADDITION SINGLE FAMILY DWELLING</p>					
<p>DWG SITE PLAN PLAN</p>					
<p>SCALE 3/16"=1'-0"</p>					<p>DATE 07/15/2020</p>
<p>DRAWN BY S.R.R.</p>					<p>PROJECT NO.</p>
<p>DWG. NO.</p>					<p>A1</p>



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<p>CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS &amp; REPORT ANY DISCREPANCIES TO THE ARCHITECT BEFORE PROCEEDING WITH WORK. THIS DRAWING IS THE PROPERTY OF THE ARCHITECT AND MUST BE RETURNED ON COMPLETION OF WORK. DRAWINGS ARE NOT TO BE SCALED.</p>				
<p>PROJECT 2 DALE STREET PROPOSED 3-STORY ADDITION SINGLE FAMILY DWELLING</p>				
<p>DWG EXISTING GROUND FLOOR PLAN</p>				
<p>SCALE 3/8"=1'-0"</p>				<p>DRAWN BY S.R.R.</p>
<p>DATE 07/15/2020</p>				<p>PROJECT NO.</p>
<p>DWG. NO.</p>				<p>A3</p>



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PROJECT					
2 DALE STREET PROPOSED 5-STORY ADDITION SINGLE FAMILY DWELLING					
DWG					
PROPOSED 2ND. FL. PLAN					
SCALE					3/8"=1'-0"
DRAWN BY					S.R.R.
DATE					07/15/2020
PROJECT NO.					
DWG. NO.					A4



BASEMENT FLOOR PLAN

NO	REVISION	MARK USED ALL COPIES PREVIOUS TO FINAL DATE	DATE	BY
<p>CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS &amp; REPORT ANY DISCREPANCIES TO THE ARCHITECT BEFORE PROCEEDING WITH WORK. THIS DRAWING IS THE PROPERTY OF THE ARCHITECT AND MUST BE RETURNED ON COMPLETION OF WORK. DRAWINGS ARE NOT TO BE SCALED.</p>				
<p>PROJECT 2 DALE STREET PROPOSED 2 STOREY ADDITION SINGLE FAMILY DWELLING</p>				
<p>DWG EXISTING BASEMENT PLAN</p>				
				SCALE 3/8"=1'-0"
				DRAWN BY S.R.R.
				DATE 07/15/2020
				PROJECT NO.
				DWG. NO. <b>A2</b>

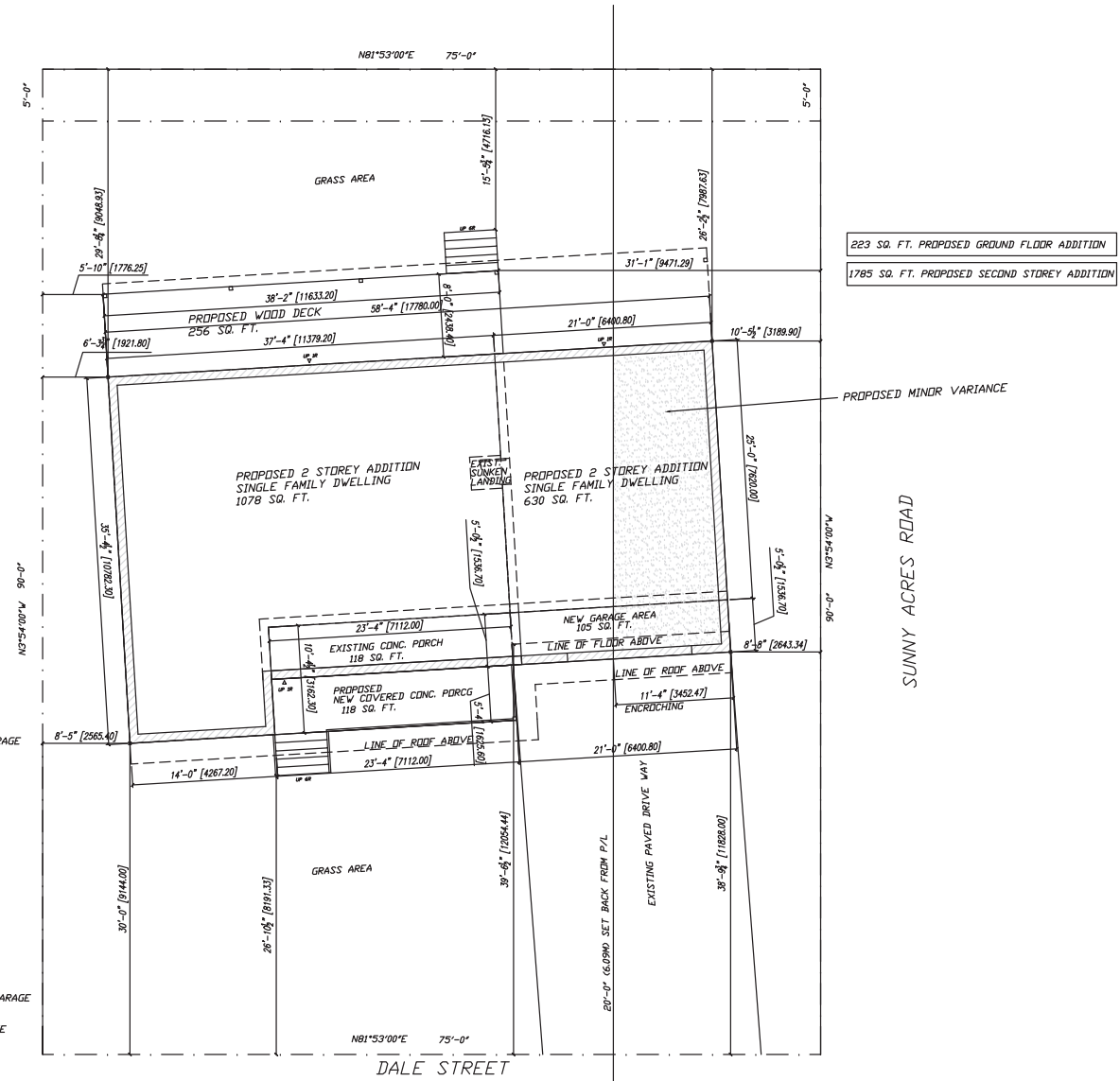


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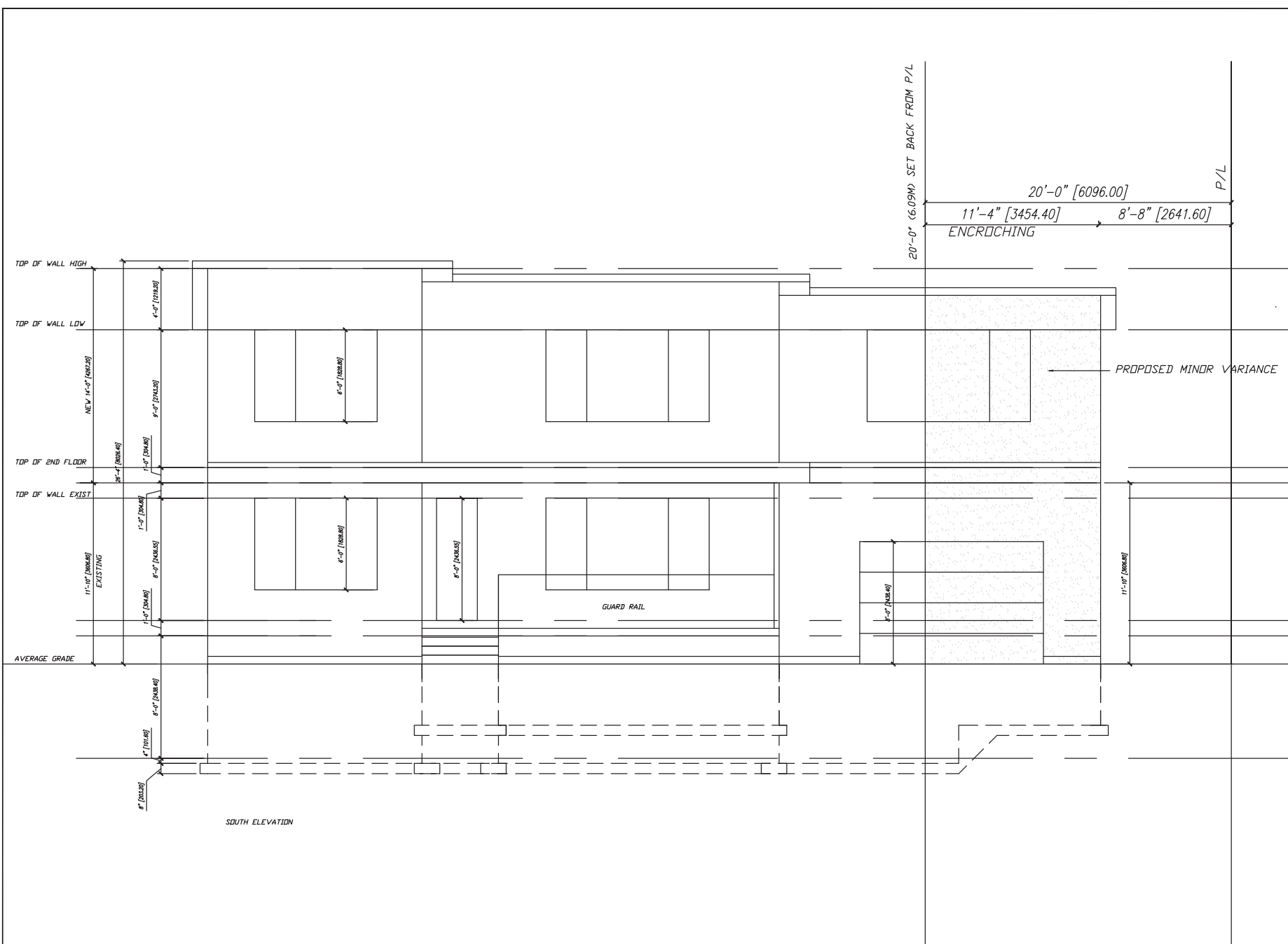
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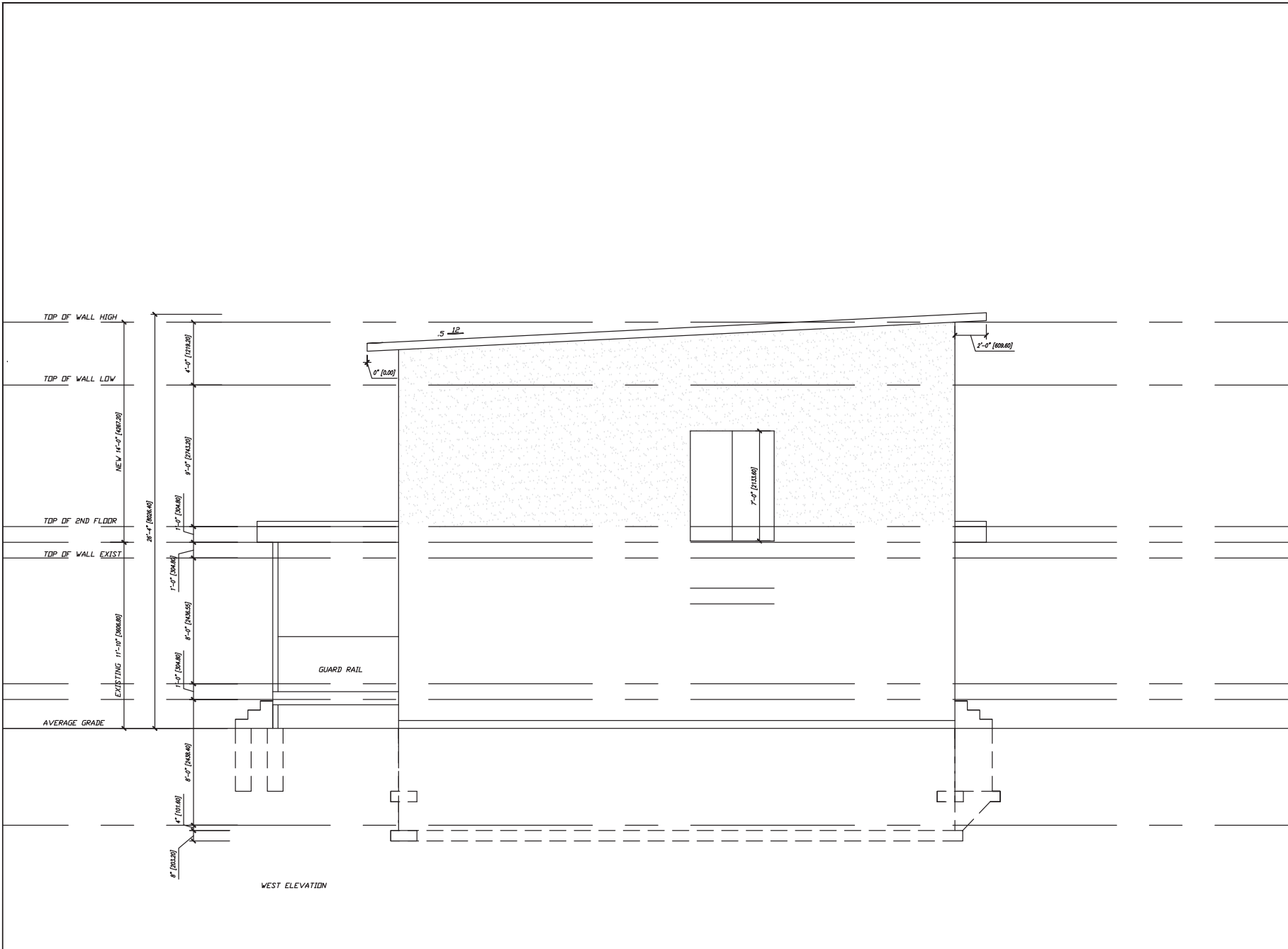


223 SQ. FT. PROPOSED GROUND FLOOR ADDITION  
1785 SQ. FT. PROPOSED SECOND STOREY ADDITION

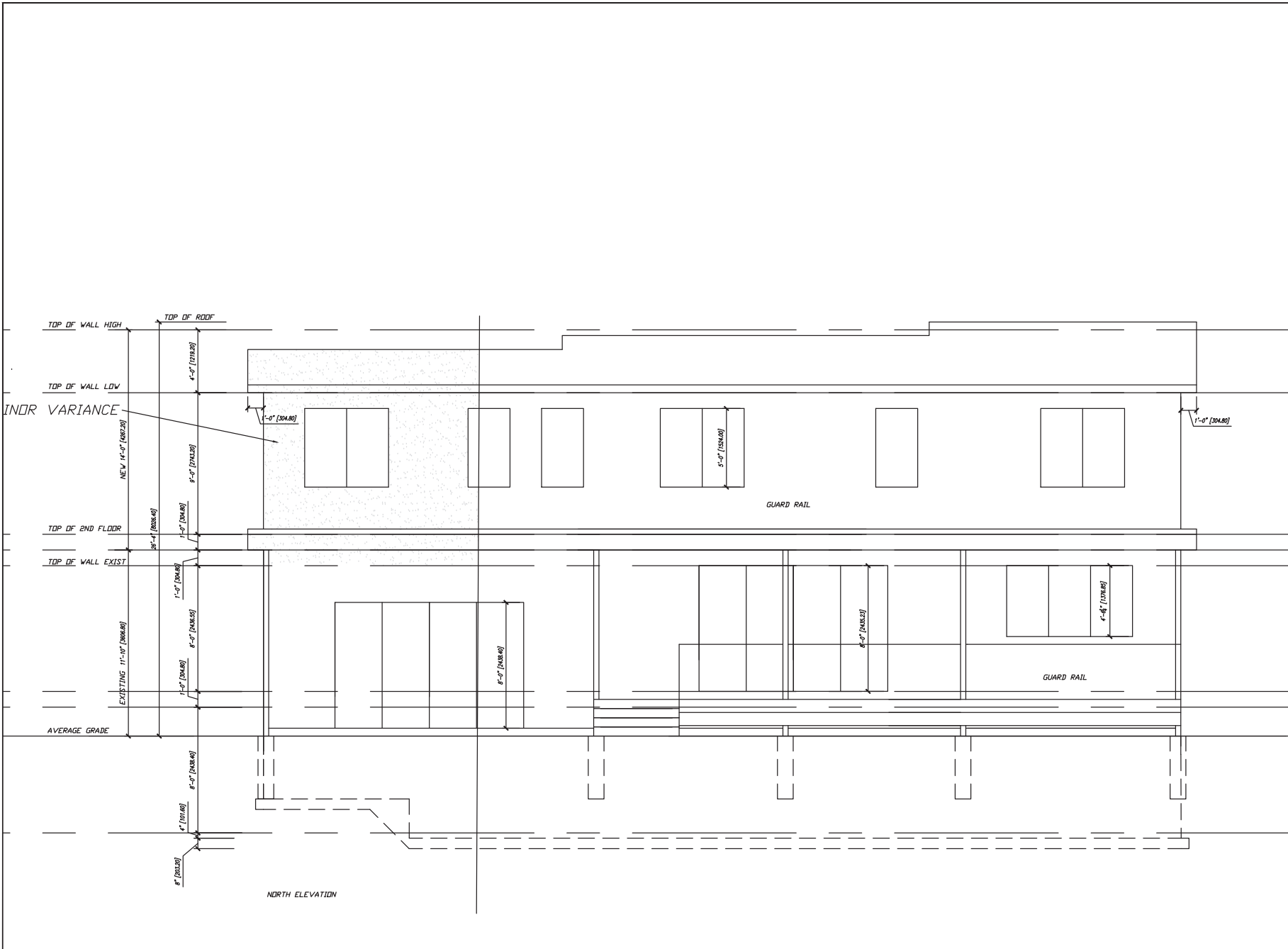
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<p>DWG. NO.</p>					<p>A1</p>



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<p>PROJECT 2 DALE STREET PROPOSED 2-STORY ADDITION SINGLE FAMILY DWELLING</p>				
<p>DWG SOUTH ELEVATION</p>				
				SCALE
				3/8"=1'-0"
				DRAWN BY
				S.R.R.
				DATE
				07/15/2020
				PROJECT NO.
				DWG. NO.
				A6

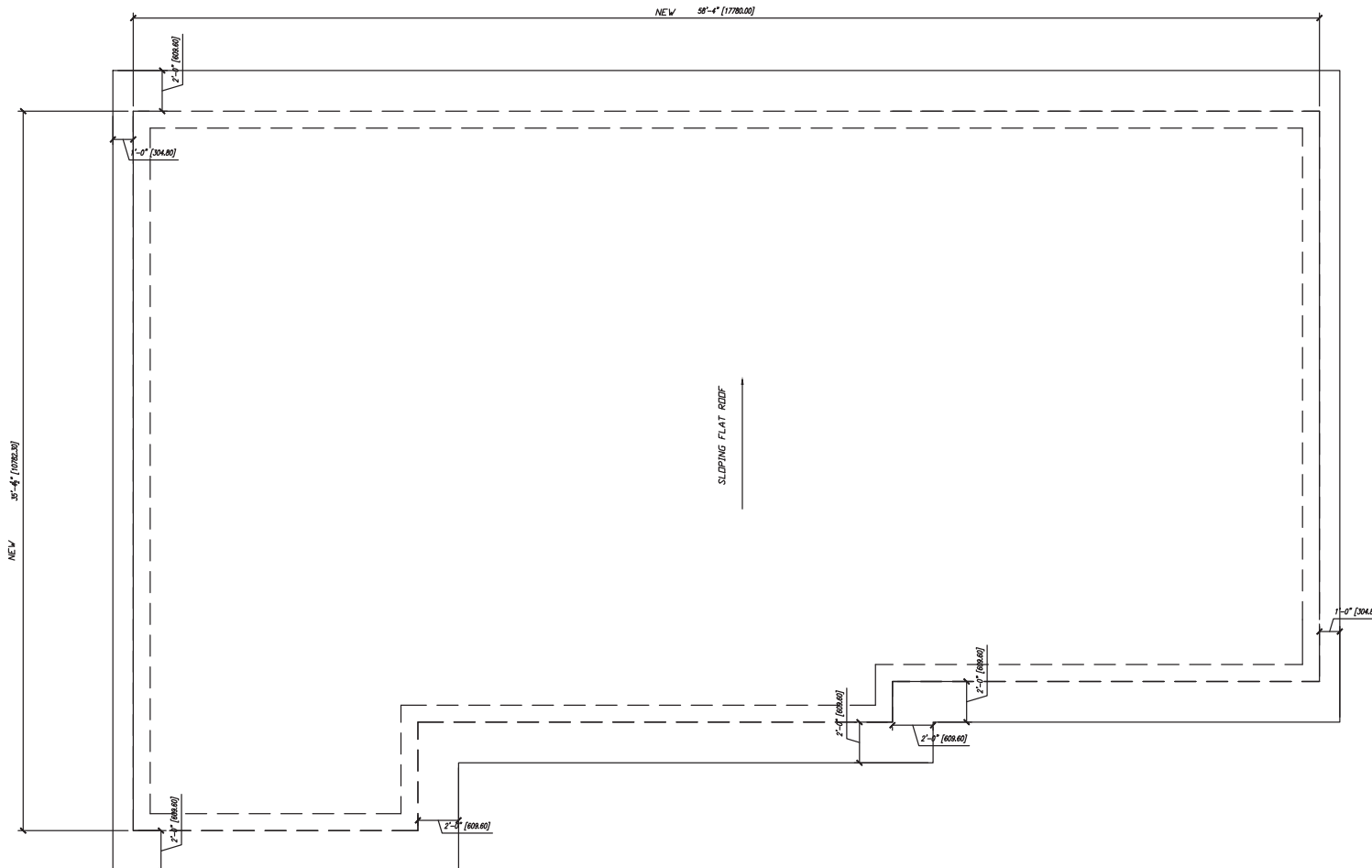


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<b>PROJECT</b> 2 DALE STREET PROPOSED 2-STORY ADDITION SINGLE FAMILY DWELLING				
<b>DWG.</b> WEST ELEVATION				
				SCALE
				3/8"=1'-0"
				DRAWN BY
				S.R.R.
				DATE
				07/15/2020
				PROJECT NO.
				DWG. NO.
				<b>A9</b>

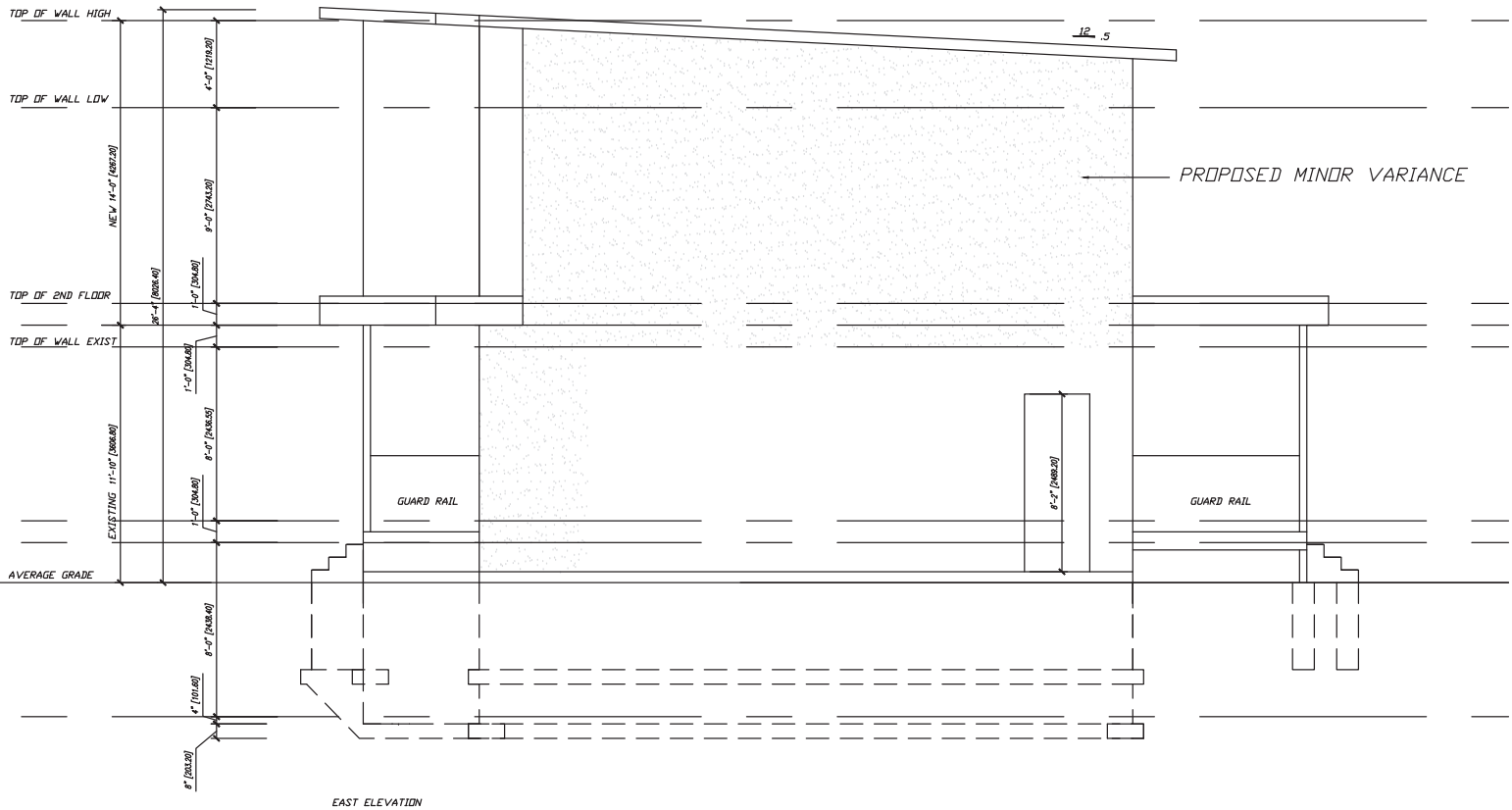


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PROJECT				
2 DALE STREET PROPOSED 2-STORY ADDITION SINGLE FAMILY DWELLING				
DWG				
NORTH ELEVATION				
SCALE				3/8"=1'-0"
DRAWN BY				S.R.R.
DATE				07/15/2020
PROJECT NO.				
DWG. NO.				A8





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<p>PROJECT 2 DALE STREET PROPOSED 2 STOREY ADDITION SINGLE FAMILY DWELLING</p>					
<p>DWG PROPOSED ROOF PLAN</p>					
					SCALE
					3/8"=1'-0"
					DRAWN BY
					S.R.R.
					DATE
					07/15/2020
					PROJECT NO.
					DWG. NO.
					A5



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<p>PROJECT 2 DALE STREET PROPOSED 2-STORY ADDITION SINGLE FAMILY DWELLING</p>				
<p>DWG EAST ELEVATION</p>				
				SCALE
				3/8"=1'-0"
				DRAWN BY
				S.R.R.
				DATE
				07/15/2020
				PROJECT NO.
				DWG. NO.
				A7

4 Dale Street from South-East



4 Dale Street from East

