



**City of Kingston
Report to Committee of Adjustment
Report Number COA-21-063**

To: Chair and Members of the Committee of Adjustment
From: Shahida Hoque, Intern Planner
Date of Meeting: August 16, 2021
Application for: Minor Variance
File Number: D13-038-2021
Address: 1175 Waterside Way
Owner: Cedric De Belder
Applicant: Cedric De Belder, Fangqi Dong

Council Strategic Plan Alignment:

Theme: 2. Increase housing affordability

Goal: 2.4 Promote secondary suites and tiny homes.

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variances for the property located at 1175 Waterside Way. The applicant is requesting to reduce setback requirements on the interior and exterior side lot yards in order to facilitate use of the backyard amenities to residents of the secondary suite in the basement. The shed proposed on the exterior side yard is expected to have a maximum height of 8' 6" and is proposed to maintain a 1.2 metre setback from the exterior side lot line. The interior side yard setback variance is requested to accommodate mechanical clearance for a heat pump which promotes energy efficiency on the property. The heat pump has a height of 3.2 feet tall. The applicant has proposed a fence around the property for privacy and visual concerns. The wooden fence is permitted to have a maximum height of 6 feet plus an additional 1 foot of lattice in accordance with By-Law Number 2003-403, A By-Law to Regulate Fences. As such, there will be no adverse impacts on neighbouring properties, or public thoroughfare.

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The requested minor variances are 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 variances are 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* and is recommended for approval.

Variance Number 1: Exterior Side Yard Width Setback

By-Law Number 32-74: Section 5 (1)(d)(i) & Section 11(2)(e)(ii)

Requirement: No accessory use, building or structure shall be located an exterior side yard, or a required exterior side yard width; minimum exterior side yard width is 3.0 metres.

Proposed: 1.2 metres (shed)

Variance Requested: 1.7 metres

Variance Number 2: Interior Side Yard Width Setback

By-Law Number 32-74 Section 5(1)(c)(vii)

Requirement: 1.2 metres

Proposed: 1.1 metres (heat pump)

Variance Requested: 0.1 metre

Recommendation:

That minor variance application, File Number D13-038-2021, for the property located at 1175 Waterside Way to reduce exterior and interior side back requirements, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-21-063.

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Authorizing Signatures:



Shahida Hoque, Intern Planner

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

Tim Park, Director, Planning Services

James Bar, Acting Manager, Development Approvals

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Options/Discussion:

On June 21, 2021, a minor variance application was submitted by Cedric De Belder, Fangqi Dong, with respect to the property located at 1175 Waterside Way. The variance is requested to reduce setback requirements on the interior and exterior side yards.

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

- Conceptual Site Plan (Exhibit F)

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

Site Characteristics

The subject property is located at 1175 Waterside Way on a corner lot, consisting of a two-storey single family dwelling with an attached garage. The property is situated within a new residential development which runs along the east side of the Great Cataraqui River, and west of Riverview Shopping Centre on Highway 15. This residential neighbourhood is still undergoing development and public spaces and plantings have not been fully established.

The subject property is designated Low Density Residential in the Official Plan and zoned R12-5 in Zoning By-Law Number 32-74. The property abuts Waterside Way and Stonewalk Drive.

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.

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1) The general intent and purpose of the Official Plan are maintained

The subject property is designated Low Density 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 proposal is not anticipated to have any negative impacts on abutting properties or residential uses and/or structures. The proposal is compatible with the surrounding residential uses and will not result in significant impacts or changes to the surrounding area. The proposed shed is low in height and is compatible with the adjacent residential characteristics. Refer to Exhibit H for reference photo provided by the applicant. The Official Plan intent for building articulation and detailing in low-density residential areas indicates providing yardscapes, low fencing, and setbacks in order to create semi-private spaces.

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;

Fencing is proposed to be installed around the property. This will maintain privacy for adjacent properties and maintain a visual barrier between the proposed shed and public spaces. The heat pump emits a low mechanical noise output of 56-71 dBA, compared to that of a residential central air conditioner unit at 72–82 dBA when running. Adjacent properties are zoned as residential land uses and the proposed variance will maintain the integrity of the intended land use. This proposed variance of 1.2m for the shed and 1.1m for the heat pump is appropriate for the area, convenience of the property, and configuration of the subject lands and proposed shed. 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;

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 will be impacted by the proposed variances on the exterior and interior side yards.

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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 proposal generally conforms to applicable urban design policies, as outlined in Section 8 of the Official Plan. The shed and heat pump will be hidden from public sightline by fencing around the property. The proposed shed will maintain a setback of 1.2m from the exterior side lot line on Stonewalk Drive allowing continuity of the sidewalk and maintaining the neighbourhood pattern of landscaped areas.

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;

There are no built heritage concerns on this property as it is a newly developed neighbourhood. The Master Plan indicates that the subject property has cleared of archaeology. An archaeological assessment is not required as the soil on the property has been previously disturbed.

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 variances will not add any new developments to the existing residential house. The proposed shed is an accessory use and does not represent an increase in development or the need for 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 proposal meets the four tests of a Minor Variance as outlined in the Planning Act and described herein and will not require 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;

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

9. 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. It is one of the few corner lots in the neighbourhood with the front yard and exterior side yard abutting public streets.

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The proposal meets the intent of the Official Plan, as the proposed variances 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 R12-5 in the City of Kingston Zoning By-Law Number 32-74, entitled "Township of Pittsburgh Zoning By-Law", as amended. The Residential Type 12 zone permits a detached single family dwelling house, a semi-detached dwelling house, a row dwelling house, a home occupation, and a public use.

The proposal requires a variance to Section 5

Variance Number 1: Exterior Side Yard Width Setback

By-Law Number: 32-74 Section 5 (1)(d)(i) & Section 11(2)(e)(ii)

Requirement: No accessory use, building or structure shall be located within an exterior side yard, or a required exterior side yard width; minimum exterior side yard width is 3.0 metres.

Proposed: 1.2 metres (shed)

Variance Requested: 1.7 metres

Variance Number 2: Interior Side Yard Width Setback

By-Law Number: 32-74 Section 5(1)(c)(vii)

Requirement: 1.2 metres

Proposed: 1.1 metres (heat pump)

Variance Requested: 0.1 metre

The proposed variances maintain the intent of the zoning by-law. The lands will continue to be used for residential purposes. The variances to the exterior side yard setback will more appropriately use the rear yard space, leading to a more functional and useable space for the residents. The variance to the side yard setback for the heat pump is a minor reduction and would maintain the infrastructure in a logical location on the side of the building.

3) The variance is minor in nature

The variances are considered minor as proposed distances are small reductions and do not violate the intent of the setback provisions within the zoning by-law. The neighbourhood is predominantly residential and adjacent properties will be facilitated by similar sheds and mechanical units for servicing of each respective property. As such, the requested variances are in keeping with the character and pattern of the residential neighbourhood. Variances on the property will be hidden by the proposed fencing and not cause any adverse impacts on the surrounding public thoroughfare or properties.

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

The existing house and proposed shed as an accessory use are permitted in the zoning by-law. The requested variance for a shed and heat pump improve the functionality of services on the site, facilitate better landscaping, and serve the needs of the property by providing additional storage for the amenity use.

The proposal is appropriate and desirable for the site and will be in keeping with the existing development in the residential neighbourhood. 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 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 checked="" type="checkbox"/> City’s Environment Division |
| <input type="checkbox"/> Solid Waste | <input checked="" type="checkbox"/> Parks Development | <input type="checkbox"/> Canadian National Railways |
| <input checked="" 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 checked="" type="checkbox"/> CRCA | <input type="checkbox"/> KFL&A Health Unit | <input type="checkbox"/> Trans Northern Pipelines |
| <input checked="" 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 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

The subject property received a permit to create a secondary suite within the basement of the residential unit in April 2020.

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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(s) are 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 permit a 1.2 metre setback of the proposed shed from the exterior side lot line, and a 1.1 metre setback of the existing heat pump from the interior side lot line. These variances will facilitate sharing of the amenity space in the backyard between the primary and secondary unit residents and provide clearance for the mechanical unit installed in order to increase efficiency. The proposed variances are 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:

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 August 16, 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 39 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

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Financial Considerations:

None

Contacts:

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

Shahida Hoque, Intern Planner, 613-546-4291

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 Map
- Exhibit F Conceptual Site Plan
- Exhibit G Neighbourhood Context Map
- Exhibit H Photo

Recommended Conditions

Application for minor variance, File Number D13-038-2020

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

1. Limitation

That the approved minor variance applies only to the proposed shed and existing heat pump as shown on the drawing received on July 6, 2021 for 1175 Waterside way.

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 Division a copy of the decision of the Committee of Adjustment, together with a copy of the approved drawings.

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 drawings, including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. Additional variances 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 Program and Services Branch of the Ministry of Heritage, Sport, Tourism and Culture Industries (416-314-7132) and City of Kingston's Planning Services (613-546-4291, extension 3180) must be immediately contacted.

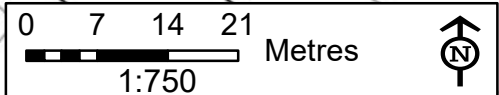
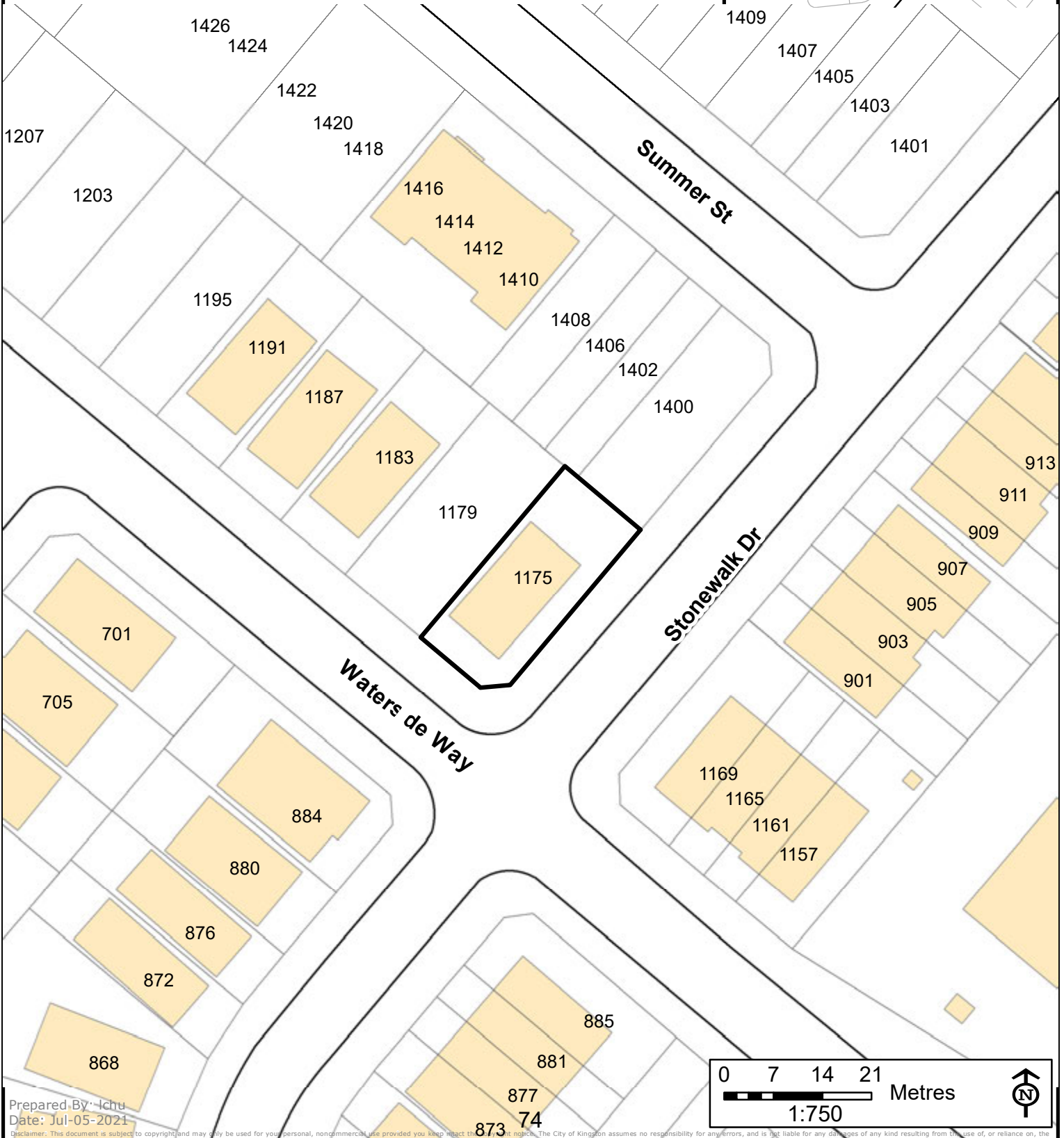
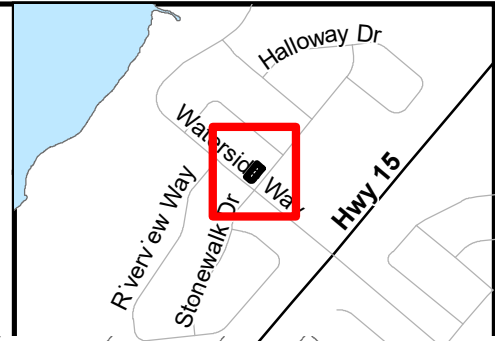
In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Registrar of Cemeteries at the Ministry of Government and Consumer Services (416-212-7499), the Program and Services Branch of the Ministry of Heritage, Sport, Tourism and Culture Industries (416-314-7132), and City of Kingston's Planning Services (613-546-4291, extension 3180) must be immediately contacted.



Committee of Adjustment Key Map

Address: 1175 Waterside Way
File Number: D13-038-2021

 Lands Subject to Minor Variance



Prepared By: Jchu
Date: Jul-05-2021

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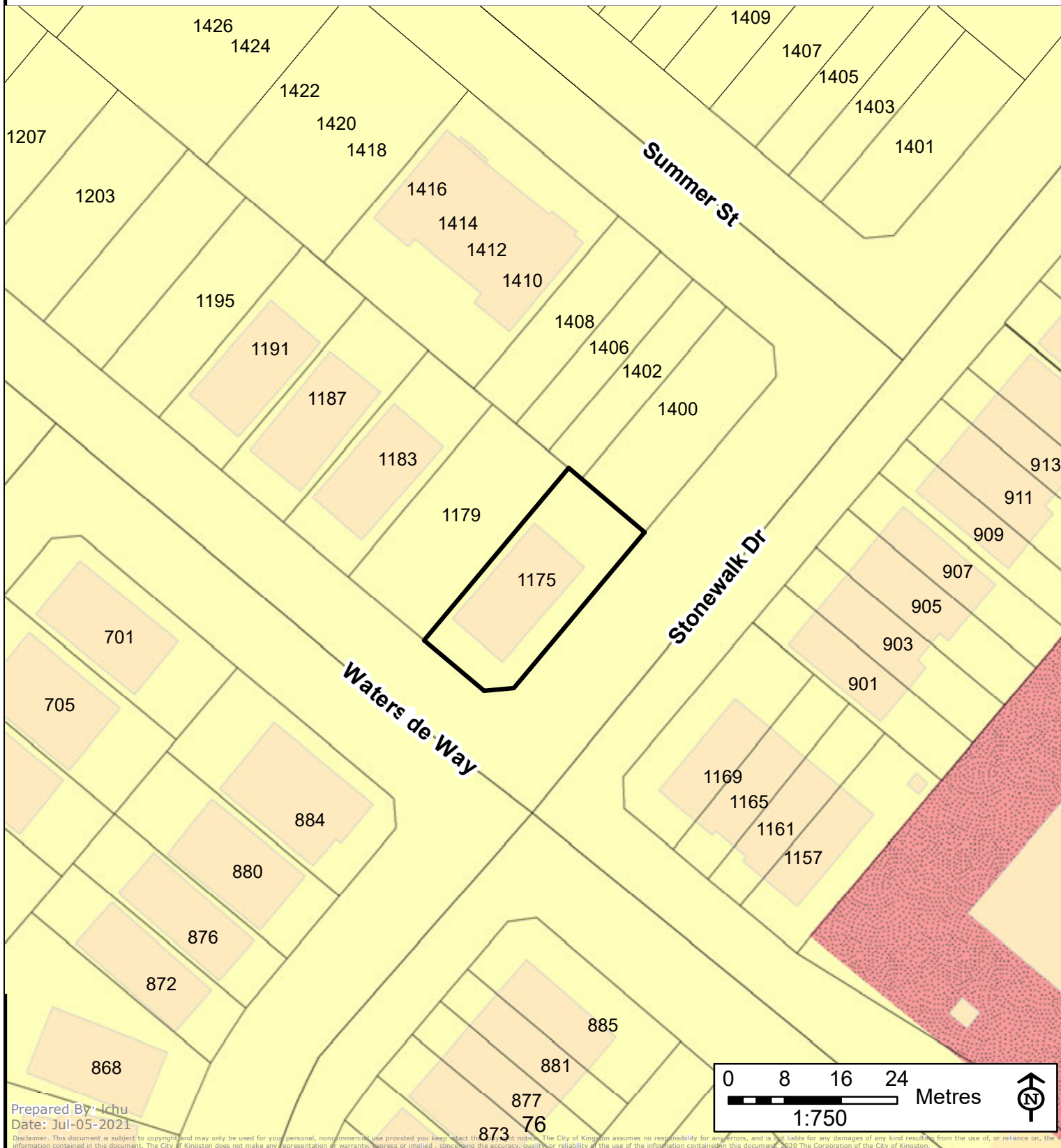


Planning Services

Committee of Adjustment Official Plan, Existing Land Use

Address: 1175 Waterside Way
File Number: D13-038-2021

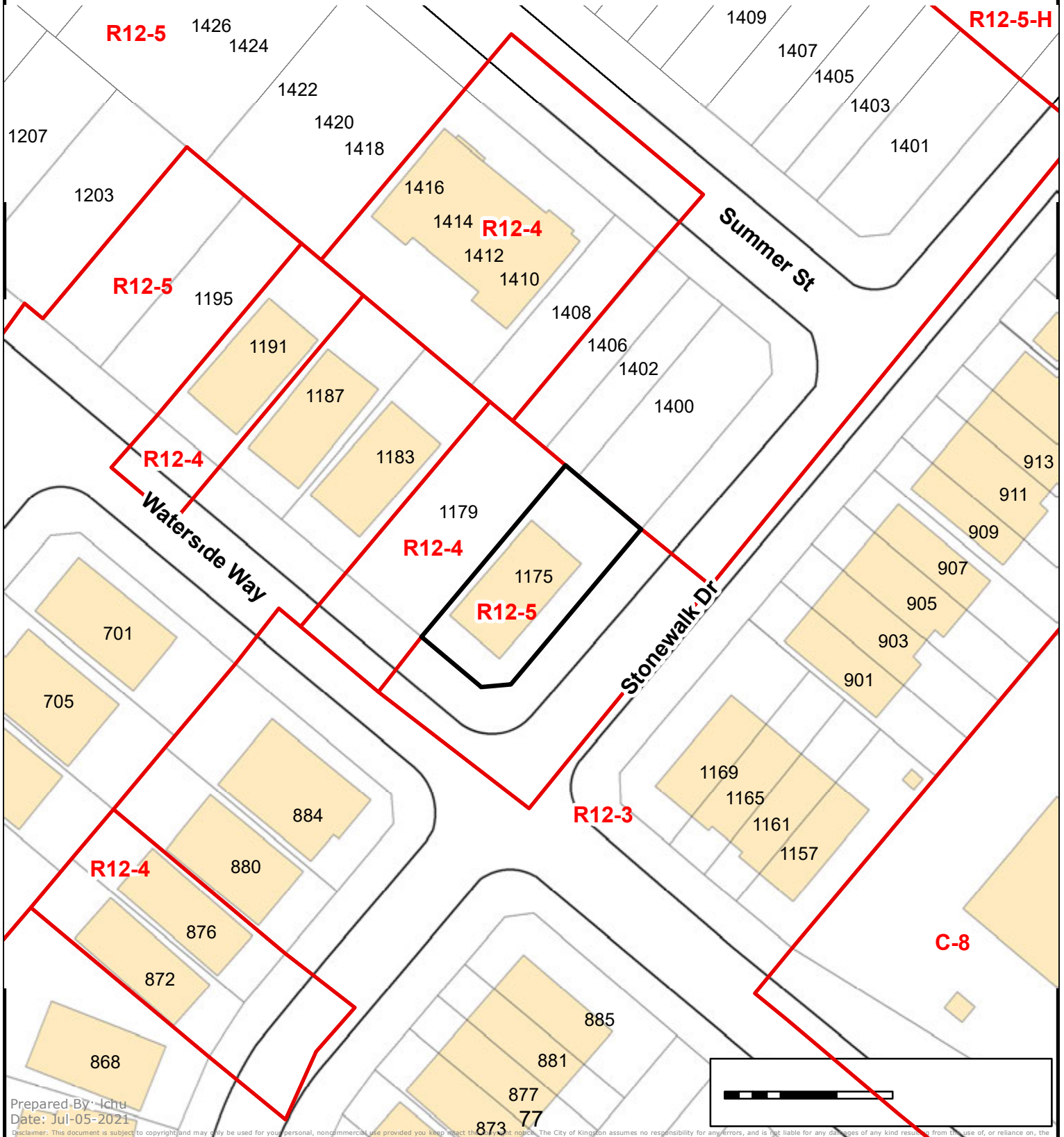
- Subject Lands
- SECONDARY PLAN AREA
- Rideau Community Secondary Plan
- DISTRICT COMMERCIAL
- LOW DENSITY RESIDENTIAL
- MEDIUM DENSITY RESIDENTIAL

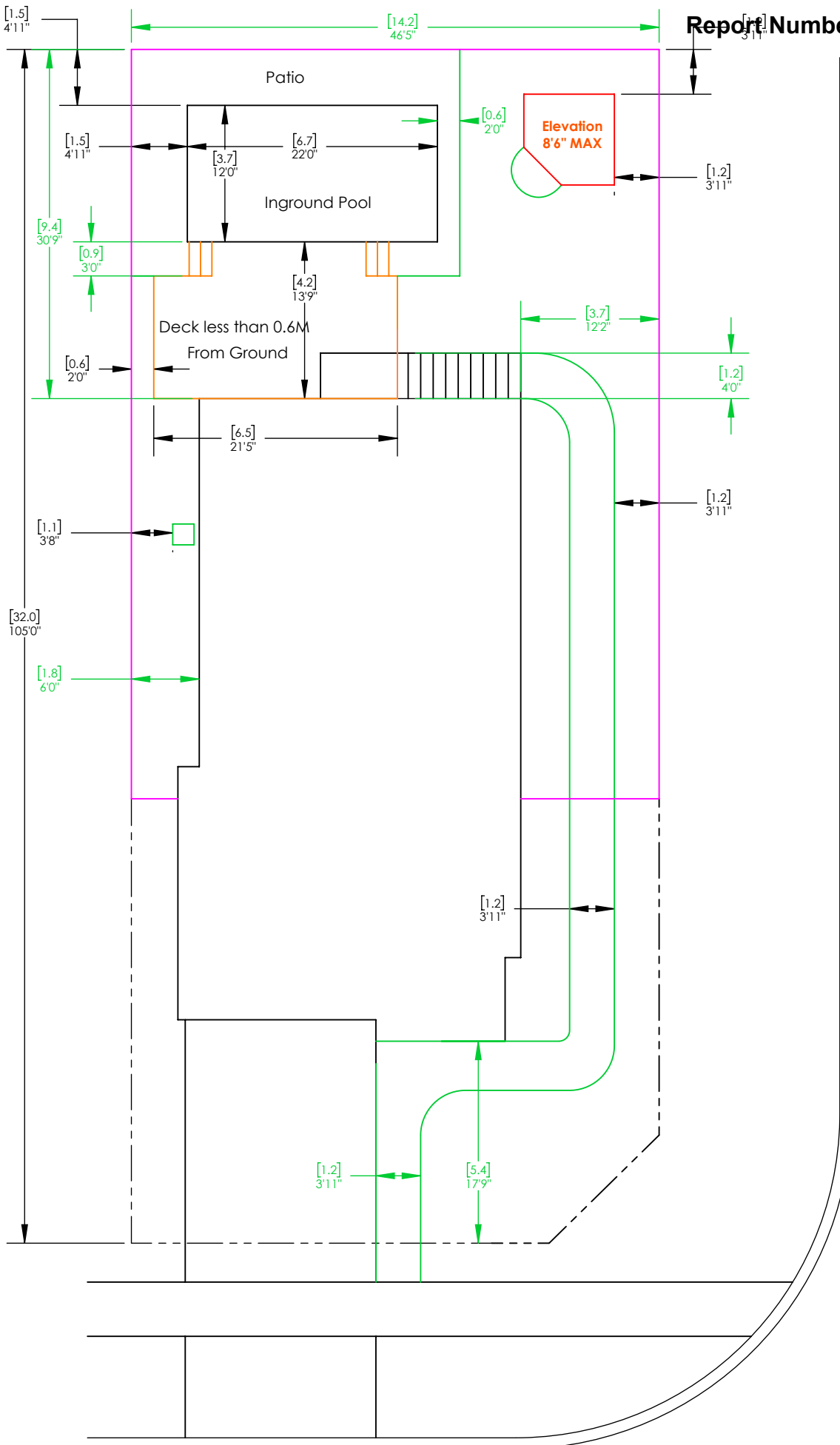




Committee of Adjustment
Existing Zoning - By-law 32-74, Map 4
Address: 1175 Waterside Way
File Number: D13-038-2021

Subject Lands
 Consolidated Zoning





Stonewalk Drive

Waterside Way



Committee of Adjustment
Neighbourhood Context (2021)

Address: 1175 Waterside Way
File Number: D13-038-2021

- Subject Lands
- Property Boundaries
- Proposed Parcels

