



**City of Kingston  
Report to Committee of Adjustment  
Report Number COA-21-069**

---

**To:** Chair and Members of the Committee of Adjustment  
**From:** Tim Fisher, Planner  
**Date of Meeting:** October 18, 2021  
**Application for:** Minor Variance  
**File Number:** D13-054-2021  
**Address:** 39 Hampstead Heath  
**Owner:** Celina Christine Dos Santos and Lucas David King  
**Applicant:** Paul Purves, NCP Homes Ltd.

---

**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 minor variance for the property located at 39 Hampstead Heath. The applicant is proposing to reduce the minimum front yard setback from 7.5 metres to 6 metres to construct an attached garage at grade level and a partial second storey on the existing single detached dwelling. The additional living space and interior renovations will result in a total of 4 bedrooms, a master bedroom suite and playroom, as per the proposed site plan (Exhibit H), proposed elevations (Exhibit J) and the proposed floor plan (Exhibit L).

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 8499. 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.

**Variance:**

By-Law Number 8499: Section 7.3(b) Minimum Front Yard Setback  
Requirement: 7.5 metres  
Proposed: 6 metres  
Variance Requested: 1.5 metres

**Recommendation:**

**That** minor variance application, File Number D13-054-2021, for the property located at 39 Hampstead Heath to reduce the minimum front yard setback requirement to construct an attached garage at grade level and a partial second storey on the existing single detached dwelling, be approved; and

**That** approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-21-069.

**Authorizing Signatures:**



---

Tim Fisher, Planner

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

Tim Park, Director, Planning Services

James Bar, Manager, Development Approvals

## **Options/Discussion:**

On August 23, 2021, a minor variance application was submitted by Paul Purves, NCP Homes Ltd., on behalf of the owner, Celina Christine Dos Santos and Lucas David King, with respect to the property located at 39 Hampstead Heath. The variance is requested to reduce the minimum front yard setback from 7.5 metres to 6 metres to construct an attached garage at grade level and a partial second storey on the existing single detached dwelling. The additional living space and interior renovations will result in a total of 4 bedrooms, a master bedroom suite and playroom. No new unit is proposed through this application

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

- Existing Plot Plan (Exhibit G);
- Proposed Plot Plan (Exhibit H);
- Existing Elevations (Exhibit I);
- Proposed Elevations (Exhibit J);
- Original Floor Plan (Exhibit K); and
- Proposed Floor Plan (Exhibit L).

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 39 Hampstead Heath (Exhibit B – Key Map). The property is designated as Residential in the Official Plan and zoned One Family Dwelling ‘A1’ Zone in Zoning By-Law Number 8499. The site is developed with a single detached dwelling (bungalow) with a sub-grade attached garage.

The subject property is located in the Strathcona neighbourhood. The site is adjacent to one and two-storey single detached dwellings to the north, south and west. The site backs onto Strathcona Park which is east of the site. A pathway leading from Hampstead Heath to Strathcona Park is located along the northern lot line between the subject property and 33 Hampstead Heath to the north.

## **Application**

The review of an application for minor variance is not a simple mathematical calculation, but rather a detailed assessment of whether the variance 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 (Exhibit D).

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 property is 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 proposed two storey addition to the west half of the dwelling will consist of an attached garage and front foyer which is compatible with the surrounding one and two storey single detached dwellings in the neighbourhood. Existing dwellings along Hampstead Heath are a mixture of dwelling with no garages, an attached garage or detached garages located in the rear yard. The applicant cannot locate an attached garage to the side of the dwelling or locate the garage in the rear yard as a result of the positioning of the existing house and its current setbacks to the side yards.

The proposed attached garage will provide secure parking while also maintaining a surface parking space on the driveway which is entirely on the subject property between the front lot line and the face of the garage.

The single detached dwelling use will be maintained. No additional units are proposed and therefore would not anticipate in any increase in traffic. The addition will not result in any loss of privacy due to intrusive overlook onto abutting properties or result in the

reduction in the ability of abutting property owners to enjoy their property or the normal amenity associated with it.

Dwellings in the neighbourhood consist of a variety of bedroom counts ranging from 2 bedrooms to 3 plus bedrooms. The addition will maintain two bedrooms on the first floor and create an additional 3 bedrooms in the addition resulting in a total of 5 bedrooms. The number of bedrooms proposed is compatible with the existing residential dwellings in the neighbourhood.

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. Parking will be located in the attached garage however the driveway on the property is long enough to provide a parking space entirely on the driveway between the front property line to the face of the garage;

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 subject site is not located in a Heritage District and will not impact any built heritage.

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. The subject property is located in an area of Composite Archeological Potential. An archeological assessment beginning with a Stage 1 Archeological Assessment is required prior to the issuance of a Building Permit. However, if the addition is constructed with alternative methods that reduce ground disturbance, then no assessment is required and the standard archaeological condition will apply. The applicants are proposing construction in an already disturbed area (subterranean driveway and existing front entrance) using slab on grade construction and therefore if this construction method is implemented through the Building Permit, no assessment is required.

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. The proposal will maintain the existing municipal services to the site.

Utilities Kingston commented that if the proposal is increasing the gas load, a Gas Load Summary should be filled out and submitted to a Utilities Kingston Service Advisor. The

applicant is also encouraged to contact the Utilities Kingston Conservation Department to discuss their development and inquire as to whether there are any water and gas conservation incentives and energy savings options available.

Kingston Hydro commented that a service request will be required if the service mast needs to be adjusted or relocated.

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.

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 in Exhibit A.

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

The approval of the requested variance will not set a precedent for the immediate area, as the requested 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, attached garage and front foyer will not result in any negative impacts to adjacent properties, the streetscape or to the neighbourhood.

## **2) The general intent and purpose of the zoning by-law are maintained**

The subject property is zoned One Family Dwelling 'A1' Zone in the City of Kingston Zoning By-Law Number 8499, entitled "Restricted Area (Zoning) By-Law of the Corporation of the City of Kingston", as amended (Exhibit E). The 'A1' zone permits a single detached dwelling containing a single residential unit. The proposal will maintain the existing residential use and will not result in any new units.

The design of the addition will protrude into the front yard resulting in a portion of the attached garage and second storey addition to be located within the requirement minimum front yard setback. A variance is being requested to reduce the minimum front yard setback for the location of the addition.

**Variance Number:**

By-Law Number: 8499      Section 7.3(b) Minimum Front Yard Setback  
Requirement:                7.5 metres  
Proposed:                     6 metres  
Variance Requested:        1.5 metres

The intent of the minimum front yard setback requirement has two functions. The first function is to provide a minimum setback for residential development resulting in a uniform development and streetscape while providing a landscape buffer between the street to the façade of the dwelling. The second function of the minimum front yard setback is to provide a surface parking space located entirely on the subject property while complying with the minimum length of a parking space of 6.0 metres.

The proposed 6.0 metre setback will be in-keeping with the existing built form and their existing setbacks from Hampstead Heath and will not have any negative impacts on the streetscape. The proposed setback will also maintain the minimum length required for a parking space on the subject property within the driveway.

The proposed front foyer complies with the minimum front yard setback requirement and therefore does not require a variance.

The proposal complies with all other requirements in the One Family Dwelling 'A1' Zone in Zoning By-Law Number 8499.

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

The variance is considered minor as the dwelling and its addition will remain largely consistent with the built form and size of properties in the immediate vicinity, and specifically the adjacent residential properties. No adverse impacts on neighbouring properties will result from the partial two storey addition to the west half of the existing single detached dwelling.

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

The proposed addition will allow for a more functional residential unit by relocating basement bedrooms to the second storey. The 3 bedrooms within the second storey and 1 bedroom on the main storey will provide above grade bedrooms for their 4 children. The master bedroom will be maintained on the main storey.

The current subgrade garage results in drainage and functionality issues. The proposed at grade attached garage will be accessible for parking and address drainage issues to the dwelling. Direct access to the garage from the dwelling will be located within the proposed foyer. The requested variance will maintain a surface parking space in front of the garage which will comply with the minimum length and width of a parking space in the Zoning By-Law.



The owner/applicant proposes to widen the existing driveway and its access from Hampstead Heath. Engineering Services requires the owner/applicant to apply and obtain an Entrance Permit prior to any work. This can be addressed through the Building Permit Application process.

The proposed addition to the single detached dwelling will ensure the ongoing use of the residential use and its occupants. As such, the variance is considered desirable for the 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 checked="" type="checkbox"/> Finance           | <input checked="" type="checkbox"/> Utilities Kingston     | <input checked="" 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 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                          |
| <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, there were no written comments or objections received from the public. 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 8499. The proposal is desirable for the appropriate development or use of the land, building or structure and the requested variance is minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the

*Planning Act* and the application is being recommended for approval, subject to the proposed conditions.

Approval of this application will permit the construction of an attached garage and partial second storey addition to a single detached dwelling.

**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 8499

**Notice Provisions:**

A Committee of Adjustment Meeting is going to be held respecting this application on October 18, 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 24 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, Manager, Development Approvals, 613-546-4291 extension 3213

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 Public Notification Map
- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Number 8499, Map 12
- Exhibit F Neighbourhood Context Map (2021)
- Exhibit G Existing Plot Plan
- Exhibit H Proposed Plot Plan
- Exhibit I Existing Elevations
- Exhibit J Proposed Elevations
- Exhibit K Original Floor Plan
- Exhibit L Proposed Floor Plan

## Recommended Conditions

### Application for minor variance, File Number D13-069-2021

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

#### 1. Limitation

That the approved minor variance applies only to the two-storey addition to the west half of the dwelling, 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, entrance permit and Archaeological Assessment (subject to the archaeological condition) and Ministry review or clearance letter, 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.

#### 4. Entrance Permit

As part of the Building Permit Application process, the owner/applicant shall apply for and obtain an Entrance Permit from Engineering Services for the alteration to the existing entrance onto Hampstead Heath.

#### 5. Utilities Kingston - Servicing

As part of the Building Permit Application process, the owner/applicant shall contact Utilities Kingston and provide a Gas Load Summary if there is an increase in the gas load.

## 6. Kingston Hydro – Servicing

As part of the Building Permit Application process, the owner/applicant shall contact Kingston Hydro and request a service request if the service mast needs to be adjusted or relocated.

## 7. Standard Archaeological Condition

If the addition is constructed with a slab on grade, an archaeological assessment is not required as the addition is over lands previously disturbed. If the addition is constructed using other methods resulting in further ground disturbance, the following condition shall apply:

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


Two (2) copies of the study and all relative information shall be provided to the Building Division. The report shall be registered with the Ministry of Tourism, Culture and Sport or an acceptance letter shall be obtained by the Ministry prior to the issuance of a Building Permit.

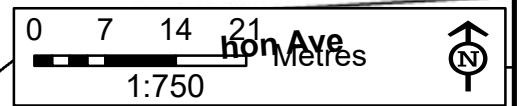
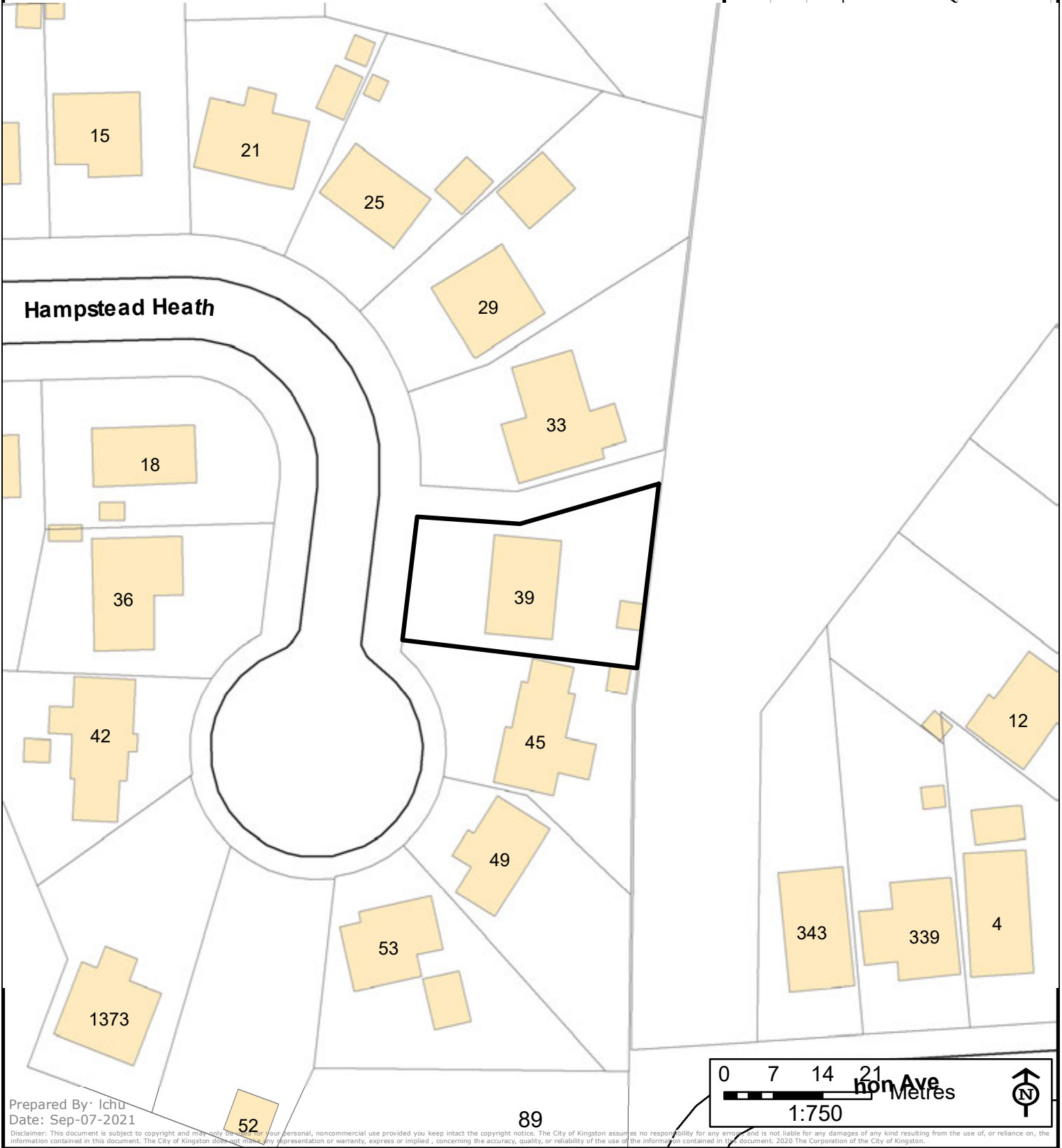
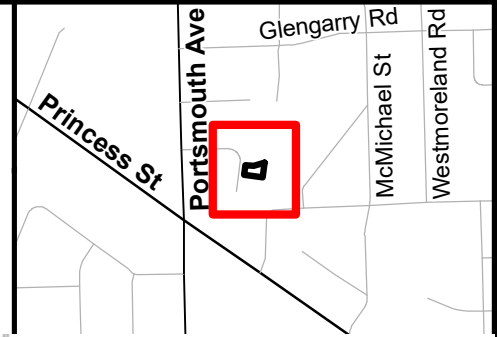
The City relies upon the report of the professional archaeologist as filed, but reserves the right to require further reports should further evidence be uncovered. The applicant may be required to further review the state of archaeological resources on the property depending on the recommendations of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



# Committee of Adjustment Key Map

Address: 39 Hampstead Heath  
File Number: D13-054-2021

 Lands Subject to Minor Variance



Prepared By: Ichu  
Date: Sep-07-2021

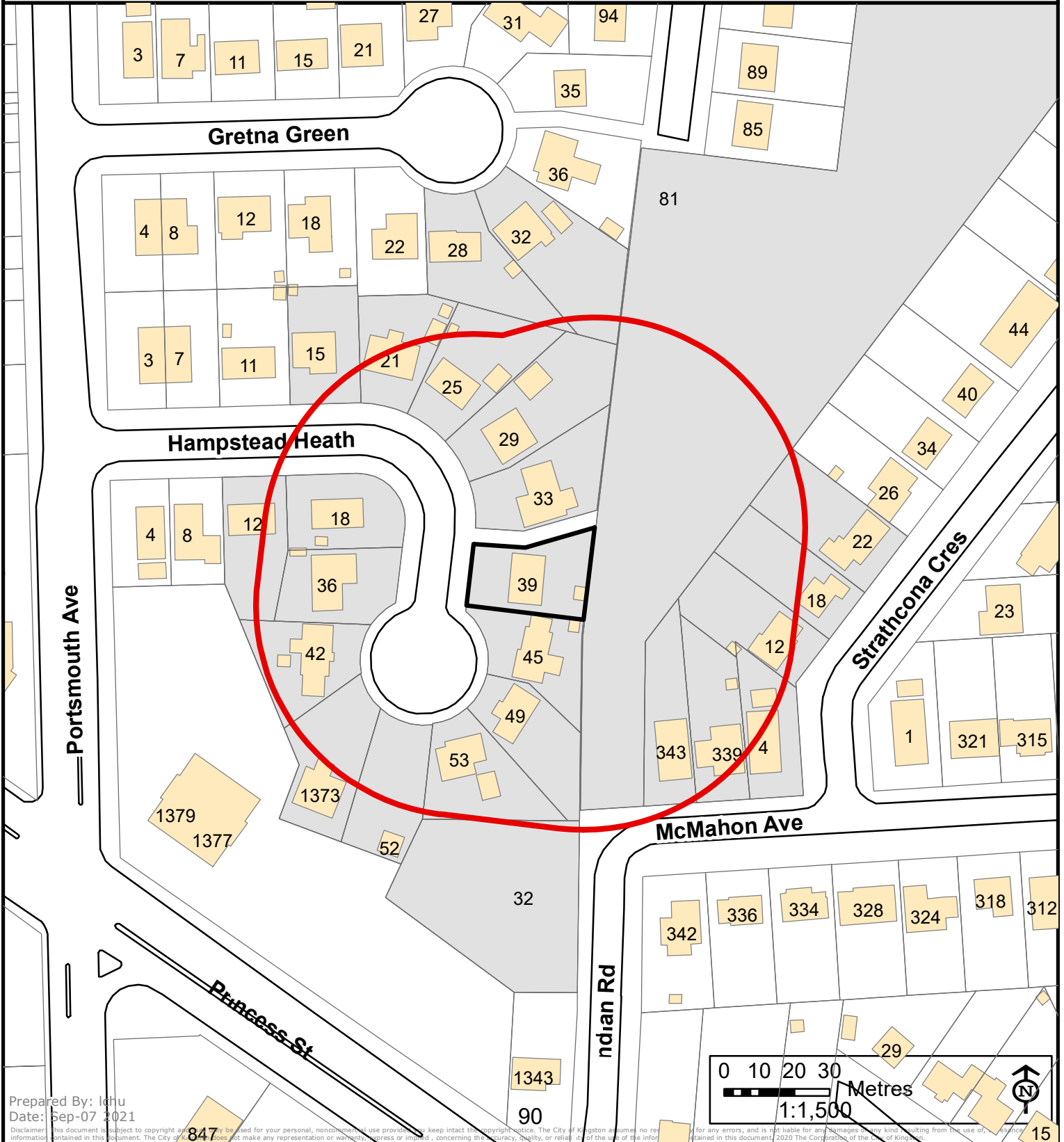
Disclaimer: This document is subject to copyright and may only be used for your personal, noncommercial use provided you keep intact the copyright notice. The City of Kingston assumes no responsibility for any errors and is not liable for any damages of any kind resulting from the use of, or reliance on, the information contained in this document. The City of Kingston does not make any representation or warranty, express or implied, concerning the accuracy, quality, or reliability of the use of the information contained in this document. © 2020 The Corporation of the City of Kingston.



# Committee of Adjustment Public Notice Notification Map

Address: 39 Hampstead Heath  
File Number: D13-054-2021

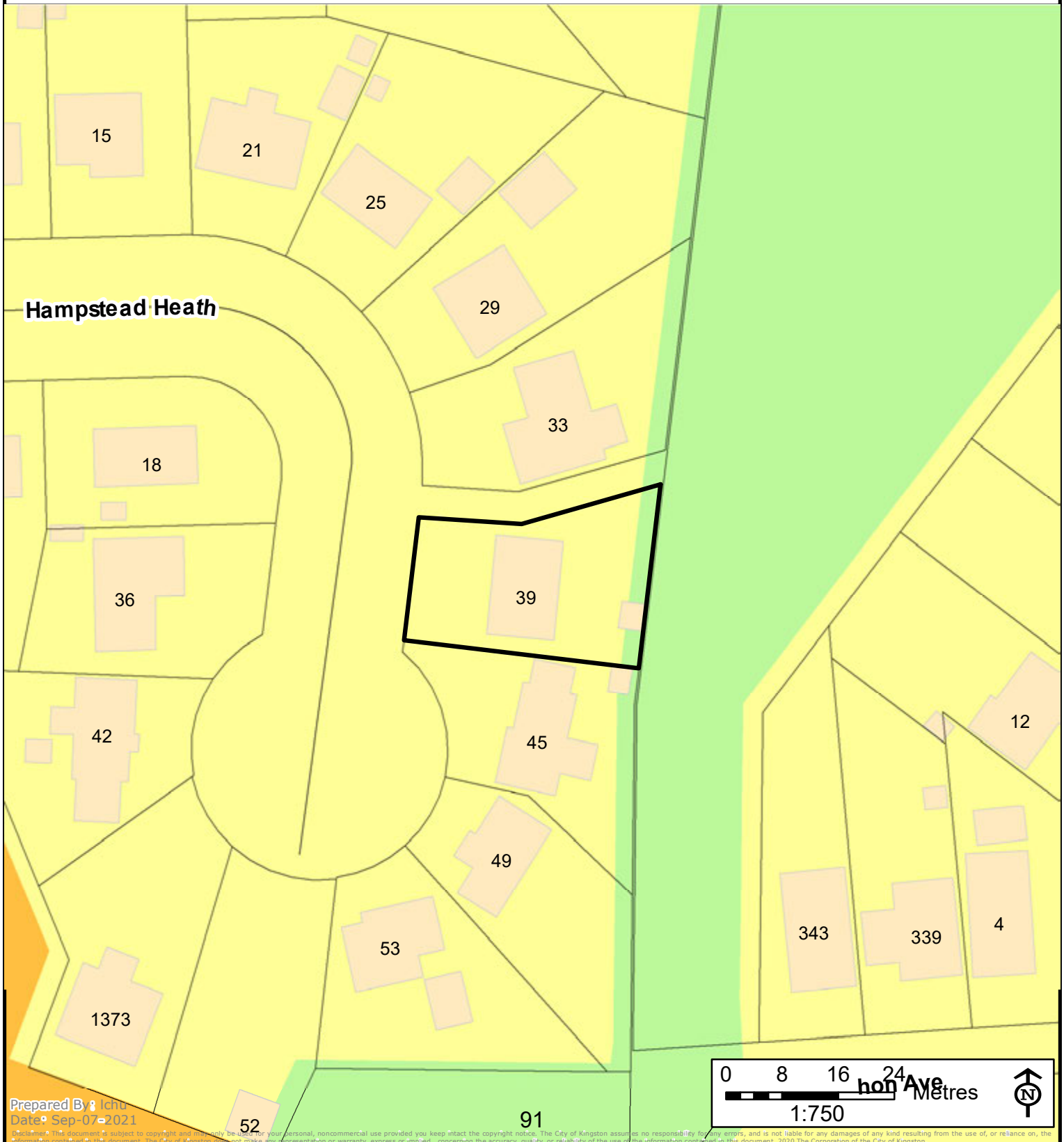
- 60m Public Notification Boundary
- Subject Lands
- Property Boundaries
- 24 Properties in Receipt of Notice (MPAC)





Committee of Adjustment  
**Official Plan, Existing Land Use**  
Address: 39 Hampstead Heath  
File Number: D13-054-2021

- Subject Lands
- ARTERIAL COMMERCIAL
- OPEN SPACE
- RESIDENTIAL







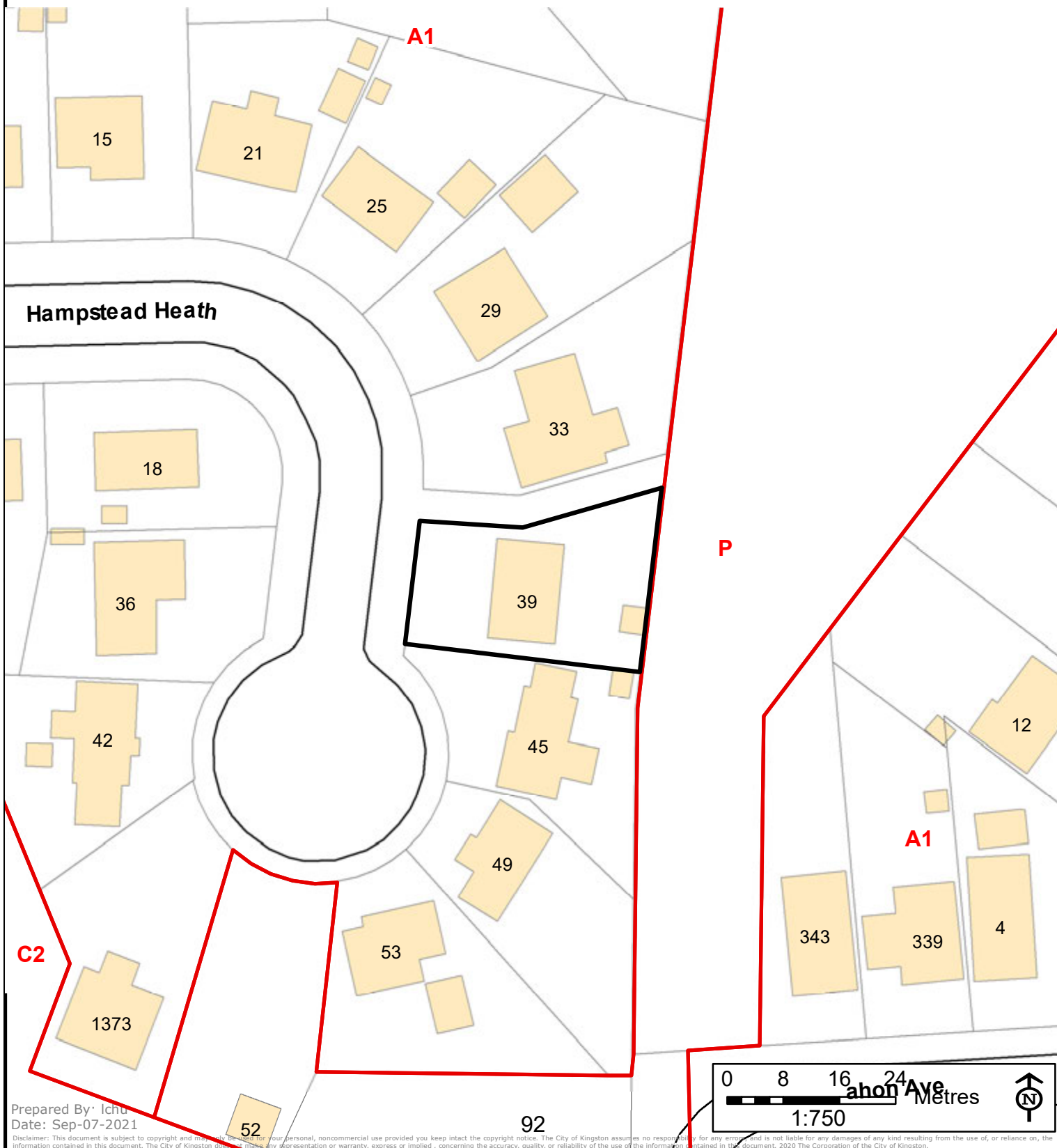


Planning Services

# Committee of Adjustment Existing Zoning - By-law 8499, Map 12

Address: 39 Hampstead Heath  
File Number: D13-054-2021

-  Subject Lands
-  Consolidated Zoning



Prepared By: Ichu  
Date: Sep-07-2021

Disclaimer: This document is subject to copyright and may not be used for your personal, noncommercial use provided you keep intact the copyright notice. The City of Kingston assumes no responsibility for any errors and is not liable for any damages of any kind resulting from the use of, or reliance on, the information contained in this document. The City of Kingston does not make any representation or warranty, express or implied, concerning the accuracy, quality, or reliability of the use of the information contained in this document. ©2020 The Corporation of the City of Kingston.

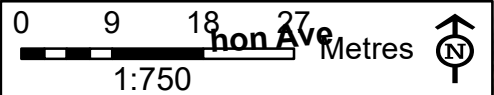




# Committee of Adjustment Neighbourhood Context (2021)

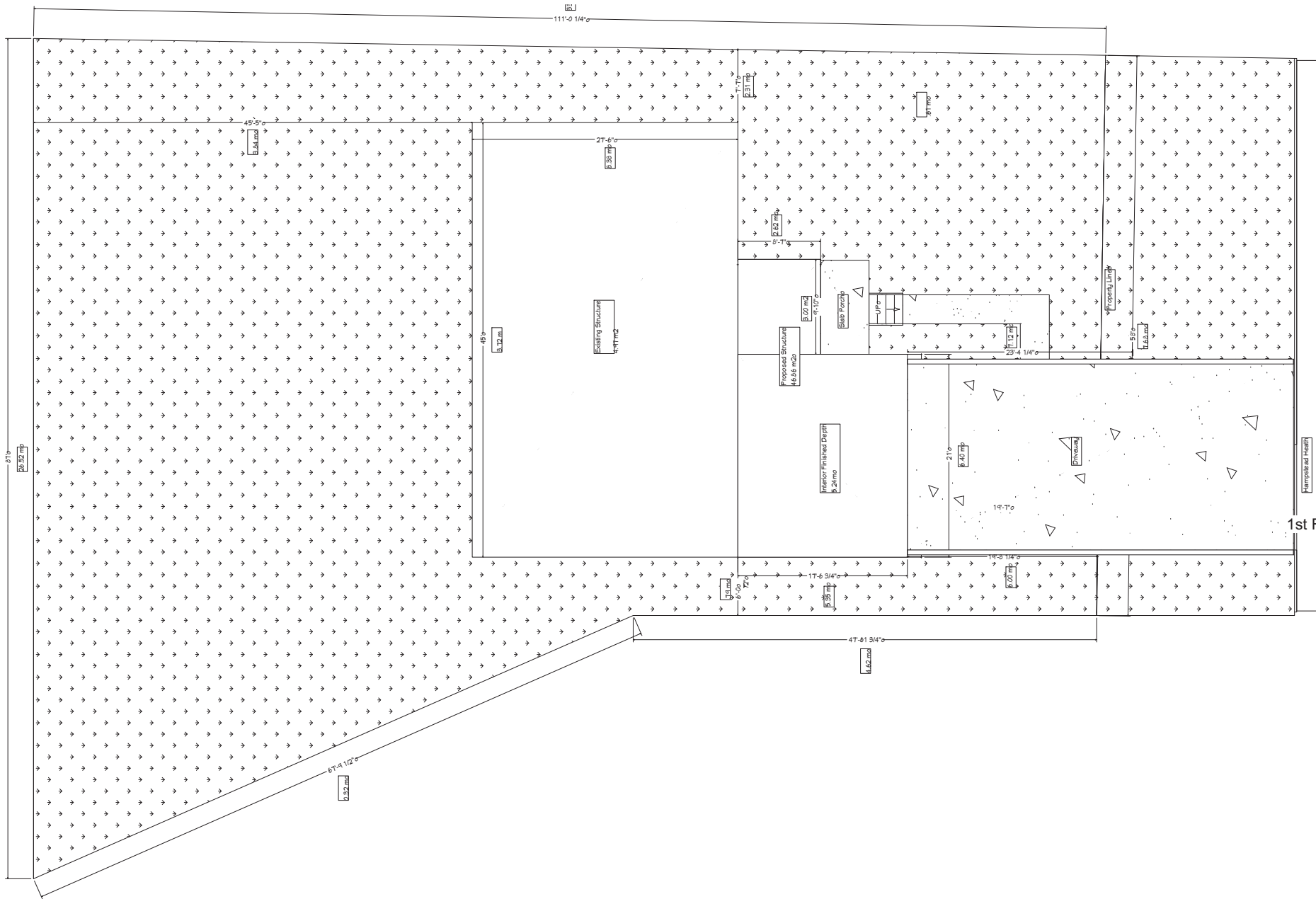
Address: 39 Hampstead Heath  
File Number: D13-054-2021

- Subject Lands
- Property Boundaries
- Proposed Parcels









1st Floor

SHEET TITLE:  
**Proposed Plot Plan 3**

PROJECT DESCRIPTION: 3  
**39 Hamps Road Heath**

DRAWINGS PROVIDED BY:  
**NCP Homes Ltd3**

DATE: 3  
July/20/213  
R1 08-16-213  
R2 00-00-203  
R2 00-00-203

SHEET: 3  
**A-1 R-1**



SHEET TITLE:  
 Existing Elevation

PROJECT DESCRIPTION:  
 39 Hampstead Heath

DRAWINGS PROVIDED BY:  
 NCP Homes Ltd

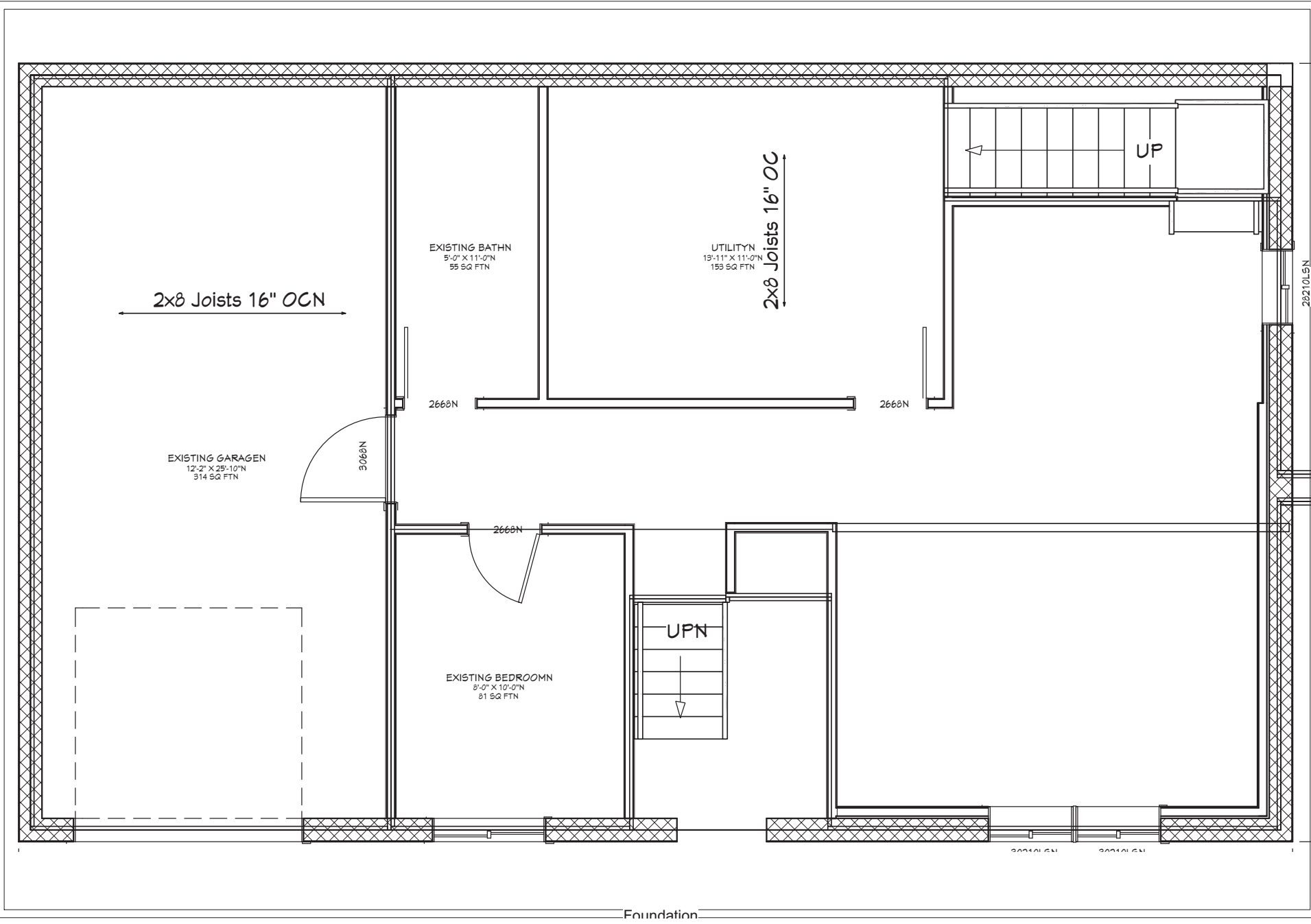
DATE:  
 Mar/19/21  
 R1 00-00-20  
 R2 00-00-20  
 R2 00-00-20

SHEET:  
 A-1 R-1



Elevatio 4

SHC T TITL:C	39 Hampstead Heath CP Proposed ElevationC
PROJ C T DESCRIPTION:C	
DRAWINGS PROVIDED BY:C	NCP Homes LtdC
DATE:	July/20/21C
R1	00-00-20C
R2	00-00-20C
R2	00-00-20C
SHEET:C	
A-1	R-1



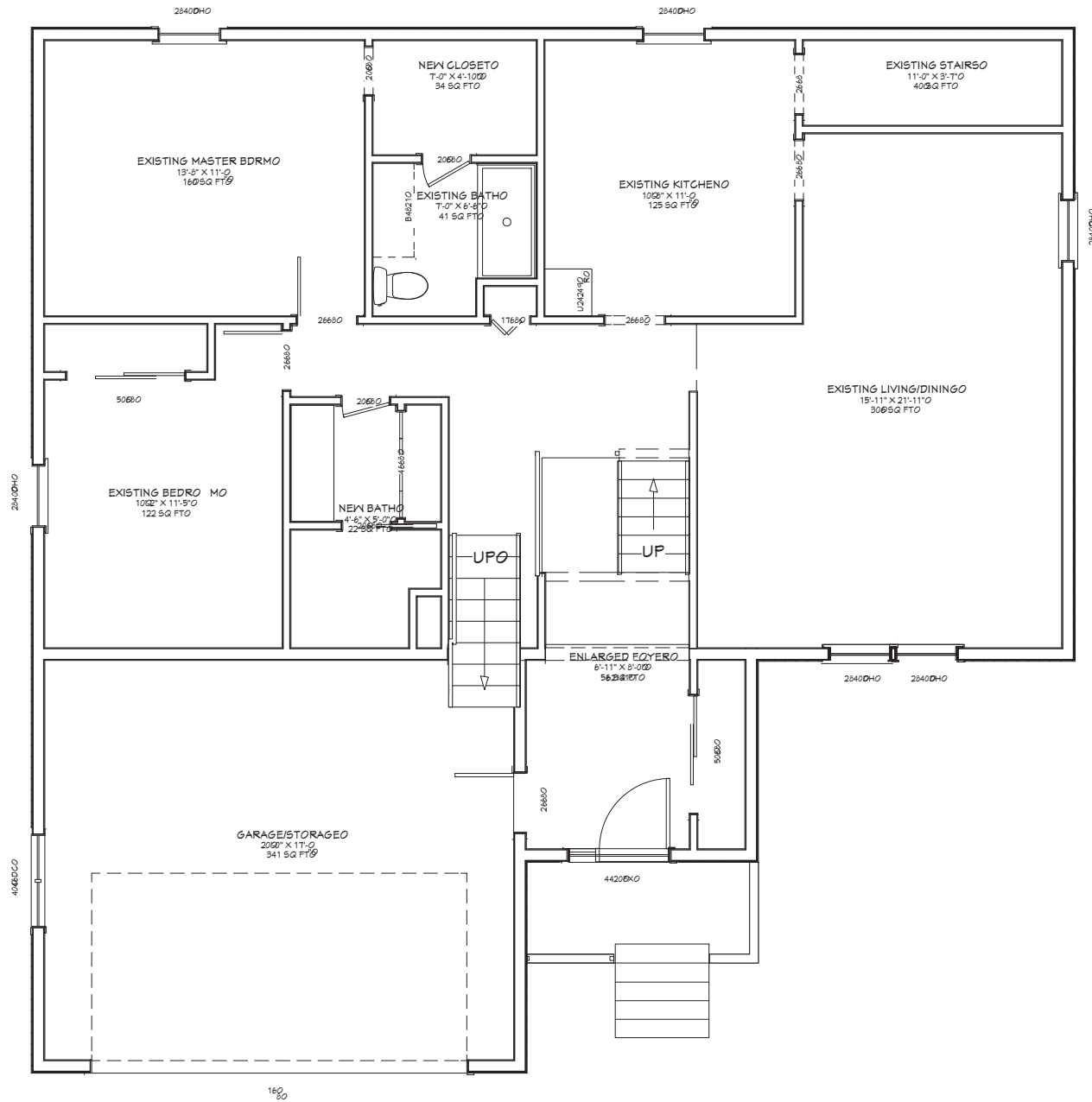
SHEET TITLE:e  
**EXISTING BASEMENT FLOORPLAN**

PROJECT DESCRIPTION:e  
**39 Hampstead Heathe**

DRAWINGS PROVIDED BY:e  
**NCP Homes Ltde**

DATE:e  
Aug/16/21e  
R1 00-00-21e  
R2 00-00-20e  
R2 00-00-20e

SHEET:e  
**A-1 R-1**



SHEET TITLE:h  
**PROPOSED FLOORPLH**

PROJECT DESCRIPTION:h  
**39 Hampstead Heath**

DRAWING PROVIDED BY:h  
**NCP Homes Ltdh**

DATE:h  
Aug/16/21h  
R1 00-00-21h  
R2 00-00-20h  
R2 00-00-20h

SHEET:h  
**A-1 R-1**