



**City of Kingston
Report to Committee of Adjustment
Report Number COA-21-078**

To: Chair and Members of the Committee of Adjustment
From: InGi Kim, Planner
Date of Meeting: November 15, 2021
Application for: Minor Variance
File Number: D13-056-2021
Address: 4672 Highway 15
Owner: Richard Kramer and Debra Kramer
Applicant: Rod Stokes Consulting Inc.

Council Strategic Plan Alignment:

Theme: Policies & by-laws

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 4672 Highway 15 (Exhibit B - Key Map). The subject property is approximately 4,216 square metres in size with approximately 64 metres of frontage on Highway 15. The subject property currently contains a one-storey single-family dwelling. The applicant is proposing to construct an approximately 98 square metre detached accessory building within the side yard of the property. The proposed building contains a garage, storage and loft with no habitable space. The proposed accessory building complies with all minimum front and rear yard depth, height and lot coverage requirements.

The variance is requested for a 10.8 metre reduction to the minimum interior side yard width. The subject property is designated 'Rural' and is located in the Restricted Rural 'A1' Zone in the City of Kingston Zoning By-Law Number 32-74 (Exhibit C – Official Plan Map and Exhibit D – Zoning By-Law Map).

November 15, 2021

Page 2 of 11

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 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 Number 1: Interior Side Yard Width

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

Requirement: 12 metres

Proposed: 1.2 metres

Variance Requested: 10.8 metres reduction to the minimum interior side yard width

Recommendation:

That minor variance application, File Number D13-056-2021, for the property located at 4672 Highway 15 to reduce the interior side yard width to 1.2 metres to construct a detached accessory building, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-21-078.

November 15, 2021

Page 3 of 11

Authorizing Signatures:



InGi Kim, Planner

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

Tim Park, Director, Planning Services

James Bar, Manager, Development Approvals

November 15, 2021

Page 4 of 11

Options/Discussion:

On September 17, 2021, a minor variance application was submitted by Rod Stokes Consulting Inc., on behalf of the owners, Richard Kramer and Debra Kramer, with respect to the property located at 4672 Highway 15. The applicant is proposing to construct an approximately 98 square metre detached accessory building within the side yard of the property (Exhibit F - Proposed Site Plan and Exhibit G - Proposed Building Elevations). The proposed building contains a garage, storage and loft with no habitable space. The proposed accessory building complies with all minimum front and rear yard depth, height and lot coverage requirements.

A variance is requested from Section 23(2)(e) of Zoning By-Law Number 32-74 to seek reduction to the minimum interior side yard width provision. As stated in Section 23(2)(e) of Zoning By-Law Number 32-74, the minimum interior side yard width for any building or structure is 12 metres. The proposed accessory building is located 1.2 metres, which does not comply with the minimum interior side yard width of Section 23(2)(e). As such, the applicant is seeking a variance of 10.8 metres.

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

- Proposed Site Plan (Exhibit F)
- Proposed Building Elevations (Exhibit G)
- Owner Authorization 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 on the north side of Highway 15 and is situated within an established rural residential area known as Joyceville/Brewers Mills (Exhibit E - Neighbourhood Context Map). The subject property is approximately 3,392 square metres in size with approximately 53 metres of frontage on Highway 15. The site is currently developed with a single-family dwelling on a private well and septic services (Exhibit B - Key Map).

The subject property is designated 'Rural' in the Official Plan and zoned Restricted Rural 'A1' Zone in Zoning By-Law Number 32-74. The property abuts Provincial Highway 15 to the south east, single-family dwelling to the south west, and vacant land to the north and east.

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:

November 15, 2021

Page 5 of 11

Provincial Policy Statement

In addition to the four tests of a minor variance detailed above, Subsection 3(5) of the *Planning Act* requires that a decision in respect of the exercise of any authority that affects a planning matter shall be consistent with the Provincial Policy Statement (the PPS). The PPS provides policy direction on matters of provincial interest related to land use planning and development which are complemented by local policies addressing local interests. The application being considered is site specific to accommodate a specific proposal and does not involve any major policy considerations and as such, the proposal conforms to and is consistent with the PPS.

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

The subject property is designated Rural 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 will not 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. There are no additional dwelling units proposed. Therefore, there is no increase in density or intensity of uses.
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;
3. The proposed accessory building will result in a development that is consistent with the built form of existing accessory buildings located adjacent to the subject property on Highway 15. The overall design and scale of the proposal is not anticipated to cause any adverse impacts on the adjacent residential properties. No adverse effects in regard to overlook or loss of privacy are anticipated, as the proposed building is more than 50 metres away from the abutting residential property to the west at 4664 Highway 15 and there is no dwelling to the east of the property. Additionally, the proposed accessory building is anticipated to have no impact on the existing streetscape, as it is located more than 19 metres away from Highway 15.
4. 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;

November 15, 2021

Page 6 of 11

The proposal involves the construction of an accessory building within the side yard of the subject property. There will be no concerns with respect to the parking of vehicles and bicycles or issues relating to accessibility.

5. 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 size and location of the proposed accessory building has no impact on urban design; and there are no matters of built heritage on this property. The site is not located within a Heritage Conservation District.

6. If the site is designated under the *Ontario Heritage Act*, the application shall be reviewed by Heritage Kingston for approval. If the property is adjacent to a designated property under the *Ontario Heritage Act* or shown as a Heritage Area feature, or is affected by the protected views shown on Schedule 9 of this Plan, then a Heritage Impact Statement may be required to assist staff to determine if the resulting development is desirable;

The subject property is not on the City's Heritage Register and as such a Heritage Impact Statement is not required.

7. 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 site is located outside of the Urban Boundary and is developed with sufficient private services. The proposed accessory building will not require any private services for its intended storage use related to the single-family dwelling.

8. 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 proposed variance is considered minor and the development is consistent with the existing built form along Highway 15. The garage is a permitted accessory use to the dwelling. Therefore, a zoning by-law amendment is not required.

9. 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;

As part of the recommendation, suggested conditions have been listed (Exhibit A – Recommended Conditions). The conditions may be added, altered or removed at the Committee's discretion.

The subject property is identified as an area of Composite Archeological Potential under the Archaeology Master Plan. However, the Archeological Assessment requirement is waived by the Planning Services due to the nature of the landscape of the property being

November 15, 2021

Page 7 of 11

shallow with soil depth and bedrock being present on the surface in proximity to the proposed accessory building. Standard Archaeological Condition is added to the Notice of Decision to cease and secure the site if human remains and/or any previously undiscovered archaeological deposits are discovered in the course of development of site alteration (Exhibit I – Site Photos).

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

The approval of the requested variance is considered minor and will not set a precedent for the immediate area. Due to the sites smaller size, the larger setbacks intended for rural lots do not make efficient use of the lands. The requested variance is more in keeping with the setbacks found on smaller residential lots. These smaller setbacks allow accessory buildings to be located closer to the lot lines, leaving more room on the site for outdoor amenity, or for site functional needs such as the septic system.

The proposal meets the intent of the Official Plan, as the proposed 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 Restricted Rural 'A1' Zone in the City of Kingston Zoning By-Law Number 32-74, entitled "Township of Pittsburgh Zoning By-Law", as amended. The 'A1' zone permits an accessory dwelling house; a detached single family dwelling house; a cemetery; a farm, but not including a specialized farm as defined herein; a farm produce outlet; a home occupation; and a public use. The proposed accessory building is a permitted use within the 'A1' Zone subject to the provisions of Section 5(1) of Zoning By-Law Number 32-74 (Exhibit D - Zoning By-Law Map).

The proposal requires a variance to Section 23(2)(e) of Zoning By-Law Number 32-74:

Variance Number 1:

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

Requirement: Interior Side Yard Width (min.): 12 metres

Proposed: 1.2 metres

Variance Requested: 10.8 metres reduction to the minimum interior side yard width

A variance is required from Section 23(2)(e) of Zoning By-Law Number 32-74 to seek relief for the accessory building from the minimum interior side yard width. Within Section 23(2)(e), the minimum interior side yard width is 12 metres. The proposed accessory building is proposed to be set back 1.2 metres, which does not comply with the minimum interior yard width setback of Section 23(2)(e). As such, the applicant is seeking a variance of 10.8 metres to construct the proposed accessory building.

The application meets all other requirements of the Restricted Rural 'A1' Zone and Zoning By-Law Number 32-74. The reduced interior side yard width maintains the general intent

November 15, 2021

Page 8 of 11

and purpose of the zoning by-law by preventing any adverse impacts on the existing streetscape and the adjacent properties regarding overlook or loss of privacy.

3) The variance is minor in nature

The proposed rear yard accessory building will result in a development that is consistent with the existing built form of residential development along Highway 15. The proposed accessory building will be located within the side yard and will not result in intrusive overlook with respect to adjacent residential properties. The variances will not alter the character of the neighbourhood or the existing streetscape. The variances are considered minor as there will be no negative impacts on abutting properties or residential and/or uses or structures.

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

The proposed development will provide the functional needs for the existing residential use. The resulting built form satisfies all applicable provisions of the zoning by-law, except for the interior side yard width. The proposal is appropriate and compatible with the surrounding residential/agricultural uses and will not result in significant impacts or changes to the surrounding area. 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 type="checkbox"/> Utilities Kingston | <input type="checkbox"/> Real Estate & Environmental Initiatives |
| <input type="checkbox"/> Fire & Rescue | <input checked="" type="checkbox"/> Kingston Hydro | <input type="checkbox"/> City’s Environment Division |
| <input type="checkbox"/> Solid Waste | <input type="checkbox"/> Parks Development | <input type="checkbox"/> Canadian National Railways |
| <input type="checkbox"/> Housing | <input checked="" type="checkbox"/> District Councillor | <input checked="" 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 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.

November 15, 2021

Page 9 of 11

Ministry of Transportation has no concern with this minor variance and MTO permits have been issued. New driveway within 14 metre setback from MTO property line will not be allowed.

Cataraqui Region Conservation Authority (CRCA) have no objection to the approval of this Minor Variance.

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(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) 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 a new two-storey, 98 square metre accessory building in the side yard of the subject property. The proposed accessory building will improve the function of the existing residential use on the site and represents good land use planning.

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

November 15, 2021

Page 10 of 11

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on November 15, 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 7 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 on November 9, 2021 (Exhibit H – Public Notice Map).

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

InGi Kim, Planner, 613-546-4291 extension 3277

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Official Plan Map
- Exhibit D Zoning By-Law Number 32-74, Map 2
- Exhibit E Neighbourhood Context Map (2021)
- Exhibit F Proposed Site Plan
- Exhibit G Proposed Building Elevations

November 15, 2021

Page 11 of 11

Exhibit H Public Notice Map

Exhibit I Site Photos

Recommended Conditions

Application for minor variance, File Number D13-056-2021

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

1. Limitation

That the approved minor variance applies only to the property located at 4672 Highway 15 for a proposed accessory building 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.

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.

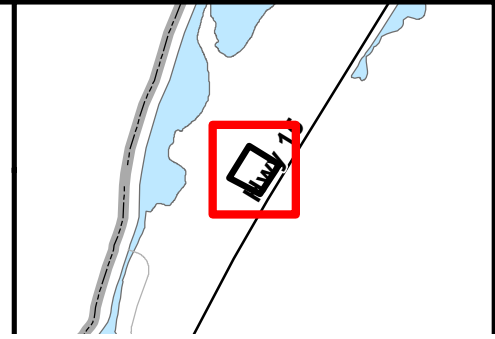
In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Registrar of Cemeteries at the Ministry of Government and Consumer Services (416-212-7499), the Program and Services Branch of the Ministry of Heritage,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



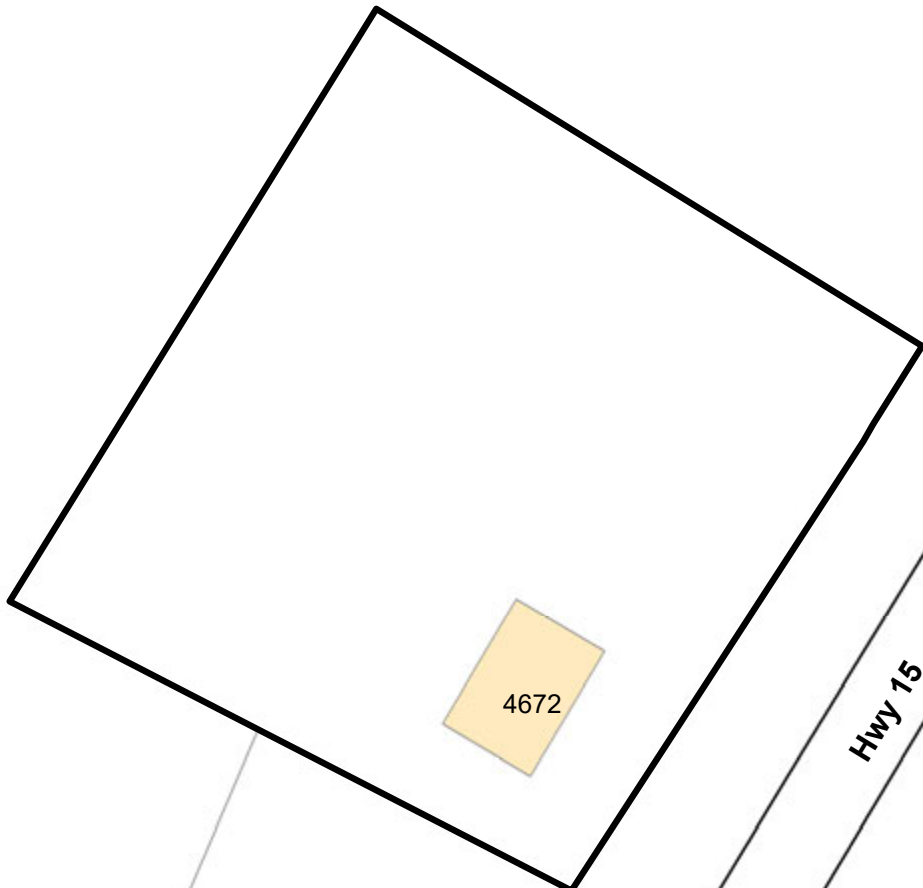
Committee of Adjustment Key Map

Address: 4627 Highway 15
File Number: D13-056-2021

 Lands Subject to Minor Variance



4798

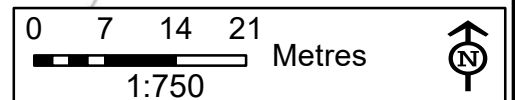


Hwy 15

4664

4672




41





Committee of Adjustment
Official Plan, Existing Land Use

Address: 4627 Highway 15
File Number: D13-056-2021

-  Subject Lands
-  ENVIRONMENTAL PROTECTION AREA
-  RURAL







Planning
Services

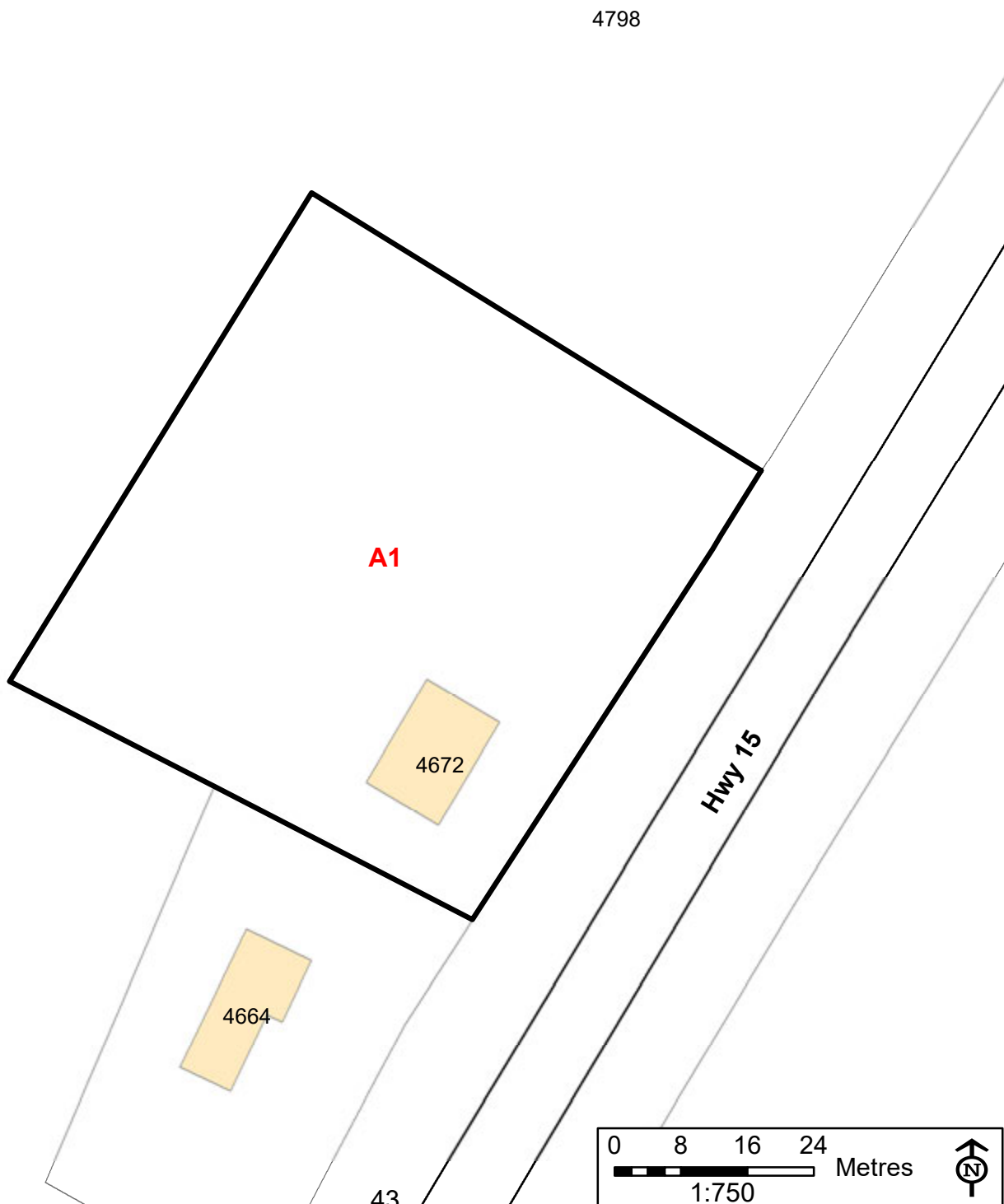
Committee of Adjustment

Existing Zoning - By-law 32-74, Map 2

Address: 4627 Highway 15

File Number: D13-056-2021

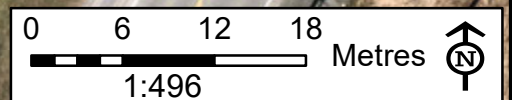
-  Subject Lands
-  Consolidated Zoning

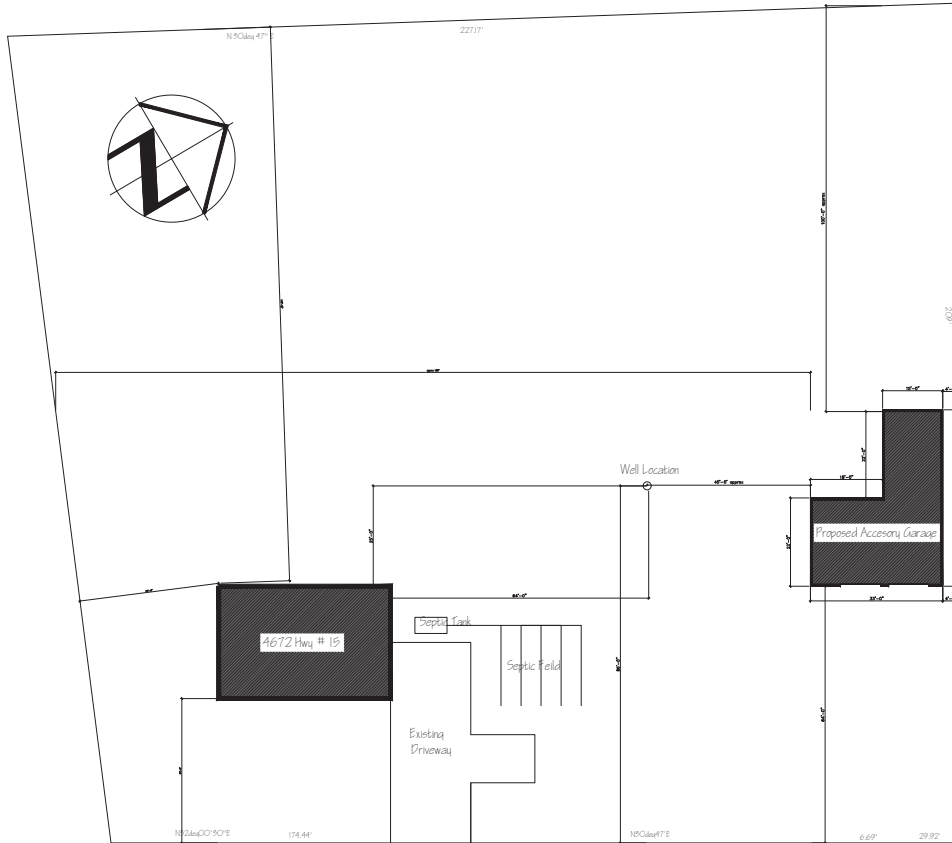




CITY OF KINGSTON
Neighbourhood Context (2021)
Address: 4627 Highway 15
File Number: D13-056-2021

- Subject Lands
- Property Boundaries
- Proposed Parcels





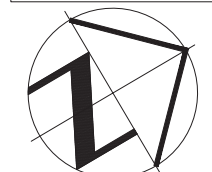
King's Highway #15

Site Statistics Zone A-1 By-law 32-74				
Zone A-1	Description	Bylaw Required	Proposed	Remarks
Section 25 Zone provision				
(2) (c)	Minimum Front Yard	10.5m (34.5ft)	19.5m (64ft)	
(2) (a)	Interior setback setback	12m (39.5ft)	12m (4ft)	Variance required
(2) (f)	Rear Yard Setback	15m (49.2 ft)	30.9 m (100 ft)	
(2) (h)	Lot Coverage	10 %	4.75 %	
Accessory uses Section 5				
1 (c) (ii)	Location to existing building min distance	2m min	29.8m (98 ft)	
5.6 (a)	max Building Height	12m or 4 storage	7m (23 ft)	

General Notes:

These plans were designed in accordance with the requirements of the Ontario Building Code.
 Drawings must not be copied.
 Contractor shall verify and be responsible for all dimensions and minimum code requirements and shall report any discrepancy to the Owner before proceeding with any work.
 Plans are copyrighted and any unlawful for use without company's express and written permission.
 *These plans form the basis for permit issuance and any deviation from these plans and details, including the ventilation system, heating system, woodstove, fireplace, deck, balcony, and finished basements, will require a revised opening and clearance by the building inspection department.
 The mechanical and electrical layout is only schematic. If items in plan cannot be placed exactly as shown, inform the Owner prior to installation.
 Verification switch and circulation switch shall be clearly labelled as per D.B.C. regulations.
 All mechanical, electrical and plumbing shall conform to the D.B.C. and all applicable codes prior to occupancy.

DESIGNER INFORMATION
 I, Rod Stokes review and take responsibility for the design work, and am qualified in the appropriate categories as Designer under subsection 2.17.2 of the Ontario Building Code.
 Firm: S.C.A.N.: 35482
 Individual B.C.N.: 31134
 Signed: *Rod Stokes*
 September 15, 2021



No.	Revision/Issue	Date
4		
3		
2	Additional setback dimension noted	04/05/21
1	Issued for linear variance application	09/16/21

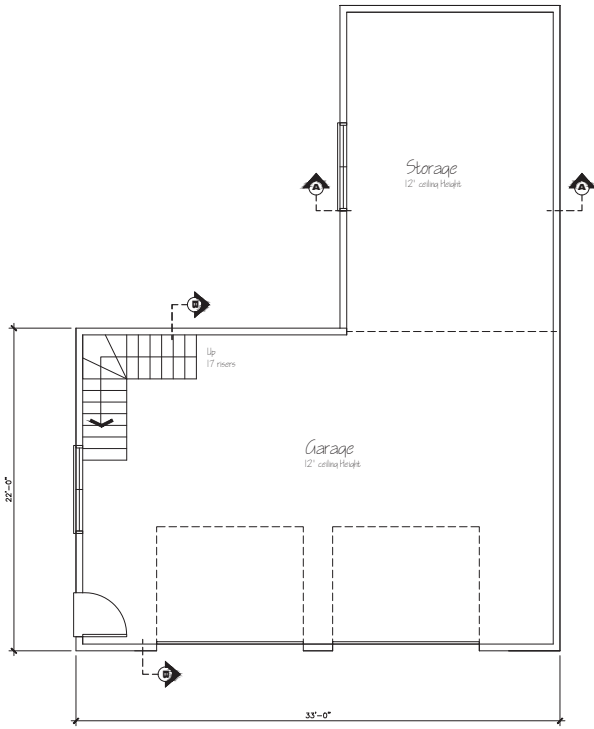


Drawing
Site Plan

Proposed Detached Unheated Garage for Mr. Rick & Debra Kramer
 4672 Hwy #15
 Kingston, Ontario

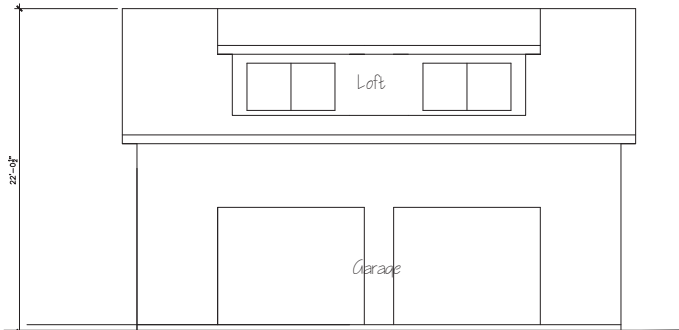
Project
 Date
 Scale
As noted

Sheet
5-1



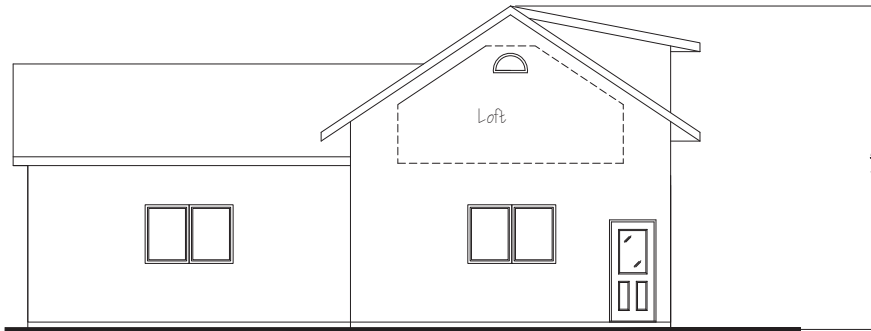
Ground Floor Plan

Scale 1/4"=1'-0"



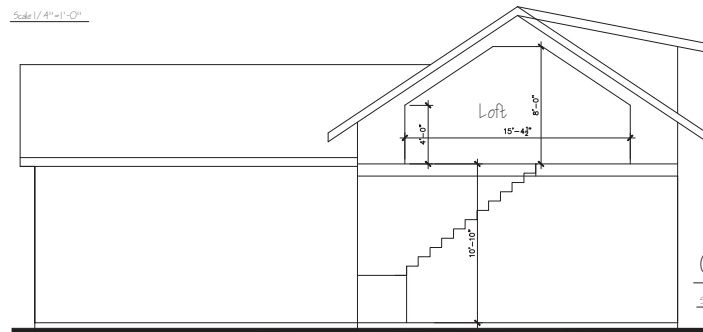
East Elevation

Scale 1/4"=1'-0"



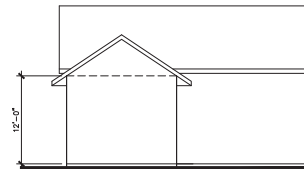
South Elevation

Scale 1/4"=1'-0"



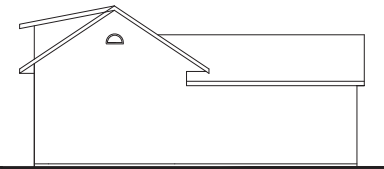
Cross Section B-B

Scale 1/4"=1'-0"



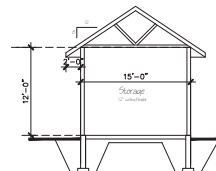
West Elevation

Scale 1/8"=1'-0"



North Elevation

Scale 1/8"=1'-0"



Cross Section A-A

Scale 1/8"=1'-0"

General Notes:

These plans were designed in accordance with the requirements of the Ontario Building Code. Drawings must not be scaled.

Contractor shall verify and be responsible for all dimensions and minimum code requirements and shall report any discrepancy to the Owner before proceeding with any work.

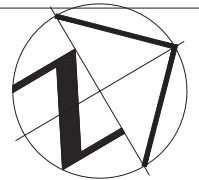
Plans are copyrighted and any unlawful for use without company's express and written permission.

These plans form the basis for permit issuance and any deviation from these plans and details, including the ventilation system, heating system, woodstoves, fireplaces, decks, balconies and related assemblies, will require a revised drawing and clearance by the building inspection department.

The mechanical and electrical layout is only schematic. If items in plan cannot be placed exactly as shown, inform the Owner prior to installation. Ventilation switch and circulation switch shall be clearly labelled as per O.B.C. regulations.

All mechanical, electrical and plumbing shall conform to the O.B.C. and all applicable codes prior to occupancy.

DESIGNER INFORMATION
I, Rod Stokes review and take responsibility for the design work, and am qualified in the appropriate categories as Designer under subsection 2.1.7.5 of the Ontario Building Code.
Firm B.C.I.N.: 38482
Individual B.C.I.N.: 31134
Signed: Rod Stokes
September 15, 2020



No.	Revision/Issue	Date
4		
3		
2	Issued for Minor variance application	Sept 15 / 20
1	Issued for pre-construction meeting	Mar 09 / 20



Drawing
Plans & Elevations





Project
Proposed Detached Unheated Garage for Mr. Rick Kramer
4672 Hwy #15
Kingston, Ontario

Sheet
A-1



Committee of Adjustment Public Notice Notification Map

Address: 4627 Highway 15
File Number: D13-056-2021

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

