



**City of Kingston
Report to Committee of Adjustment
Report Number COA-22-006**

To: Chair and Members of the Committee of Adjustment
From: InGi Kim, Planner
Date of Meeting: December 13, 2021
Application for: Minor Variance
File Number: D13-065-2021
Address: 39 Rudd Avenue
Owners: Ronald Voskamp and Annemieke Voskamp
Applicant: Ronald Voskamp

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 39 Rudd Avenue (Exhibit B – Key Map). The subject property is designated ‘Rural’ and ‘Environmental Protection Area’ and is located in the Residential Type 1 ‘R1’ Zone in the City of Kingston Zoning By-Law Number 32-74 (Exhibit C – Official Plan Map and Exhibit D – Zoning By-Law 32-74, Map 1).

The subject property currently contains a single-family dwelling with the attached private garage. The variance is requested for a 1.66 metre reduction to the minimum interior side yard width to expand the existing garage to accommodate two vehicles. The proposal complies with all minimum front and rear yard depth, height and lot coverage requirements.

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

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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 9(2)(e)

Requirement: 2.5 metres

Proposed: 0.84 metres

Variance Requested: 1.66 metres

Recommendation:

That minor variance application, File Number D13-065-2021, for the property located at 39 Rudd Avenue to reduce the interior side yard width to 0.84 metres to expand an existing attached private garage, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-006.

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Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

InGi Kim, Planner

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

Tim Park, Director, Planning Services

James Bar, Manager, Development Approvals

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Options/Discussion:

On September 22, 2021, a minor variance application was submitted by the owner Ronald Voskamp with respect to the property located at 39 Rudd Avenue. The variance is requested to expand the existing attached private garage to accommodate two vehicles (Exhibit F - Proposed Site Plan and Exhibit G - Proposed Building Elevations).

A variance is requested from Section 9(2)(e) of Zoning By-Law Number 32-74 to seek reduction to the minimum interior side yard width provision. As stated in Section 9(2)(e) of Zoning By-Law Number 32-74, the minimum interior side yard width for any building or structure with an attached private garage is 2.5 metres. The proposed expansion results in the building to be located 0.84 metres from the side lot line, which does not comply with the minimum interior side yard width. As such, the applicant is seeking a variance of 1.66 metres. The proposal complies with all minimum front and rear yard depth, height and lot coverage requirements.

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

- Proposed Site Plan (Exhibit F)
- Proposed Building Elevations (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 located on the southeast of Rudd Avenue and is situated within an established residential area known as Ravensview (Exhibit E – Neighbourhood Context Map). The site is currently developed with a single-family dwelling with the attached private garage. The site is currently 0.14 hectares in size, with 19 metres of frontage onto Rudd Avenue.

The subject property is designated 'Rural' and 'Environmental Protection Area' in the Official Plan and zoned Residential Type 1 'R1' in Zoning By-Law Number 32-74. The property abuts Rudd Avenue to the northwest, single-family dwellings to the west and north east, and St. Lawrence River to the southeast.

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:

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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 and Environmental Protection Area in the City of Kingston Official Plan (the proposed development is outside of the Environmental Protection Area).

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;

The proposed accessory building will result in a development that is consistent with the built form of existing buildings located adjacent to the subject property on Rudd Avenue. The area is characterized by smaller lots with buildings built closer together due to the smaller lot configurations. 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 there are no windows proposed on the west side of the building. Additionally, there are existing vegetation on the west side of the building which will provide additional screening. Some vegetation will be removed for construction but existing vegetation on the abutting property will remain. It was also indicated by the applicant that the abutting property owner is aware of the project and has no concerns. It is also anticipated that the proposed development will

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have no impact on the existing streetscape as it complies with the front yard setback of 7.5 metres and it will be accessed through an existing driveway.

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 proposal involves the expansion of the existing attached private garage which will continue to be accessed through an existing driveway. There will be no concerns with respect to the parking of vehicles and bicycles or issues relating to accessibility.

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 size and location of the proposed garage expansion 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.

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 subject property is not on the City's Heritage Register and as such a Heritage Impact Statement is not required. However, the property is identified as having composite archaeological potential on the City's Archaeological Master Plan. Given the extent of new ground disturbance proposed, an archaeological assessment will be required as a condition of the Minor Variance.

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 site is located outside of the Urban Boundary and is developed with sufficient private services. The proposed garage expansion will not require any private services for its intended use.

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

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,

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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 in Exhibit A – Recommended Conditions. The conditions may be added, altered, or removed at the Committee’s discretion.

- 9. 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. The reduced side yard width will not be noticeable from the street as the front corner of the building complies with the required side yard width of 2.5 m. The proposed expansion of the private garage will align with the width of the existing driveway.

The proposal meets the intent of the Official Plan, as the proposed development 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 Residential Type 1 ‘R1’ in the City of Kingston Zoning By-Law Number 32-74, entitled "Township of Pittsburgh Zoning By-Law", as amended. The ‘R1’ zone permits a detached single-family house (Exhibit D - Zoning By-Law 32-74, Map 1).

The proposal requires a variance to Section 9(2)(e) of Zoning By-Law Number 32-74:

Variance Number 1: Interior Side Yard Width

By-Law Number 32-74:	Section 9(2)(e)
Requirement:	2.5 metres
Proposed:	0.84 metres
Variance Requested:	1.66 metres

A variance is required from Section 9(2)(e) of Zoning By-Law Number 32-74 to seek relief from the minimum interior side yard width. Within Section 9(2)(e), the minimum interior side yard width is 2.5 metres for the building or structure with an attached private garage. The proposed accessory building is proposed to be set back 0.84 metres. As such, the applicant is seeking a variance of 1.66 metres to expand the existing private garage to accommodate two vehicles.

The application meets all other requirements of the Residential Type 1 ‘R1’ Zone and Zoning By-Law Number 32-74. The reduced interior side yard width maintains the general intent 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.

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3) The variance is minor in nature

The proposed development will result in a development that is consistent with the existing built form of residential development along Rudd Avenue. The variance requested to expand the existing private garage is considered minor as there will be no negative impacts on abutting properties or residential and/or uses or structures. The proposed development will not alter the character of the neighbourhood or the existing streetscape.

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 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 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 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 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.

Heritage Planning

- 39 Rudd Ave. is not a protected heritage site, nor is it adjacent to a protected heritage site. However, the property is identified as having composite archaeological potential on the City’s Archaeological Master Plan. Given the extent of new ground disturbance proposed, an archaeological assessment is required as a condition of the Minor Variance. There are no other heritage planning concerns.

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Cataraqui Region Conservation Authority (CRCA) have reviewed the minor variance application File Number D13-065-2021 and has no objection based on natural hazards, natural heritage, and water quality protection policies.

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 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 expansion of the existing attached private garage to accommodate two vehicles. The proposed development 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

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on December 13, 2021. Pursuant to the requirements of the *Planning Act*, a notice of Statutory Public Meeting

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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 18 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 December 7, 2021 (Exhibit H – Public Notice Notification 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 1
- Exhibit E Neighbourhood Context Map (2021)
- Exhibit F Proposed Site Plan
- Exhibit G Proposed Building Elevations
- Exhibit H Public Notice Notification Map
- Exhibit I Site Photo (retrieved from Google Maps on November 8, 2021)

Recommended Conditions

Application for minor variance, File Number D13-065-2021

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 39 Rudd Avenue for a proposed attached garage expansion 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

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.

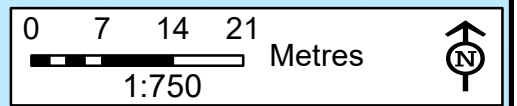
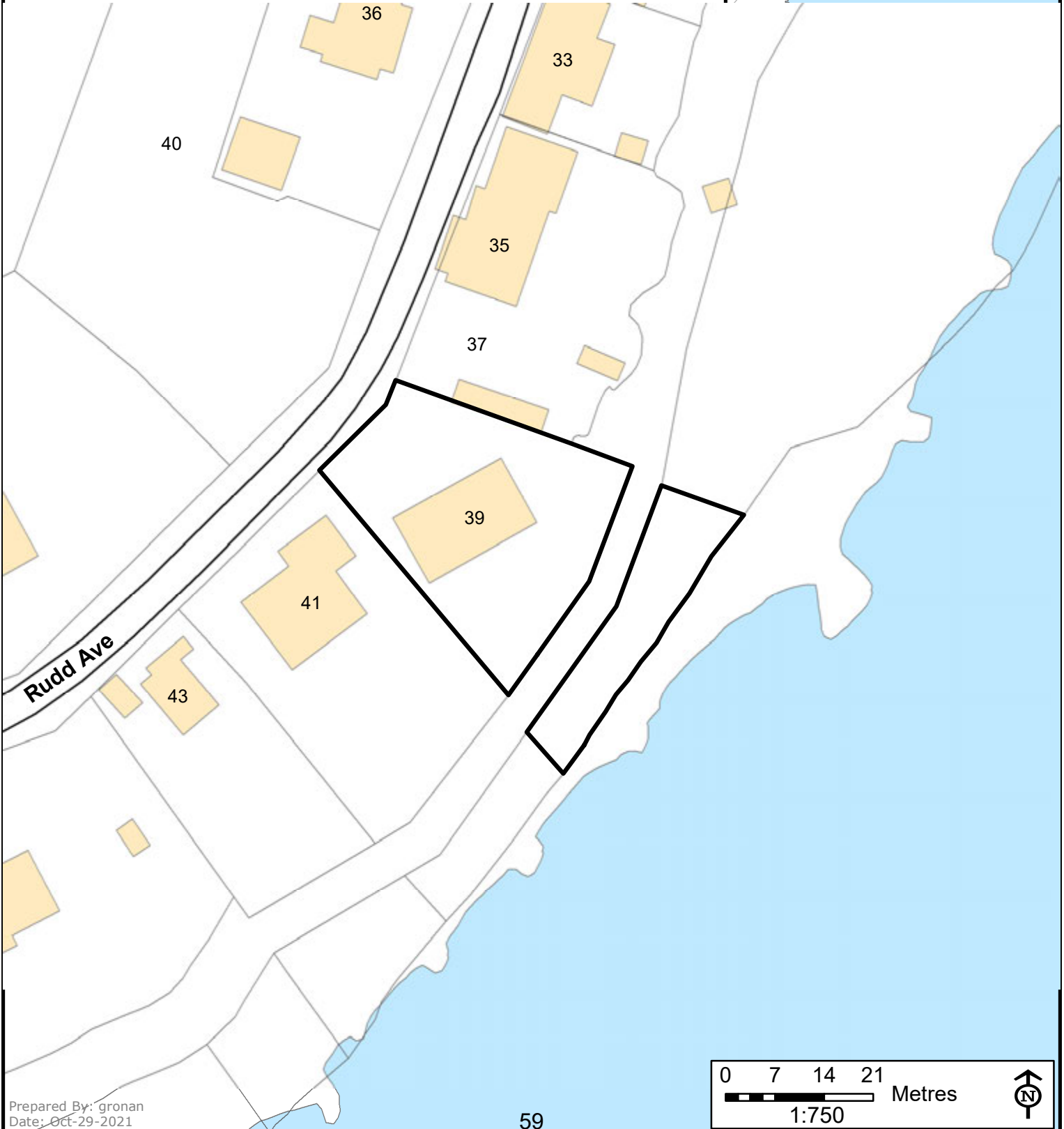
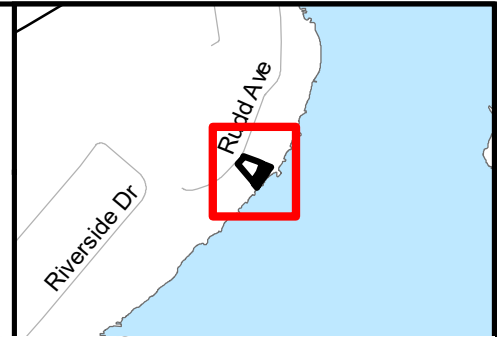
The City relies upon the report of the professional archaeologist as filed, but reserves the right to require further reports should further evidence be uncovered. The applicant may be required to further review the state of archaeological resources on the property depending on the recommendations of 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 Rudd Avenue
File Number: D13-065-2021

 Lands Subject to Minor Variance

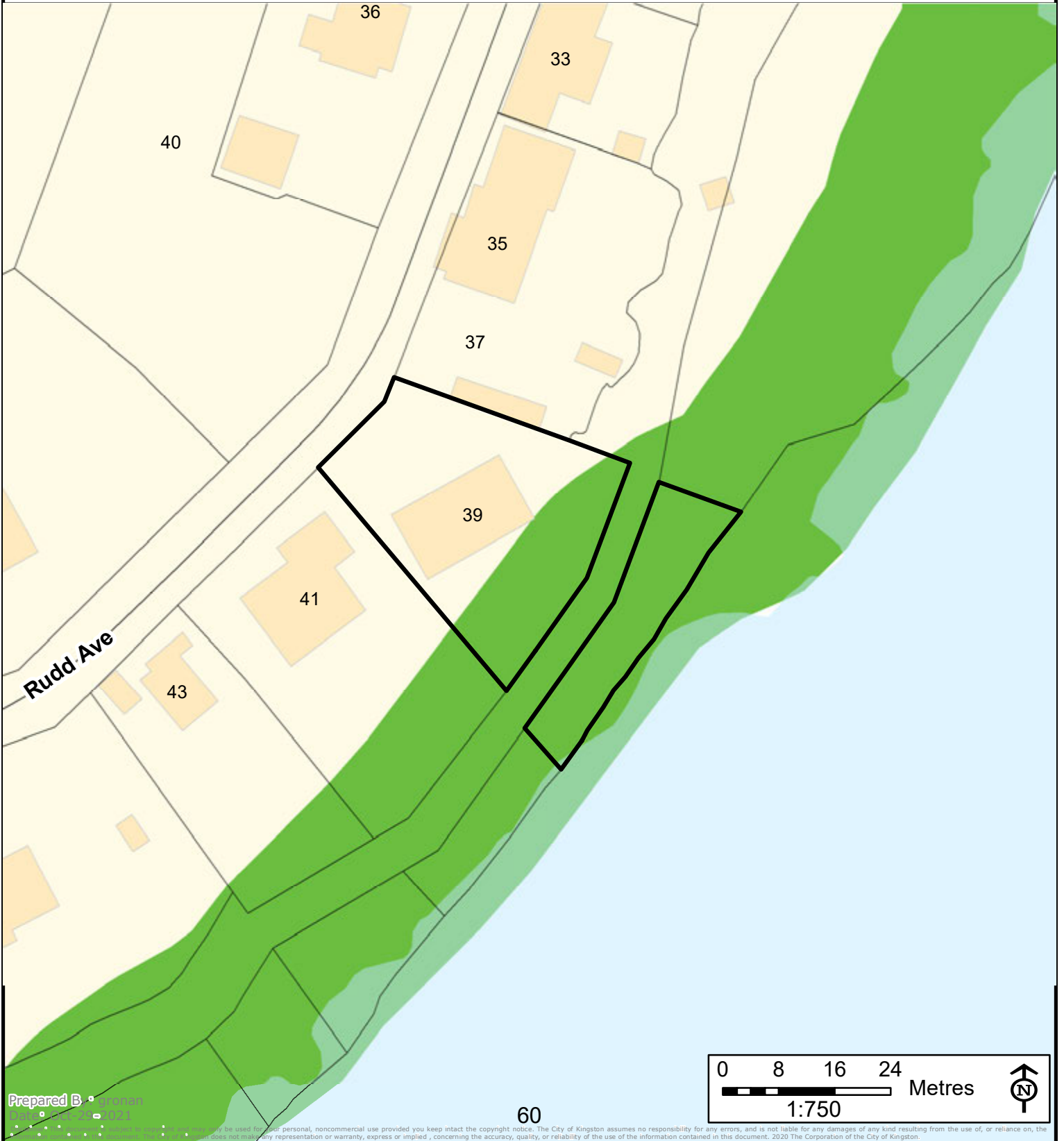




Committee of Adjustment
Official Plan, Existing Land Use

Address: 39 Rudd Avenue
File Number: D13-065-2021

- Subject Lands
- ENVIRONMENTAL PROTECTION AREA
- RURAL





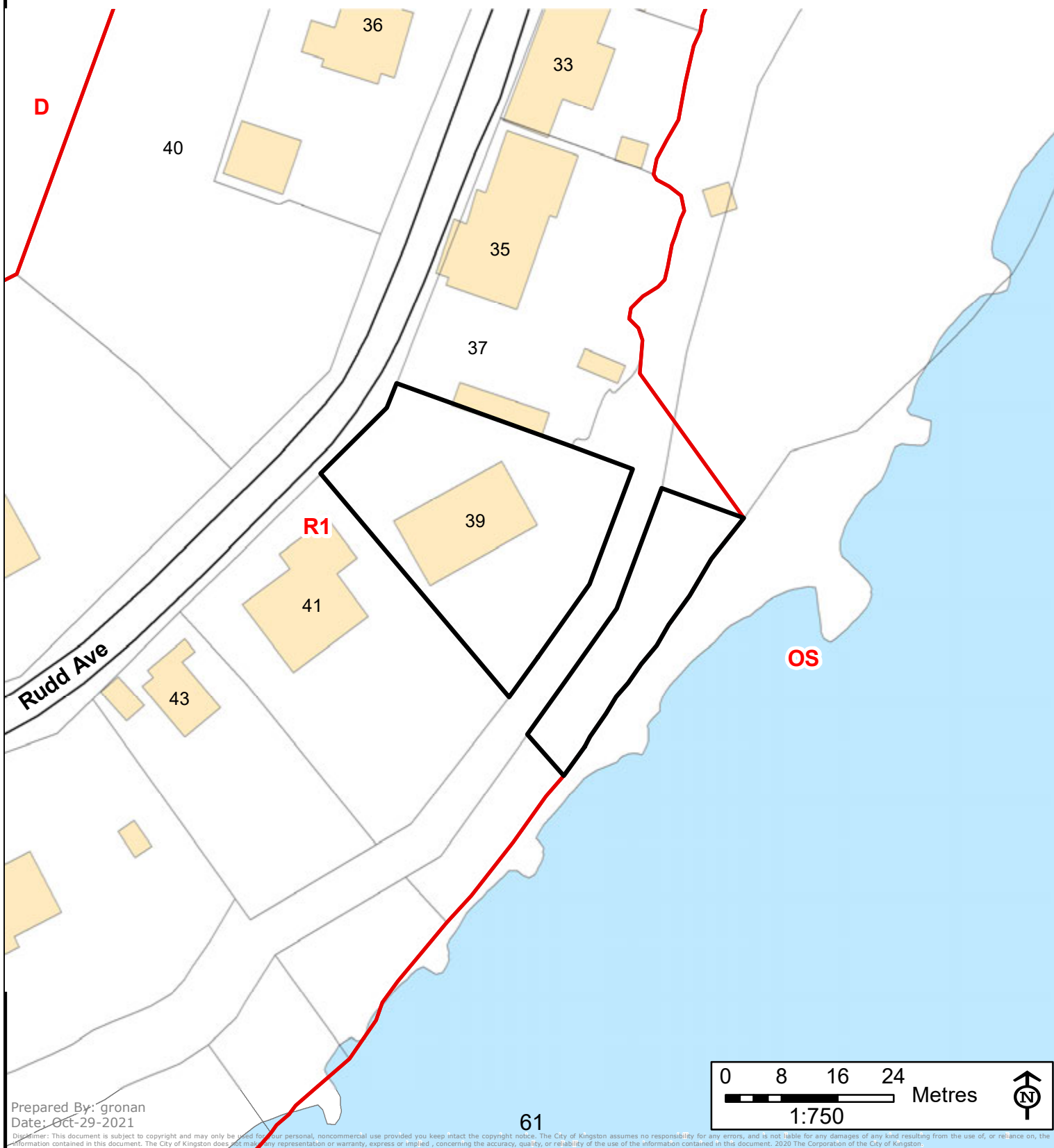


Planning Services

Committee of Adjustment Existing Zoning - By-law 32-74, Map 1

Address: 39 Rudd Avenue
File Number: D13-065-2021

-  Subject Lands
-  Consolidated Zoning

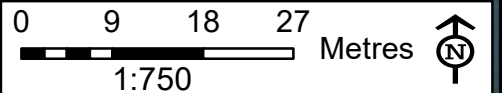




Committee of Adjustment
Neighbourhood Context (2021)

Address: 39 Rudd Avenue
File Number: D13-065-2021

- Subject Lands
- Property Boundaries
- Proposed Parcels



BUILDING PERMIT APPLICATION PLOT PLAN

APPLICANT NAME:
Ron & Anna Voskamp

PHONE #:
613-541-0916

PROPERTY ADDRESS:
39 Rudd Avenue

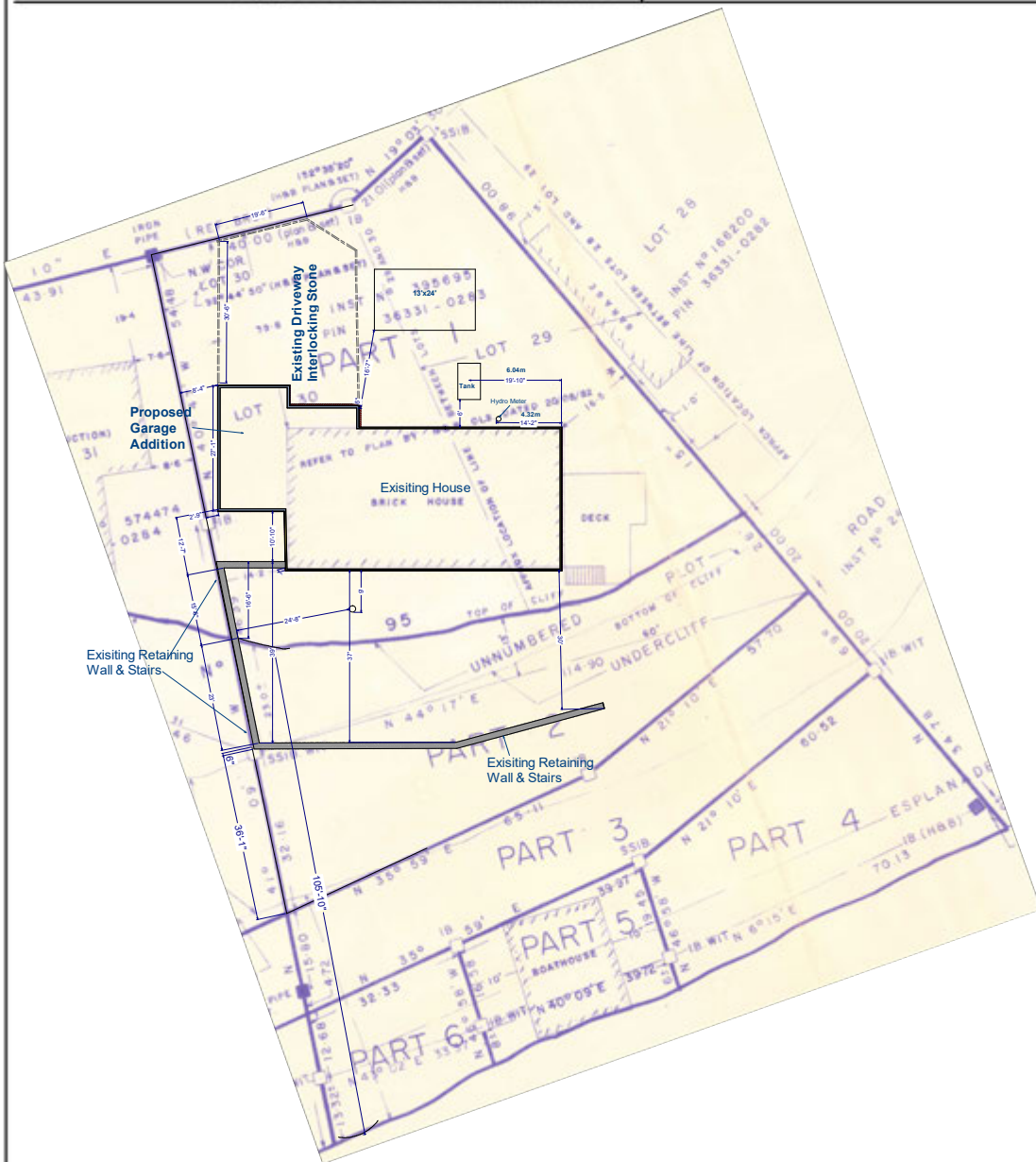
LEGEND:

- ◁3R ENTRANCE LOCATION & # RISERS TO GRADE
- M COMMUNITY MAIL BOX
- HYDRO TRANSFORMER
- B BELL PEDESTAL
- C CABLE PEDESTAL
- L LIGHT STANDARD
- H HYDRANT
- T TRAFFIC SIGN
- S STREET SIGN
- E EASEMENT LINE
- x-x OVERHEAD HYDRO LINE
- WAT WATER SERVICE
- SAN SANITARY SERVICE
- STM STORM SERVICE
- CB CATCH BASIN
- MH MANHOLE
- 6m SIDEWALK
- CURB
- 102.75 PROPOSED ELEVATION
- 100.98 EXISTING ELEVATION
- 102.08 PROPOSED ELEVATION TO BE PROVIDED BY APPLICANT
- DRAINAGE DIRECTION
- DRAINAGE SWALE

DETAILS:

LOT 29 & 30 PLAN/CON. # 95
 PART # _____ R-PLAN # _____
 TOP FOUNDATION ELEV. 84.40
 BOTTOM FOOTING ELEV. 81.86
 ELEVATION AT GRADE 84.29
 FOUNDATION CUT 0.200
 ZONE ER
 LOT AREA _____ sq. m
 BLDG. FOOTPRINT AREA 53.14 sq. m
 COVERAGE % PROPOSED 3.3%
 PERMITTED 15%
 DATE : July 22, 2021

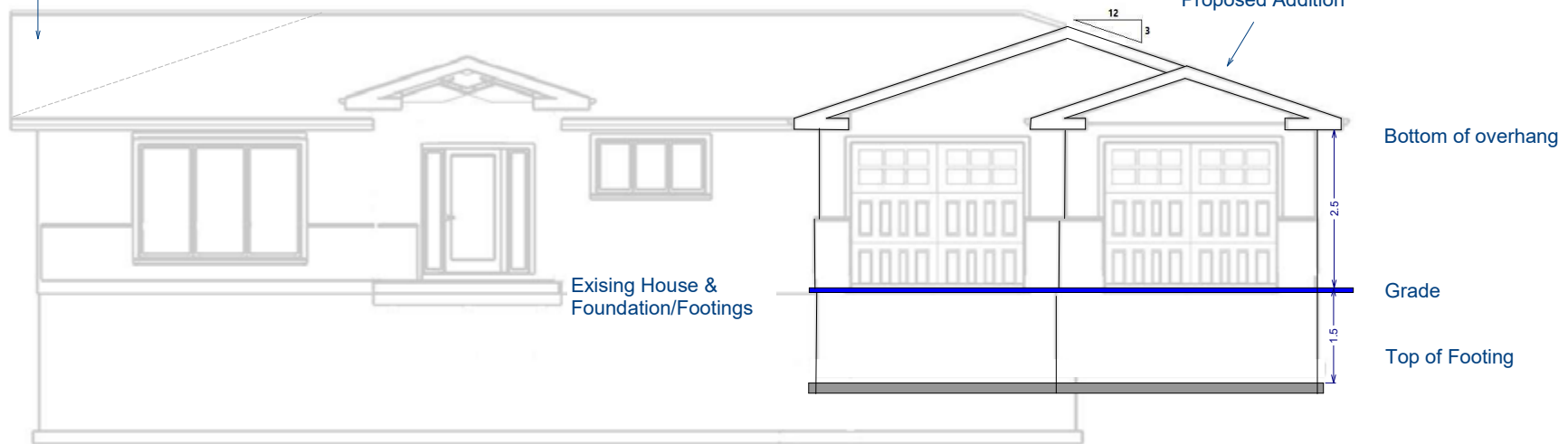
DRIVEWAY INFORMATION: WIDTH (max. 6m) _____
 SLOPE (max. 10%) _____ BELOW GRADE: no
 SURFACE MATERIAL gravel



REVIEWED BY	DATE	APPROVED	REJECTED _____ (Reasons As Noted)	LOT GRADING SECURITY REQUIRED: YES _____ NO _____	AMOUNT REQUIRED

New Gable Extension

Proposed Addition



Existing House & Foundation/Footings

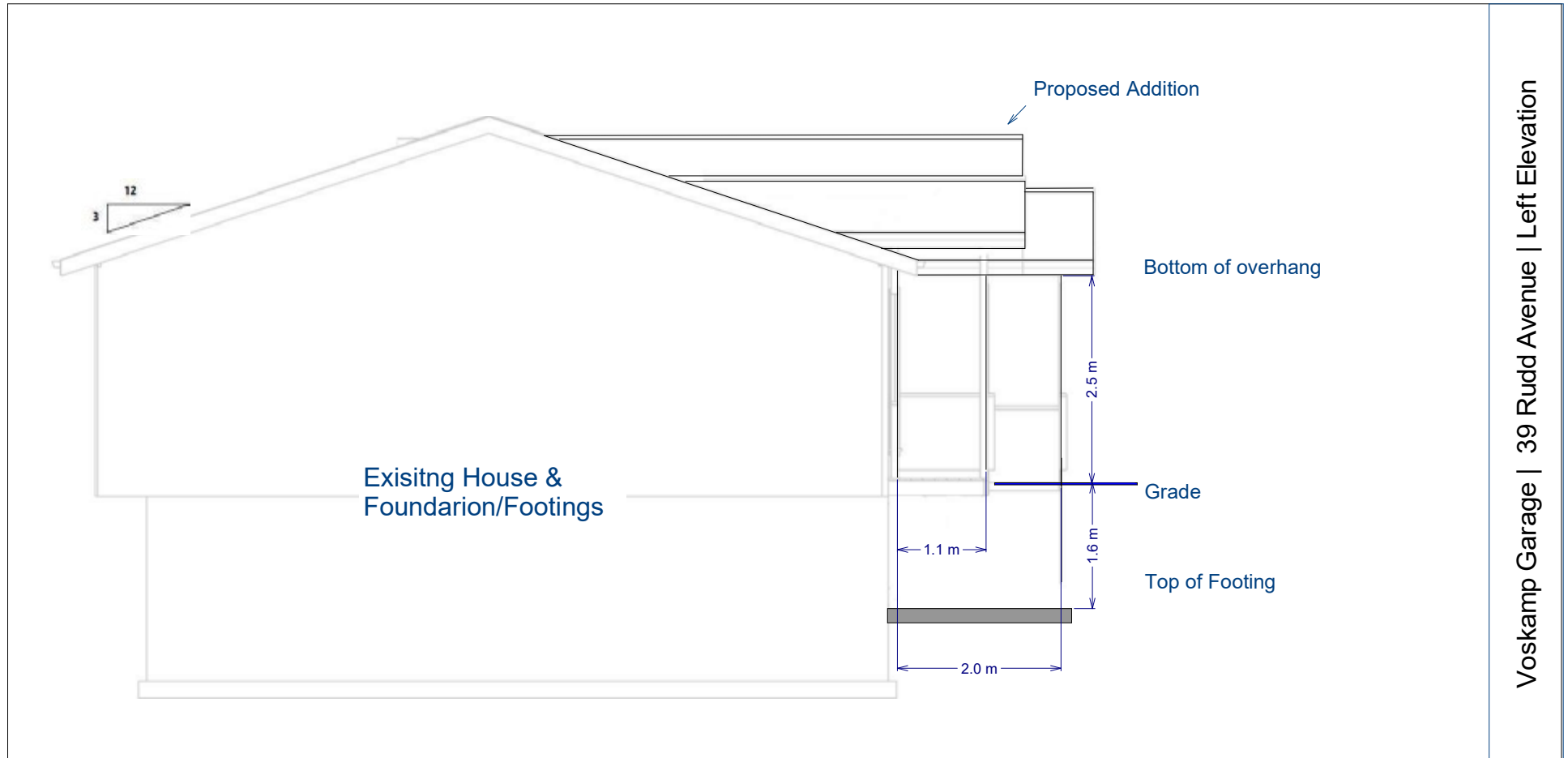
Bottom of overhang

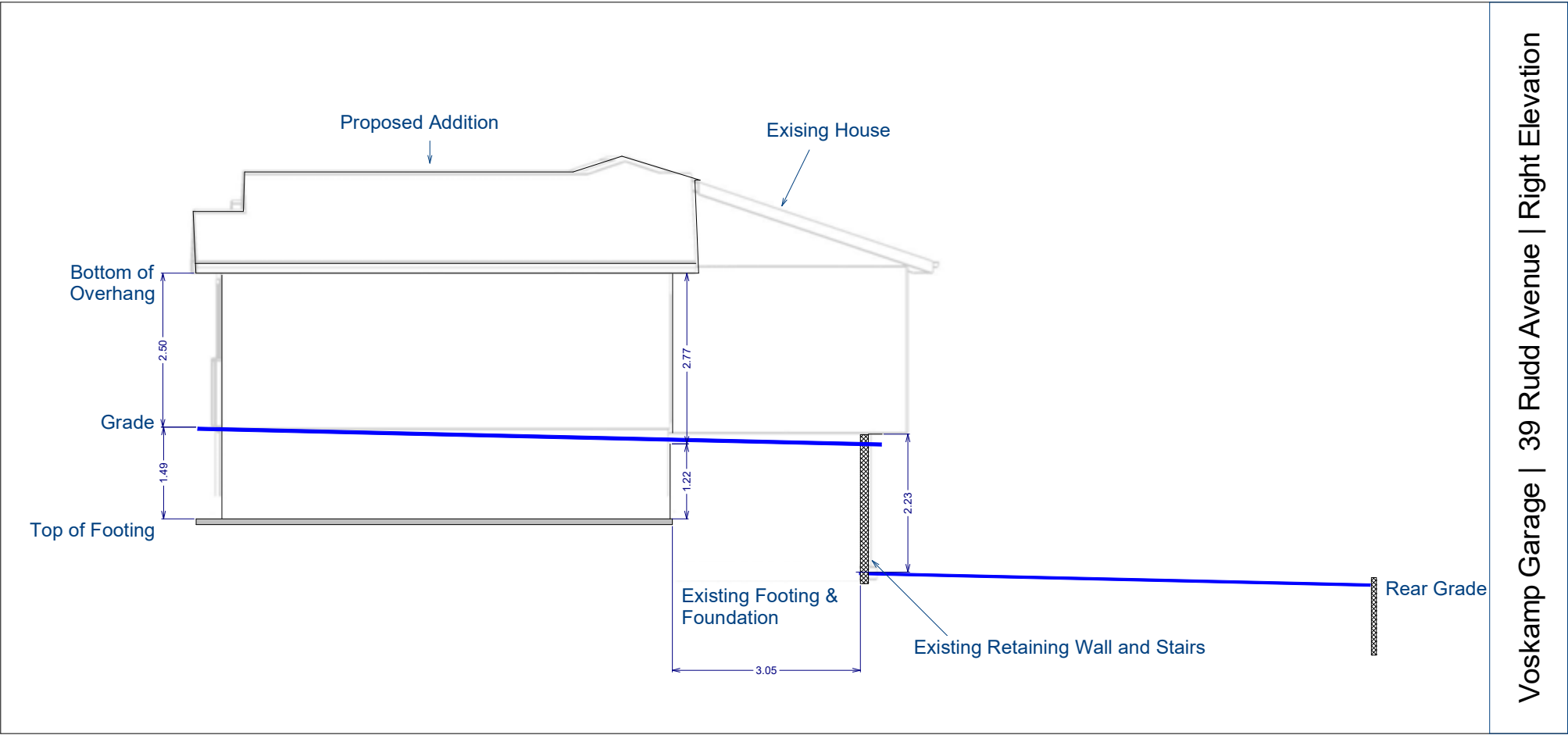
Grade

Top of Footing

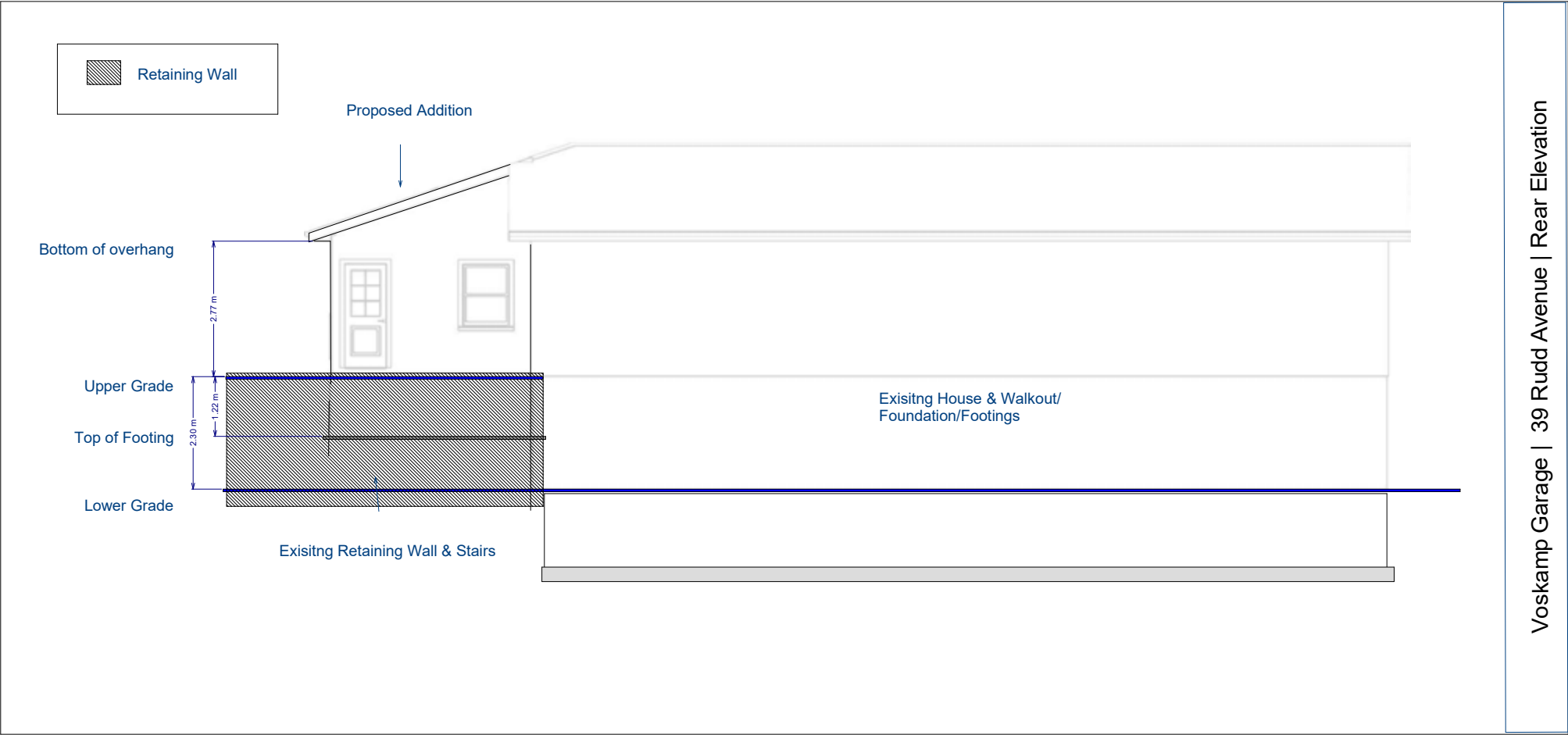
Note: Max backfill height is 6" below top of foundation inside and outside.

Voskamp Garage | 39 Rudd Avenue | Front Elevation





Voskamp Garage | 39 Rudd Avenue | Right Elevation



Voskamp Garage | 39 Rudd Avenue | Rear Elevation



Committee of Adjustment Public Notice Notification Map

Address: 39 Rudd Avenue
File Number: D13-065-2021

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



