



**City of Kingston
Report to Committee of Adjustment
Report Number COA-22-001**

To: Chair and Members of the Committee of Adjustment
From: Tim Fisher, Planner
Date of Meeting: January 17, 2022
Application for: Minor Variance and Consent
File Numbers: D10-031-2021 and D13-072-2021
Address: 1229 and 1233 Westbrook Road
Owner: Jeff Locke
Applicant: Jeff Locke

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 applications for minor variance and consent submitted by the owner Jeff Locke for the property located at 1229 and 1233 Westbrook Road.

The purpose of the consent application (File Number D10-031-2021) is to sever along the common party wall of the semi-detached dwelling to create an 836 square metre parcel of land with 13.7 metres of road frontage on Westbrook Road containing the northern unit (1233 Westbrook Road). The retained parcel of land will result in an 836 square metre lot with 13.7 metres of road frontage on Westbrook Road (1229 Westbrook Road).

The minor variance (File Number D13-072-2021) is requested to reduce the interior side yard requirement of 1.2 metres to recognize the common party wall at 0 metres. The variance will not result in a reduction of the entire side yard and will only be applied to the current semi-detached

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dwelling. Any addition or development will be required to comply with the performance standards of the zone.

The site is situated on the west side of Westbrook Road. The property is developed with a semi-detached dwelling. The property is currently designated as Residential in the Official Plan and is zoned Residential Type One 'R1' Zone in Zoning By-Law Number 76-26. The subject property is adjacent to single detached dwellings to the north, east, south and west.

The requested minor variance and consent applications are consistent with the Provincial Policy Statement and conform with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The requested minor variance is desirable for the appropriate development or use of the land, building or structure and is minor in nature. The proposed minor variance application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval. The requested consent application has regard to the matters set out in subsection 51(24) of the *Planning Act* and a plan of subdivision is not necessary for the proper and orderly development of the property, as such, is recommended for provisional approval.

Variance 1: Interior Side Yard Width (Minimum)
By-Law Number 76-26: Section 12(2)(e)
Requirement: 1.2 metres
Proposed: 0 metres
Variance Requested: 1.2 metres

Recommendation:

That minor variance application, File Number D13-072-2021 for the property located at 1229 and 1233 Westbrook Road to reduce the minimum interior side yard requirement of 1.2 metres to recognize the common party wall at 0 metres, be approved subject to the conditions attached as Exhibit A (Recommended Conditions – Minor Variance) to Report Number COA-22-001; and

That consent application, File Number D10-031-2021, to sever along the common party wall of the semi-detached dwelling to create an 836 square metre parcel of land with 13.7 metres of road frontage on Westbrook Road containing the northern unit (1233 Westbrook Road) and retain a 836 square metres parcel of land with 13.7 metres of road frontage on Westbrook Road (1229 Westbrook Road), be provisionally approved subject to the conditions included in Exhibit B (Recommended Conditions – Consent) to Report Number COA-22-001.

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Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

Tim Fisher, Planner

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 28, 2021 an application for consent was submitted by the owner Jeff Locke and it proceeded through the Delegated Authority process. The City determined that a minor variance application was required to reduce the side yard setback to recognize the common party wall at zero metres. On December 2, 2021 an application for minor variance was submitted by the owner Jeff Locke. The subject property is located at 1229 and 1233 Westbrook Road.

The purpose of the consent application (File Number D10-031-2021) is to sever along the common party wall of the semi-detached dwelling to create an 836 square metre parcel of land with 13.7 metres of road frontage on Westbrook Road containing the northern unit (1233 Westbrook Road) and retain an 836 square metres parcel of land with 13.7 metres of road frontage on Westbrook Road (1229 Westbrook Road).

The minor variance (File Number D13-072-2001) is requested to reduce the minimum interior side yard requirement of 1.2 metres to recognize the common party wall at 0 metres.

Site Characteristics

The subject property at 1229 and 1233 Westbrook Road is designated as Residential in the Official Plan and zoned Residential Type One ' R1' in Zoning By-Law Number 76-26. The subject property is developed with a semi-detached dwelling on partial services (City water and septic system). The property abuts single detached dwellings to the north, east, south and west.

Application

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

- Severance Sketch (Exhibit H); and
- Survey (Exhibit I).

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.

Provincial Policy Statement

The Provincial Policy Statement (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 much, the proposal conforms to and is consistent with the PPS.

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Consent Application

The proposed severance meets the tests set out in the *Planning Act*. The proposed severance will result in a severance along the common party wall of an existing semi-detached dwelling to create two separate and independent lots within the serviced urban area. In this instance, a plan of subdivision is not required for the proper and orderly development of the property as per subsection 53(1) of the *Planning Act*.

In general, the proposed consent has proper regard for the criteria in Section 51(24) of the *Planning Act*. The proposed consent:

- is consistent with the policies of the Provincial Policy Statement and City of Kingston Official Plan;
- will not negatively impact natural or cultural heritage resources;
- is within the City's serviced urban area with access to transit and public service facilities;
- contributes to the efficient use of infrastructure and public service facilities without requiring any expansion of existing infrastructure;
- proposes a severed and retained lot which are consistent in shape and size to surrounding lots, and has frontage onto a municipal road; and
- generally contributes to the efficient use of land and municipal services.

Official Plan

The subject property is designated Residential in the City of Kingston Official Plan and is subject to Section 3.3 of the Plan (Exhibit D). The Residential land use designation on Schedule 3-A denotes urban residential land uses that are intended to be on full municipal services. Residential uses are primarily forms of housing including detached, semi-detached or duplex dwellings, townhouses, and apartments of various types, tenure, and density that respond to a wide range of housing needs. Proposed second residential units to be located in areas with or without municipal water and wastewater services are also included in this Section. Uses that support residential neighbourhoods and are compatible with a residential setting are also included. The continued semi-detached dwelling use is permitted in the residential designation and each half of the semi-detached dwelling will be serviced with full municipal services.

Existing Residential Areas Stable policy in Section 3.3.6. states that existing housing districts as shown on Schedule 2 are considered stable, unless otherwise identified by this Plan. Only minor changes in the predominant pattern of housing type, height or density, are permitted in accordance with Section 2.6.

The goal of Section 2.6, Protecting Stable Areas is to maintain or improve the City's quality of life by having a pattern of cohesive neighbourhoods and districts, by directing development to areas of the City for which strategic planning activities have been undertaken, or are planned to be undertaken, and by managing the degree of change that is warranted in stable areas to achieve compatible development and land use.

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The Village of Westbrook is a residential neighbourhood which was originally developed larger lots on private on-site services. The village is now serviced with full municipal services and as such the lot fabric has evolved over time through consents to create new infill lots and separating existing semi-detached dwellings to provide distinct tile to either half. The proposal is in keeping with the existing built form of single detached dwellings and semi-detached dwellings along Westbrook Road. The continued use of the semi-detached dwelling and the creation of two separate and conveyable lots will not result in any negative impacts on the streetscape or character of the neighbourhood and will therefore conform with Sections 3.36 and 2.6 in the Official Plan.

The proposal is consistent with the Functional Needs Policy of Section 2.7.6 as each parcel and its development will provide parking along the side yard and will maintain access to the rear yard. A rear yard is provided which will provide each residential use with outdoor amenity/ play space. The proposal will comply the performance standards of the Residential Type One 'R1' Zone in Zoning By-Law Number 76-26.

The creation of individual parcels of land by way of consent are subject to the following criteria in Section 9.6.13 of the Official Plan:

- a) the lot frontage, depth and area of any lot created by consent (severed and retained parcel) must be appropriate for the use proposed for the lot, be in compliance with the provisions of the zoning by-law and consistent, where possible, with adjacent lots;

The severed and retained parcel conforms to the minimum lot area and frontage requirements in the Official Plan and Zoning By-Law. The existing development will comply with the performance standards of the 'R1' zone in Zoning By-Law Number 76-26 and will maintain its road frontage on Westbrook Road. Any new development will be required to comply with the applicable Zoning By-Law. The resulting lots and its frontages and lot areas will be consistent with existing lots along Westbrook Road.

- b) proposed severances that would result in irregularly shaped lots are to be avoided where possible;

The severed and retained lots will not result in any irregularly shaped lot. The new property line which will divide the subject lot will be along the common party wall of the existing semi-detached dwelling.

- c) consents may be granted only when each parcel of land has frontage and direct access from an assumed road, except for conservation lands such as those held by the Conservation Authority or a land trust that can be accessed through an easement or right-of-way on abutting lands;

Each resulting lot will have frontage on an opened and maintained road (Westbrook Road).

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- d) direct access from major roads is limited and is subject to the terms of any permits or approvals required from an agency having jurisdiction, with particular attention to controlled areas subject to Ministry of Transportation review and approval;

The semi-detached dwelling provides an existing driveway and road access to Westbrook Road. No new entrances are proposed however any new or altered entrances on the severed or retained lots will require an Entrance Permit from the Engineering Services prior to any excavation or work within the road allowance.

- e) new access points or driveways must be located where they would not create a traffic hazard because of sight lines on curves, grades or corners;

The existing driveways to either half of the semi-detached dwelling will not result in any new negative traffic hazards.

- f) minor infilling of residential development is permitted except where the new lots would result in ribbon development of more than four houses or other land uses fronting along roads in Rural Areas;

This section is not applicable as the subject property is located within the Urban Boundary.

- g) infill residential development is permitted within Rural Areas where there is a distance of 100 metres or less of frontage between two non-farm residential lots on the same side of the road and the lot can meet all of the other policies of this Plan and requirements of the zoning by-law;

This section is not applicable as the subject property is located within the Urban Boundary.

- h) compatibility and any separation distances required between the proposed land uses for the lot and the neighbouring land uses located in Rural Areas must be considered;

This section is not applicable as the subject property is located within the Urban Boundary and will not result in any compatibility issues with land uses in the Rural Area.

- i) any application for a consent must assess the impact on the natural heritage system, natural heritage features and areas, natural hazards, cultural heritage resources and areas of archaeological potential, or areas of archaeological significance as set out in Sections 5, 6 and 7 of this Plan; and,

The subject property is identified as having limited archaeological potential in the first 2/3 of the property however the remaining 1/3 in the rear yard is identified as having composite archaeological potential on the Archaeological Master Plan.

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An archaeological assessment is not required as the proposal will not result in any ground disturbance. However, should artifacts or grave sites be found, all works must stop and be reported to the City. The standard archaeological warning clause will be included in the Notice of Decision. There are no other heritage concerns.

- j) the City must be satisfied that any development lots created by consent can be supplied with such municipal services as fire protection, road maintenance, storm drainage and where applicable, water supply and sewage disposal facilities, such that the provision of services does not adversely affect the City's finances.

The subject lot is located within the Urban Boundary and its serviced area. The subject lot and its existing semi-detached dwelling is serviced with partial services (municipal water and onsite sewage disposal system). As a condition of consent, the owner/applicant shall decommission the private onsite sewage disposal system and provide full municipal services to each resulting lot and its development (one service per lot).

Utilities Kingston commented that the applicant shall provide a servicing sketch to the approval of Utilities Kingston, showing all existing and proposed services and the mains they connect too, the existing buildings and all proposed and existing property lines. The septic system shall be decommissioned once full municipal services have been installed. This is recommended as a condition of consent.

Engineering Services commented that they have no concerns with the consent application however if new services are required, then Engineering will have to review the servicing plan in addition to Utilities Kingston. This is recommended as a condition of consent.

The consent to sever along the common party wall of the existing semi-detached dwelling will provide separate and distinct title to either half. This will permit the sale of either half of the semi-detached dwelling independently.

The proposal consent complies with the intent of the Official Plan policies as it will not result in an increase of residential units as each half of the semi-detached unit contains a single-family unit. Any new development on the severed or retained lot is required to comply with the performance standards of the 'R1' zone in Zoning By-Law Number 76-26, which is consistent with the zoning along Westbrook Road. Therefore, the consent will not result in any negative impacts to adjacent properties or to the neighbourhood.

Zoning By-Law

The subject property is zoned Residential Type One 'R1' Zone in Zoning By-Law Number 76-26, entitled "Township of Kingston Restricted Area By-Law", as amended (Exhibit E). The 'R1' zone permits a single-family dwelling house and converted dwelling house. The semi-detached dwelling was constructed prior to the passing of Zoning By-Law Number 76-26 on July 8, 1976.

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The previous by-law permitted the construction of a semi-detached dwelling; therefore, the semi-detached use may continue as a non-conforming use.

The consent complies with the minimum lot frontage and minimum lot area requirements of the 'R1' zone. A minor variance is required to reduce the minimum side yard requirement of 1.2 metres to 0 metres to recognize the location of the common party wall of the semi-detached dwelling (see below).

Minor Variance 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:

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

The subject property is designated Residential in the City of Kingston Official Plan.

In considering whether this proposed variance is desirable, the Committee of Adjustment will have regard to the nine requirements included in Section 9.5.19 of the Official Plan. The following provides these nine requirements and an assessment of how the proposal is consistent with each.

1. The proposed development meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of this Plan;

The application meets the intent of Section 2 of the Official Plan, as the proposal will allow for the ongoing use of the existing residential building which is located within the urban boundary on full municipal services. The reduction in the side yard requirement will recognize location of the existing semi-detached dwelling based on the new lot fabric. The continued residential use will not adversely affect this stable neighbourhood.

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 subject property is located within a residential neighbourhood (Village of Westbrook). Westbrook Road is developed with a mix of residential uses such as single detached dwellings and semi-detached dwellings. The subject property is developed with an existing semi-detached dwelling. The consent proposes to sever the existing semi-detached dwelling along the common party wall which will result in either half of the semi-detached dwelling to be conveyable lots. The variance to reduce the side yard setback is to recognize the location of the common party wall based on the new lot fabric.

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The proposal will remain compatible with the surrounding uses and there will be no new adverse effects on abutting land uses as no new development is proposed through this application. Each half of the semi-detached dwelling will continue to function as it has for over 30 years.

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;

Each half of the semi-detached dwelling will maintain its road frontage on Westbrook Road and will maintain their existing driveway and road access from Westbrook Road. Parking will be maintained within the side yard. Each dwelling unit provides separate entrances which are oriented along Westbrook Road. A rear yard is maintained for each unit which will provide outdoor amenity space.

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 property is not located within a heritage district or adjacent to any designated properties under the *Ontario Heritage Act*. No new development is proposed however the existing design and materials of the existing semi-detached dwelling complements the built form and materials of neighbouring residential properties.

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 protected under the *Ontario Heritage Act*. The Archaeological Master Plan indicated that the subject property has composite archaeological potential. No new development is proposed. The variance will recognize the location of the existing semi-detached dwelling based on the new lot fabric. As no soil disturbance is proposed, an Archaeological Assessment is not required. The standard archaeological clause is recommended as a condition of consent.

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 subject property is located within the Urban Boundary and is developed with partial services. A single municipal water service is installed however a private sewage disposal system is located in the rear yard which services both halves of the semi-detached use. As part of the consent application process, the sewage disposal system will be decommissioned and each half of the semi-detached dwelling will be serviced with separate full municipal services.

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- 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 therefore does 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;

Recommended conditions are included in Exhibit A and Exhibit B to this report.

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

The variance will not set an undesirable precedent for the immediate area. Approval of the variance will maintain the residential use and recognize the location of the existing semi-detached dwelling based on the new lot fabric through consent application File Number D10-031-2021. The proposal will not change the character of the neighbourhood or the streetscape as there will be no visual change to what currently exists on the lot. The applications will result in either half of the semi-detached dwelling to have separate and distinct title which will make either half separately conveyable.

The proposal meets the intent of the Official Plan, as the proposed reduction of the minimum interior side yard to recognize the location of an existing semi-detached dwelling on the new lot fabric through consent application File Number D10-031-021 and will not result in any negative impacts to adjacent properties or to the neighbourhood.

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

The subject property is zoned Residential Type One ‘R1’ Zone in Zoning By-Law Number 76-26, entitled "Township of Kingston Restricted Area By-Law", as amended (Exhibit E). The ‘R1’ zone permits a single-family dwelling house and converted dwelling house. The semi-detached dwelling was constructed prior to the passing of Zoning By-Law Number 76-26 on July 8, 1976. The previous by-law permitted the construction of a semi-detached dwelling; therefore, the semi-detached use may continue as a non-conforming use.

The ‘R1’ zone requires a minimum side yard setback of 1.2 metres. The severance along the common party wall will result in a 0 metre setback along the common party wall. A minor variance is requested to reduce the minimum side yard setback from 1.2 metres to 0 metres to recognize common party wall of the semi-detached dwelling.

Variance 1: Interior Side Yard Width (Minimum)
 By-Law Number 76-26: Section 12(2)(e)
 Requirement: 1.2 metres
 Proposed: 0 metres

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Variance Requested: 1.2 metres

The variance is not for the entire length of the side yard and is only to recognize the party wall of the semi-detached dwelling. Any new development will be required to comply with current zoning by-law provisions.

The proposal complies with all other provisions of the Zoning By-Law.

3)The variance is minor in nature

The variance is considered minor as it will recognize the location of the common party wall of an existing semi-detached dwelling based on the new lot fabric through consent application File Number D10-031-2021. The proposal will result in either half of the semi-detached dwelling to be separated along the common party wall to provide separate and distinct title to either half of the semi-detached dwelling. The proposal will not have any new adverse effects on the neighbouring residential uses or to the streetscape as no new development will result from the proposal.

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

Each half of the semi-detached dwelling will maintain its road frontage on Westbrook Road and will maintain their existing driveway and road access from Westbrook Road. Parking will be maintained within the side yard. Each dwelling unit provides separate entrances which are oriented along Westbrook Road. A rear yard is maintained for each unit which will provide outdoor amenity space.

There proposal will not change the character of the neighbourhood or the streetscape as there will be no visual change to what currently exist on the site. The applications will result in either half of the semi-detached dwelling to have separate and distinct title which will make either half separately conveyable.

The variance is therefore desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> Building Division | <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 checked="" 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 |

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- Building Division
- Engineering Department
- Heritage (Planning Services)
- Kingston Airport

Technical Comments

The applications were circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude the applications 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, a total of four (4) written letters of concern were submitted regarding this consent application (Exhibit K). Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

The public comments received were from residents adjacent to the subject lot. The concerns raised are listed below:

1. Public meeting requested for further discussion;

The technical consent was contested therefore the application has been placed on Committee of Adjustment public meeting agenda, (December 13, 2021). Revised signage regarding the public meeting was erected on subject lot and a revised public notice was mailed to all land owners with 60 metres of the subject property

2. Strain on existing services and its current condition;

Utilities Kingston reviewed the consent application and have no concerns with the proposed consent. Each half of the semi-detached dwelling shall tie into existing servicing. This has been recommended as a condition of consent. There are no capacity concerns regarding this consent.

3. Additional garbage;

The consent application is to sever along the common party wall of the existing semi-detached dwelling. No additional dwelling unit will result from this severance therefore there will be no new negative impacts on garbage services. It is the responsibility of the property owner to ensure that garbage and recycling is secured when placing them outside for pick up.

4. Traffic concerns along Westbrook Road;

The consent application will not result in any new negative impacts on the streetscape or traffic. The consent is technical in nature and will provide separate and distinct title to

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either half of the existing semi-detached dwelling. Engineering has no concerns regarding traffic.

5. New development not wanted;

The Official Plan addresses intensification and providing a variety of residential uses and tenure to increase density within the Urban Boundary. The subject property and the Village of Westbrook is located within the Urban Boundary. It is the intent of the Official Plan to see an increase in the overall net residential and non-residential density within the Urban Boundary through compatible and complementary intensification and the development of underutilized properties.

The consent application will not result in an increase of residential units as the intent of the application is to sever along the common party wall of an existing semi-detached dwelling to provide separate title to either half of the semi-detached dwelling. This will provide two separate and conveyable lots.

6. Value of older homes will decrease;

The effects regarding development and the effects of the value of abutting lands is not a planning related matter and therefore we cannot comment on this matter.

7. On street parking as a result of construction workers in the area and kids safety;

On street parking is permitted along Westbrook Road however seasonal parking will change as a result of winter parking restrictions. If a resident or resident(s) have concerns regarding on-street parking, they can contact their local Councillor and or contacting Transportation Services regarding their concerns.

8. Increase noise of construction and use of power hammers or blasting;

Noise generated from construction is temporary in nature until the project is completed and is subject to the Noise By-Law (By-Law Number 2004-52). This includes construction and excavation.

The Official Plan requires a development to prepare an Abatement Plan where any existing or proposed use either produces or is likely to produce noise, vibration, dust or odour emissions that could create a nuisance, the owner, operator or proponent must prepare an abatement plan to the satisfaction of Council and in conformity with Ministry of the Environment and Climate Change guidelines and standards or any such further regulation implemented by the City, as applicable.

Any blasting or use of power hammers will be addressed through the Building Permit Application process.

9. Two houses will not fit on the 89-foot lot;

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The proposed severed and retained lots comply with the minimum lot frontage and minimum lot area requirements in the 'R1' Zone in Zoning By-Law Number 76-26.

10. Removal of trees;

The removal of trees on City property requires a tree permit under the Tree By-Law. Trees on residential properties are exempt from the Tree By-Law. The owner/ applicant should consider maintaining existing vegetation or plant new vegetation.

11. Screening to be provided to adjacent lots (fencing); and

The zoning by-law does not require fencing or other screening to be applied in the 'R1' zone. The owner/applicant should consider providing screening along the lot lines abutting other residential uses.

12. No easements permitted on neighbouring lot.

The proposal is not seeking the creation of easements on the subject property or on adjacent properties. The existing development is contained within the severed and retained parcels. Any new development on each resulting lot will be required to comply with the performance standards of the Zoning By-Law.

Previous or Concurrent Applications

There are no concurrent or relevant historic planning applications on the subject property.

Conclusion

The proposal has regard to the matters under subsection 51(24) of the *Planning Act*, is consistent with the Provincial Policy Statement, conforms with all applicable policies of the Official Plan, is in keeping with the general intent and purpose of the zoning by-law and a plan of subdivision is not necessary for the proper and orderly development of the property, as such, is recommended for provisional approval.

Provisional approval of this application will create separate and distinct title to either half of the existing semi-detached dwelling.

The requested variance maintains the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The proposal is desirable for the appropriate use of the land and residential structure therefore 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.

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Existing Policy/By-Law:

The proposed applications were reviewed against the policies of the Province of Ontario and City of Kingston to ensure that the changes would be consistent with the Province's and the City's vision of development. The following documents were assessed:

Provincial

Provincial Policy Statement, 2020

Municipal

City of Kingston Official Plan

Zoning By-Law Number 76-26

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on January 17, 2022. 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 14 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

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Exhibits Attached:

- Exhibit A Recommended Conditions – Consent
- Exhibit B Recommended Conditions – Minor Variance
- Exhibit C Key Map
- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Number 76-26, Map 2
- Exhibit F Public Notification Map
- Exhibit G Neighbourhood Context Map (2021)
- Exhibit H Severance Sketch
- Exhibit I Survey
- Exhibit J Site Photos
- Exhibit K Letters of Concern

Recommended Conditions

The provisional approval of consent application, File Number D10-031-2021, to sever along the common party wall of the semi-detached dwelling to create an 836 square metre parcel of land with 13.7 metres of road frontage on Westbrook Road containing the northern unit (1233 Westbrook Road). The retained parcel of land will result in an 836 square metre parcel of land with 13.7 metres of road frontage on Westbrook Road (1229 Westbrook Road), is subject to the following recommended conditions:

1. Certificate of Official and Deadline

That all conditions are satisfied and the Certificate of Official be presented to the Secretary-Treasurer, Committee of Adjustment for certification under Section 53(42) of the Planning Act, R.S.O. 1990 as amended, within one year of mailing of this notice. We suggest that the Land Registry Office be consulted for preapproval of the Certificate of Official to avoid delays

The Certificate must be registered within two years from the issuance of the certificate as required under Section 53(43) of the Planning Act, R.S.O. 1990, as amended. A copy of the registered transfer certificate shall be provided to the Secretary-Treasurer, Committee of Adjustment to complete the file.

2. Reference Plan

That a digital version of a Reference Plan be provided in a PDF and AutoCAD Windows readable format on a compact disc (CD), USB memory stick or by email, illustrating the severed parcel be prepared and presented to the Secretary-Treasurer, Committee of Adjustment prior to the issuance of the Certificate of Official.

3. Payment of Taxes

The owner/applicant shall contact the Tax Department at tax@cityofkingston.ca and secure in writing from the Treasurer or the Manager of Taxation and Revenue, proof of payment of current taxes and any special charges (not simply a copy of the tax bill) required to be paid out and a statement of proof that is received and shall be provided to the Secretary-Treasurer Committee of Adjustment, prior to the issuance of the consent certificate. The owner/applicant must pay any outstanding realty taxes and all local improvement charges levied against the property.

4. Standard Archaeological Clause

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.

5. Utilities and Services

The severed and retained lots shall have independent full municipal services which do not encroach on either lot. Prior to the issuance of a "Certificate of official" it shall be necessary for the applicant to provide, and for Utilities Kingston and Engineering Services to approve a sketch showing all existing services and the mains they connect too, and the existing buildings and all proposed and existing property lines.

6. Entrance Permit

An entrance permit is required for any new or altered entrances from Westbrook Road for the severed and retained parcel. If a permit is required, then the owner/applicant shall obtain an entrance permit and the work completed to the satisfactory of Engineering Services, prior to the issuance of the Certificate of Official.

7. Building Permit

The owner/applicant shall contact Building Services for an inspection of the common party wall to confirm whether a building permit is required to repair/ alter or add to the existing structure. Permits and applicable fees will apply to the installation of independent municipal services. All construction/ renovation is required to comply with the Ontario Building Code. If a building permit is required, then the owner/applicant shall obtain a building permit and all work completed to the satisfactory of Building Services, prior to the issuance of the Certificate of Official.

8. Decommissioning of Septic System

Prior to the issuance of the Certificate of Official, the owner/applicant shall obtain a building permit to decommission the on-site sewage disposal system (septic system) on the subject lot and tie into municipal sanitary services along Westbrook Road. The owner/ applicant shall provide confirmation that the works have been completed and that Utilities Kingston is satisfied with the installation of the new services and that the building department is satisfied of the decommissioning of the septic system.

9. Associated Minor Variance

That associated Minor Variance Application D13-072-2021 is approved and all related conditions of approval are fulfilled.

Recommended Conditions

Application for minor variance, File Number D13-072-2021

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

1. Limitation

That the approved minor variance applies only to location of the semi-detached dwelling and its common party wall to the new lot line, as shown on the approved drawings attached to the notice of decision. The variance does not result in a reduction along the entire lot line between 1229 Westbrook Road and 1233 Westbrook Road.

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.



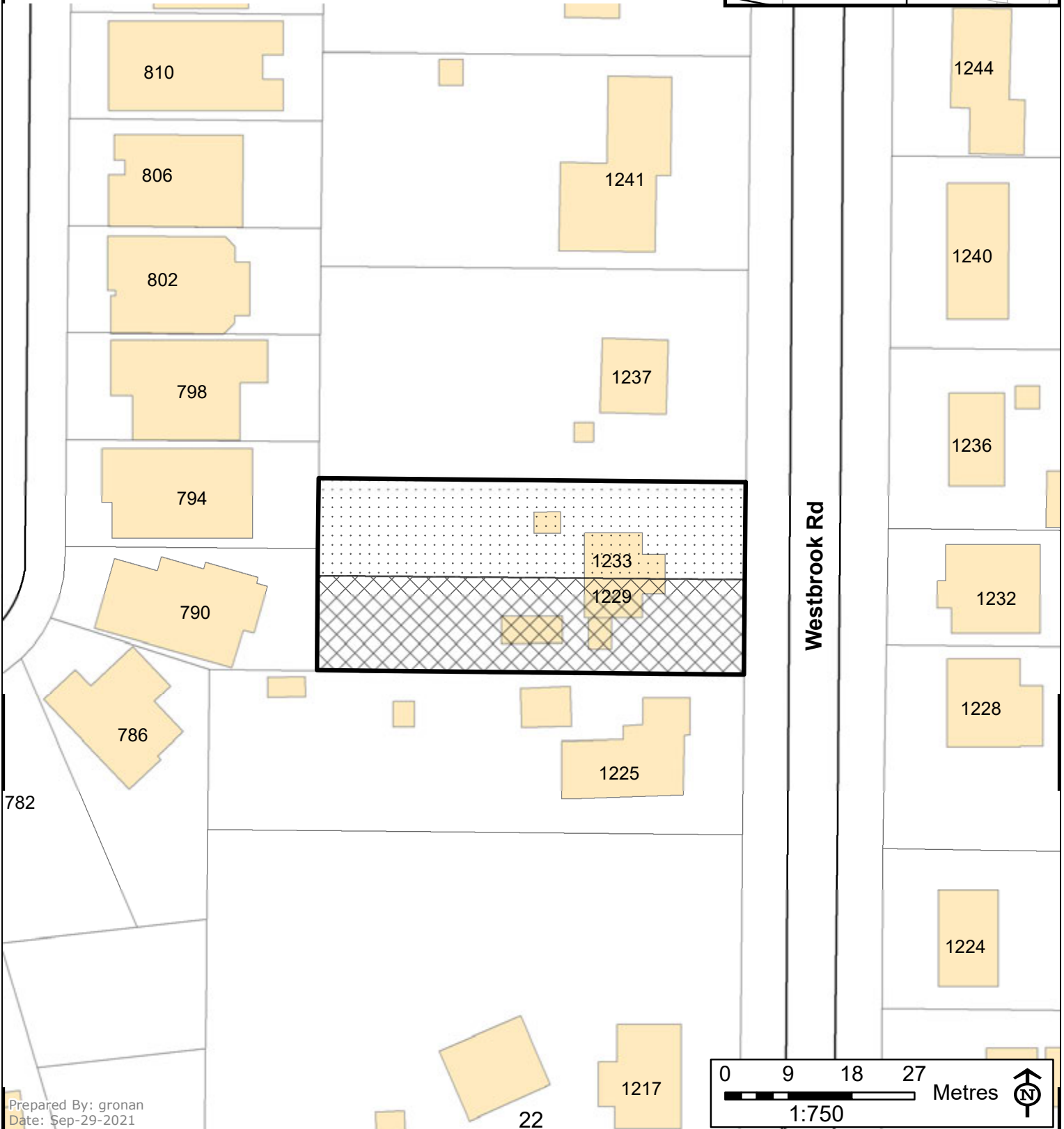
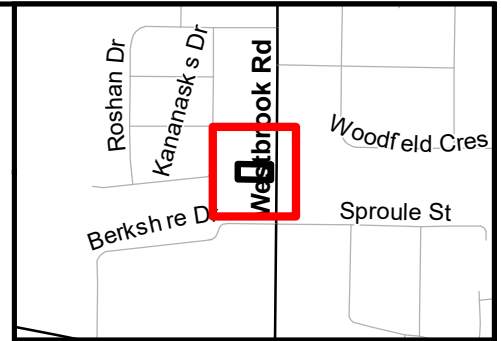
Committee of Adjustment

Key Map

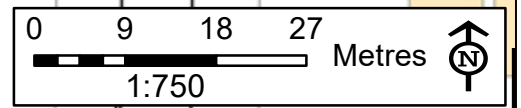
Address: 1229 and 1233 Westbrook Road

File Number: D10-031-2021 and D13-072-2021

- Subject Lands
- Severed Lands
- Retained Lands



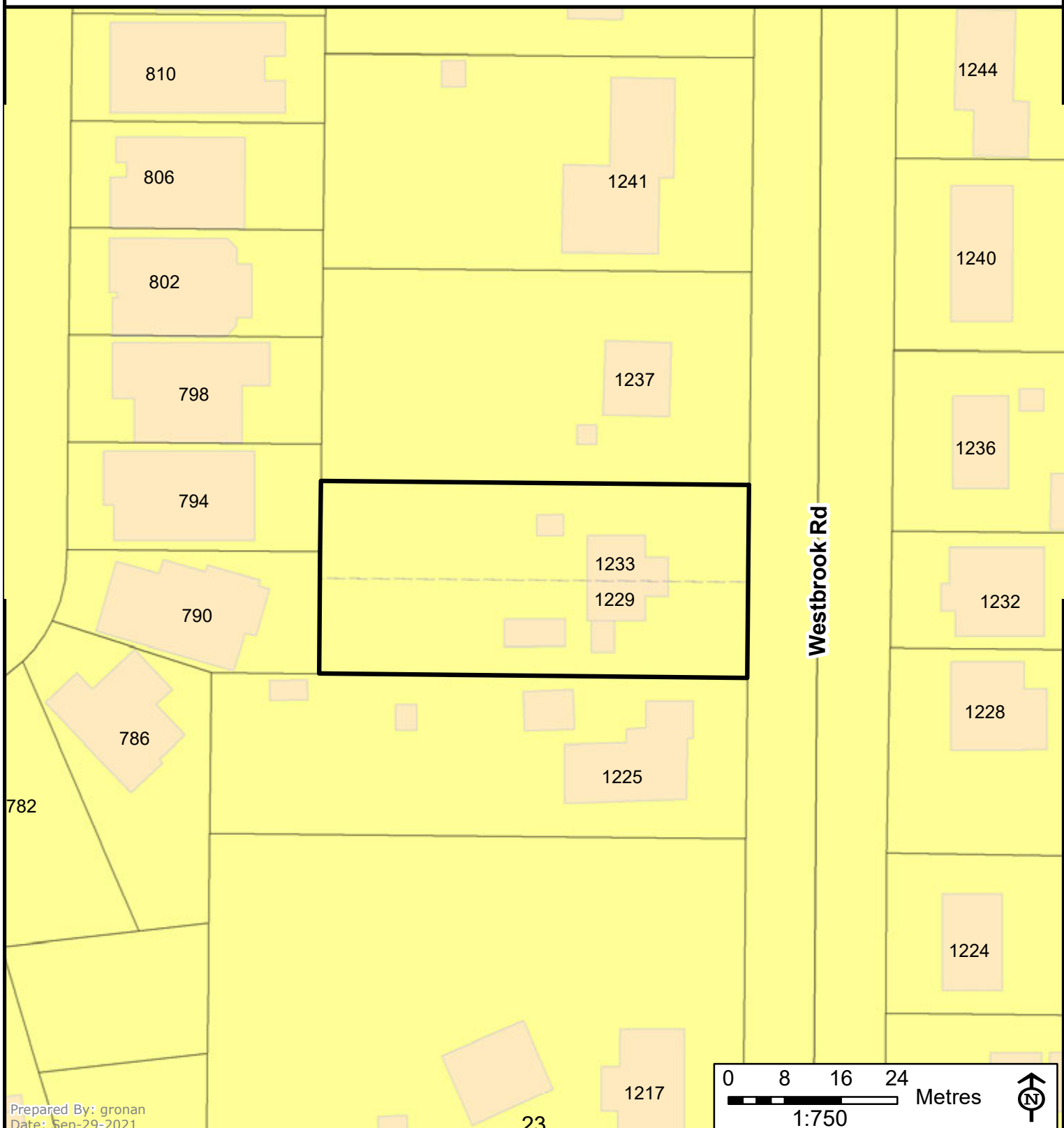
Prepared By: gronan
Date: Sep-29-2021



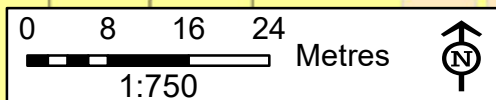


Committee of Adjustment
Official Plan, Existing Land Use
Address: 1229 and 1233 Westbrook Road
File Number: D10-031-2021 & D13-072-2021

Subject Lands
 RESIDENTIAL



Prepared By: gronan
Date: Sep-29-2021



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Planning Services

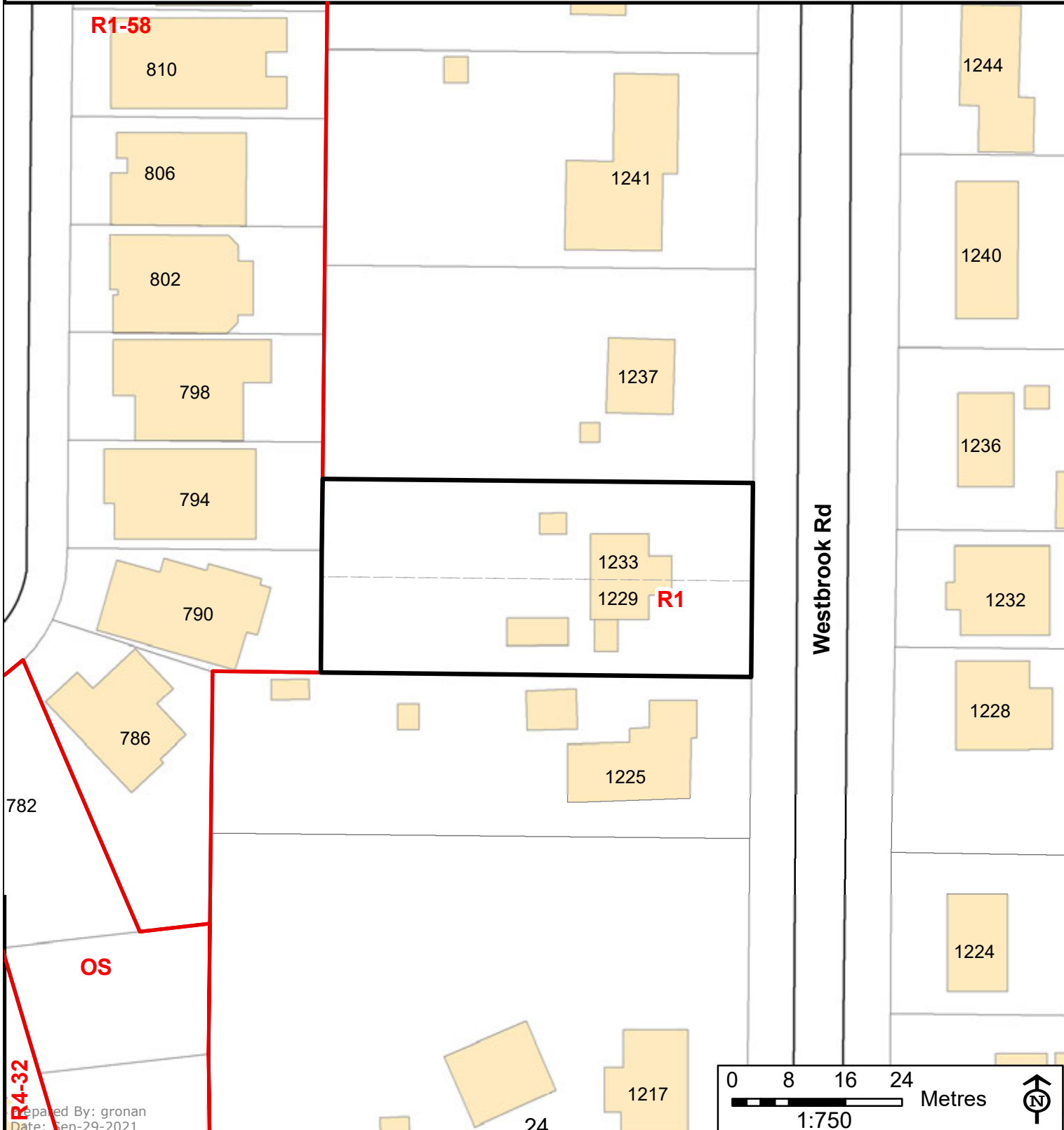
Committee of Adjustment

Existing Zoning - By-law 76-26, Map 2

Address: 1229 and 1233 Westbrook Road File

Number: D10-031-2021 & D13-072-2021

- Subject Lands
- Consolidated Zoning



Prepared By: gronan
Date: Sep-29-2021

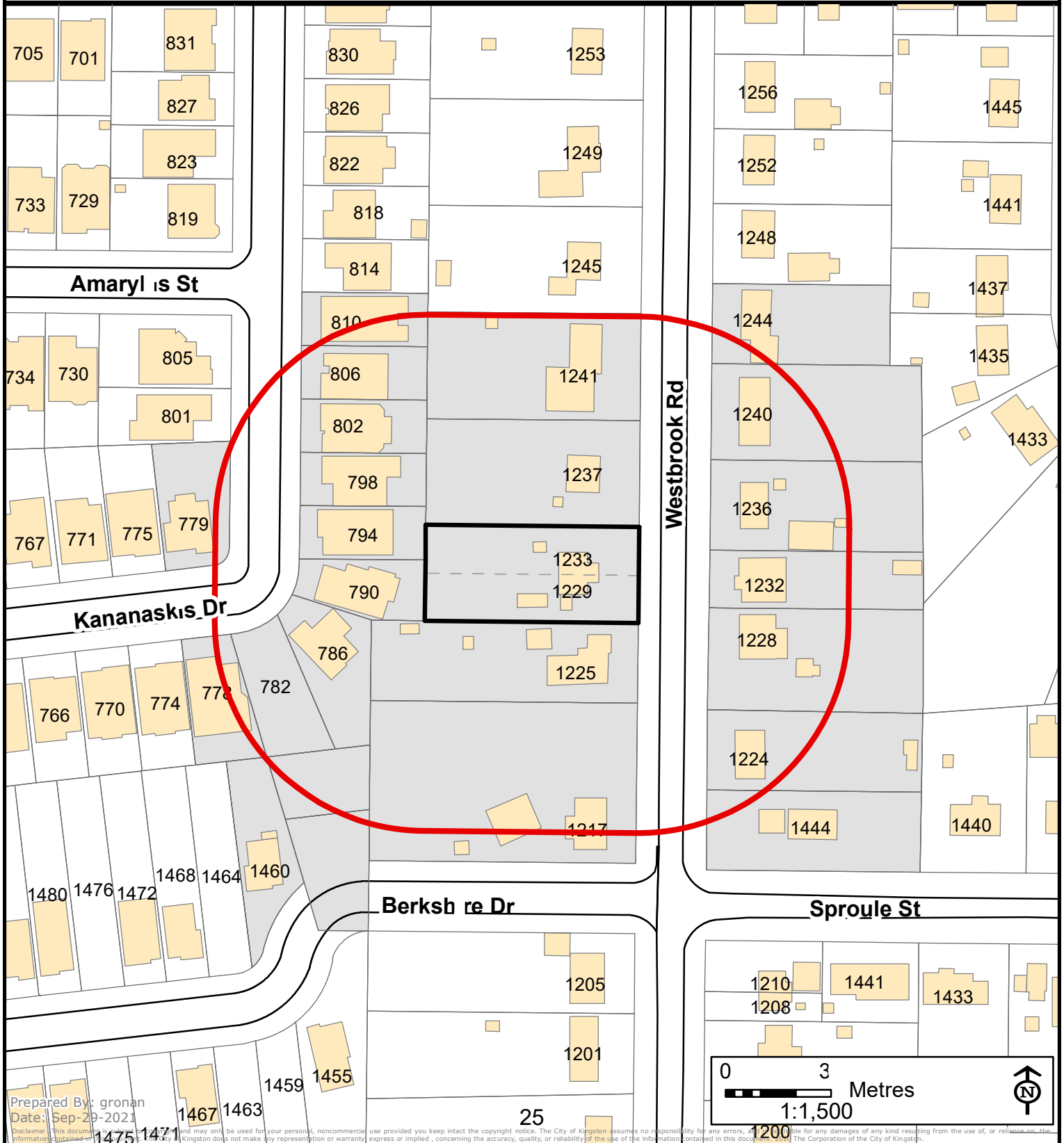
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Committee of Adjustment
Public Notice Notification Map
Address: 1229 and 1233 Westbrook Road
File Number: D10-031-2021 & D13-072-2021

Planning
Services

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






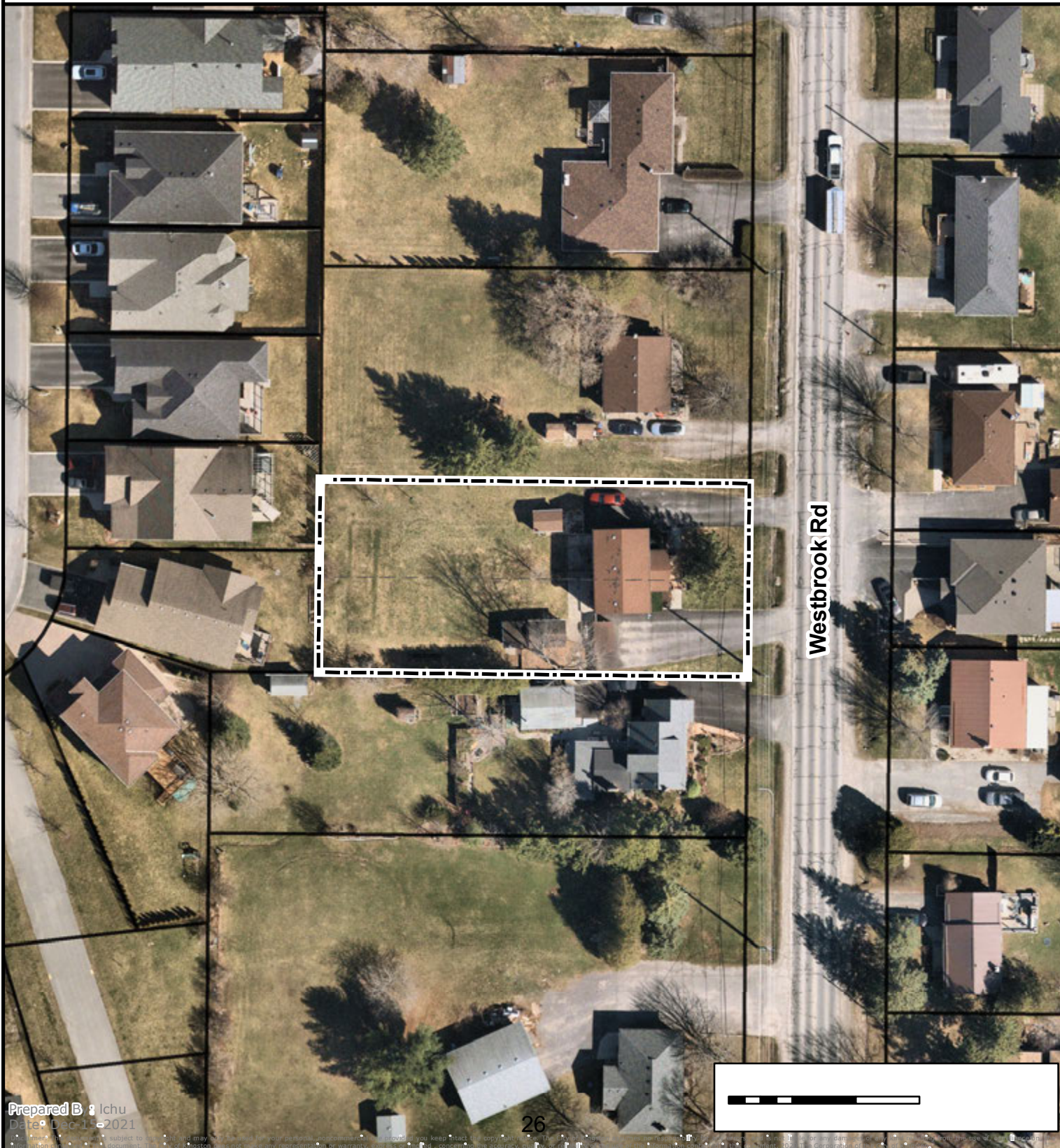
Prepared By: gronan
Date: Sep-29-2021

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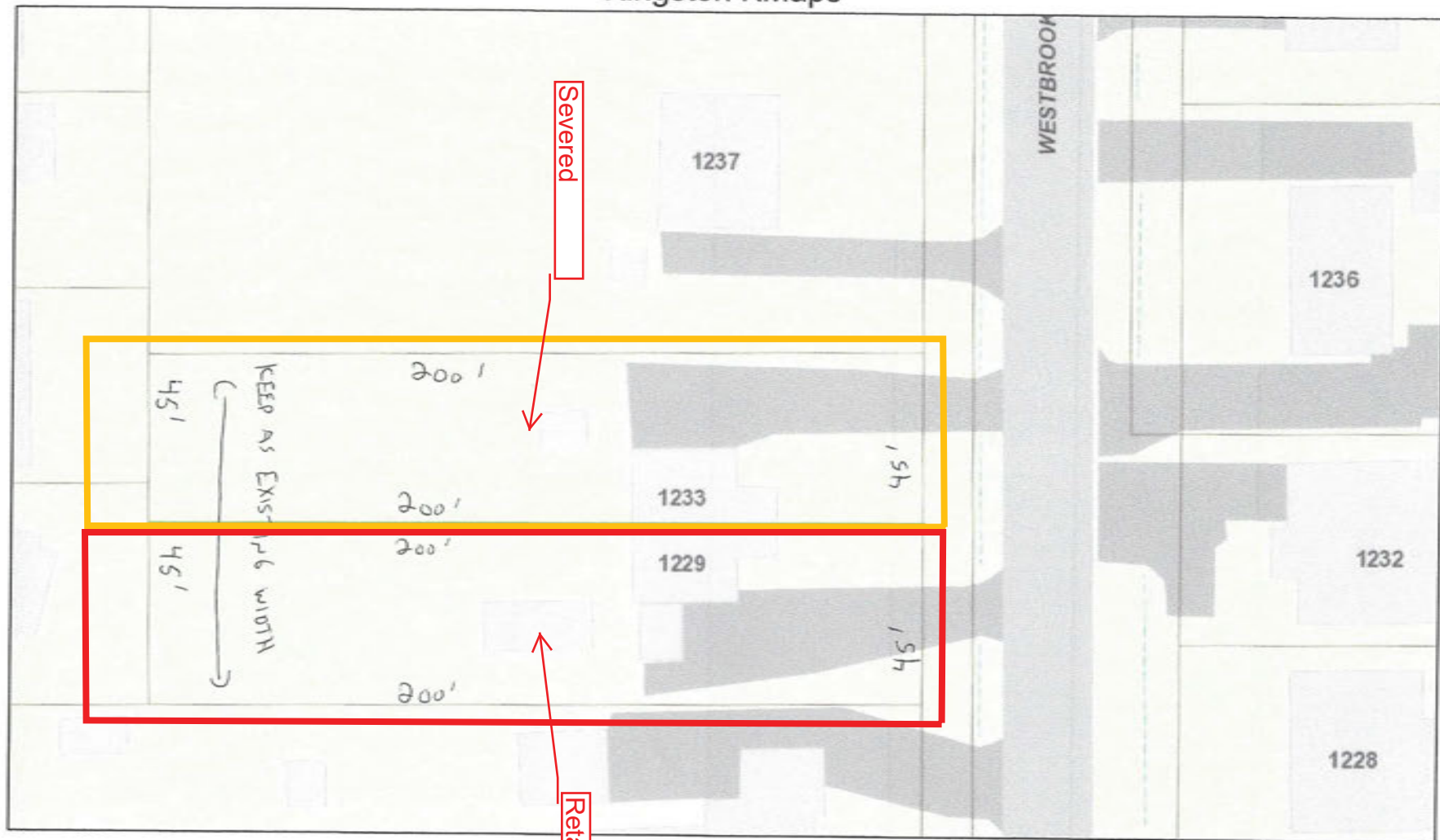


Delegated Authority
Neighbourhood Context (2021)
Address: 1229 and 1233 Westbrook Road
File Number: D10-031-2021 & D13-072-2021

-  Subject Lands
-  Property Boundaries
-  Proposed Parcels

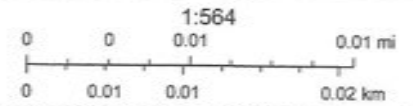


Kingston KMaps



8/4/2021, 3:04:04 PM

- Override 1
- City of Kingston Boundary



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Corporation of the City of Kingston

This map is subject to the City's website disclaimer and terms of use (<https://www.cityofkingston.ca/general/privacy-policy>).



Above: 1233 Westbrook Road

Below: 1229 Westbrook Road -



From: [Fisher, Tim](#)
To: [REDACTED]
Subject: RE: File # D10-031-2021
Date: October 19, 2021 1:10:17 PM

Thank you

I added you to our list of objectors. Please note that the application has been placed on the December 13th 2021 Committee of Adjustment public meeting. A new notice will be mailed out 14 days prior to the meeting and revised signage will be posted on the property.

Cheers

Tim Fisher
Planner
Planning Services

City of Kingston
1211 John Counter Boulevard
216 Ontario Street Kingston, ON K7L 2Z3
613-546-4291 extension 3215
tfisher@cityofkingston.ca

The City of Kingston acknowledges that we are on the traditional homeland of the Anishinaabe, Haudenosaunee and the Huron-Wendat, and thanks these nations for their care and stewardship over this shared land.

-----Original Message-----

From: Shawne Moore <[REDACTED]>
Sent: October 19, 2021 1:04 PM
To: Fisher, Tim <tfisher@cityofkingston.ca>
Subject: Re: File # D10-031-2021

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

My address is 1237 Westbrook rd

Sent from my iPhone

> On Oct 19, 2021, at 12:14 PM, Fisher, Tim <tfisher@cityofkingston.ca> wrote:
>
> Hello Shawne
>
> Can you provide mw with your mailing address.
>
> Cheers
>

>
> Tim Fisher
> Planner
> Planning Services
>
> City of Kingston
> 1211 John Counter Boulevard
> 216 Ontario Street Kingston, ON K7L 2Z3
> 613-546-4291 extension 3215
> tfisher@cityofkingston.ca
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>
> The City of Kingston acknowledges that we are on the traditional homeland of the Anishinaabe, Haudenosaunee and the Huron-Wendat, and thanks these nations for their care and stewardship over this shared land.
>
> -----Original Message-----
> From: Shawne Moore
> Sent: October 19, 2021 8:39 AM
> To: Fisher, Tim <tfisher@cityofkingston.ca>
> Subject: File # D10-031-2021
>
> CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.
>
>
>
> To start
> Neighborhood would like a meeting.
> Not happy about changing face of Westbrook village
> 89 foot lot with two houses will not fit The cutting of mature pine tree on front lawn Don't want on my property line want easement Want survey. An fence Where on limestone don't want any power hammer or dynamite Had problem with power hammers an dynamite with new builds on back property
>
> Need meeting
> Waiting for ur reply
> Thanks
> Shawne
> Sent from my iPhone

From: Cindy Baker
Sent: Tuesday, October 19, 2021 7:56 PM
To: Planning Outside Email <Planning@cityofkingston.ca>
Subject: File number D10-031-2021

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

To The City Of Kingston Planning Services:

This is a written comment in respect to the application for consent to sever new lots
File number: D10-031-2021
Address 1229 and 1233 Westbrook Road

As a resident of 50+ yrs. We don't need new houses in our older section of our neighbourhood. With newer houses our house value will go down in value as more people will be wanting new houses instead of older houses. Westbrook road is already way to busy with traffic from the new subdivision (Westbrook Meadow). Also we have no sidewalks on Westbrook rd so walking children to school is difficult now and if they start construction to make new houses it would be harder as they would be parking their vehicles on the side of the road making it more difficult to walk the kids to school. Also we have young children that live very close to this lot and with all the vehicles it will be very distracting to them. We also have shift workers that live in this house, so with the construction of the new houses would not be good. As we wouldn't be able to sleep during the day as our bedroom is in front of our house.

We live right across the road from that property

Thanks

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From: [Myers, Cheryl](#)
To: [Fisher, Tim](#); [Gregory, Katharine](#)
Cc: [Planning Outside Email](#)
Subject: FW: Objection - 1229&1233 Westbrook road
Date: November 1, 2021 7:21:32 AM

Hi Tim,

This is an objection to your file D10-031-2021.

Thank you,
Cheryl

-----Original Message-----

From: Kim hulton
Sent: October 31, 2021 6:44 PM
To: Planning Outside Email <Planning@cityofkingston.ca>
Subject: 1229&1233 Westbrook road

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

We have just received notice in regards to the application at the above mentioned address.

We have talked with several Neighbors and we all feel that this is not a project that we are in favour of . Are city services are already unreliable and any more strain on them will cause further breakdowns . Our water pipes are constantly breaking down and we go several hours at each incident.Plus we do not need more garbage flying around as being on a main route to E 360 we have enough of that .

Then add to how busy are street is having contractors parking on the road will only cause great traffic issues .

Also we missed the notice for a similar project on Sproule Street . At some point common sense has to say NO to these projects . Until the city upgrades our water/sewer services these projects must be denied .

So we say NO to this project .

Sincerely

K Hulton
1228 Westbrook Road

Sent from my iPhone

From: [REDACTED]
To: [Fisher, Tim](#)
Subject: Reno-viction 1233 Westbrook Road
Date: October 14, 2021 9:06:44 AM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

I am a tenant residing at this property over 6 years. I am facing eviction due to the recent sale of this property. The new owner gave us 2 choices September 1st, agree to pay an illegal rent increase of \$350 monthly or face eviction so he could demo and rebuild. He bought a property where the income does not cover the mortgage, he was aware of this prior to sale closing. We the tenants at 1233 and 1229 had been assured by previous landlord that new landlord agreed we could stay as tenants. September 2nd we received N13 notices for reason 1, and currently waiting for a hearing with Landlord Tenant Board.

By allowing this to happen, it will be displacing myself and leaving me in a possible homeless position. As you are aware of the lack of affordable housing and this would be eliminating 2 more. Reno-victions need to stop!!! Please don't add to the homelessness issue by allowing greedy investors evict long term tenants!
Please consider my plea, Deborah