

City of Kingston Report to Committee of Adjustment Report Number COA-22-067

To: Chair and Members of the Committee of Adjustment

From: Jason Partridge, Planner

Date of Meeting: September 19, 2022

Application for: Minor Variance

File Number: D13-043-2022

Address: 880 Stephentown Lane

Owner: Steve Carquez and Robyn Woodford-Carquez

Applicant: Steve Carquez

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 a minor variance for the property located at 880 Stephentown Lane. The applicant is proposing to construct a new 139.4 square metre 1 storey detached front yard accessory building and is requesting relief from the maximum lot coverage provision. The new accessory building will comply with all minimum height, building setbacks and landscaped open space requirements.

Under Zoning By-Law Number 32-74, a minor variance is required to increase the required maximum lot coverage provision to facilitate the construction of the one-storey front yard accessory building. Under the new Zoning By-Law Number 2022-062, a minor variance is also required to increase maximum lot coverage provision for the proposed development.

Bylaw Number 2022-62. Section 20.1.1, Legacy Exceptions Subsection L283 (f) indicates that the maximum lot coverage for the subject property is a maximum 200 square metres. Bylaw

Page 2 of 12

2022-62 also requires all accessory building buildings to be located within the rear yard, interior yard, and the exterior yard. Minor variances are required for both of these zoning provisions.

The requested minor variances are consistent with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 32-74 and 2022-62. 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.

The final draft of the City's new Zoning By-Law was approved by Council at its meeting held on April 26, 2022. As this application is scheduled for a Committee of Adjustment meeting subsequent to that date, the application has been reviewed against both the current Zoning By-Law Number 32-74, as well as new Zoning By-Law Number 2022-062.

Recommendation:

That minor variance application, File Number D13-043-2022, for the property located at 880 Stephentown Lane to construct a 139.4 square metre front yard accessory build, be Approved; as described below:

Variance Number 1:

By-Law Number 32-74: Section 8 (3) (j) (5)

Requirement: 200 Square Metres Proposed: 311.1 Square Metres Variance Requested: 111.1 Square Metres

Variance Number 2:

By-Law Number 2022-62: Section 20.1.1, Legacy Exceptions Subsection L283 (f)

Requirement: 200 Square Metres Proposed: 311.1 Square Metres Variance Requested: 111.1 Square Metres

Variance Number 3:

By-Law Number 2022-62: Section 4.1.2 (1)

Requirement: Rear yard, Interior yard, and the Exterior yard

Proposed: Front Yard Variance Requested: Front Yard; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-067.

Page 3 of 12

Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

Jason Partridge, Planner

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

Tim Park, Director, Planning Services James Bar, Manager, Development Approvals

Page 4 of 12

Options/Discussion:

On July 21, 2022, a minor variance application was submitted by Steve Carquez, on behalf of the owner, Steve Carquez and Robyn Woodford-Carquez, with respect to the property located at 880 Stephentown Lane

The purpose of the application is to permit the construction of a one storey detached accessory building within the front yard near the eastern lot line of the property. The total area of the proposed new one storey accessory building is 139.4 square metres. The purpose of the accessory building is to provide additional storage associated to the permitted single detached dwelling on the property.

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

Site Plan (Exhibit H)

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

Site Characteristics

The subject property is located at 880 Stephentown Lane (Exhibit B – Key Map) and has an area of approximately 3703.8 square metres and approximately 50.27 metres of frontage on Stephentown Lane. The site is currently developed with a one-storey single family dwelling and a couple of existing accessory buildings, resulting in a current lot area coverage of 171.7 square metres.

The subject property is designated Rural and Environmental Protection Area in the Official Plan and zoned RR-10 in Zoning By-Law Number 32-74 (Exhibit E – Existing Zoning By-law Map) and is zoned "RUR" – Rural Residential and Legacy Exception L283 in the new Zoning By-Law Number 2022-62 (Exhibit F – new Zoning By-Law Map).

The subject property is in proximity to various community and open space uses and the Rideau Canal. The surrounding area is predominantly characterized by residential development, consisting mainly of single detached dwellings and agricultural uses.

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:

Page 5 of 12

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.

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 proposed front yard accessory building will not have any negative impacts on abutting properties or residential and/or uses or structures. The proposal is compatible with the surrounding residential uses and will not result in significant impacts or changes to the surrounding area.

The accessory building represents a reinvestment to the property that will result in a minor development on the subject property to support the existing single detached dwelling. No additional dwelling units are proposed. There is no increase in density or intensity of uses. The proposed front yard accessory building is consistent with the intent of this policy.

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 existing front yard built-form of several residential buildings located north and south of the subject property along Stephentown Lane. The overall design and scale of the proposal is not anticipated to cause any adverse impacts on the adjacent residential properties.

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;

Page 6 of 12

The proposal involves the construction of a one-storey accessory building within the front yard of the subject property. There will be no concerns with respect to the parking of vehicles and bicycles or issues relating to accessibility. One parking spot is required and provided.

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 lands are not located within or adjacent to a Heritage Conservation District or adjacent to a Part IV designated property. The property is adjacent to the Rideau Canal which is a UNESCO World Heritage Site. However, the scale of the proposal is not expected to impact this heritage feature.

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 lands are not designated or listed under Part IV or V of the Ontario Heritage Act.

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 outside the urban boundary and is on a private water and wastewater system. No changes are proposed to the existing private services. The accessory building will not have water or septic hook-ups.

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 variances are considered minor, and the development is consistent with the existing built form along Stephentown Lane. 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, 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. The conditions may be added, altered or removed at the Committee's discretion.

Page 7 of 12

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

The surrounding residential uses include single family dwellings and agricultural uses. The approval of the requested variances are considered minor and will not set a precedent for the immediate area.

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 Rural Residential 'RR-10' in the City of Kingston Zoning By-Law Number 32-74 of the Corporation of the City of Kingston, as amended. The RR-10 zone permits an accessory building use.

The subject property is zoned Rural Residential 'RUR' and Legacy Exception L283 in the Kingston Zoning By-Law Number 2022-062, which also permits an accessory building use.

The proposal requires a variance to the following sections:

Variance Number 1:

By-Law Number 32-74:Section 8 (3) (j) (5)
Requirement: 200 Square Metres
Proposed: 311.1 Square Metres
Variance Requested:111.1 Square Metres

Variance Number 2:

By-Law Number 2022-62: Section 20.1.1, Legacy Exceptions Subsection L283 (f)

Requirement: 200 Square Metres
Proposed: 311.1 Square Metres
Variance Requested:111.1 Square Metres

Variance Number 3:

By-Law Number 2022-62: Section 4.1.2 (1)

Requirement: Rear yard, Interior yard, and the Exterior yard

Proposed: Front Yard Variance Requested: Front Yard

A variance is required from Section 8 (3) (j) (5) of Zoning By-Law Number 32-74 to seek relief from the maximum lot area coverage provision. Within Section 8 (3) (j) (5) the maximum lot area coverage is 200 square metres. The proposed front yard accessory building and other buildings on the property have a proposed lot area of 311.1 square metres, which does not comply with the maximum lot coverage. As such, the applicant is seeking a variance of 111.1 square metres to construct the front yard accessory building.

Page 8 of 12

A second is required from Section 20.1.1, Legacy Exceptions Subsection L283 (f) Zoning By-Law Number 2022-62 to seek relief from the maximum lot area coverage provision. Within Section 20.1.1, Legacy Exceptions Subsection L283 (f) the maximum lot area coverage is 200 square metres. The proposed front yard accessory building and other buildings on the property have a proposed lot area of 311.1 square metres, which does not comply with the maximum lot coverage. As such, the applicant is seeking a variance of 111.1 square metres to construct the front yard accessory building.

A third variance is required from Section 4.1.2 (1) Zoning By-Law Number 2022-62 to seek relief from the accessory building location provision. Within Section4.1.2 (1) an accessory building can be located within the rear, interior and exterior yards as-of-right only. The proposed accessory building is located within the front yard, which does not comply with the permitted accessory building yard location provision. As such, the applicant is seeking a variance of the front yard to construct the proposed accessory building.

The intent of the maximum lot coverage is to prevent over development of a property and to protect the wells/waste water systems along Stephentown. 880 Stephentown Lane has a total lot area of 3703.8 square metres with a proposed lot coverage of 8.4%. It is not anticipated that the proposed accessory building would overdevelop the lot due to the large size of the lot. The accessory building's intended use is for additional storage associated to the single-family dwelling and will not require any water or wastewater hook ups. The proposed front yard accessory building meets and exceeds the lot's required building setbacks to all the lot lines and won't cause any adverse impacts to neighboring properties.

The intent of the accessory building location provision is to prevent the over development of the front yards and to maintain a consistent character of front yards throughout the city of Kington. 880 Stephentown Lane is a waterfront lot and accessed by a laneway near the eastern property line. Waterfront lots traditionally have the dwellings located closest to the waterbody leaving a large undeveloped front yard. Under By-law 32-74 accessory buildings are permitted as-of-right in the front yard. Permitting an accessory building in the front yard under the Kingston Zoning By-law is considered appropriate because of the large front yard space and keeping any development away from the floodplain or sensitive environmental habitats. The proposed front yard accessory building is consistent with the existing front yard built-form of several residential buildings located north and south of the subject property along Stephentown Lane.

The general intent and purpose of the by-law is maintained.

3) The variance is minor in nature

The proposed front yard accessory building will result in a development that is consistent with the existing built form of residential development along Stephentown Lane. The proposed accessory building will be located within the front yard and will not result in intrusive overlook with respect to adjacent residential properties. The proposed front yard accessory building is intended to store items associated to the permitted residential use

Page 9 of 12

only. The variances will not alter the character of the neighbourhood or the existing streetscape. The total area of the proposed accessory building is 139.4 square metres.

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 add to the functional needs for the existing residential use. The form of residential development is long established. Thus, the overall density, type of use and scale of activity as proposed is consistent with the existing built form of accessory buildings along Stephentown Lane.

The resulting built form satisfies all applicable provisions of the zoning by-law, except for the maximum lot coverage. The proposal does not involve a significant alteration to the existing built form on the site and will not cause any adverse impacts on adjacent properties.

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 variances are desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

\boxtimes	Building Services		
	Finance	□ Utilities Kingston	☐ Real Estate & Environmental Initiatives
\boxtimes	Fire & Rescue	☐ Kingston Hydro	
	Solid Waste	□ Parks Development	☐ Canadian National Railways
	Housing	□ District Councillor	☐ Ministry of Transportation
	KEDCO	☐ Municipal Drainage	☐ Parks of the St. Lawrence
\boxtimes	CRCA	☐ KFL&A Health Unit	☐ Trans Northern Pipelines
\boxtimes	Parks Canada	☐ Eastern Ontario Power	☐ CFB Kingston
	Hydro One	☐ Enbridge Pipelines	☐ TransCanada Pipelines
	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.

Page 10 of 12

Public Comments

At the time this report was finalized, no 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

D28-001-2022 Holding Symbol removal application to allow development on the property. The zoning was updated to remove the Hold from the RR-10-H Zone to RR-10. Holding Overlay H176 was removed from the property under the Kingston Zoning By-law . Passed August 9, 2022.

Conclusion

The requested variances maintains 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 variances are minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the Planning Act and the application is being recommended for approval, subject to the proposed conditions.

Under the new Zoning By-Law Number 2022-062, the requested variances maintains the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 2022-062. The proposal is desirable for the appropriate development or use of the land, building or structure and the requested variances are minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the Planning Act and the application is being recommended for approval, subject to the proposed conditions.

Approval of this application will permit the construction of a new 139.4 square metres 1 storey accessory building within the front yard of the subject property. The proposed front yard 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

Page 11 of 12

Zoning By-Law Number 32-74

Zoning By-Law Number 2022-062

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on September 19, 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 10 days in advance of the meeting. In addition, notices were sent by mail to a total number of 8 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

Jason Partridge, Planner, 613-546-4291 extension 3216

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

Exhibit A Recommended Conditions

Exhibit B Key Map

Exhibit C Public Notification Map

Exhibit D Official Plan Map

Exhibit E Zoning By-Law 32-74, Map1

Exhibit F Zoning By-Law 2022-062

Page 12 of 12

Exhibit G Neighbourhood Context Map (2021)

Exhibit H Site Plan

Recommended Conditions

Application for minor variance, File Number D13-043-2022

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

1. Limitation

That the approved minor variance applies only to the subject lands located at 880 Stephentown Lane for the proposed front yard one storey 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. Archaeological Condition

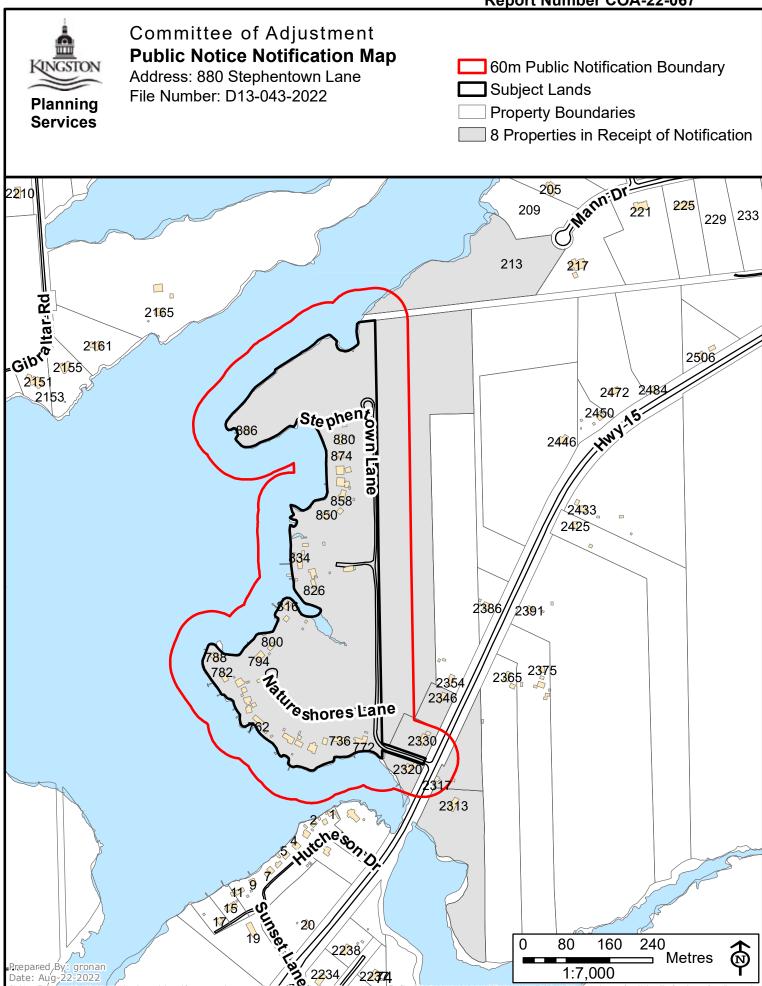
An Archaeological Assessment (beginning with a Stage One Assessment) and any subsequent or supporting studies are required on the property prior to the issuance of a Building Permit, as the site falls under several of the criteria for archaeological potential. Any area of development or site alteration, 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.

Exhibit A Report Number COA-22-067

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.

Exhibit B Report Number COA-22-067 Committee of Adjustment **Key Map** Address: 880 Stephentown Lane File Number: D13-043-2022 **Planning** Services Lands Subject to Minor Variance Stephentown.Lane 880 874 868 14 21 Metres Prepared By: gronan Date: Aug-08-2022 1:750 73





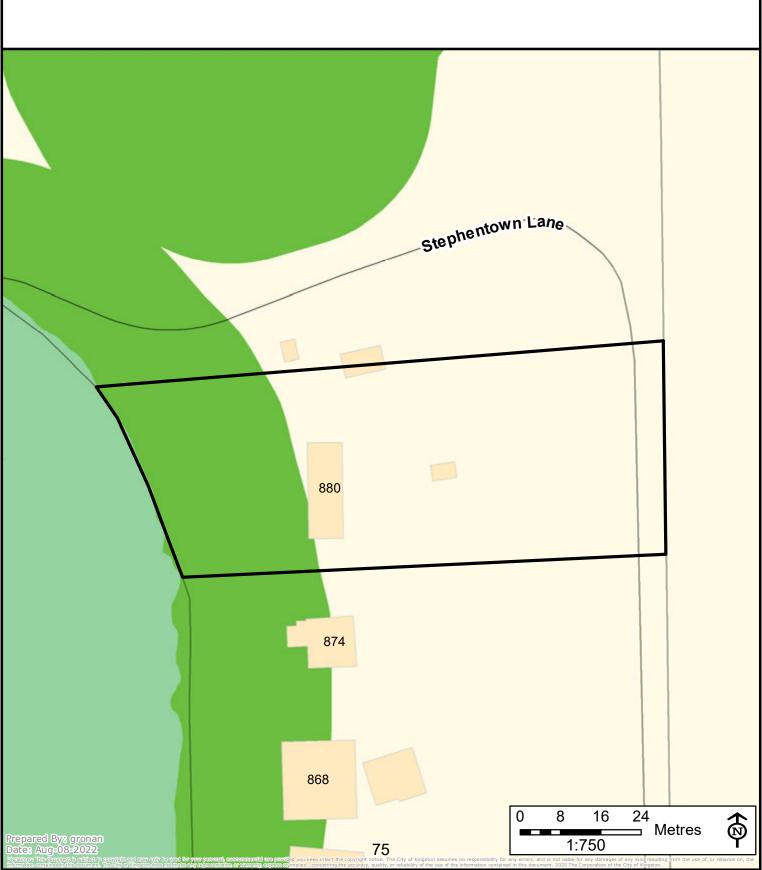
Committee of Adjustment
Official Plan, Existing Land Use

Address: 880 Stephentown Lane File Number: D13-043-2022

Subject Lands

ENVIRONMENTAL PROTECTION AREA

RURAL



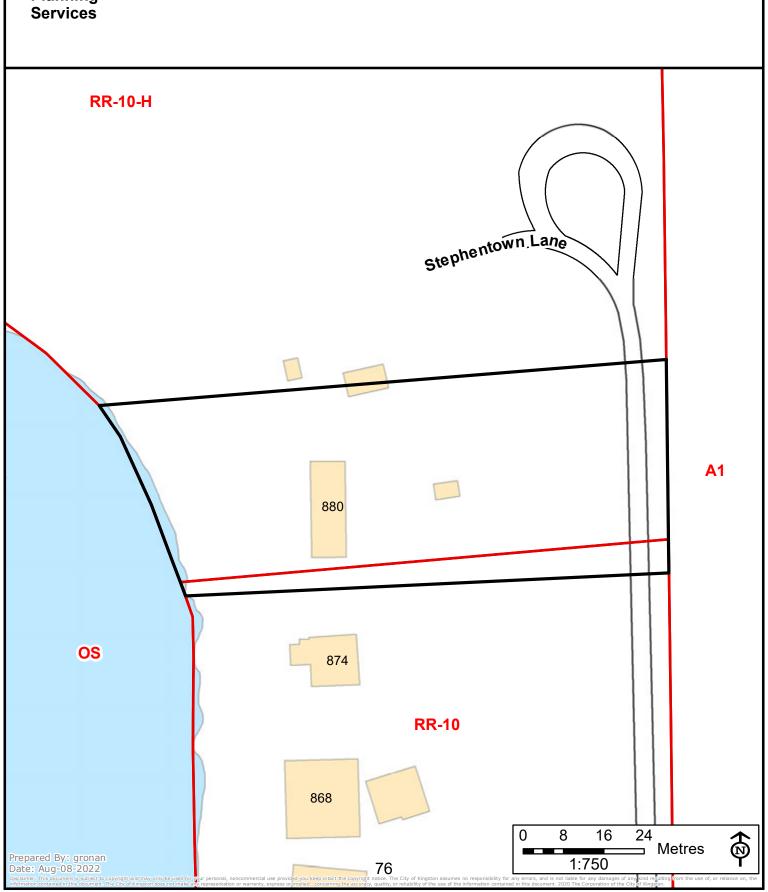


Committee of Adjustment

Existing Zoning - By-law 32-74, Map 1

Address: 880 Stephentown Lane File Number: D13-043-2022

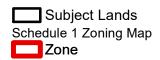
Subject Lands
Consolidated Zoning





Planning Committee Reference Kingston Zoning Bylaw

Address: 880 Stephentown Lane File Number: D13-043-2022

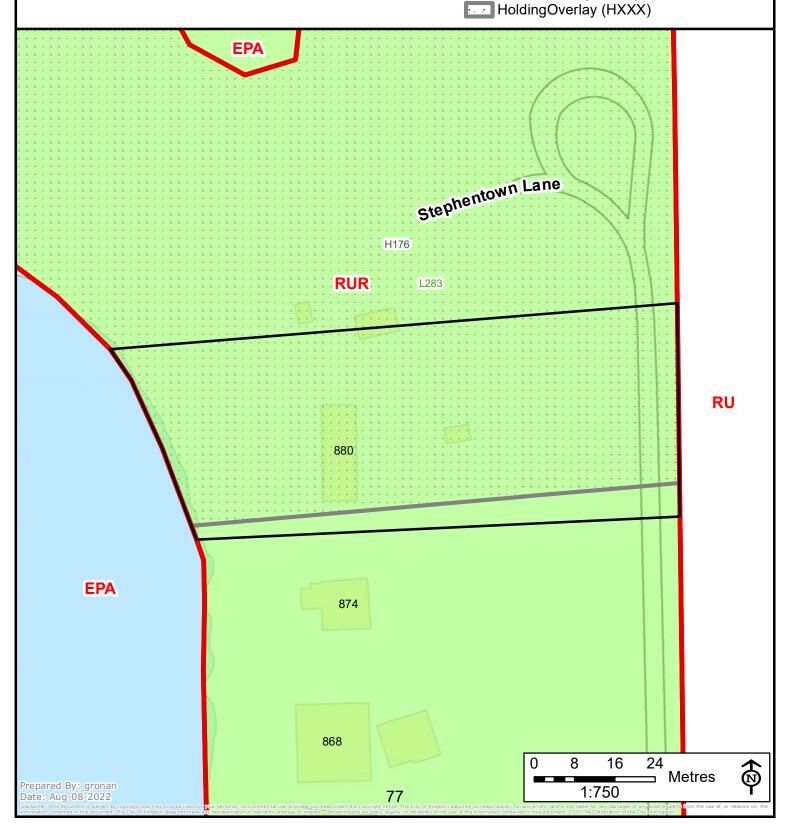


Schedule E - Exception Overlay

Legacy Exceptions (LXXX)

Exceptions (EXXX)

Schedule F - Holding Overlay





Committee of Adjustment Neighbourhood Context (2021)

Address: 880 Stephentown Lane File Number: D13-043-2022

Subject Lands
Property Boundaries
Proposed Parcels

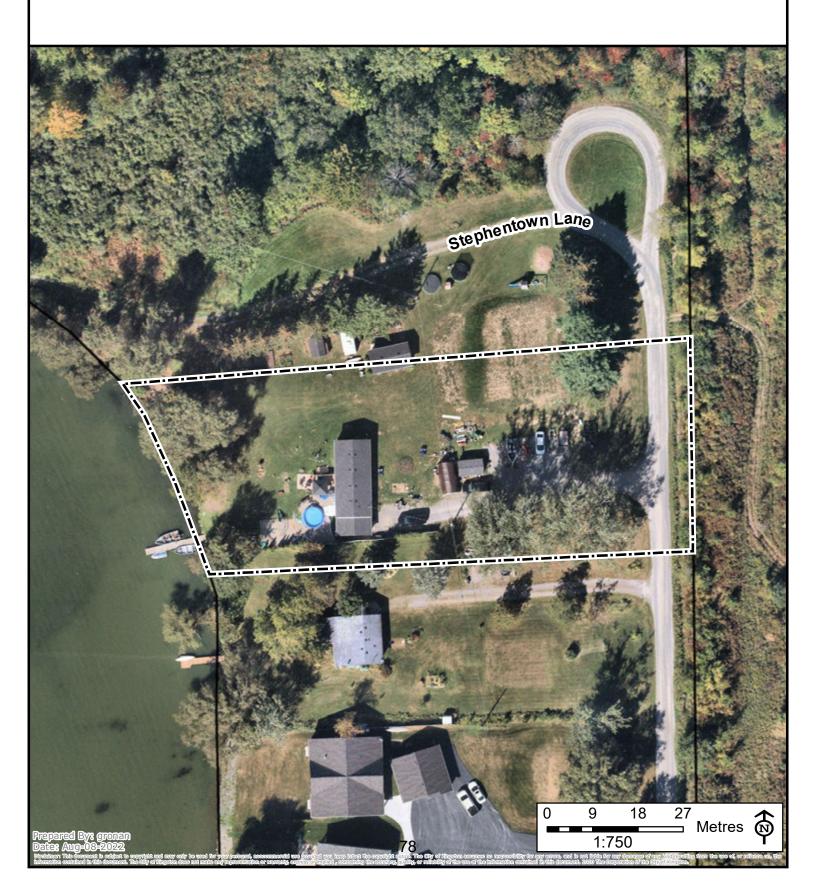


Exhibit H

PARTY ONE): STARR SH SA GOLDES SH *

PLE SANG: 4-100056-SNC PLE SANG: 4000 6 2000

Report Number COA-22-067 SITE PLANIGRADING PLAN OF 880 STEPHENTOWN LANE CITY OF KINGSTON SCALE 1:290 77777 GEMERAL NOTES

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B. WAINTAIN WINIMUM 1.23M COVER FOR FOOTINGS.

S. STEP FOOTINGS WHERE REQUIRED.

10. DRIVEWAYS TO DRAIN TO STREET. UNDERSIDE OF FOOTING MAY BE LOWER THAN BLEWRICH NOTED DUE TO EXCITING CONSTTONS, EXACT CEPTION OF FOOTING TO BE DETERMINED ON SITE DURING EXCANTION FOR FOOTING STEPHENTOWN PLAN NOTES ELENATIONS ARE GEDOETIC AND REFERRED TO THE CANADIAN GEODETIC VERTICAL DATAM (COVIDE) BY DIRECT WENDRIGHT TO A REAL TIME NETWORK DISTANCES AND COORDINATES SHOWN ON THIS PLAN ARE METRIC AND CAN BE CONVERTED TO IMPERIAL BY DIVIDING BY 0 3048. PROPERTY DIMENSIONS SHOWN HEREON ARE IN ACCOMPANCE WITH BW SURVEYORS RECORDS. SPROJECT MUNICIPAL 453308) CONTOURS SHOWN HEREON ARE DRAWN AT 2 25 METRE INTERIOR. 0.504 LANE G1304 STEPHENTOWN TYPICAL SWALE DETAIL PROPOSED GARAGE 5,00 NOT TO SCALE TOTAL P. LEGEND LAKE FIFE PREPARE THE TOP OF FOLIA BUE BROWNINGS UPE SACRETORY **II** de pro-ses · ror your road EXPROPER TO OF HEREN TOO DO HELPOORD TURNING SITE STATISTICS EX. RR-10-5 ZONING 3761.6m² LOT AREA BUILDING AREA - 1717m² 1084m² 311.1m LOT COVERAGE - 465 285 14% BUILDING HEIGHT NUMBER OF STOREYS CAUTION
BIG 5 NOT A PLAN OF SURVEY AND SHALL NOT BE USED
EXCEPT FOR THE PURPOSE ROCK-TED IN THE TITLE BLOCK.
THE WORK AND DEMANING THERE MERC CONFILED FOR THE
EXCLUSIVE USE OF ONE CLIENT AND NO UMBILITY IS
SESSIMED TO ANY THIRD PARTIES OF SURROUGHT OWNERS.