



**City of Kingston  
Report to Committee of Adjustment  
Report Number COA-24-016**

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**To:** Chair and Members of the Committee of Adjustment  
**From:** Chris Wicke, Senior Planner  
**Date of Meeting:** January 22, 2024  
**Application for:** Minor Variance  
**File Number:** D13-070-2023  
**Address:** 423 Earl Street  
**District:** Sydenham  
**Owner:** Robert Baker and Leslie Galbraith  
**Applicant:** Grant Snyder

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**Council Strategic Plan Alignment:**

Theme: Regulatory & compliance

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 423 Earl Street. The applicant is proposing to modify a single detached dwelling to enclose two thirds of an existing porch on the first floor and to enclose the entire balcony on the second floor. No change to the building footprint is proposed.

The requested minor variance is consistent with the general intent and purpose of both the City of Kingston Official Plan and Kingston Zoning By-Law Number 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.

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**Recommendation:**

**That** minor variance application, File Number D13-070-2023, for the property located at 423 Earl Street to modify a single detached dwelling to enclose two thirds of an existing porch on the first floor and to enclose the entire balcony on the second floor be approved, as described below:

**Variance Number 1:**

By-Law Number 2022-62: Table 11.6.1.4: Minimum front setback

Requirement: 3.0 metres

Proposed: 1.2 metres

Variance Requested: 1.8 metres; and

**That** approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-24-016.

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**Authorizing Signatures:**

ORIGINAL SIGNED BY PLANNER

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Chris Wicke, Senior Planner

**In Consultation with the following Management of the Growth & Development Services Group:**

Tim Park, Director, Planning Services

Meghan Robidoux, Supervisor, Development Approvals

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**Options/Discussion:**

On November 24, 2023, a minor variance application was submitted by Grant Snyder, on behalf of the owners, Robert Baker and Leslie Galbraith, with respect to the property located at 423 Earl Street. The variance is requested to modify a single detached dwelling to enclose two thirds of an existing porch on the first floor and to enclose the entire balcony on the second floor. No change to the building footprint is proposed.

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

- Site Plan (Exhibit A)
- Survey
- Elevations (Exhibit I)
- Owner Authorization
- Letter of Intent (Owner)
- Letter of Intent (Builder)

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

**Site Characteristics**

The subject property is located on the north side of Earl Street between Collingwood Street and Victoria Street (Exhibit B – Key Map). The property abuts three other single detached dwellings. All three properties are located in the Urban Residential Zone 5 (‘UR5’) Zone (Exhibit C – Neighbourhood Context Map).

The subject property is designated Residential in the Official Plan (Exhibit D – Official Plan Map) and zoned Urban Residential Zone 5 (‘UR5’) in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map).

**Provincial Policy Statement**

In addition to the four tests of a minor variance detailed below, 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.

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## 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 (Exhibit D – Official Plan Map).

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 subject property is designated 'Residential' in Schedule 3A. It is located within a Housing District in Schedule 2 of the Official Plan. This proposal does not seek a significant change that would impact the surrounding properties or neighbourhood characteristics. The subject property is located in a stable area with well-established land use patterns in terms of density, types of use and activity. The proposal to enclose the front porch by enclosing two thirds of the first floor and adding a roof and enclosing the existing second floor balcony is compatible with the surrounding area. It is not anticipated to have any negative impacts on the neighbourhood. Several houses on the street also have front porches, and no expansion of the existing building footprint is proposed.

Section 2.7 of the Official Plan considers principles of land use compatibility to ensure that new development respects the quality of existing areas and provides for suitable transition between areas of differing use, sensitivity, urban design treatment and intensity to avoid or mitigate adverse effects. Section 2.7.3 outlines a variety of land use compatibility matters to be considered. This proposal to enclose two thirds of the existing porch and the second-floor balcony will not result in any negative off-site impacts to abutting properties. As the two-level structure already exists and is separated from the neighbouring properties, there is no threat of loss of privacy due to intrusive overlook, increased levels of light pollution, noise, or odour anticipated. Adverse effects due to shadowing are also not anticipated as the proposed changes are on the front façade of the house, and the subject property and its abutting neighbours to the east and west are all oriented to face south, ensuring full exposure to light for most of the day. Further mitigation measures are not required.

Section 2.7.6. considers functional needs and states that only development proposals which meet the long-term needs of the residents will be supported. The applicants are proposing to enclose the first floor porch with large windows and to add a solarium to the balcony above the porch, with an area of glass in the floor, to bring natural light into their main living area and to have additional space for reading and growing plants and herbs. This is coupled with the challenges presented by a large lilac tree in the front yard, which has decreased available sunlight in their front yard and has made growing plants challenging. The tree is to be retained. The proposed structure is of a suitable scale and will provide a brighter and more functional

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living space to the existing residence. The proposal will not negatively impact the functional needs of the current or future residents.

The proposed enclosure of the existing elements will have no negative impact to the site functioning in terms of access, parking for vehicles or bicycles, or universal accessibility. This proposal is not subject to Site Plan Control.

The proposal has been reviewed from an urban design perspective and with consideration for applicable urban design policies endorsed by Council. There are no concerns from a design perspective with the proposal.

The property is not within a Heritage Conservation District and is not located adjacent to any designated properties. The property is within an area of composite archaeological potential; however, as no ground disturbance is proposed as part of this development, an archaeological assessment is not required.

The property uses municipal water and sewage services. As this application proposes to enclose an existing front porch and balcony, no additional service usage is expected. The cumulative impact of the variance requested for this proposal does not warrant a zoning by-law amendment. The Committee of Adjustment may require additional conditions as it deems appropriate to the approval of the application. Recommended conditions are listed in “Exhibit A – Recommended Conditions”, attached to this report. Conditions may be added, altered, or removed at the Committee’s discretion.

The approval of the requested variance will not set an undesirable precedent for the immediate area, as it provides consideration for the existing configuration of the subject property and will apply only to the proposal to enclose the existing front porch and balcony.

The proposal meets the intent of the Official Plan, as the proposed enclosed porch and balcony 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 Urban Residential 5 Zone ‘UR5’ in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map). The UR5 zone permits residential uses, including a single detached house.

The proposal requires a variance to Table 11.6.1.

**Variance Number 1:**

By-Law Number 2022-62: Table 11.6.1.4: Minimum front setback

Requirement: 3.0 metres

Proposed: 1.2 metres

Variance Requested: 1.8 metres

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The provisions of the “UR5” zone are defined in Table 11.6.1; these are used to determine whether a proposal is compliant with the applicable zoning. The proposed changes meet all zoning requirements except one: minimum front yard setback. The requirement for the minimum front setback for a single detached house or duplex is as follows: where 2 adjacent buildings have a front lot line on the same street, the front setback is the lesser of 4.5 metres or the average front setbacks of adjacent buildings. A further clause states that where a building existed as of the date of passing of this By-law and the front setback is less than required, the minimum front setback is the existing front setback. In this instance, the building existed as of the date of the passing of the Kingston Zoning By-Law.

As per Sections 4.20.3 and 4.20.4, balconies, as well as decks and porches in Urban Residential Zones, are not subject to the required setbacks that apply to the principal building, and instead are required to meet a different set of less restrictive provisions. However, when a balcony or porch is subsequently enclosed and covered with a roof, it is then considered an addition to the principal building, and it must meet the setbacks that apply to the principal building.

In calculating the front setback for the subject proposal, the setbacks of the two adjacent buildings are calculated. In this instance, the adjacent buildings have a setback to the principal building of 2.9 metres for 421 Earl Street and 3.1 metres for 425 Earl Street, the average of which, 3.0 metres, is the required setback for the principal building for 423 Earl Street. As no survey is available for the adjacent properties, the setbacks have been estimated and rounded based on available digital mapping. The existing setback to the principal dwelling at 423 Earl Street is 3.6 metres, as per the drawings provided by the applicant (Exhibit F - Site Plan). The existing two-level porch and balcony at 423 Earl Street extends 2.4 metres towards the front property line from the front face of the home. As this will be considered part of the principal structure once enclosed, if the application is approved, the front setback will be 1.2 metres. This number has been rounded to provide for a margin of error based on the approximation of the adjacent setbacks.

The purpose and intent of the minimum front setback in the zoning by-law is to mitigate the potential for privacy/overlook concerns that could result in a reduction of the ability to enjoy one’s property; to prevent the potential for encroachment into the City owned right-of-way; and to maintain adequate landscaped open space and amenity space in the front yard.

The variance requested maintains the general intent and purpose of the by-law as the proposal is to enclose the existing two-level front porch and balcony, which has not had any negative impacts on abutting properties or the surrounding neighbourhood. As the first and second floor structure is existing, there are no privacy or overlook concerns anticipated from the proposal to enclose both levels. No shadowing issues are anticipated as the footprint is not being enlarged and the subject property and the adjacent properties on either side are all oriented to face south, and thus benefit from full sun exposure almost all day.

A distance of a minimum of 1.2 metres will be maintained between the proposed enclosed front porch and the front lot line, to prevent the potential for encroachment. The existing lilac tree will

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be maintained and is subject to a tree permit for tree protection during construction. The existing amenity area in the front yard will be unchanged as a result of the proposal, and the minimum landscaped open space requirements of the zoning by-law will continue to be maintained.

The existing exterior stairs are subject to Section 4.19.3 of the zoning by-law, which permits a minimum setback of 0.5 metres to any lot line for exterior stairs and their associated guards. The existing exterior stairs are approximately 0.1 metres from the front setback; however, no change is proposed to the exterior stairs and thus they are considered permitted non-complying.

The requested variance maintains the general intent and purpose of the zoning by-law.

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

The requested variance is considered minor as the two-level porch and balcony structure already exists on the home. No change is proposed to the existing footprint of the structure. The only changes would be to enclose two thirds of the existing covered front porch at the first floor and to add a roof and windows to enclose the second floor.

The proposed enclosed front porch and balcony complies with all other zone provisions for the dwelling, including maximum height, interior setbacks, building depth, and landscaped open space (Table 11.6.1), and no change is proposed for the exterior stairs (Section 4.19.3). The proposal will not change the fundamental design characteristics of the neighbourhood.

The proposed variance is considered minor in nature.

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

The requested variance is desirable and appropriate use of the land as the owner is seeking to enclose the existing front porch at the first floor and balcony at the second floor to provide more natural light to the principal dwelling and more functional space to the front of the home for amenity space. The scale and design of the proposed enclosed front porch is appropriate for the dwelling size.

The proposed enclosed front porch and balcony is compatible with the characteristics of the surrounding neighbourhood in terms of use and scale. Many houses in the neighbourhood have features at the front of the home that protrude in the front setback to the same extent, and the existing footprint is not changing. No relief is required for the proposed height. No adverse impacts are expected.

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



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**Technical Review: Circulated Departments and Agencies**

- Building Services
- Finance
- Fire & Rescue
- Solid Waste
- Housing
- KEDCO
- CRCA
- Parks Canada
- Hydro One
- Kingston Airport
- Engineering Department
- Utilities Kingston
- Kingston Hydro
- Parks Development
- District Councillor
- Municipal Drainage
- KFL&A Health Unit
- Eastern Ontario Power
- Enbridge Pipelines
- Other:
- Heritage (Planning Services)
- Real Estate
- Environmental Services
- Canadian National Railways
- Ministry of Transportation
- Parks of the St. Lawrence
- Trans Northern Pipelines
- CFB Kingston
- TransCanada Pipelines

**Technical Comments**

This application was circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude this application from moving forward. Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

**Public Comments**

At the time this report was finalized, no public comments were 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 Kingston Zoning By-Law Number 2022-62. 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.

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Approval of this application will permit the modification of a single detached dwelling to enclose two thirds of an existing porch on the first floor and to enclose the entire balcony on the second floor.

**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

Kingston Zoning By-Law Number 2022-62

**Notice Provisions:**

A Committee of Adjustment Meeting is going to be held respecting this application on January 22, 2024 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 41 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 (Exhibit H – Public 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:**

Meghan Robidoux, Supervisor, Development Approvals, 613-546-4291 extension 1256

Chris Wicke, Senior Planner, 613-546-4291 extension 3242

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**Other City of Kingston Staff Consulted:**

None

**Exhibits Attached:**

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Neighbourhood Context Map (2022)
- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Map
- Exhibit F Site Plan
- Exhibit G Site Photos
- Exhibit H Public Notification Map
- Exhibit I Elevations

## Recommended Conditions

The approval of minor variance application, File Number D13-070-2023, to enclose the existing front porch on both the first and second floors, shall be subject to the following recommended conditions:

### 1. Limitation

That the approved minor variance applies only to enclosed front porch and second floor balcony 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. Encroachments

The owner/applicant shall demonstrate to the satisfaction of the City that there will be no encroachments onto neighbouring properties as a result of the proposed enclosed front porch and uncovered set of stair stairs.

### 4. Tree Permit

The owner/applicant will be required to submit a Tree Permit application to address tree preservation requirements for the City-owned tree in the boulevard area. Tree preservation requirements and/or conditions will be addressed through the permit.

### 5. 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.

### 6. Standard Archaeological Condition

In the event that deeply buried or previously undiscovered archaeological deposits are discovered in the course of development or site alteration, all work must immediately cease and the site must be secured. The Archaeology Program Unit of

the Ministry of Citizenship and Multiculturalism (archaeology@ontario.ca) and City of Kingston's Planning Services (613-546-4291, extension 3180) must be immediately contacted.

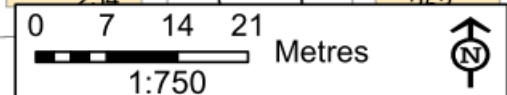
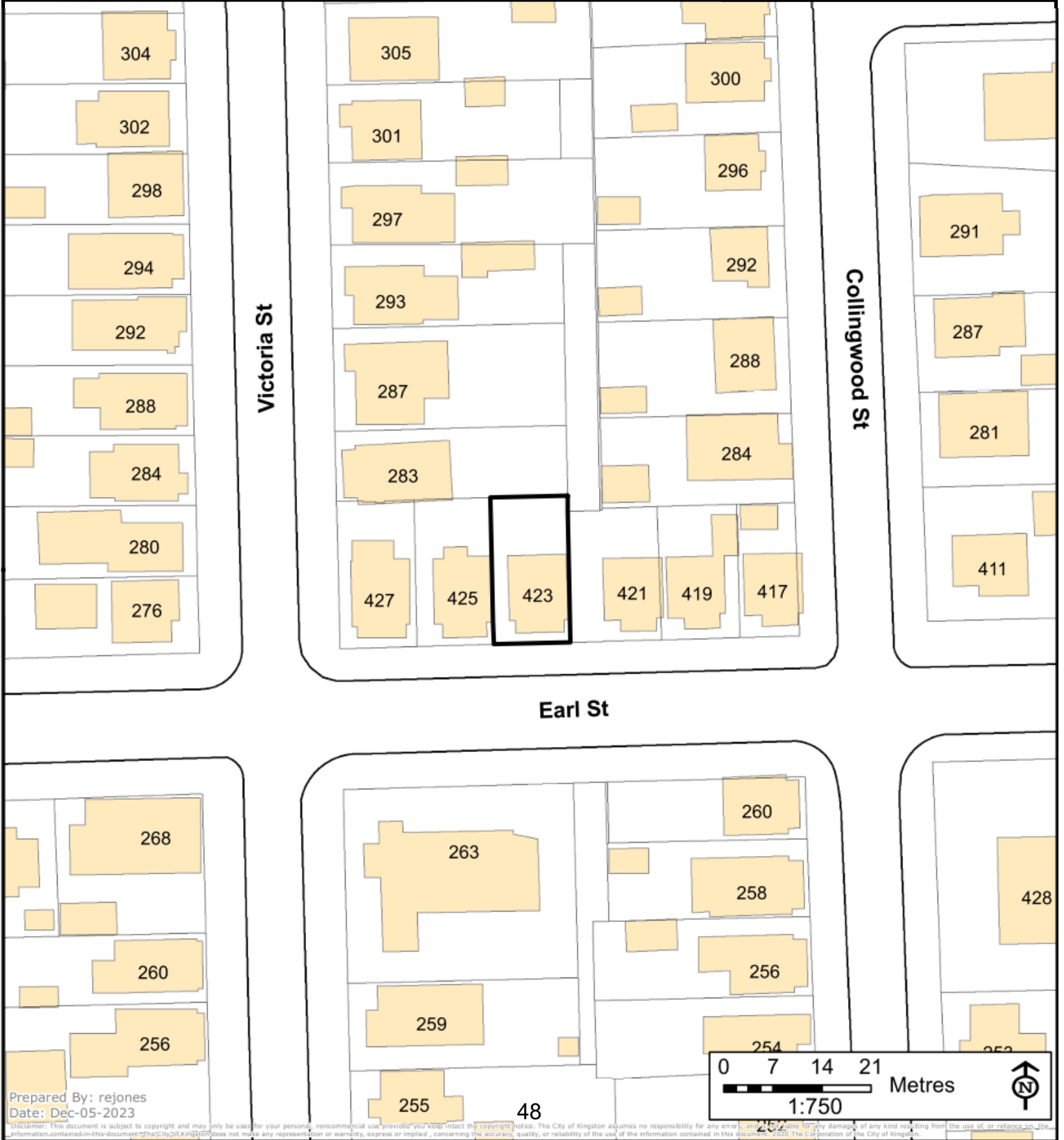
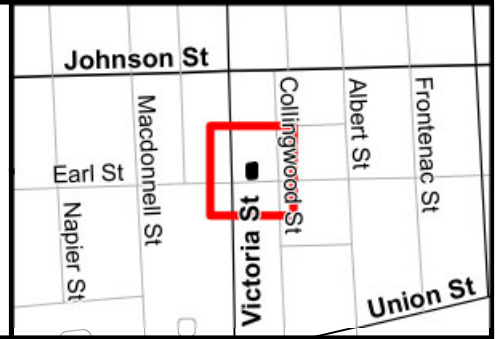
In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Office of the Chief Coroner as a part of the Ontario Ministry of the Solicitor General (1-877-991-9959), the Archaeology Program Unit of the Ministry of Citizenship and Multiculturalism (archaeology@ontario.ca), and City of Kingston's Planning Services (613-546-4291, extension 3180) must be immediately contacted.



Committee of Adjustment  
**Key Map**

Address: 423 Earl Street  
File Number: D13-070-2023

Lands Subject to Minor Variance



Prepared By: rejones  
Date: Dec-05-2023

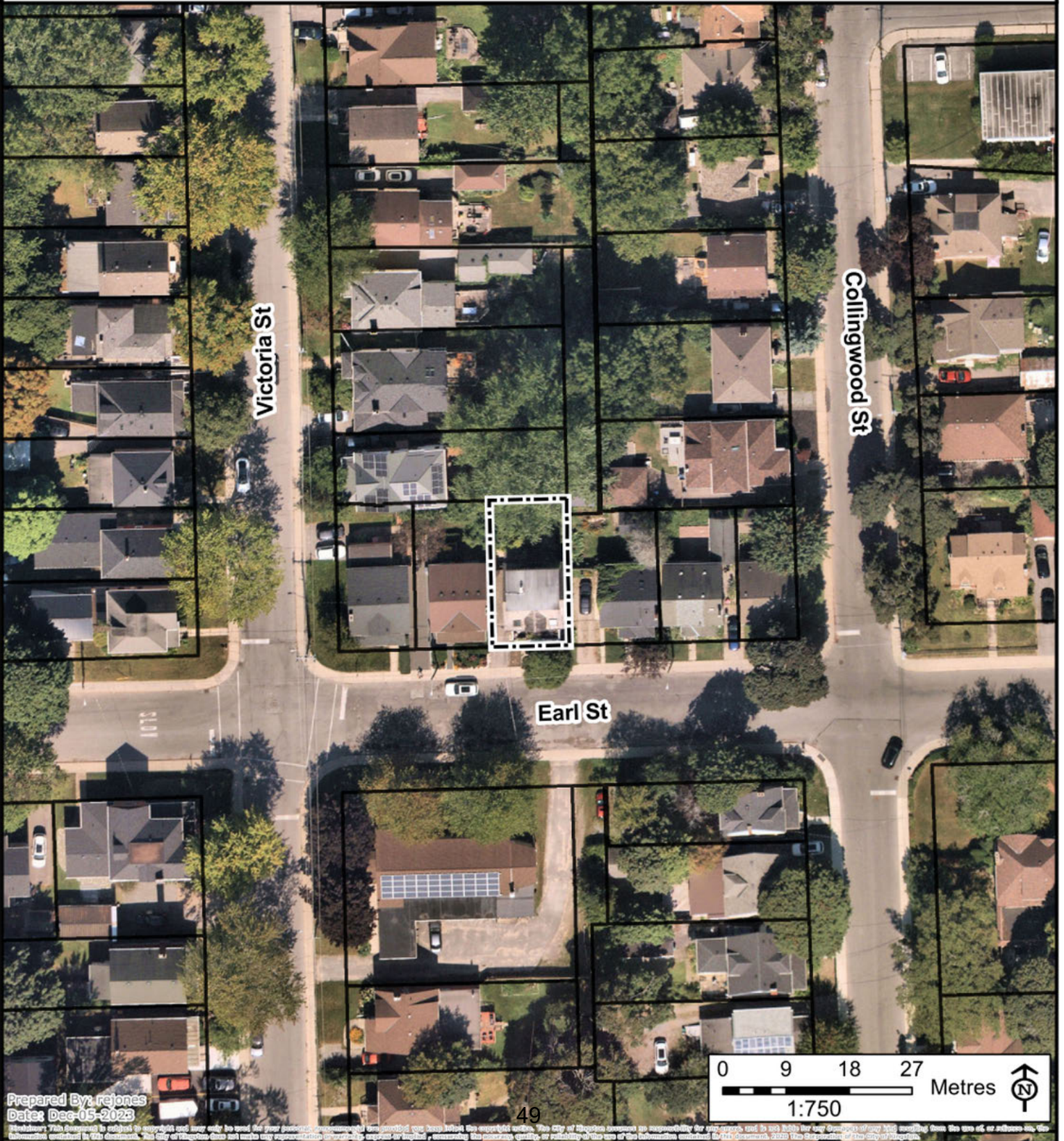
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# Committee of Adjustment Neighbourhood Context (2023)

Address: 423 Earl Street  
File Number: D13-070-2023

- Subject Lands
- Property Boundaries
- Proposed Parcels



Prepared By: rejonas  
Date: Dec-05-2023

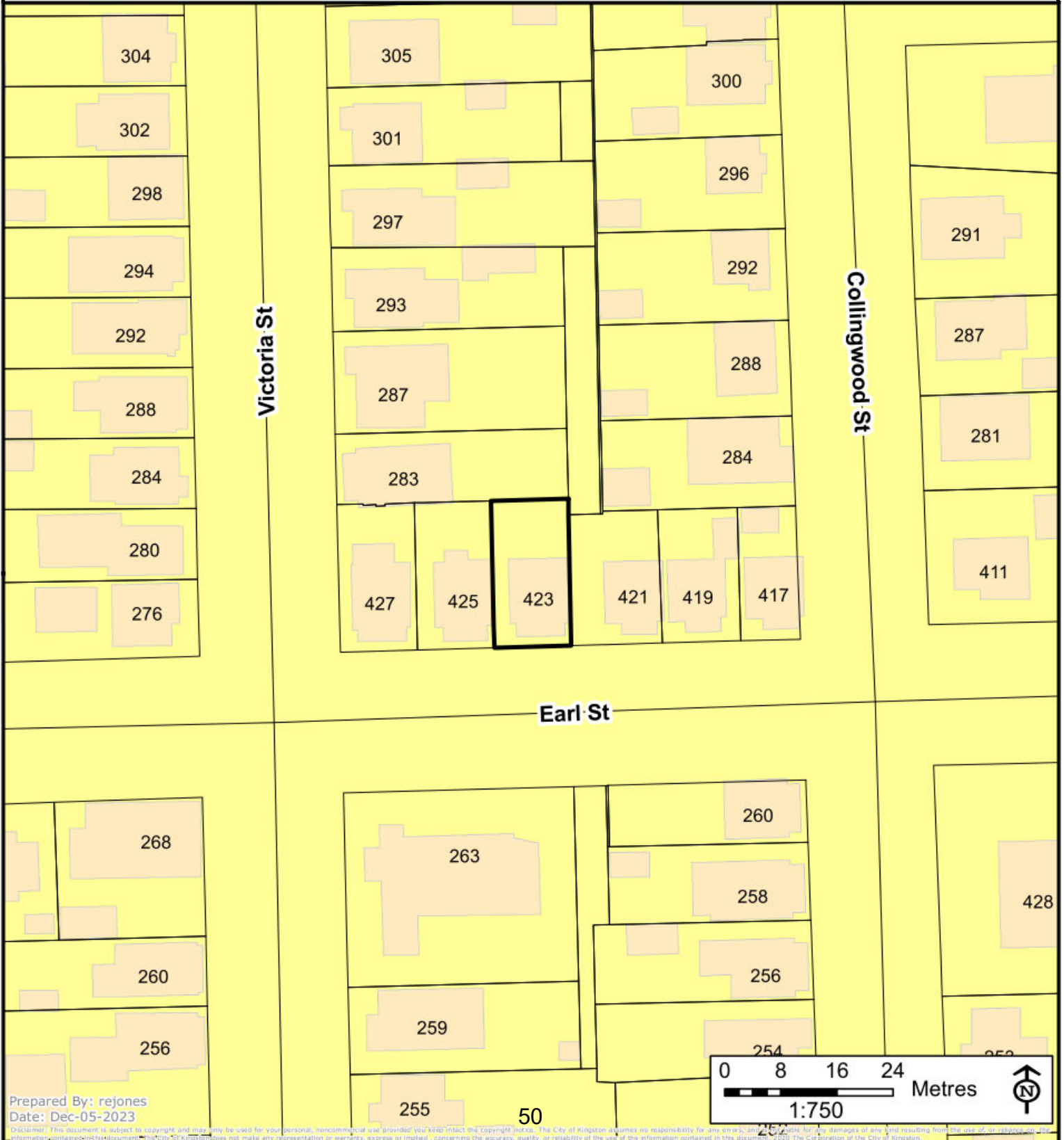
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# Committee of Adjustment Official Plan, Existing Land Use

Address: 423 Earl Street  
File Number: D13-070-2023

- Subject Lands
- RESIDENTIAL







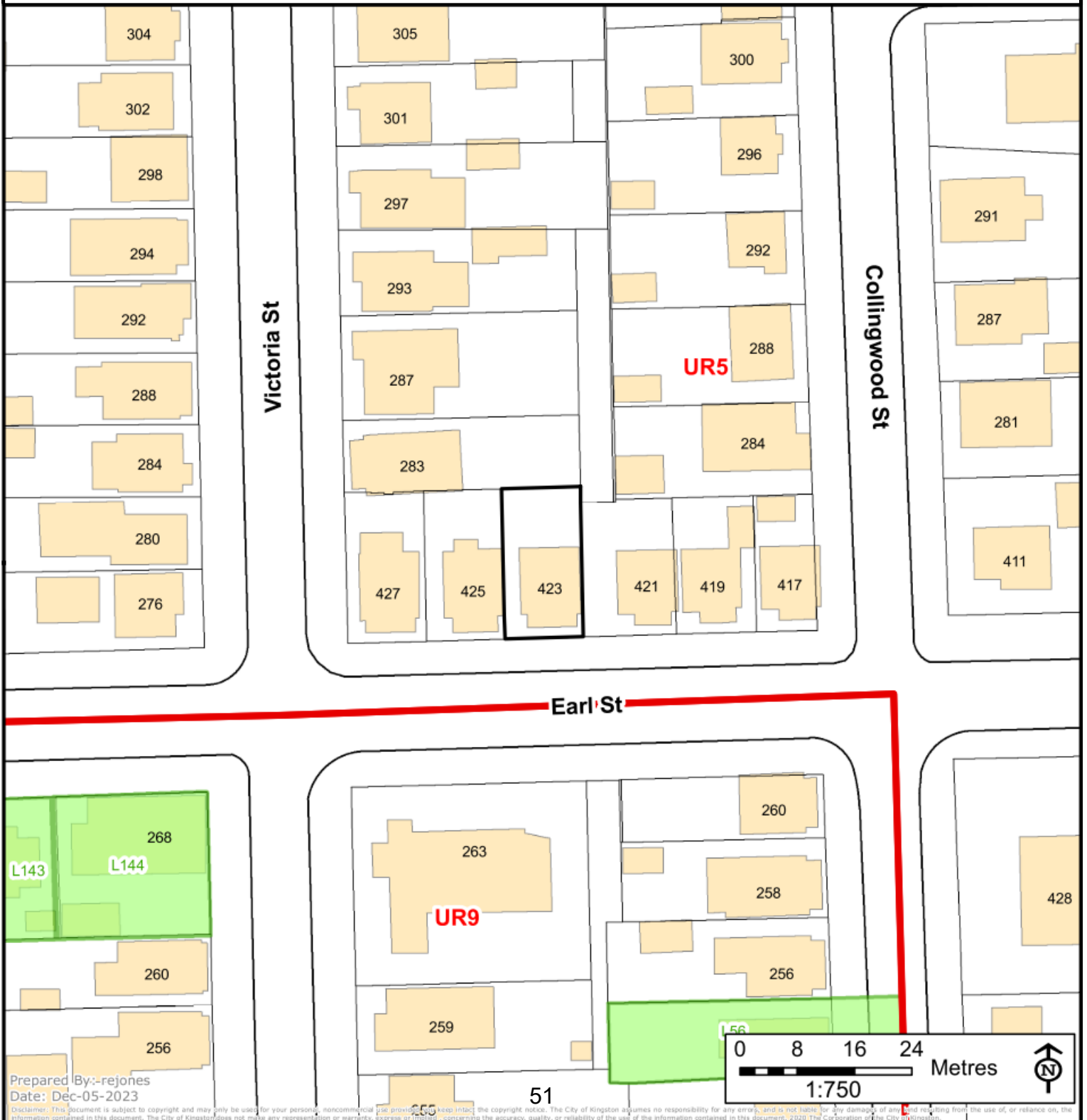
Planning Committee  
Existing Zoning  
Kingston Zoning By-Law 2022-62

Planning Services

Address: 423 Earl Street  
File Number: D13-070-2023

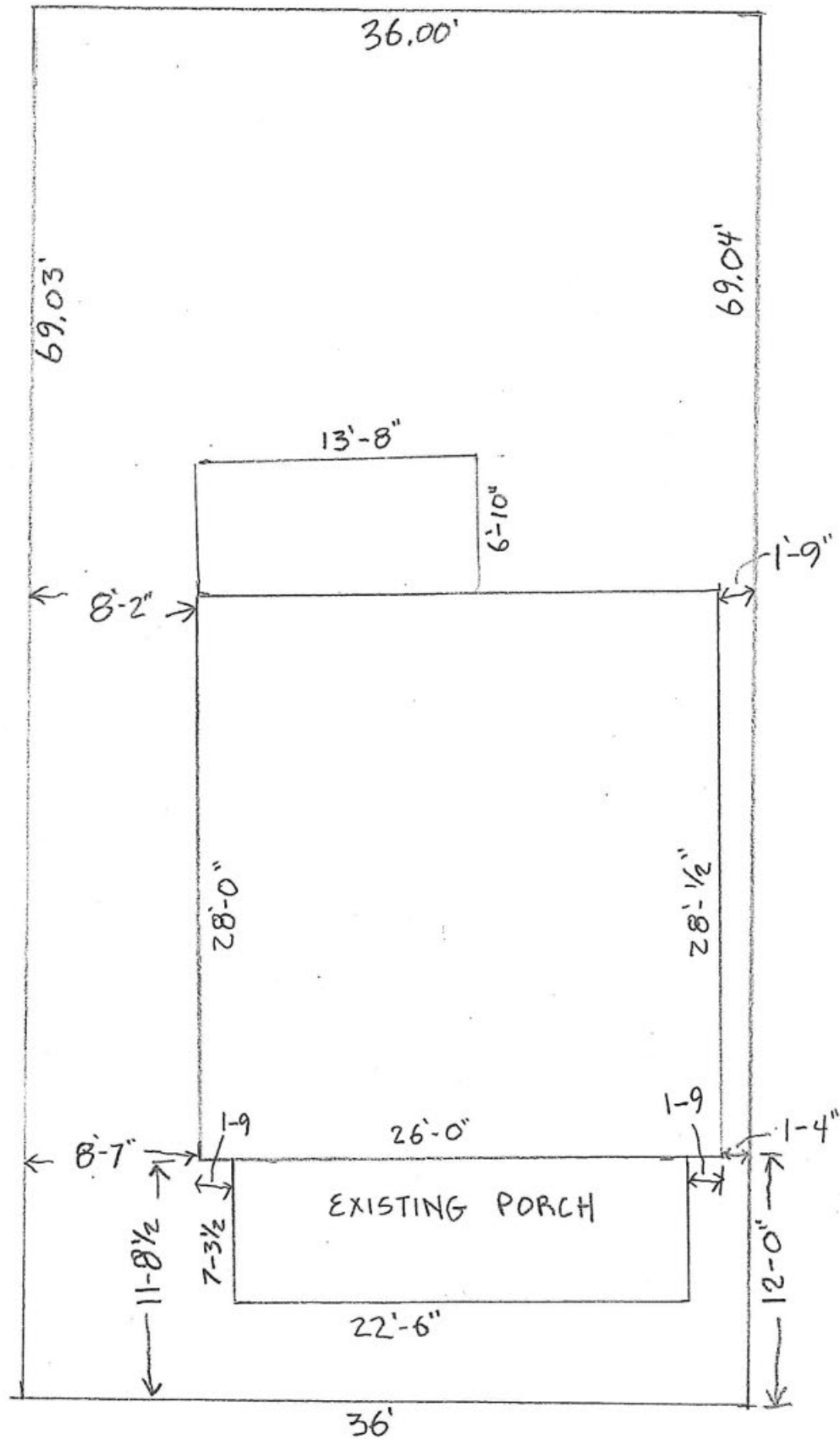
Subject Lands  
Schedule 1 Zoning Map  
 Zone

Schedule E - Exception Overlay  
 Legacy Exceptions (LXXX)  
 Exceptions (EXXX)  
Schedule F - Holding Overlay  
 Holding Overlay (HXXX)



Prepared By: rejonas  
Date: Dec-05-2023

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SITE PLAN 423 EARL

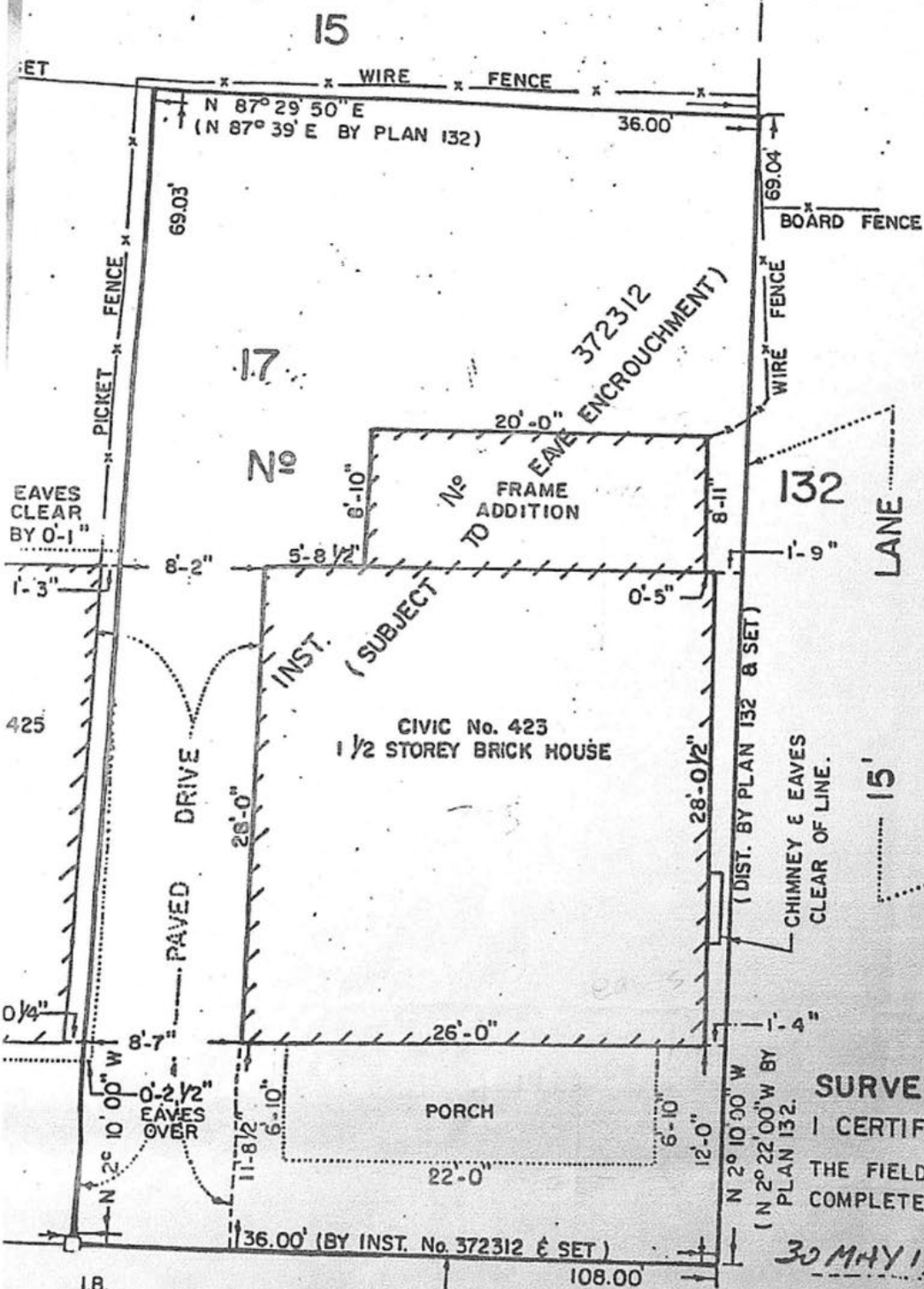
• new porch enclosure will not exceed existing porch size

PLAN OF  
**LOCATION SURVEY OF**  
**17, REG'D PLAN No. 132**  
**OF KINGSTON**

Exhibit F  
 Report Number COA-24-016

SCALE : 1" = 10'  
 1983

423 Earl St



**SURVEYOR'S CERTIFICATE**

I CERTIFY THAT:  
 THE FIELD SURVEY REPRESENTED ON THIS PLAN WAS  
 COMPLETED ON THE 26<sup>th</sup> DAY OF MAY, 1983.

30 MAY 1983 *William H. Card*

WILLIAM H. CARD  
 ONTARIO LAND SURVEYOR

**SMITH & SMITH KINGSTON LTD**  
 ONTARIO LAND SURVEYORS  
 KINGSTON, ONTARIO

STREET



Subject property at 423 Earl Street



Looking south across Earl Street opposite the subject property



Looking northeast along Earl Street past the subject property



Looking northwest along Earl Street past the subject property



Looking north along Victoria Street to the west of the subject property



Looking north along Collingwood Street east of the subject property



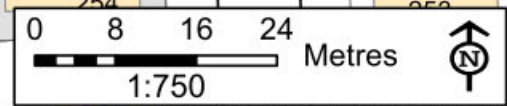
# Committee of Adjustment Public Notice Notification Map

Address: 423 Earl Street  
File Number: D13-070-2023

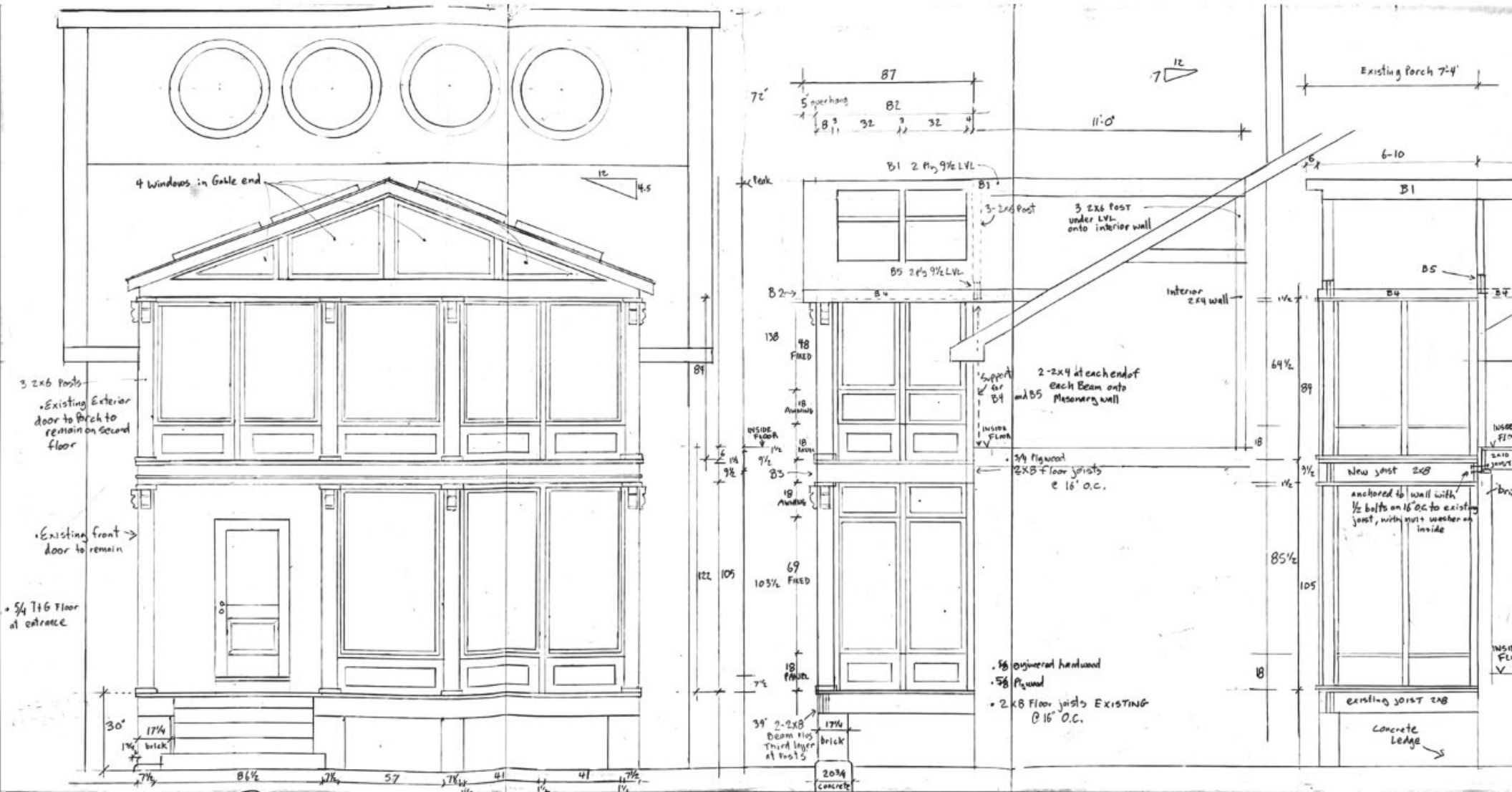
- 60m Public Notification Boundary
- Subject Lands
- Property Boundaries
- 41 Properties in Receipt of Notice (MPAC)



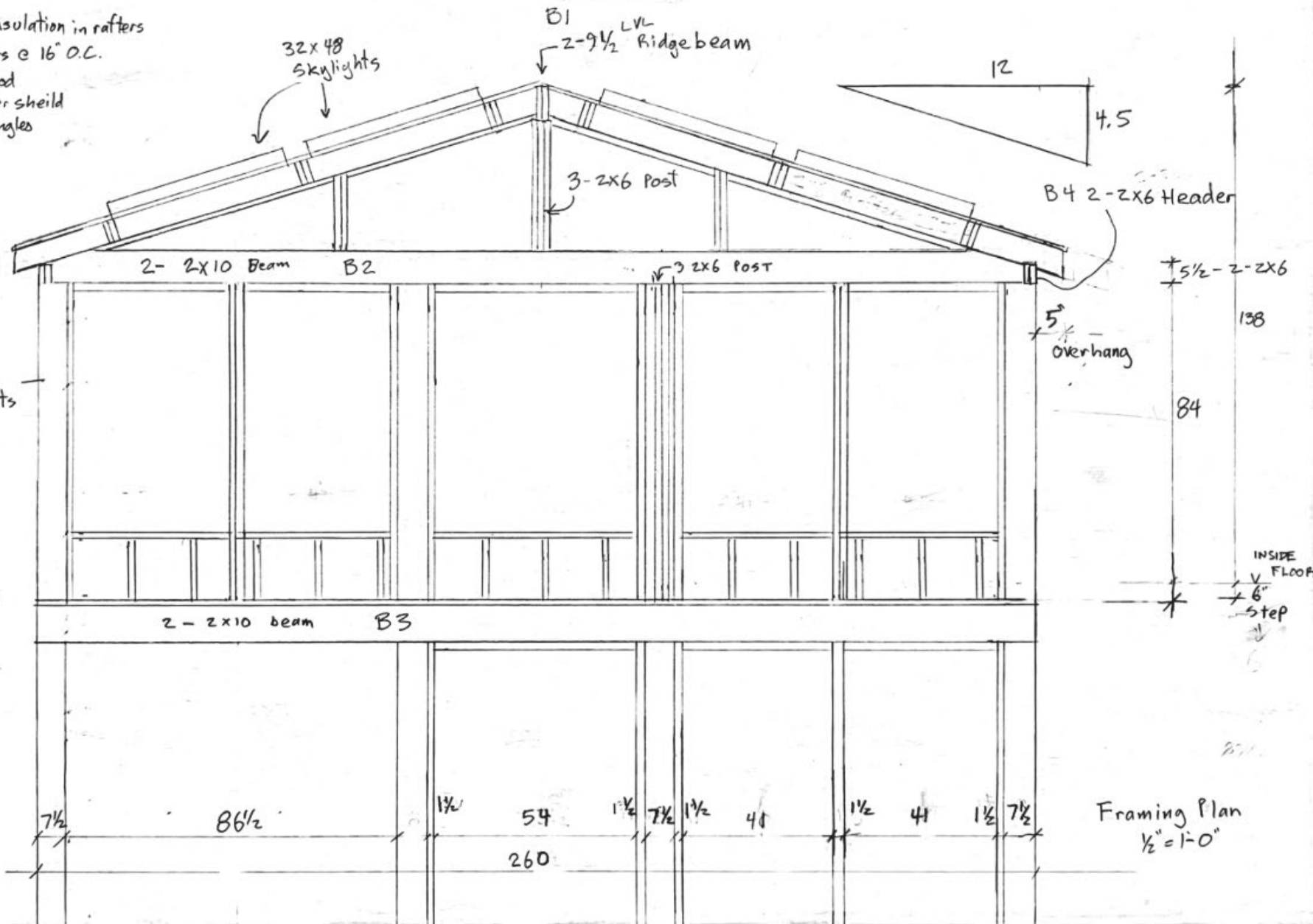
Prepared By: rejones  
Date: Dec-05-2023

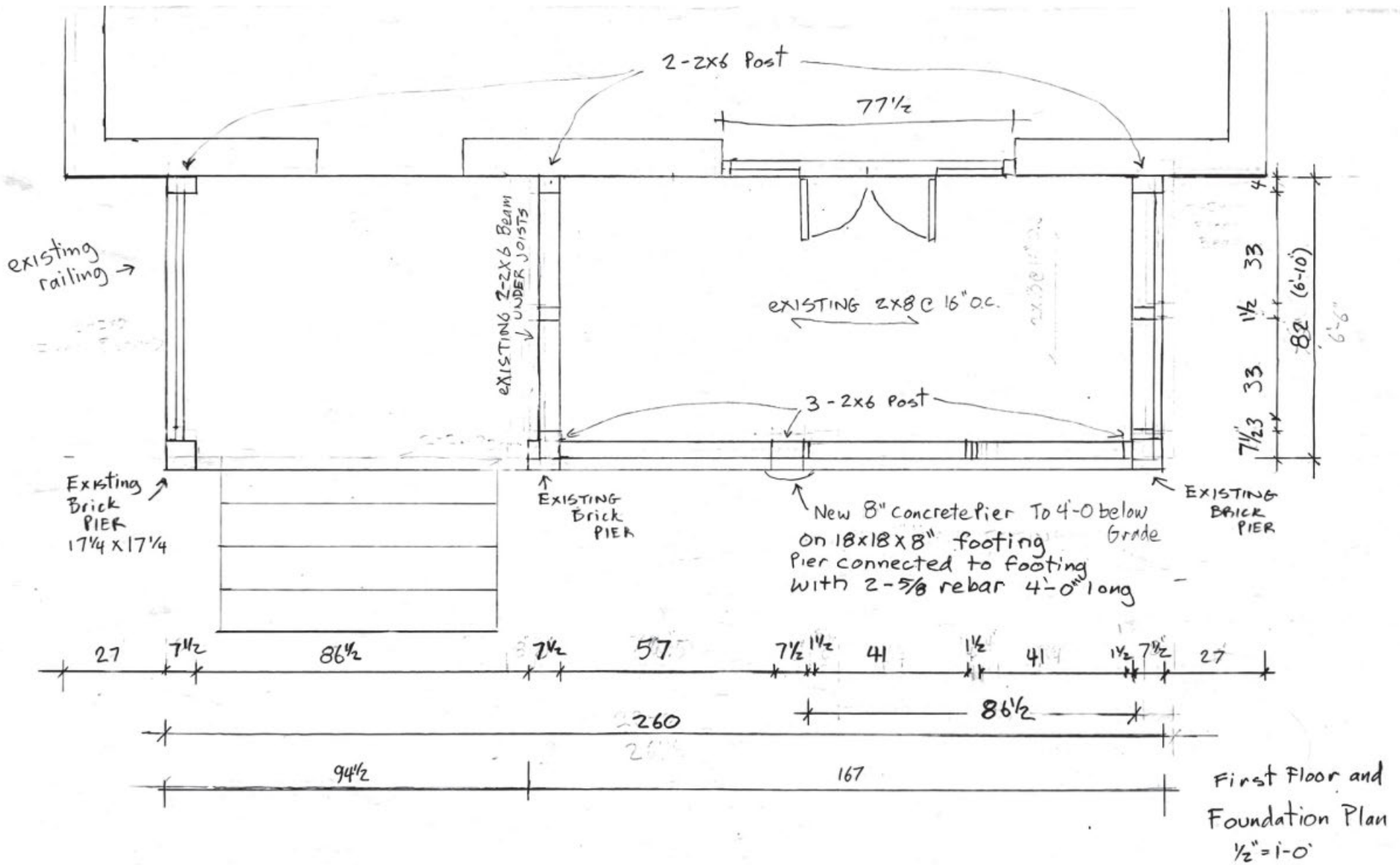


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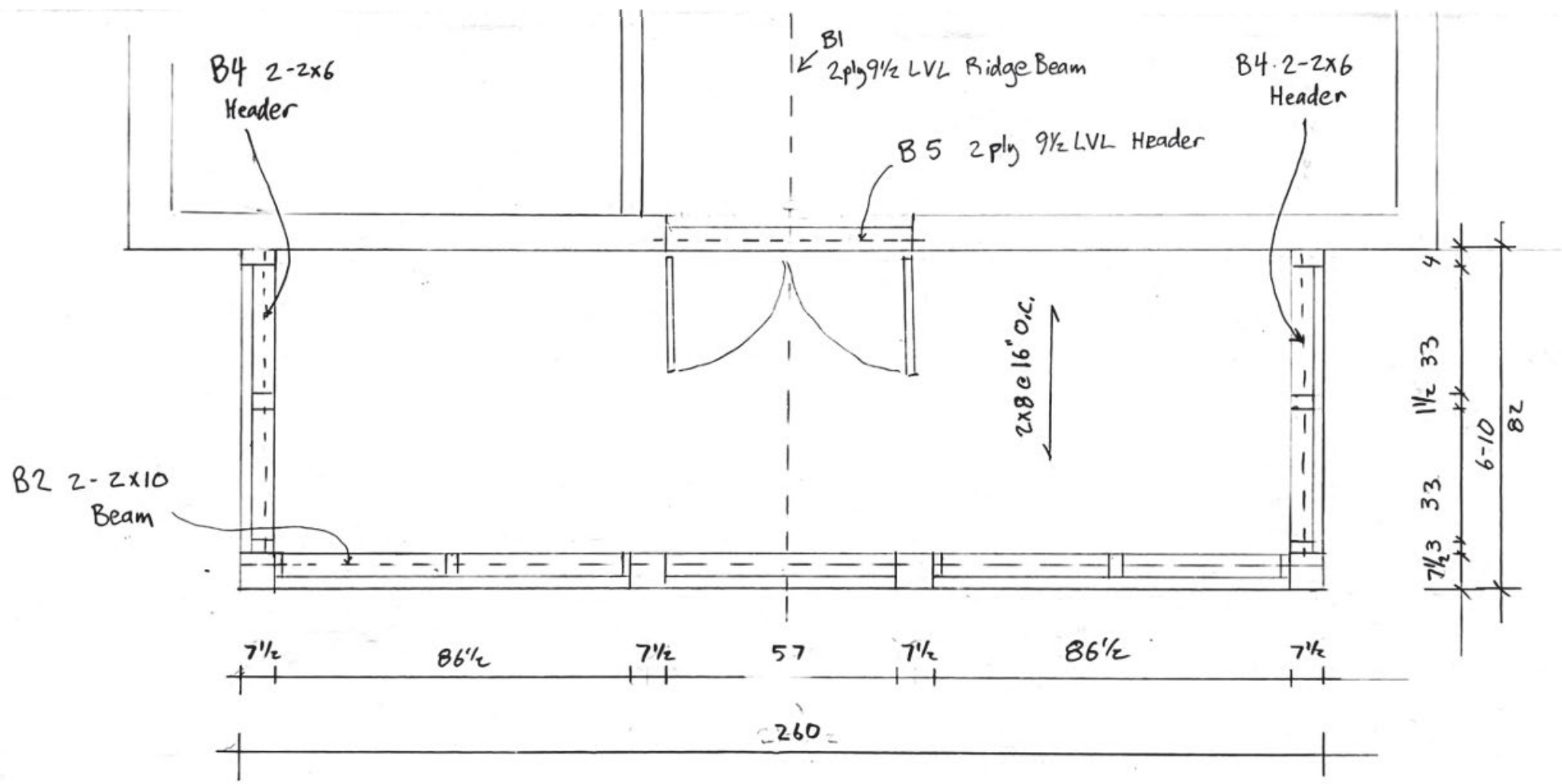


- 4" Foam insulation in rafters
- B1 • 2x8 rafters @ 16" O.C.
- 5/8 Plywood
- ice + water shield
- cedar shingles









2nd floor Plan  
 1/2" = 1'-0"

