



**City of Kingston
Report to Committee of Adjustment
Report Number COA-24-032**

To: Chair and Members of the Committee of Adjustment
From: Jason Partridge, Planner
Date of Meeting: March 18, 2024
Application for: Minor Variance
File Number: D13-061-2023
Address: 394 and 392 Division Street
District: District 9 - Williamsville
Owner: Carmela Piccinato
Applicant: Rudy Piccinato

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 variances for the property located at 394 and 392 Division Street. The applicant is requesting relief from the minimum front setback and the exterior stairs setback requirement of the Kingston Zoning By-Law to retroactively legalize an existing front yard addition and exterior stairs on the subject property. The new addition and stairs will comply with all minimum height, interior side yard, building depth and landscaped open space requirements.

The requested minor variances are 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 variances are desirable for the appropriate development or use of the land, building or structure and are 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 D13-061-2023, for the property located at 394 and 392 Division Street to construct a front addition with exterior stairs, be approved, as described below:

Variance Number 1:

By-Law Number 2022-62:Section 4.19.3. Exterior Stairs

Requirement: 0.5 metres

Proposed: 0.33 metres

Variance Requested: 0.17 metres

Variance Number 2:

By-Law Number 2022: Section 11.6.1.(4) (d) Front Yard Setback

Requirement: 2.92 metres

Proposed: 1.63 metres

Variance Requested: 1.29 metres; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-24-032.

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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

Meghan Robidoux, Supervisor, Development Approvals

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Options/Discussion:

On October 3, 2023, a minor variance application was submitted by Rudy Piccinato, on behalf of the owner, Carmela Piccinato, with respect to the property located at 394 and 392 Division Street. The applicant is requesting relief from the minimum front setback and the exterior stairs setback requirement of the Kingston Zoning By-Law to retroactively legalize an existing front yard addition and exterior stairs on the subject property. The new addition and stairs will comply with all minimum height, interior side yard, building depth and landscaped open space requirements.

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

- Site Plan (Exhibit F)
- Elevations (Exhibit G)

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

Site Characteristics

The subject property is located 394 and 392 Division Street (Exhibit B – Key Map) and has a lot area of approximately 450 square metres with approximately 21 metres of frontage along Division Street. The property currently contains] four legal non-conforming residential units. The property abuts single family dwelling and multiple-family dwellings. The subject property is also located in proximity to various community and open space uses, local schools and commercial uses. Kingston Transit operates in proximity to the site, with Transit Route 701/702 operating along Division Street. (Exhibit C – Neighbourhood Context Map).

The subject property is designated Residential in the Official Plan (Exhibit D – Official Plan Map) and zoned 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 proposed front addition with exterior stairs 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 front yard addition with stairs represents a reinvestment to the property that will result in a minor development on the subject property. No additional dwelling units are proposed. There is no increase in density or intensity of uses. The proposed front yard is consistent with the intent of this policy.

The proposed front yard addition with exterior stairs is anticipated to be compatible with the existing built form on the subject property, as well as compatible with all surrounding land uses. No land use compatibility concerns as outlined in Section 2.7 of the Official Plan are expected to arise resulting from approval of this application. No concerns relating to increased shadowing, intrusive overlook, increased traffic, architectural incompatibility, or any other concerns outlined in Section 2.7.3 are anticipated.

The proposal involves the construction of an addition 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. Development Engineering has identified that the asphalt has been installed beyond the permitted driveway access size. A recommended condition of approval has been added (Exhibit A) that will require the owner to be responsible for removing the extent of asphalt beyond the permitted driveway, reinstating the municipal boulevard with topsoil and sod to the satisfaction of City staff.

394 and 392 Division Street is not a designated property under the *Ontario Heritage Act*, nor is it within a Heritage District. No impacts to any built heritage resources are anticipated as a result of this proposal, and as such, no Heritage Impact Statement is required. Furthermore, Heritage Planning staff have identified the subject property as having composite potential for archeological resources. However, Heritage Planning will not require an archeological assessment as ground disturbance is not proposed.

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The site is located inside of the Urban Boundary and is currently connected to adequate municipal water. The proposed front addition will not require any additional sewage or water service for its use.

The proposed variances meet the four tests of a minor variance under the *Planning Act* and the development is consistent with the existing built form along Division Street. Therefore, a zoning by-law amendment is not required.

The surrounding residential uses include single family dwellings and multi-family dwellings. The proposed front yard addition with stairs variances recognizes the existing front yard area of the subject property and the unique limited sized front yard along Division Street. The approval of the requested variance is 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 UR5 in Kingston Zoning By-law 2022-62. A single detached dwelling is a permitted use on the property.

The proposal requires variances to Section 4.19.3 and 11.6.1(4)(b) of the zoning by-law, as follows:

Variance Number 1:

By-Law Number 2022-62:	Section 4.19.3 Exterior Stairs in Other Zones Setback
Requirement:	0.5 metres
Proposed:	0.33 metres
Variance Requested:	0.17 metres.

The intent of the minimum setback for exterior stairs from a lot line is to provide flexibility for stairs to project into a required yard and to accommodate older forms of development with narrow yards, while still preventing the potential for encroachment. A variance to a 0.17 metre setback is proposed, which is consistent with the existing condition of the porch and exterior stair on the property. The proposed stairs will project towards the driveway and will not have impact on neighbouring residential properties. Engineering Services have been circulated and have confirmed that the owner will not require an encroachment permit to accommodate the proposed exterior stairs. The general intent and purpose of the by-law is maintained.

Variance Number 2:

By-Law Number 2022:	Section 11.6.1.(4) (d) Front Yard Setback
Requirement:	2.92 metres
Proposed:	1.63 metres
Variance Requested:	1.29 metres

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The intent of the minimum front setback is to provide for a consistent streetwall and to prevent the potential for encroachment into the City owned right-of-way. The subject property and the surrounding properties along Division Street have limited sized front yards that would provide them with enough space to construct an addition with stairs. The requested variances recognize the current conditions along Division Street and will continue to provide for a consistent streetwall. The proposed front yard addition maintains a 1.29 metre setback to reduce encroachment into the right-of-way as much as possible, while still meeting the functional needs of the dwelling. The general intent and purpose of the by-law is maintained.

3) The variance is minor in nature

The proposed front addition with exterior stairs will result in a development that is consistent with the existing built form of residential development along Division Street. The proposed front addition and exterior stairs will be located within the front yard and will not result in intrusive overlook with respect to adjacent residential properties. The minimum interior yard setbacks will be exceeded between the northern and southern adjacent properties. The proposed front addition is street facing, reducing any adverse impacts on neighboring properties. The proposed front addition will provide the single-family dwelling with additional living space. The variances will not alter the character of the neighbourhood or the existing streetscape. The total area of the proposed front addition is 9.29 square metres.

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

The proposed development will provide additional 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 residential buildings along Division Street.

The resulting built form satisfies all applicable provisions of the zoning by-law, except for the minimum front setback and exterior stair setback. 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 variance is desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Building Services | <input checked="" type="checkbox"/> Engineering | <input checked="" type="checkbox"/> Heritage Services |
| <input type="checkbox"/> Finance | <input checked="" type="checkbox"/> Utilities Kingston | <input type="checkbox"/> Real Estate |
| <input type="checkbox"/> Fire & Rescue | <input checked="" type="checkbox"/> Kingston Hydro | <input checked="" type="checkbox"/> 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 |

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- | | | |
|---|---|---|
| <input checked="" type="checkbox"/> Building Services | <input checked="" type="checkbox"/> Engineering | <input checked="" type="checkbox"/> Heritage Services |
| <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 checked="" type="checkbox"/> Hydro One | <input type="checkbox"/> Enbridge Pipelines | <input type="checkbox"/> 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 received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

Previous or Concurrent Applications

- City file number D13-068-2018 - Minor variance application to reduce the front yard setback to place a roof over the front yard porch.

Conclusion

The requested variances maintain 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 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 9.29 square metre addition with exterior stairs within the front yard of the subject property. The proposed front addition and associated exterior stairs 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:

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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 March 18, 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 34 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 I – 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

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

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

Exhibit A Recommended Conditions

Exhibit B Key Map

Exhibit C Neighbourhood Context Map (2022)

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- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Map
- Exhibit F Site Plan
- Exhibit G Elevations
- Exhibit H Site Photos
- Exhibit I Public Notification Map

Recommended Conditions

The approval of minor variance application, File Number D13-061-2023, to reduce the minimum front setback and the exterior stairs setback, shall be subject to the following recommended conditions:

1. Limitation

That the approved variance applies only to the front building addition and associated exterior stairs.

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.

A building permit for this project has already been issued under permit number D30-1062-2019. Construction did not conform to the approved drawings. The owner must provide as-built drawings to building services and call for re-inspection once Minor Variance has been approved. If no approval is granted, please contact building services for next steps.

4. Standard Archeological 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 (1-877-9919959), 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.

5. Engineering

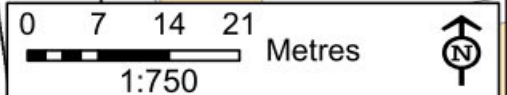
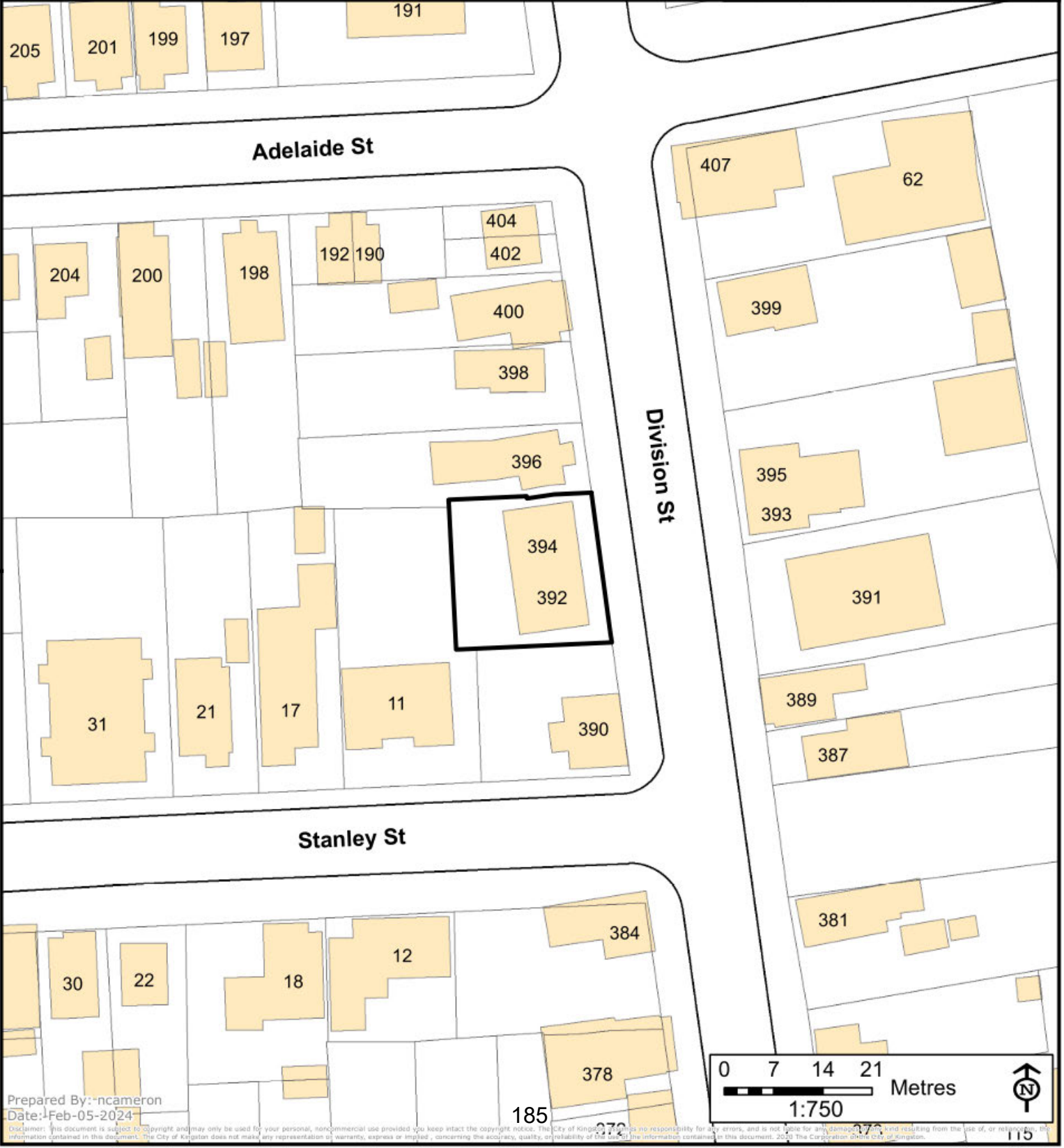
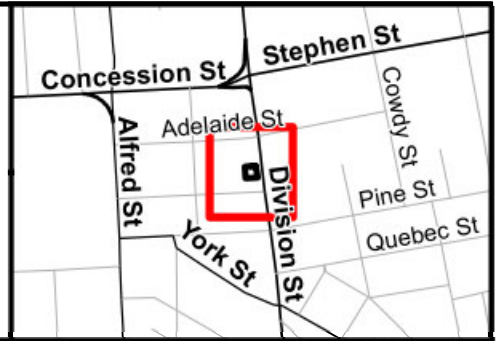
Prior to the issuance of the building permit the owner is responsible for removing the extent of asphalt beyond the permitted driveway, reinstating the municipal boulevard with topsoil and sod to the satisfaction of City staff.



Committee of Adjustment Key Map

Address: 394 Division Street
File Number: D13-061-2023
Prepared On: Feb-05-2024




Lands Subject to Minor Variance



Prepared By: ncameron
Date: Feb-05-2024

Committee of Adjustment
Neighbourhood Context




Address: 394 Division Street
File Number: D13-061-2023
Prepared On: Feb-05-2024

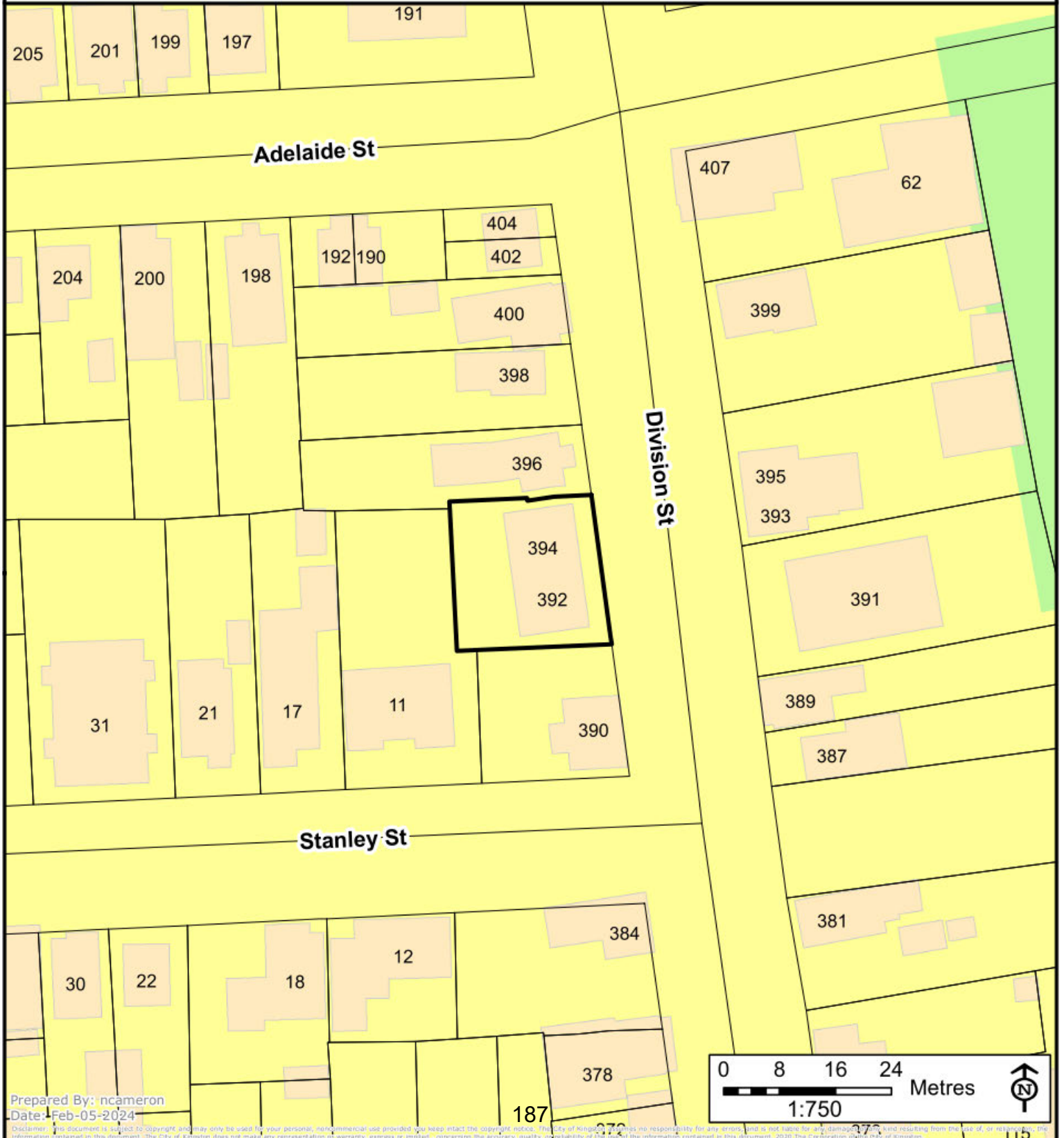
-  Subject Lands
-  Property Boundaries
-  Proposed Parcels



Committee of Adjustment
Official Plan, Existing Land Use

Address: 394 Division Street
File Number: D13-061-2023
Prepared On: Feb-05-2024

-  Subject Lands
-  OPEN SPACE
-  RESIDENTIAL





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

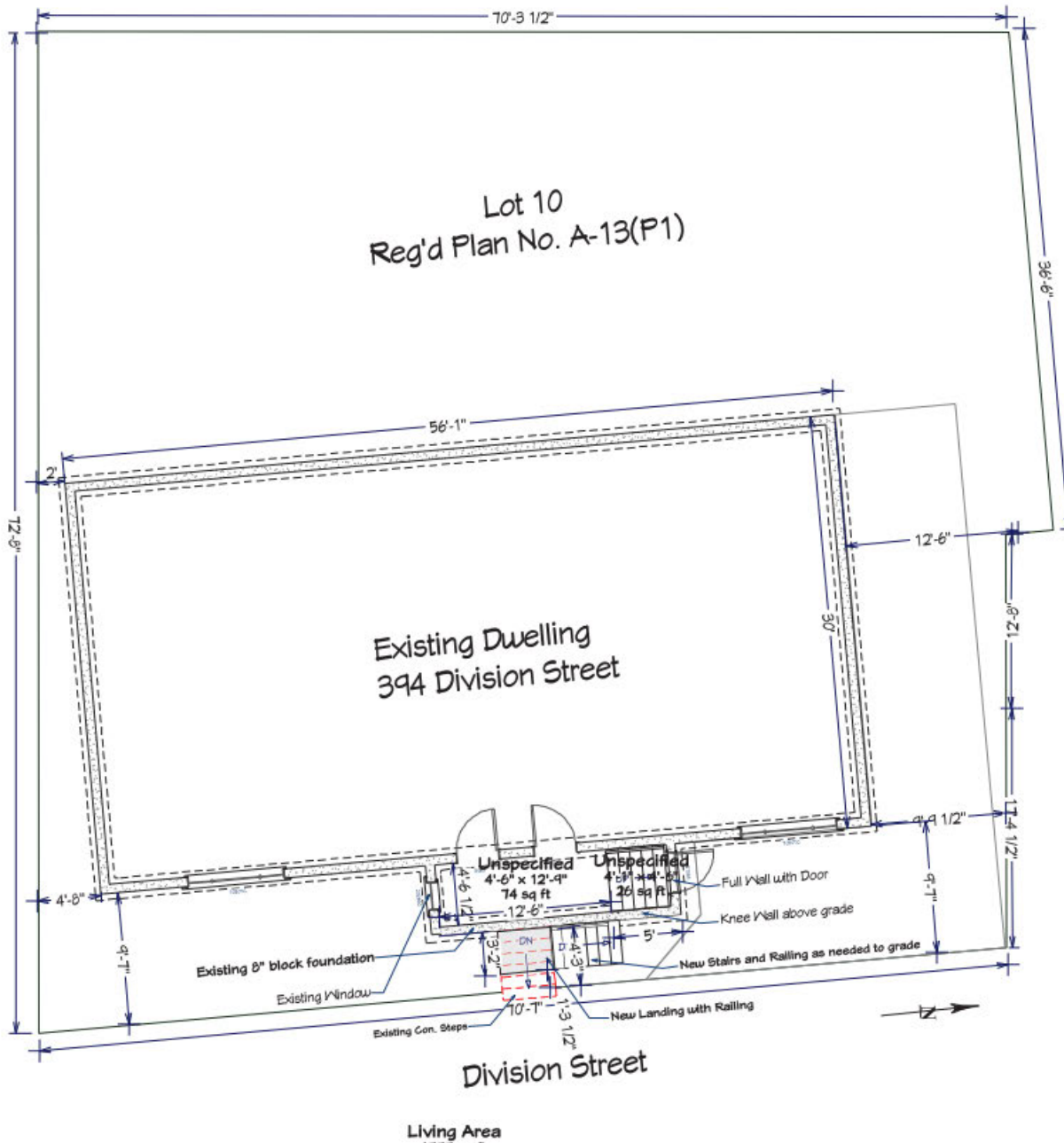
Planning Services

Address: 394 Division Street
 File Number: D13-061-2023
 Prepared On: Feb-05-2024

- Subject Lands
- Schedule 1 Zoning Map
- Zone
- Not Subject to the Kingston Zoning By-law
- Schedule E - Exception Overlay
- Legacy Exceptions (LXXX)
- Exceptions (EXXX)
- Schedule F - Holding Overlay
- Holding Overlay (HXXX)



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Notes

Louis A. Ciolek Inc.
retained and takes
responsibility for the
design provided
on this page.



This is an
unauthorised copy
if this note is
not read.

The contractor is responsible for
checking and verifying all the
dimensions & data noted herein
with conditions on site and shall
report any discrepancy to the designer
for adjustments to drawings.

Date: Revisions:

L.A.C Design reserves the right
to re-use and re-issue any and
all parts of this drawing.



572 Barnsley Cres
Kingston, Ontario
K7M 8X3
Phone: 613-561-0964
E-Mail: lacdesign@rogers.ca

Project Title:

**Front Step
394 Division St.**

Drawn For:

**Rudy Piccinato
1516 Sierra Ave
Kingston, Ont
613-546-3609**

Page Title

Scale:	1/8" = 1'-0"
Date:	Dec 2023
Drawn:	L.A.C.
REINA:	22942
Checked:	
File No:	31248
File Name:	

Page No.:

P1



Front Elevation

Notes

I Luis A. Cunha have reviewed and take responsibility for the design provided on this page.



This is an

The contractor is responsible for checking and verifying all the dimensions & data noted herein with conditions on site and shall report any discrepancy to the designer for adjustments to drawings.

Date: Revisions:

Date:	Revisions:

L.A.C. Design reserves the right to re-use and re-issue any and all parts of this drawing.



572 Barnsley Cres
Kingston, Ontario
N7M 8X3
Phone/Fax: (613) 384-2661
E:

Project Title:
Covered Porch
394 Division St.
Kingston, Ont.

Drawn For:
Rudy Piccinato

Page Title

Square Ft:	6000
Scale:	1/8" = 1'-0"
DATE:	Nov. 2018
Drawn By:	L.A.C.
BCIN#:	22942
Checked By:	
BCIN#:	
Firm BCIN#:	31248
File Name:	

Page No.:

A5

394 Division Street– February 16, 2024



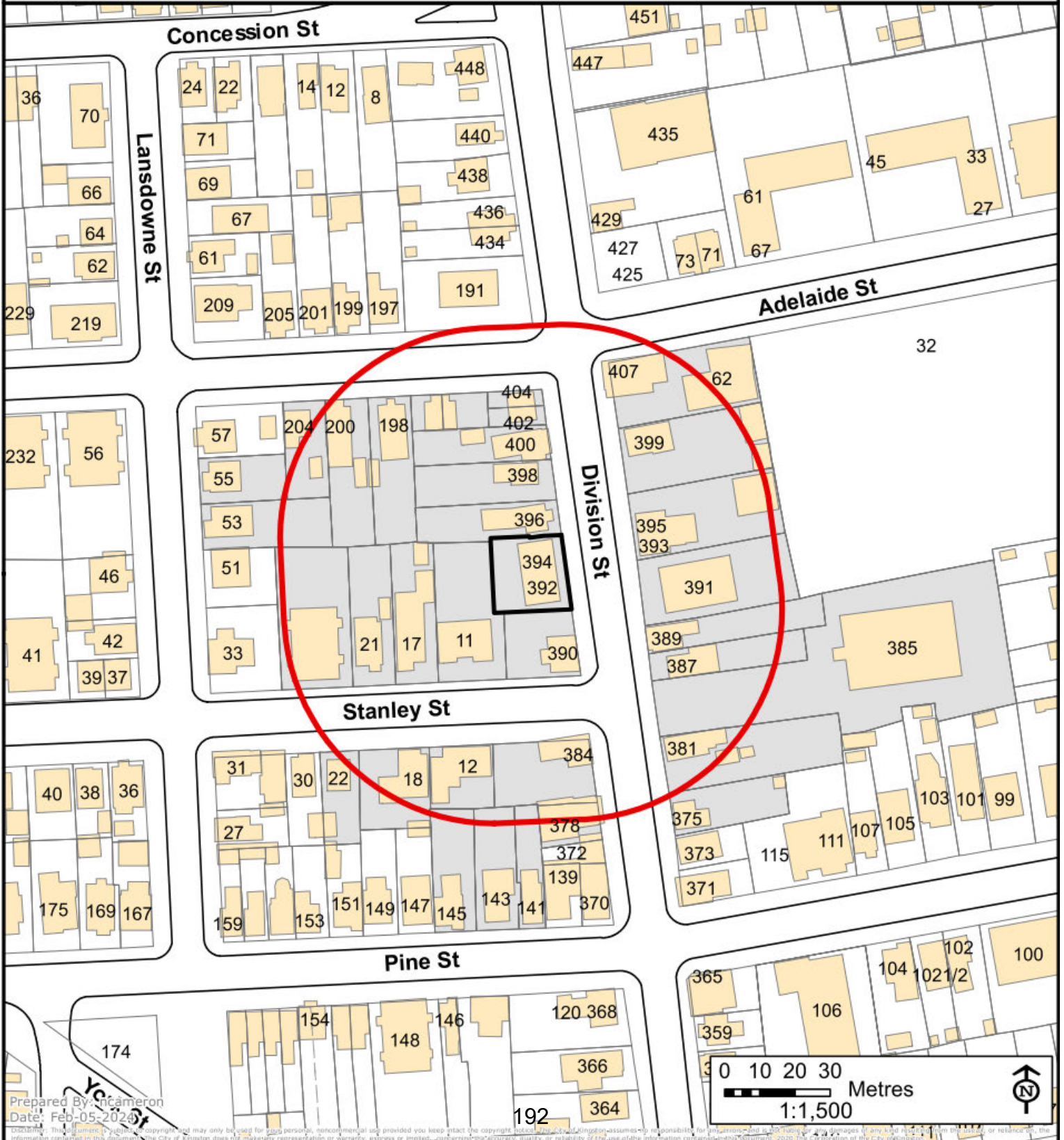
(East facing view of the proposed location of the front yard addition)



Committee of Adjustment Public Notice Notification Map

Address: 394 Division Street
File Number: D13-061-2023
Prepared On: Feb-05-2024

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



Prepared By: J. Cameron
Date: Feb-05-2024

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