

## City of Kingston Report to Committee of Adjustment Report Number COA-24-051

То:	Chair and Members of the Committee of Adjustment
From:	Lindsay Sthamann, Intermediate Planner
Date of Meeting:	June 17, 2024
Application for:	Minor Variance
File Number:	D13-017-2024
Address:	70 Railway Street
District:	11 – King's Town
Owner:	NORTH SOUTHALL INC
Applicant:	Bel-Con Design-Builders Ltd.

## **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 70 Railway Street. The applicant is proposing to reduce the minimum rear yard setback from 15 metres to 3 metres to accommodate four shipping container accessory buildings on the southwest corner of the lot. The containers are to be used for storage for the existing industrial use and a 3 metre wide planting strip is proposed between the shipping containers and south lot line to provide a landscaping buffer as mitigation.

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

Page 2 of 10

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.

#### **Recommendation:**

**That** minor variance application, File Number D13-017-2024, for the property located at 70 Railway Street to reduce the minimum rear yard setback from 15 metres to 3 metres to accommodate four shipping container accessory buildings on the southwest corner of the lot, be approved, as described below:

#### Variance Number 1:

By-Law Number 2022-62: Section 16.3.2.3Requirement:15 metresProposed:3 metresVariance Requested:12 metres; and

**That** approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-24-051.

Page 3 of 10

## Authorizing Signatures:

Land Im

Lindsay Sthamann, Intermediate 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 10

#### **Options/Discussion:**

On April 10, 2024, a minor variance application was submitted by Bel-Con Design-Builders Ltd., on behalf of the owner, North Southall Inc, with respect to the property located at 70 Railway Street. The variance is requested to reduce the minimum rear yard setback from 15 metres to 3 metres to accommodate 4 shipping container accessory buildings in the southwest corner of the lot.

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

- Site Plan (Exhibit G)
- Survey (Exhibit H)
- Cover Letter
- Owner's Authorization

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 70 Railway Street (Exhibit B – Key Map). The property abuts other employment lands to the west, north, and east. The southern property lines abuts residential zoned land that contains an existing townhouse development (Exhibit C – Neighbourhood Context Map).

The subject property consists of an existing light-industrial use, known as SnapCab Canada which manufactures modular office furniture and pods. The use is contained within an existing 3000 square metre single-storey industrial building. Some shipping containers are periodically stored in this area of the subject property and have been for several years. This application is to recognize the location in terms of the existing zoning by-law as part of an active site plan modification application that also contemplates an addition to the existing building on the northern portion of the property.

The subject property is designated General Industrial in the Official Plan (Exhibit D – Official Plan Map) and zoned General Industrial (M2) 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

Page 5 of 10

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.

#### **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:

## The general intent and purpose of the Official Plan are maintained

The subject property is designated General Industrial in the City of Kingston Official Plan (Exhibit D – Official Plan Map). The General Industrial designation is an employment area intended to provide convenient locations for manufacturing, wholesale trade, construction, transportation, storage, communications, utilities, and similar uses. The existing industrial use complies with the permitted uses in the General Industrial designation.

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 Strategic Policy Direction of the Official Plan includes policies regarding economic development. The goal is to protect and support a strong and diversified economic base within the City to provide jobs for its citizens and new opportunities for investment within Kingston in a manner that achieves compatible development and land use without generating negative impacts or adverse effects. The proposed minor variance will support the expansion of an existing business in the City's employment area and aligns with the policies of the City's strategic policy direction.

The proposed location of the shipping containers is expected to be compatible with the surrounding land uses. The containers are to be setback approximately 9.5 metres from Patrick Street and screened from view from the street by existing landscaping and an existing fence. Along the south side of the lot, between the proposed containers and the lot line, a 3 metre wide planting strip is proposed as a mitigation measure to screen the containers from view of the neighbouring residential uses. The planting strip will meet the zoning definition, "used for the sole purpose of planting a row of trees or a continuous hedgerow of evergreens or shrubs and may include supplementary planting of ornamental shrubs, flowering shrubs, flower beds or a combination thereof" and is to be secured through condition of the minor variance and the ongoing Site Plan Control modification application. The residential uses are further buffered by an existing drive aisle that is located between the location of the shipping containers and the townhouses. The containers are to be used for storage and are not anticipated to generate any additional noise or privacy concerns.

The ability of the site to function in an appropriate manner in terms of access, parking for vehicles and bicycles is not anticipate dot be affected by the proposed variance. The proposed 3 metre setback allows the shipping containers to be placed out of the way of the existing parking, drive aisle, and loading area. Site functionality will be furthered review through the Site Plan

#### Page 6 of 10

Control modification process. The subject property is not heritage designated or adjacent to any heritage properties. It is adequately serviced by municipal water and sewer services and the proposed accessory buildings will not be connected to any services. A zoning amendment is not required to address the reduced setback and conditions are proposed in Exhibit A of this report.

The proposal meets the intent of the Official Plan, as the proposed reduced rear yard setback is not anticipated to result in any negative impacts to adjacent properties or to the neighbourhood.

## The general intent and purpose of the Zoning By-Law are maintained

The subject property is zoned General Industrial (M2) in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map). The M2 zone permits the light industrial use including any associated accessory structures.

The proposal requires a variance to Section 16.3.2.3. This section requires that whenever a rear lot line in the M2 zone abuts a lot in any zone other than an employment zone the required rear minimum setback is increased from the standard 7.5 metres found in Table 16.3.1 to 15 metres. The intent of this provision is that sensitive (non-employment) uses are sufficiently distanced from employment uses to ensure compatibility between the land uses.

## Variance Number 1: Minimum Rear Yard setback

By-Law Number 2022-62: Section 16.3.2.3				
Requirement:	15 metres			
Proposed:	3 metres			
Variance Requested:	12 metres;			

The proposed minor variance complies with the intent of the zoning provision as compatibility has been addressed through alternative methods. First, the applicant has proposed a 3 metre wide planting strip in accordance with the planting strip provisions in the by-law. The strip will contain a continuous row of trees, hedgerows, or evergreens to a minimum height of 1.5 metres. This will provide visual and noise mitigation for the residential use to the south. The planting strip is a recommended condition of the minor variance and can be secured through the active site plan application. Second, the variance applies to accessory structures that are intended to be used for storage and accessed infrequently. They shipping containers are not anticipated to generate noise, emissions, or light spillover. And third, the existing lot fabric in this area included a 20 metre wide parcel of land between the subject property and the residential property to the south. This middle parcel belongs to the City and is being leased for use as a drive aisle to access the residential property. The width of the middle parcel exceeds the 15 metre setback that is required in the M2 zone and when combined with the proposed 3 metre setback on the subject property an adequate separation distance is achieved.

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

Page 7 of 10

#### The variance is minor in nature

The variance is considered minor as no adverse effects are anticipated as a result of the variance. The existing industrial building at 70 Railway was built prior to adoption of Zoning Bylaw 2022-62 and was built much closer to the rear lot line than the current bylaw would permit. The proposed location of the shipping containers make use of the existing layout of the site. If the containers were to be placed in accordance with the 15 metre setback they would need to be located in the existing parking and drive aisle area which would disrupt the functionality of the site. The variance is also minor in nature as it will apply only to the four shipping container accessory buildings and not to any expansion of the primary building. The shipping containers are proposed to be used as storage and accessed infrequently. As shown in Exhibit G - SitePlan the proposed addition to the primary industrial building is to be located on the norther portion of the site, a sufficient distance from the residential use, and in compliance with all zone provisions.

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

The proposed variance will help facilitate the moderate intensification of the existing industrial property to permit expansion of the existing business. The majority of their proposed expansion complies with all provisions of the zoning by-law and just the location of the four shipping containers requires relief through the proposed minor variance. In accordance with the City of Kingston Strategic Policy Direction, it is desirable to facilitate the continued growth of the business making better use of underutilized employment lands within the urban boundary. The minor nature of the variance and the proposed mitigation measures support compatibility with the nearby residential use and therefore the variance is desirable and appropriate use of the land.

## **Technical Review: Circulated Departments and Agencies**

$\boxtimes$	Building Services	⊠ Engineering	Heritage Services
	Finance	☑ Utilities Kingston	Real Estate
	Fire & Rescue	⊠ Kingston Hydro	Environment Division
$\boxtimes$	Solid Waste	☑ Parks Development	Canadian National Railways
	Housing	☑ District Councillor	□ Ministry of Transportation
	KEDCO	🛛 Municipal Drainage	$\Box$ Parks of the St. Lawrence
	CRCA	KFL&A Health Unit	Trans Northern Pipelines

Page 8 of 10

$\boxtimes$	Building Services	⊠ Engineering	☑ Heritage Services
	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.

#### **Public Comments**

At the time this report was finalized, no public comments have been received. Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

#### **Previous or Concurrent Applications**

The property is currently subject to a site plan modification application (D11-010-2023) to construct an addition to the existing building with modifications to the parking area and loading zones.

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

Approval of this application will reduce the rear yard setback from 15 metres to 3 metres to enable the placement of four shipping container accessory buildings in the southwest corner of the lot.

#### **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:

Page 9 of 10

## 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 May 17, 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 15 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 F – 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:

James Bar, Manager, Development Approvals, 613-546-4291 extension 3213

Lindsay Sthamann, Intermediate Planner, 613-546-4291 extension 3287

## Other City of Kingston Staff Consulted:

None

## Exhibits Attached:

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Neighbourhood Context Map (2022)

Page 10 of 10

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

#### **Recommended Conditions**

The approval of minor variance application, File Number D13-017-2024, to reduce the minimum rear yard setback from 15 meters to 3 meters for 4 accessory structures in the southwest portion of the lot, shall be subject to the following recommended conditions:

#### 1. Limitation

That the approved minor variance applies only to the 4 shipping container accessory structures at 70 Railway Street as shown on the drawings attached to the notice of decision. It does not permit the reduction of the rear yard setback for any other structures on the lot.

#### 2. Grading Plan

A grading plan prepared by a qualified professional to the satisfaction of the City will be required to show existing and proposed grading of the shipping containers to ensure there will be no negative impact to the drainage on this property and neighbouring properties as a result of any modifications to on-site grading or drainage.

#### 3. Building Permit Application Requirements

The owner/applicant shall provide to the Building Services a copy of the decision of the Committee of Adjustment, together with a copy of the approved drawings, when they make application for a Building Permit.

The drawings submitted with the Building Permit application must, in the opinion of the City, conform to the general intent and description of the approved drawing(s), including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. It must be noted that additional planning approvals may be required should further zoning deficiencies be identified through the Building Permit application process.

#### 4. Standard Archaeological Condition

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.

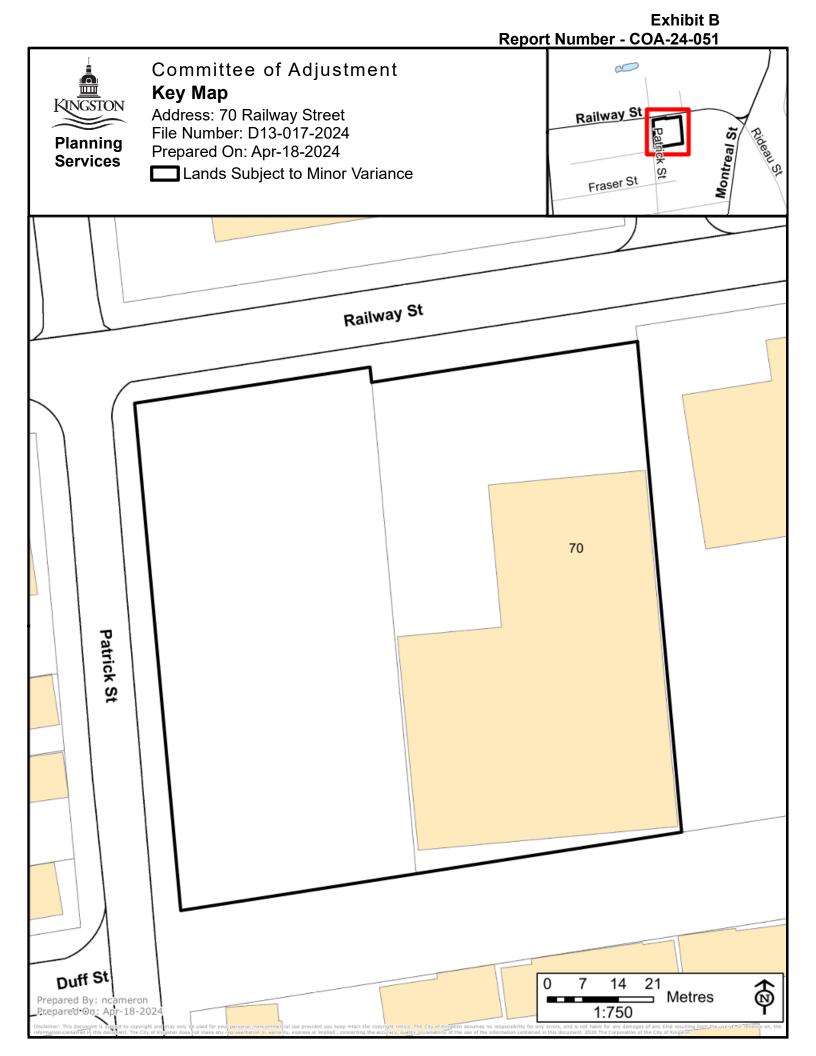
In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Office of the Chief Coroner as a part of the Ontario Ministry of the Solicitor General (1-877-991-9959), the Archaeology Program Unit of the Ministry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

#### 5. Landscaping Strip

A 3 metre wide planting strip will be required along the portion of the lot that abuts the proposed accessory structures as shown on the drawings attached to the notice of decision. The planting strip must consist of a row of trees or a continuous hedgerow of evergreens or shrubs. The minimum height for the row of trees or continuous hedgerow of evergreens or shrubs located in the planting strip is 1.5 metres.

#### 6. Site Plan Control

The owner/applicant should be aware that an approved site plan modification application is required to show the shipping container accessory buildings and landscaping strip prior to issuance of building permits for the accessory buildings.



#### Exhibit C Report Number - COA-24-051



## Committee of Adjustment Neighbourhood Context

Address: 70 Railway Street File Number: D13-017-2024 Prepared On: Apr-18-2024 Subject Lands Property Boundaries

Proposed Parcels



