



**City of Kingston
Report to Committee of Adjustment
Report Number COA-24-083**

To: Chair and Members of the Committee of Adjustment
From: Amy Didrikson, Senior Planner
Date of Meeting: October 21, 2024
Application for: Minor Variance
File Number: D13-066-2024
Address: 29 Railway St
District: District 11 - King's Town
Owner: Roger Levac
Applicant: Mark Levac

Council Strategic Plan Alignment:

Theme: 5. Drive Inclusive Economic Growth

Goal: 5.3 Diversify Kingston's economic base.

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variance for 29 Railway Street. The applicant is proposing to establish two accessory storage buildings associated with an adjacent industrial supply and safety equipment use (Levac Supply) operating at 25 Railway Street. The subject property is undeveloped and includes a gravelled area with trees at the north end.

The two proposed storage buildings measure 12.1 metres (40 feet) long x 2.4 metres (8 feet) wide x 2.6 metres (8.5 feet) tall each, with a total storage area of approximately 640 square feet or 60 square metres. The applicant proposes to provide a minimum setback of 5.5 metres from the rear property line and a minimum 1.2 metre setback from the east interior lot line for the accessory storage buildings. The proposal requires variances to accessory building provisions,

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the minimum rear setback and the minimum interior setback requirement of the Kingston Zoning By-Law.

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.

Recommendation:

That minor variance application, File Number D13-066-2024, for the property located east of 25 Railway Street to permit two, 30 square metre accessory storage buildings, be approved, as described below:

Variance Number 1: Accessory Building Location

By-Law Number 2022-62:Section 4.1.1

Requirement: The principal use or building must already be established on the same lot as the accessory use or building.

Proposed: The principal use is established on the east abutting lot.

Variance Requested: To permit two accessory storage buildings associated with a principal use on the east abutting lot at 25 Railway Street.

Variance Number 2: Rear Setback

By-Law Number 2022-62:Table 16.2.1

Requirement: Minimum rear setback of 7.5 metres

Proposed: Minimum rear setback of 5.5 metres

Variance Requested: 2.0 metres; and

Variance Number 2: Interior Setback

By-Law Number 2022-62:Table 16.2.1

Requirement: Minimum interior setback of 6.0 metres

Proposed: Minimum interior setback of 1.2 metres

Variance Requested: 4.8 metres;

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-24-083.

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Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

Amy Didrikson, Senior Planner

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

Tim Park, Director, Planning Services

James Bar, Manager, Development Approvals

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Options/Discussion:

On August 29, 2024, a minor variance application was submitted by Mark Levac, on behalf of the owner, Roger Levac, with respect to 29 Railway Street. The variances are requested to establish two accessory storage buildings on the subject property, associated with an industrial supply and safety equipment use (Levac Supply) on the east abutting property at 25 Railway Street. The storage containers are needed strictly for additional warehouse storage. No electrical, plumbing or heating service will be needed. The subject property is undeveloped and includes a gravelled area with trees at the north end. The containers are to be placed on the graded gravel lot and will not require any change to grading or drainage.

The two proposed storage buildings measure 12.1 metres (40 feet) long and 2.4 metres (8 feet) wide and 2.6 metres (8.5 feet) tall each, with a total storage area of approximately 640 square feet or 60 square metres. The applicant proposes to provide a minimum setback of 5.5 metres from the rear property line and a minimum 1.2 metre setback from the east interior lot line for the accessory storage buildings. The proposal requires variances to accessory building provisions, the minimum rear setback and the minimum interior setback requirement of the Kingston Zoning By-Law.

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

- Site Plan (Exhibit F);
- Cover Letter; and,
- Images of Proposed Accessory Buildings (Exhibit I).

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

Site Characteristics

The subject property is located on the north side of Railway Street, west of the intersection with Montreal Street adjacent to 25 Railway Street (Exhibit B – Key Map). The lot has approximately 15 metres of frontage on Railway Street and is approximately 900 square metres in area. The subject property abuts city-owned land and the K&P trail to the north, and employment uses to the east, west and south, with commercial, residential and community facility uses located further to the east on Montreal Street.

The subject property is designated General Industrial in the Official Plan (Exhibit D – Official Plan Map) and zoned the General Industrial Zone (M2) in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map). The subject property is included as part of the North King's Town Secondary Plan study area and, at this stage of the study, no changes to the General Industrial land use designation are anticipated.

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The subject property and 25 Railway Street are subject to a Site Plan Control agreement with the City of Kingston from 1984 (City File A-SPC-4.0243-84). 25 Railway Street is developed with a one-storey, approximately 1,300 square metre building containing the industrial supply and safety equipment use (Levac Supply). The two properties function as one, supporting Levac Supply at 25 Railway Street. The two properties are effectively owned by the same individuals but are under different owner names and as such are separately conveyable lots. The subject property is undeveloped and includes a gravelled area with trees at the north end (Exhibit C – Neighbourhood Context Map).

Provincial Planning 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 Planning 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.

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). Permitted main uses in the General Industrial land use designation include uses such as manufacturing, assembling, fabricating, and processing operations; construction and transportation activities; and, facilities storage, warehousing, and wholesale trade activities. The existing use of the property at 25 Railway Street, supported by the proposed accessory buildings, would be classified as a wholesale storage and supply use and is consistent with the uses contemplated for the General Industrial land use designation. The proposed accessory storage use is consistent with the main uses permitted in the 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 proposal meets the intent of strategic policy direction pertaining to the City of Kingston's Employment Areas, which is to promote economic development and competitiveness by accommodating and fostering employment opportunities in the Urban Boundary through compatible development.

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The requested variances to permit the two accessory storage buildings will not compromise the compatibility of the proposed development with surrounding land uses, which include abutting lands in the General Industrial land use designation (Exhibit D) and the K&P trail to the north. The proposed location of the storage buildings will retain vegetation and screening to the north of the subject property where it abuts City-owned land and the K&P trail.

Development criteria for Employment Areas in the Official Plan are detailed under section 3.6.15. Applicable criteria emphasize the importance of a functional site layout with attention to landscaping to enhance the overall aesthetics of the site. The proposed location of the accessory buildings (Exhibit F), with reduced setbacks from the rear property line and west interior property line is intended to maintain the existing parking area associated with the principal employment use at 25 Railway Street while also making use of existing graded surfaces away from vegetated areas.

With respect to servicing, the accessory storage buildings will not be connected to municipal services (no electrical, plumbing or heating will be needed).

Having regard to the above, the impact of the variances is expected to be minor and would not create an undesirable precedent for the area with the application most appropriately addressed through a Minor Variance rather than a Zoning By-Law Amendment. Recommended conditions have been provided for the Committee’s consideration and are included as Exhibit A to this report.

The proposal meets the intent of the Official Plan, as the proposed accessory buildings to support the existing, principal employment use at 25 Railway Street and will not result in any negative impacts to adjacent properties or to the surrounding area.

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

The subject property is zoned General Industrial Zone (M2) in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map). The M2 zone permits a warehouse and wholesale establishment consistent with the existing, principal use of the abutting property at 25 Railway Street, and consistent with the accessory storage use proposed for the subject property.

The proposal requires variances to accessory building provisions, the minimum rear setback and the minimum interior setback requirement of the Kingston Zoning By-Law.

Variance Number 1: Accessory Building Location

By-Law Number 2022-62:Section 4.1.1

Requirement: The principal use or building must already be established on the same lot as the accessory use or building.

Proposed: The principal use is established on the east abutting lot.

Variance Requested: To permit an accessory storage building associated with a principal use on the east abutting lot at 25 Railway Street.

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The intent of the Kingston Zoning By-Law requirement to include accessory uses on the same lot as the principal use or building is to make efficient use of land and ensure land use is consistent with the goals and permitted uses of the land use designation of the Official Plan. The subject property is an undersized parcel in the M2 (General Industrial) zone and functions as one with the adjacent property at 25 Railway Street, through a site layout approved through the City of Kingston's Site Plan Control approval process in 1984 (City File A-SPC-4.0243-84). Permitting an accessory storage use on the subject property meets the intent of the provision in the Kingston Zoning By-Law, as the accessory use is consistent with the principal uses permitted in the M2 zone (i.e. warehousing), supports an abutting principal permitted use, and as a lot with 15 metres of width and road frontage, is not generally large enough to support the principal uses and development standards of the M2 zone.

Variance Number 2: Rear Setback

By-Law Number 2022-62:Table 16.2.1, Row 5

Requirement: Minimum rear setback of 7.5 metres

Proposed: Minimum rear setback of 5.5 metres

Variance Requested: 2.0 metres; and

The intent of the minimum 7.5 metre rear yard setback requirement of the M2 zone of the Kingston Zoning By-law is to enable loading and service areas at the rear of buildings in employment areas, and to ensure a buffer is provided between employment uses that may generate noise, odour, or other emissions. The setbacks of the M2 zone apply to all buildings, including accessory buildings. As the subject property is a separate lot of record, setbacks are measured from the property lines.

The proposed reduction to the minimum rear setback for the accessory buildings meets the intent of the provision in the Kingston Zoning By-Law. The loading area of the adjacent, principal building at 25 Railway Street is located in the interior (east) side yard. The proposed location of the storage buildings, setback a minimum of 5.5 metres from the rear property line on the west side of the principal building at 25 Railway Street, will not affect the functionality of the loading area of the existing building and will be setback sufficiently from the rear lot line to make use of existing graded areas and to minimize impacts to adjacent trees. In addition, there are no concerns with the compatibility of the accessory storage use, screened by vegetation, and the reduced rear yard setback from the city-owned lands to the north.

Variance Number 2: Interior Setback

By-Law Number 2022-62:Table 16.2.1, Row 7

Requirement: Minimum interior setback of 6.0 metres

Proposed: Minimum (east) interior setback of 1.2 metres

Variance Requested: 4.8 metres;

The intent of the minimum 6 metre interior setback of the M2 zone is to enable functional vehicular access to rear loading and service areas of employment uses, and to ensure a buffer is provided between employment uses that may generate noise, odour, or other emissions. As described above, the setbacks of the M2 zone apply to all buildings, including accessory

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buildings. Reduced setbacks for accessory buildings apply only in specific zones permitting residential uses under section 4.1.2. of the Kingston Zoning By-Law and allow for a 1.2 metre setback from lot lines. On the subject property with a width of 15 metres, the interior setback of 6 metres cannot be met for a building wider than 3 metres. The applicant has requested a minimum setback of 1.2 metres from the east interior lot line to situate the storage buildings as close as possible to the principal building at 25 Railway Street. Vehicular access will not be needed around the storage buildings, and the requested location is intended to maximize the functionality of the site arrangement and avoid mature vegetation along the western extent of the property line. In addition, there are no concerns with the compatibility of the accessory storage use and the reduced interior (east) side yard setback from the existing principal employment use at 25 Railway Street.

In summary, the requested variances maintain the general intent and purpose of the zoning by-law.

The variance is minor in nature

The variances are considered minor as they will not impact the compatibility or functioning of the employment use operating at 25 Railway Street and the subject property. The proposed storage containers will be setback from the street, at the rear of the site, such that they will be inconspicuous and not a focal point. The location of the storage containers will maintain vegetation along the west interior and rear property line, maintaining natural screening present on-site.

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

The variances will enable an appropriate use and development of the subject land, given the size and function of the subject property. The proposed accessory storage buildings on the subject property, which is an undersized parcel in the M2 zone, will support an abutting, principal employment use. The approval is conditional on the presence of the abutting principal use, and as such, will not permit accessory storage buildings if the adjacent principal use ceases to exist. The minimum setbacks are recommended for the accessory storage in relation to their ability to maintain compatibility, the existing functionality and natural screening of the property. In this way, the variances will enable development that is desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

- Building Services Engineering Heritage Services
- Forestry Utilities Kingston Real Estate
- Fire & Rescue Kingston Hydro Environment Division

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- Building Services Engineering Heritage Services
- Solid Waste Parks Development Canadian National Railways
- Housing District Councillor Ministry of Transportation
- KEDCO Municipal Drainage Parks of the St. Lawrence
- CRCA KFL&A Health Unit Trans Northern Pipelines
- 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 had 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 subject property has an approved site plan and Site Plan Control agreement (City File A-SPC-4.0243-84) together with the property at 25 Railway Street. Given the scope of the proposal and the feedback from internal departments as part of the technical review of the minor variance application, it is anticipated that the Director of Planning Services can exempt the proposed accessory buildings from requiring a Site Plan modification application, under section 4.(1) of the City of Kingston Site Plan Control By-law 2010-217, as the proposal is not expected to have the effect of substantially increasing the size or usability of any building or structure, or alter grading or drainage.

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

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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 establishment of two accessory storage buildings on the subject property, which will support the storage needs of the principal employment use at 25 Railway Street.

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 October 21, 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 property owners of a total number of nine properties (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

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Contacts:

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

Amy Didrikson, Senior Planner, 613-546-4291 extension 3296

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Neighbourhood Context Map
- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Map
- Exhibit F Site Plan
- Exhibit G Public Notification Map
- Exhibit H Site Photos
- Exhibit I Images of the Proposed Accessory Storage Buildings

Recommended Conditions

The approval of minor variance application, File Number D13-066-2024, to permit two accessory storage buildings associated with a principal employment use at 25 Railway Street with a reduced minimum rear yard and interior side yard setback, shall be subject to the following recommended conditions:

1. Limitation

That the approved minor variances apply only to the two proposed accessory storage buildings as shown on the conceptual site plan drawing attached to the notice of decision. If the associated principal employment use at 25 Railway Street ceases to exist, the permissions for the accessory storage buildings on the subject property cease to apply.

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. 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

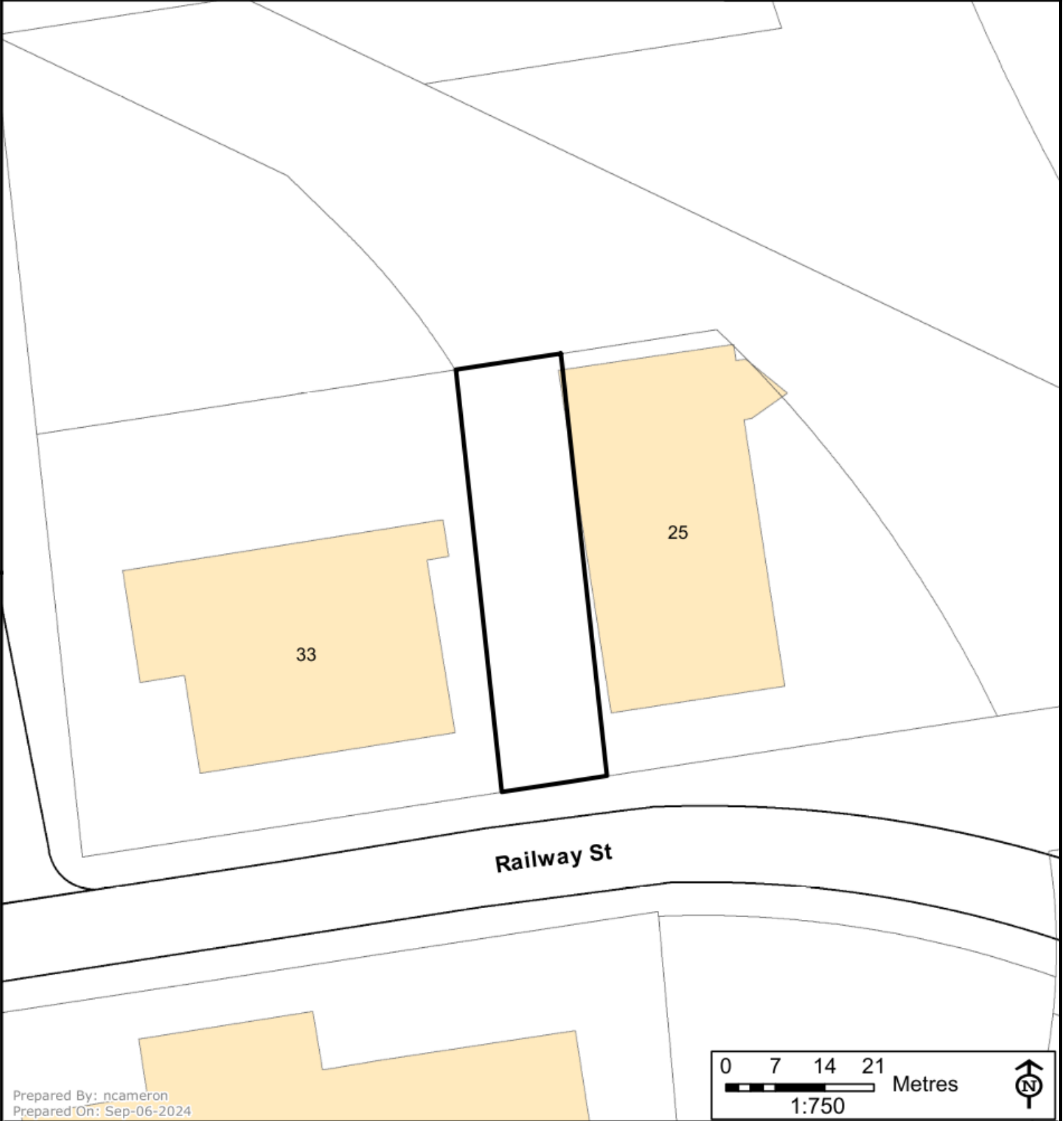
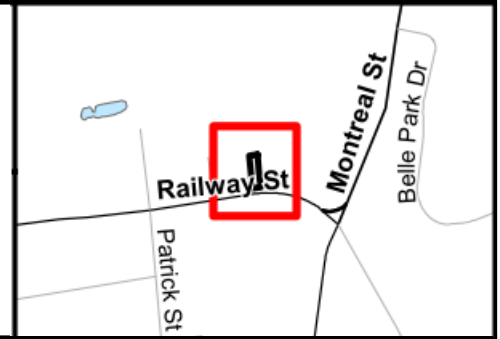
Multiculturalism (archaeology@ontario.ca), and City of Kingston's Planning Services (613-546-4291, extension 3180) must be immediately contacted.



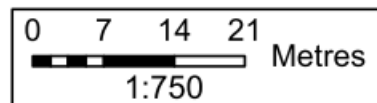
Committee of Adjustment Key Map

Address: 25 Railway Street
File Number: D13-066-2024
Prepared On: Sep-06-2024

 Lands Subject to Minor Variance



Prepared By: ncameron
Prepared On: Sep-06-2024

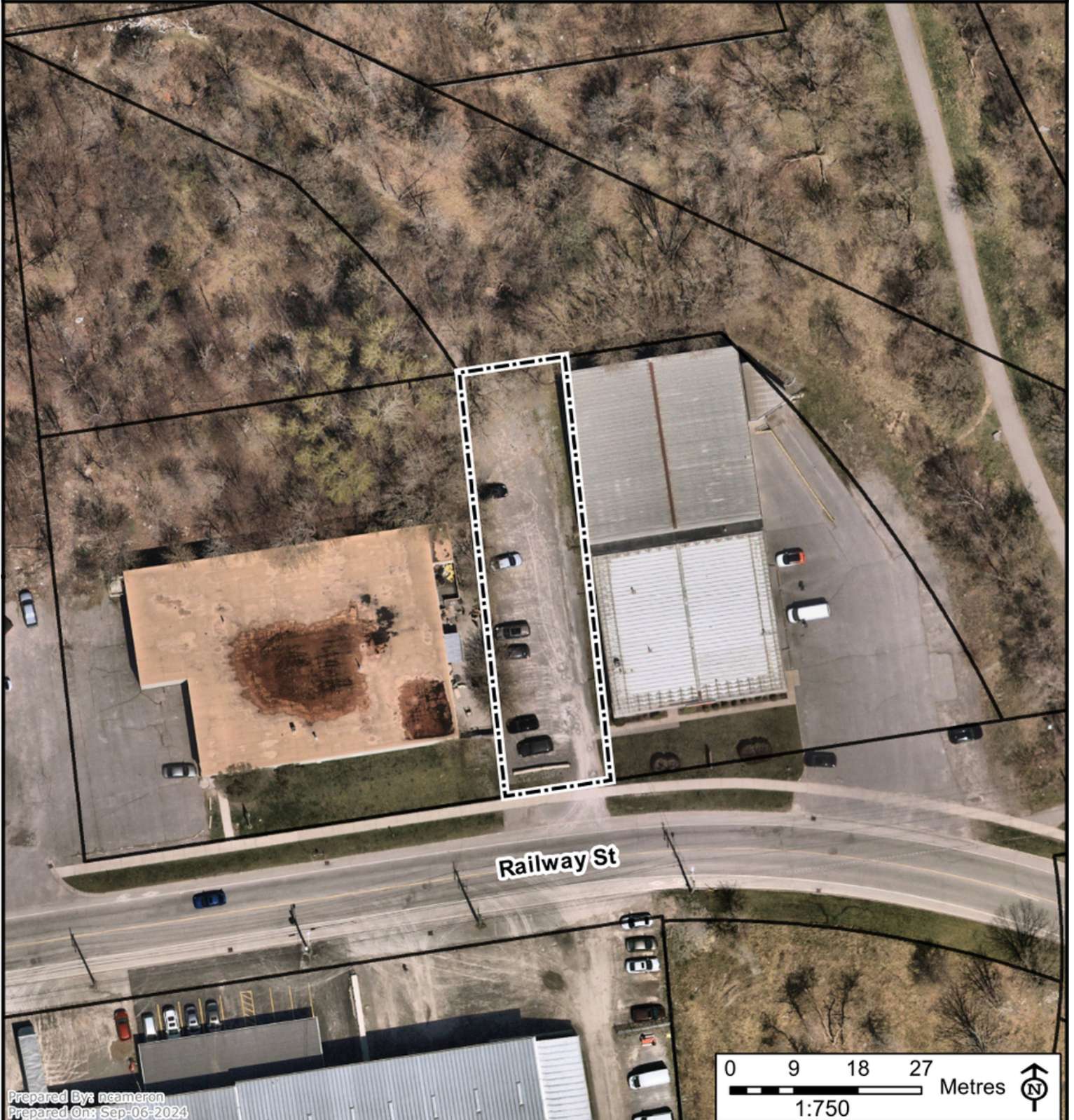




Committee of Adjustment Neighbourhood Context

Address: 25 Railway Street
File Number: D13-066-2024
Prepared On: Sep-06-2024

- Subject Lands
- Property Boundaries
- Proposed Parcels



Prepared By: neameron
Prepared On: Sep-06-2024

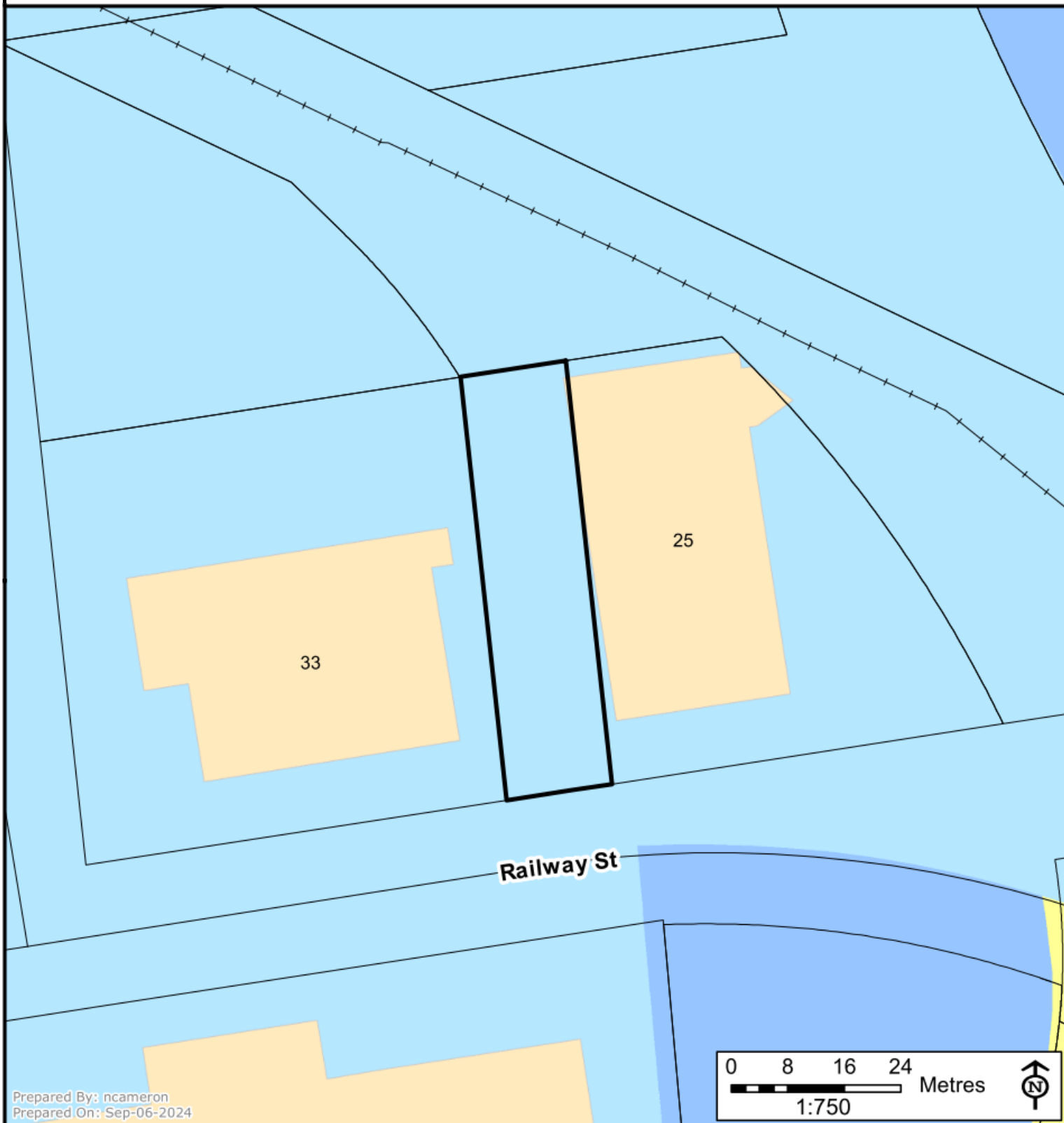
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Committee of Adjustment Official Plan, Existing Land Use

Address: 25 Railway Street
File Number: D13-066-2024
Prepared On: Sep-06-2024

- Subject Lands
- BUSINESS PARK INDUSTRIAL
- GENERAL INDUSTRIAL
- RESIDENTIAL



Prepared By: ncameron
Prepared On: Sep-06-2024

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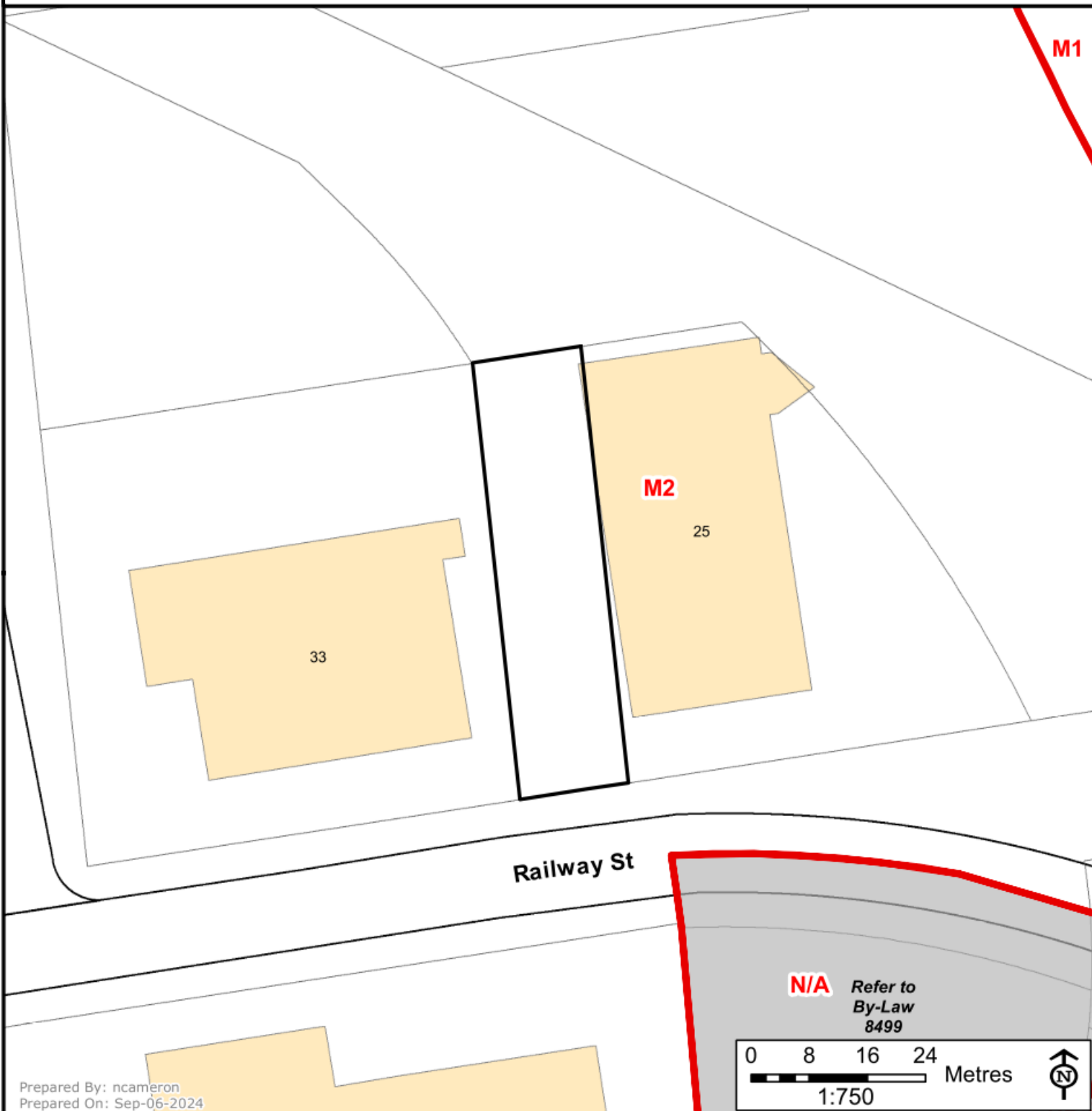


Planning Committee
Existing Zoning
Kingston Zoning By-Law 2022-62

Planning Services

Address: 25 Railway Street
File Number: D13-066-2024
Prepared On: Sep-06-2024

- 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 HoldingOverlay (HXXX)



Prepared By: ncameron
Prepared On: Sep-06-2024

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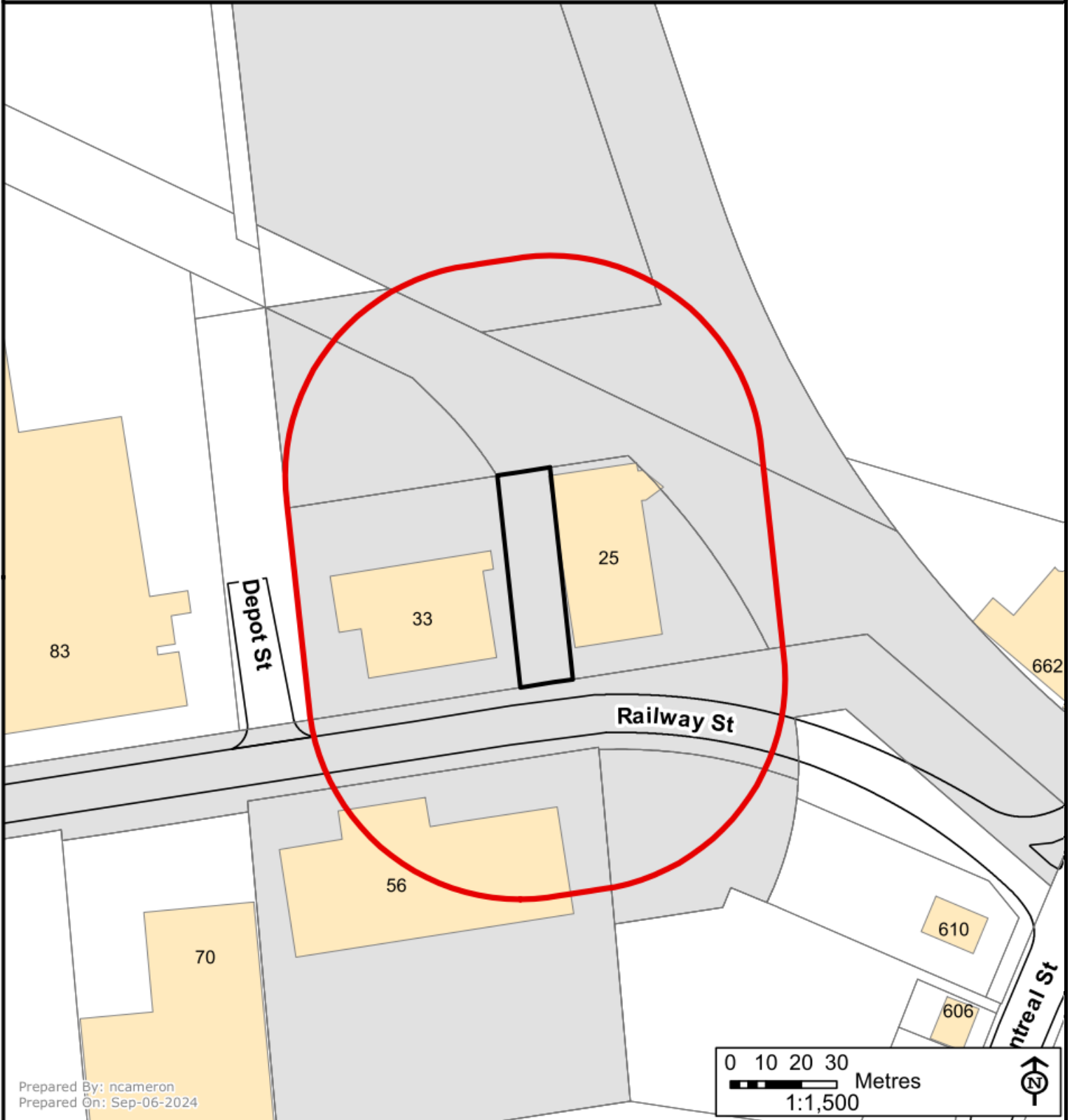




Committee of Adjustment Public Notice Notification Map

Address: 25 Railway Street
File Number: D13-066-2024
Prepared On: Sep-06-2024

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



Prepared By: ncameron
Prepared On: Sep-06-2024

Site Photographs



Figure 1: Photo of 25 Railway Street with principal employment use



Figure 2: Photo of 25 Railway Street principal building frontage



Figure 3: Photo of subject property from Railway Street

Storage Container



Dimensions: 8' wide x 8' 6" high x 40' long

Color: Beige or blue