



**City of Kingston
Report to Committee of Adjustment
Report Number COA-24-086**

To: Chair and Members of the Committee of Adjustment
From: Chris Wicke, Senior Planner
Date of Meeting: October 21, 2024
Application for: Minor Variance
File Number: D13-061-2024
Address: 2912 4th Concession Road
District: District 1 - Countryside
Owner / Applicant: Patrick Stenson

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 2912 4th Concession Road. The applicant is proposing to construct a detached two-bay garage adjacent to an existing single detached house on a rural residential lot. A minor variance is required to reduce the interior setback from 9.0 metres to 4.5 metres. The proposed accessory building complies with all other zone provisions.

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 D13-061-2024, for the property located at 2912 4th Concession Road to provide relief from setback requirements to permit the construction of a detached garage adjacent to an existing single detached house on a rural residential lot, be approved, as described below:

Variance Number 1:

By-Law Number: 2022-62: Table 8.2.1.7 – Minimum interior setback - existing house

Requirement: 9.0 metres

Proposed: 4.5 metres

Variance Requested: 4.5 metres; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-24-086.

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Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

Chris Wicke, 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 July 31, 2024, a minor variance application was submitted by Patrick Stenson with respect to the property located at 2912 4th Concession Road. The variance is requested to provide relief from interior setback requirements to permit the construction of a two-bay detached garage with an area of approximately 58 square metres adjacent to an existing single detached house on a rural residential lot.

The property is a Red Exception and is subject to a site-specific Restricted Rural Zone (A1-40) in former Township of Pittsburgh Zoning By-law 32-74, and is subject to the least restrictive zone provision between both the former zoning By-law and the Kingston Zoning By-law.

The accessory structure must meet the requirements of the AG zone in the Kingston Zoning By-law as it is less restrictive than the interior side yard setback of the former zoning by-law. The minimum interior setback in the AG zone is 9.0 metres. The proposed building will have a setback of 4.5 metres. The purpose of the building is for personal vehicle and residential maintenance equipment storage. No livestock will be kept and no additional residential component is proposed. The proposed accessory building complies with all other zone provisions.

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

- Cover Letter
- Site Plan (Exhibit G)
- Elevations (Exhibit H)
- Archaeological Assessment

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 at 2912 4th Concession Road (Exhibit B – Key Map) and is adjacent to rural residential properties to the north, east and west, and Highway 401 to the south (Exhibit C – Neighbourhood Context Map). There is an existing house located approximately in the centre of the subject property. The lands are located in the middle of a small cluster of residential homes east of 4th Concession and Hitchcock Road.

The subject property is designated Prime Agricultural Area in the Official Plan (Exhibit D – Official Plan Map) and as it is a Red Exception it is zoned a site-specific Rural Restricted Zone (A1-40) in the former Township of Pittsburgh Zoning By-law and Prime Agricultural Area Zone (AG) in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map).

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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 is not a simple mathematical calculation, but rather a detailed assessment of whether the variances 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 Prime Agricultural Area in the City of Kingston Official Plan (Exhibit D – Official Plan Map). The goal of the Prime Agricultural Area is to protect land suitable for long-term agricultural production from scattered development and other land uses that are unrelated to agriculture, and to preserve and protect its long-term use for agricultural uses, agriculture-related uses, and on-farm diversified uses.

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 lands have been developed as a residential property since 1995, and no expansion of the lands or change of use is proposed. The proposed accessory building will not have any negative impacts on abutting properties or residential uses or structures. The building will be set back 4.5 metres from the nearest property line, and it will be a distance of approximately 12 metres from the nearest structure on the adjacent residential property to the west. The proposal is compatible with the surrounding residential uses and will not result in significant impacts or changes to the surrounding area. No farm uses or additional dwelling units are proposed and there is no increase in density or intensity of 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, relating to increased shadowing, intrusive overlook, increased traffic, architectural incompatibility, or any other concerns outlined in the Official Plan. All functional needs are met as the building will not constrain the parking of vehicles or bicycles or generate issues relating to accessibility.

The subject property is not a designated property under the Ontario Heritage Act nor is it within a Heritage District. Heritage Planning previously identified the subject property as having composite potential for archeological resources, and the applicant has provided a Stage 1-2

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Archaeological Assessment which confirms that there are no archaeological concerns, and no further archaeological assessment is required.

The site is located outside of the Urban Boundary, and it is currently connected to private sewage and well water systems. The proposed accessory building will not require any additional private sewage or water service for its use.

The proposal meets the intent of the Official Plan as the proposed detached garage 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 property is identified as a Red Exception, meaning that due to a recent zoning amendment ([see Report Number PC-24-041](#)) it is a property that is now to comply with Kingston Zoning By-law 2022-62, with permissions that allow for the continued application of former zoning standards in certain circumstances. The changes to the former zoning by-laws enacted through the recent zoning by-law amendment allow for existing Red Exception permissions to be maintained while also translating those by-laws in a way that allows for the properties to benefit from new standards and innovative opportunities. Where there are site-specific zoning provisions in the former zoning, this will apply; where there is no site-specific zoning provision, the parent zone under the new zoning will apply; and in the instance of a different provision between the former zoning and the new zoning, the less restrictive of the two provisions applies.

As a Red Exception, the property is subject to the former Township of Pittsburgh Zoning By-law 32-74, and it is zoned a site-specific Restricted Rural Zone (A1-40) (Exhibit E – Zoning By-Law Map). The A1-40 zoning specifies that the subject lands shall be used for no purpose other than a single family dwelling house, a home occupation, or a public use with a minimum lot area of 0.4 hectares and a minimum frontage of 55 metres. No relief is required from these provisions for this development proposal.

From the parent A1 zone under 32-74, the required interior setback was 12 metres. As noted, the A1-40 site-specific zone is now subject to the provisions of the Prime Agricultural Area (AG) Zone in Kingston Zoning By-Law Number 2022-62, which has a lesser interior side yard setback of 9 metres and therefore is the applicable zone provision that requires the variance. The proposal requires a variance to Section 8.2 as follows:

Variance Number 1:

By-Law Number: 2022-62: Table 8.2.1.7 – Minimum interior setback - existing house

Requirement: 9.0 metres

Proposed: 4.5 metres

Variance Requested: 4.5 metres

The intent of the interior setback is to prevent intrusive overlook, shadowing, and loss of privacy onto surrounding properties; to provide for a consistent built form and massing on residential properties; and to provide sufficient room for access and maintenance. The requested reduction in the interior setback is required to accommodate an accessory building due to the smaller lot

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size, the central location of the house on the lot, the location of the existing driveway on the lot, and the location of the existing septic field. There is an existing shed at the approximate location where the garage is proposed.

The requested decrease in the interior setback to 4.5 metres for the proposed accessory building is not anticipated to cause any adverse impacts or loss of privacy for surrounding properties. The proposed accessory building would be located 4.5 metres from the nearest property line. The single detached house to the west of the property is located closer to the road and is set back approximately 4 metres from the lot line, and thus the proposed setback is consistent with the built form in the area. There are also existing trees and landscaping between both houses which will provide additional mitigation from any reduction in privacy for the properties. The proposed 4.5 metre interior setback also leave sufficient room for access and maintenance to the west of the proposed garage.

The requested variance for a decreased interior setback maintains the general intent and the purpose of the by-law.

The variance is minor in nature

The accessory building is proposed to be located at the terminus of the existing driveway at the approximate location of an existing shed. It will not result in overlook, privacy, or shadowing concerns with respect to adjacent properties, and sufficient width will be retained around the building for access and maintenance. The total area of the proposed accessory building is 58 square metres which, in combination with the house, will not exceed the permitted lot coverage of 10%. An interior setback will be maintained and it will be consistent with the setback of the closest structure on the adjacent property. The variance is considered minor as there are no anticipated negative impacts on abutting properties or residential and/or uses or structures.

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

The proposed development will support the functional needs of the residential use of the property. The overall density, type of use and scale of activity as proposed is consistent with the existing built form of accessory buildings in this neighbourhood. The resulting built form satisfies all applicable provisions of the zoning by-law, except for the required interior setback. The proposal does not involve a significant alteration to the existing built form on the site. The size of the proposed accessory building is in scale with the size of the lot on which it will be located. The variance is desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

- Building Services Engineering Heritage Services
- Finance Utilities Kingston Real Estate

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- Building Services Engineering Heritage Services
- Fire & Rescue Kingston Hydro Environment Division
- 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 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

There are no concurrent or relevant historic planning applications on the subject property.

Conclusion

The requested variance maintains 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. Approval of this application will permit an accessory building with a reduced interior setback of 4.5 metres.

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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 Planning Statement, 2024

Municipal

City of Kingston Official Plan

Former Township of Pittsburgh Zoning By-Law Number 32-74

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 a total number of 5 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

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

Other City of Kingston Staff Consulted:

None

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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 Public Notification Map
- Exhibit G Site Plan
- Exhibit H Elevations
- Exhibit I Site Photos

Recommended Conditions

The approval of minor variance application, File Number D13-061-2024, to construct an accessory structure (garage) adjacent to the existing single detached house, shall be subject to the following recommended conditions:

1. Limitation

That the approved minor variance applies only to the accessory structure adjacent to the house at 2912 4th Concession as shown on the drawings attached to the notice of decision.

2. No Adverse Impacts

The owner/applicant shall demonstrate to the satisfaction of the City that there are no adverse impacts on neighbouring properties as a result of any modifications to on-site grading or drainage.

3. Building Permit Application Requirements

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

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

4. 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.

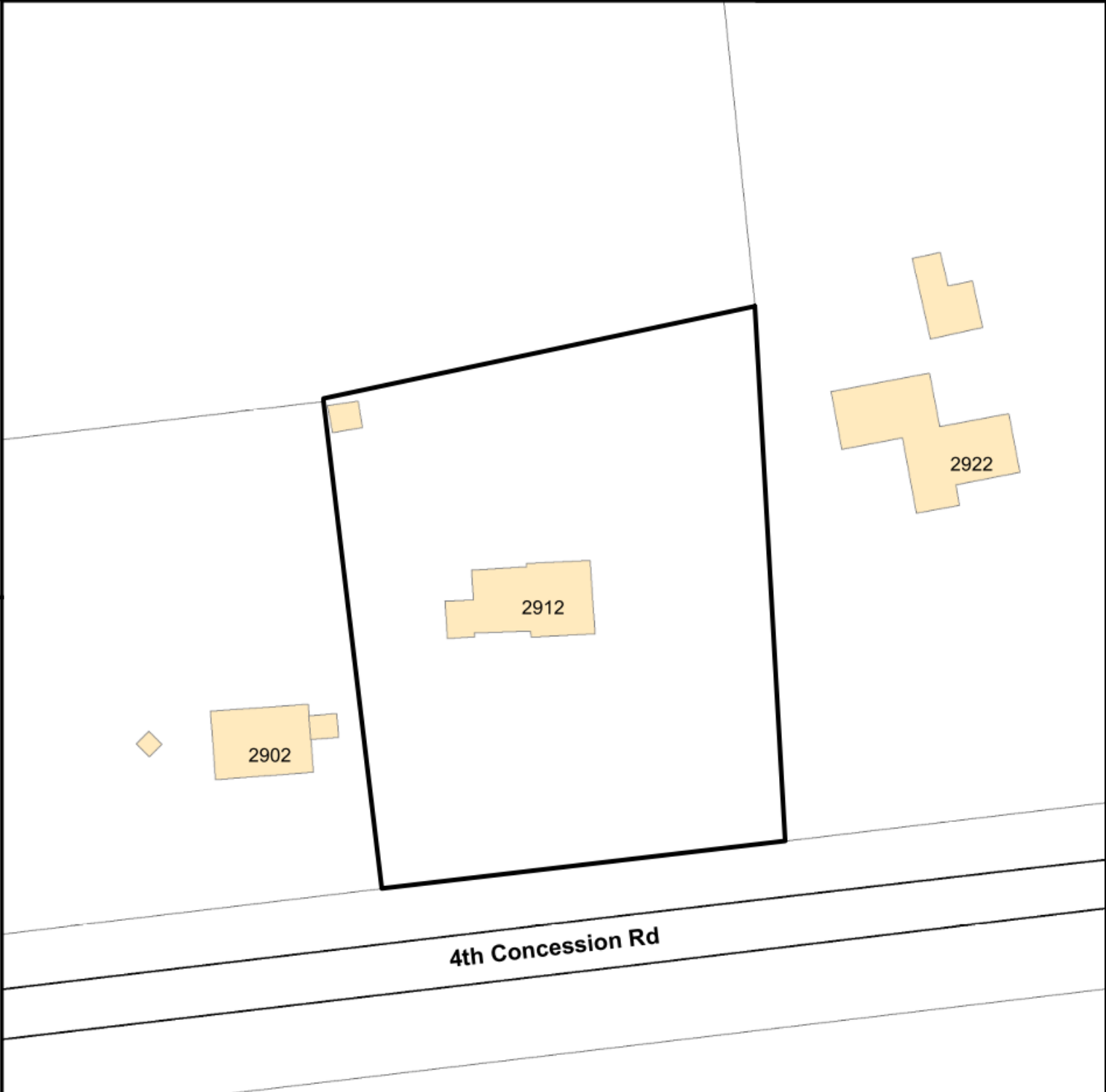
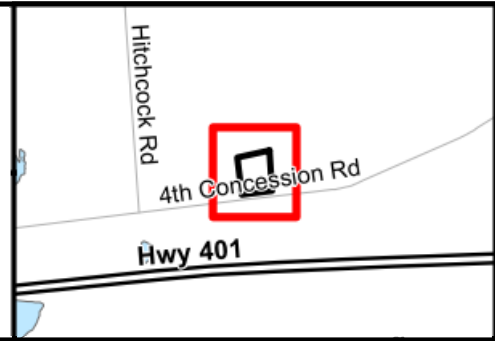
In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Office of the Chief Coroner as a part of the Ontario Ministry of the Solicitor General (1-877-991-9959), the Archaeology Program Unit of the Ministry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



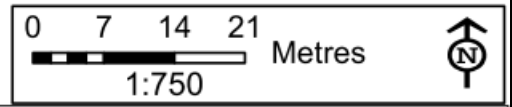
Committee of Adjustment Key Map

Address: 2912 4th Concession Road
File Number: D13-061-2024
Prepared On: Sep-05-2024

 Lands Subject to Minor Variance



Prepared By: ncameron
Prepared On: Sep-05-2024



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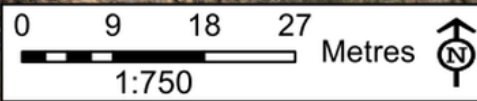
Committee of Adjustment Neighbourhood Context

Address: 2912 4th Concession Road
File Number: D13-061-2024
Prepared On: Sep-05-2024

- Subject Lands
- Property Boundaries
- Proposed Parcels



Prepared By: neameron
Prepared On: Sep-05-2024






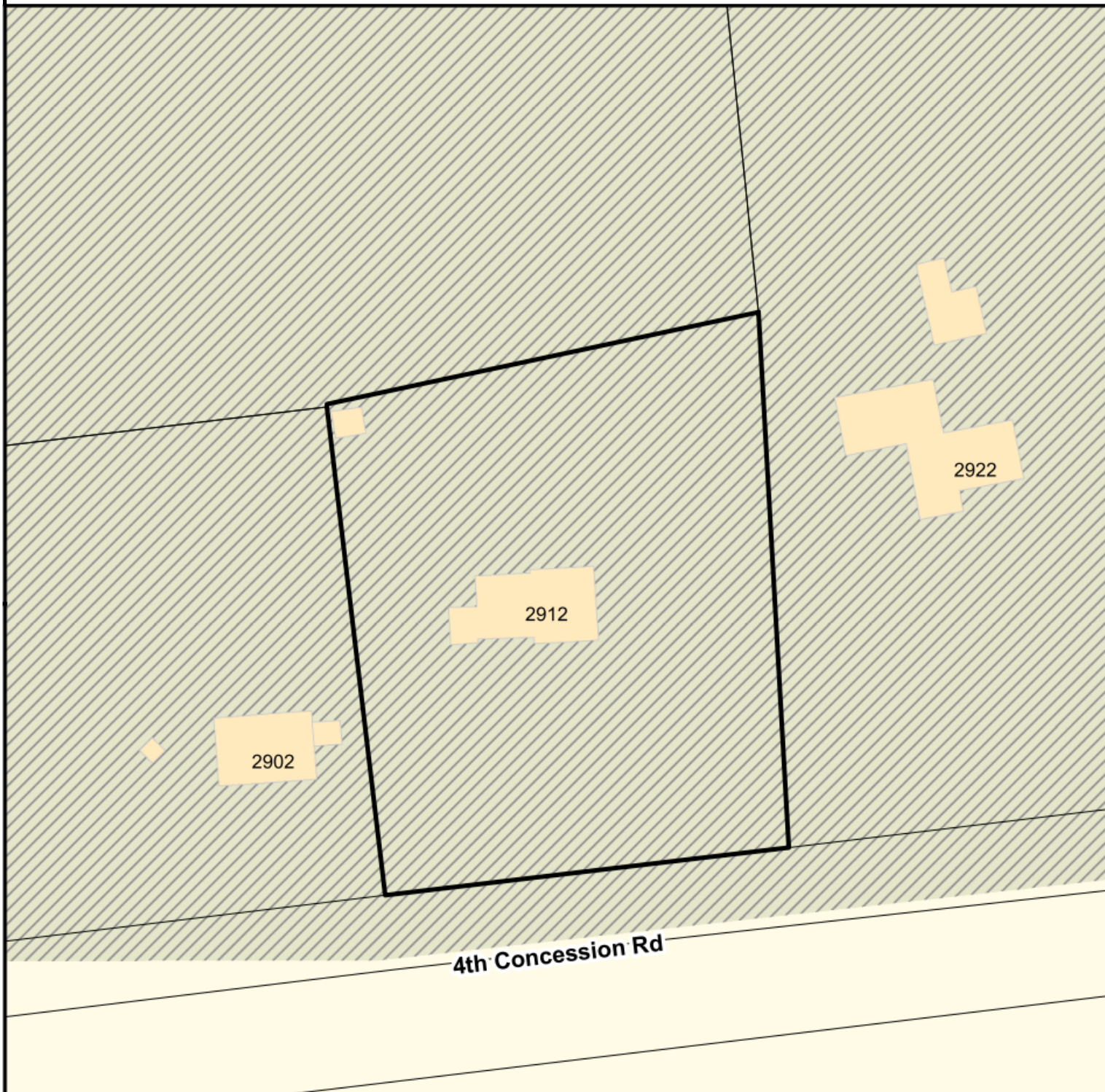
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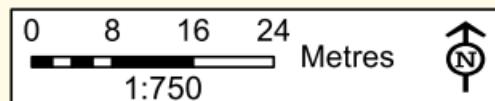
Committee of Adjustment
Official Plan, Existing Land Use

Address: 2912 4th Concession Road
File Number: D13-061-2024
Prepared On: Sep-05-2024

-  Subject Lands
-  PRIME AGRICULTURAL
-  RURAL



Prepared By: ncameron
Prepared On: Sep-05-2024









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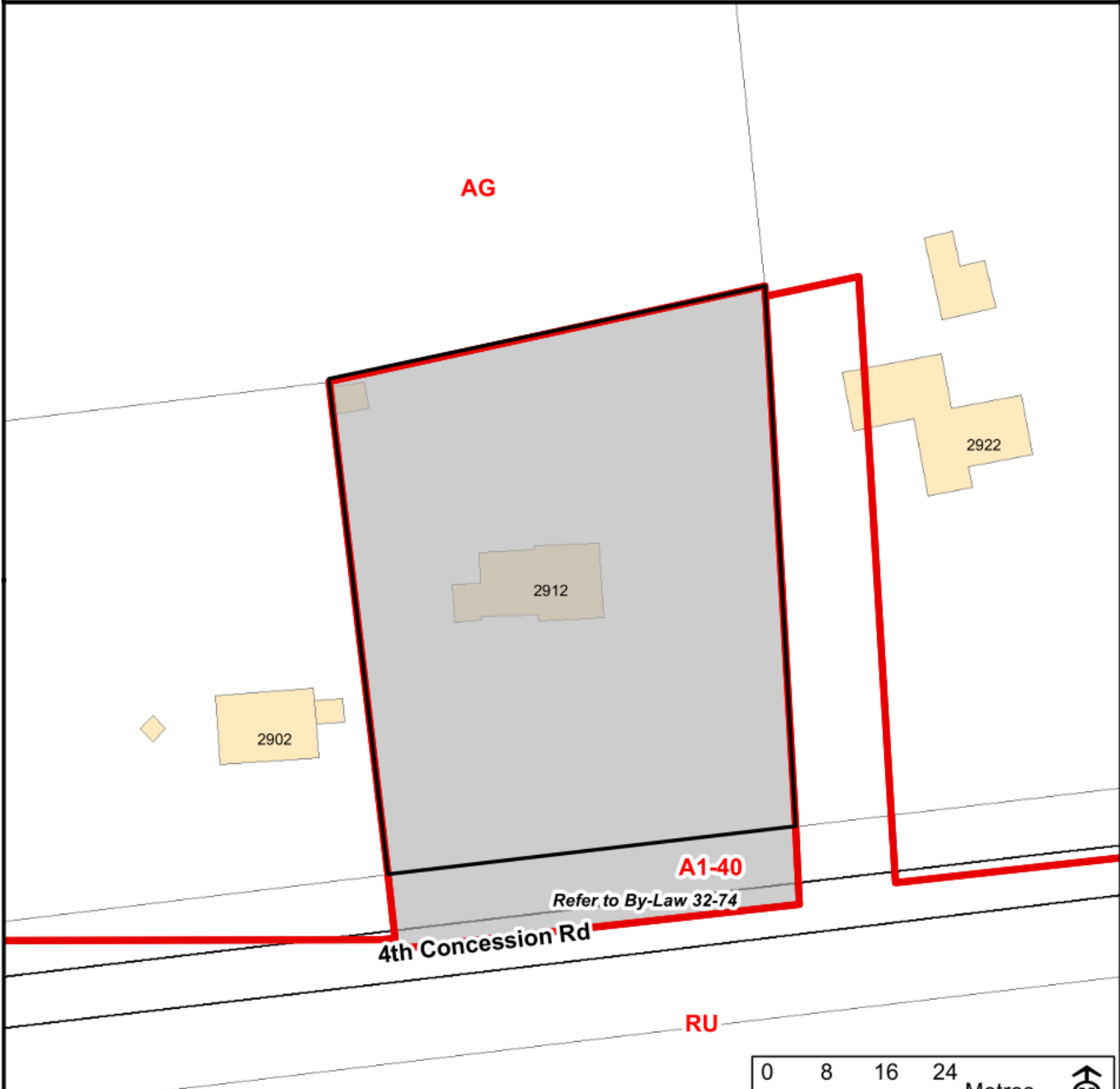


Planning
Services

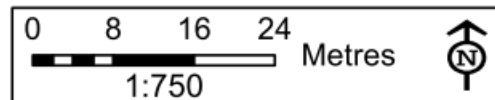
Planning Committee
Existing Zoning
Kingston Zoning By-Law 2022-62

Address: 2912 4th Concession Road
File Number: D13-061-2024
Prepared On: Sep-20-2024

-  Subject Lands
- Schedule 1 Zoning Map
-  Zone
-  Red Exception 32-74
- Schedule E - Exception Overlay
-  Legacy Exceptions (LXXX)
-  Exceptions (EXXX)
- Schedule F - Holding Overlay
-  Holding Overlay (HXXX)



Prepared By: ncameron
Prepared On: Sep-20-2024

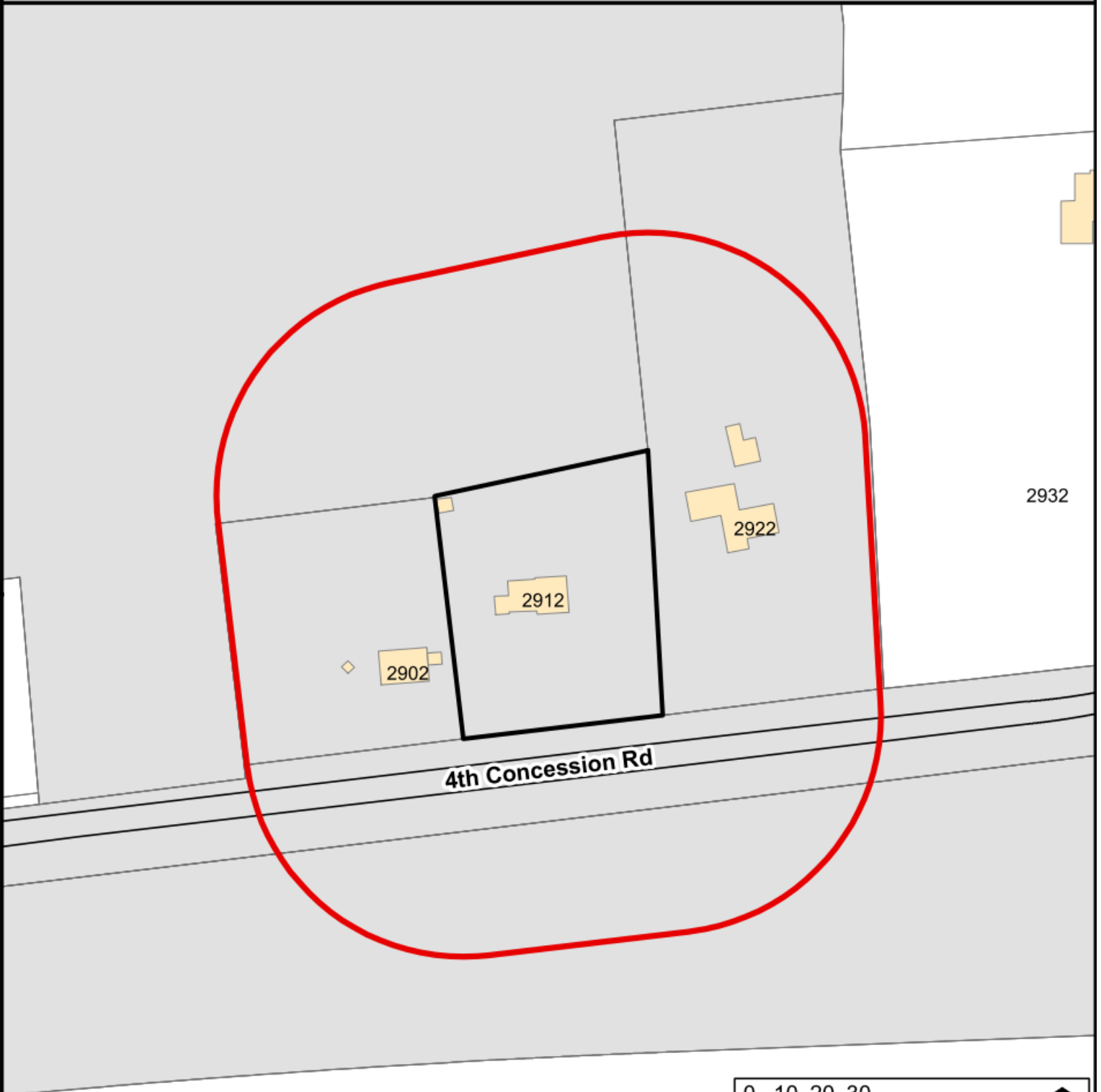


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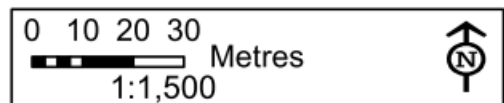


Committee of Adjustment
Public Notice Notification Map
Address: 2912 4th Concession Road
File Number: D13-061-2024
Prepared On: Sep-05-2024

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

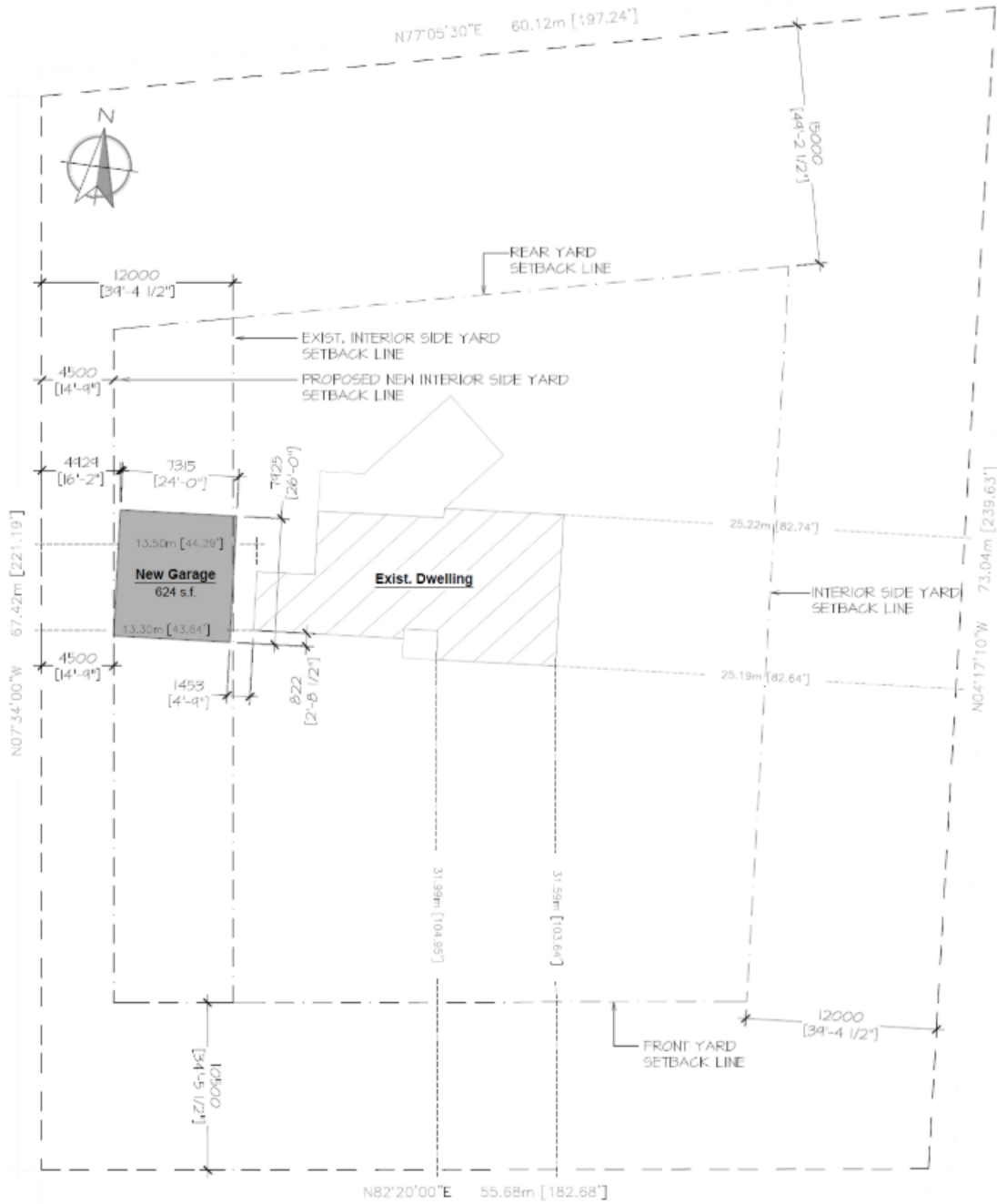


Prepared By: ncameron
Prepared On: Sep-05-2024

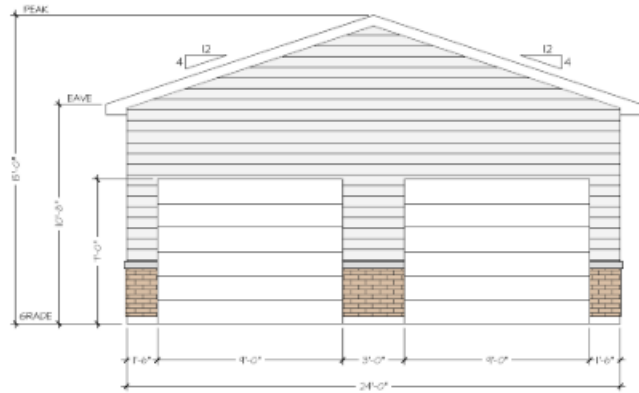


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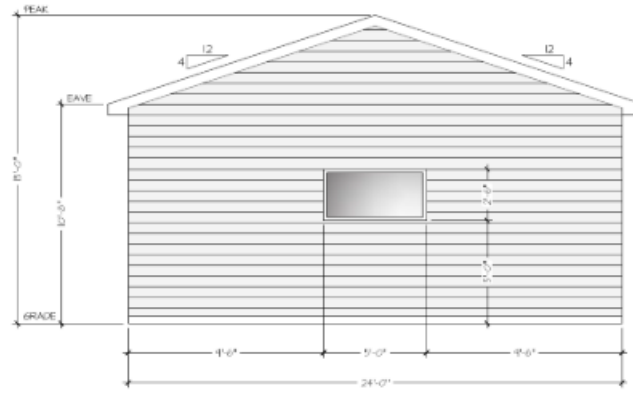
2912 4th Concession Road – Site Plan



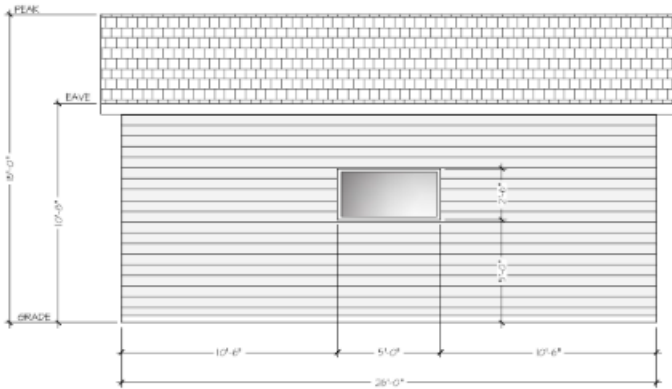
SITE PLAN
SCALE = 1 : 150



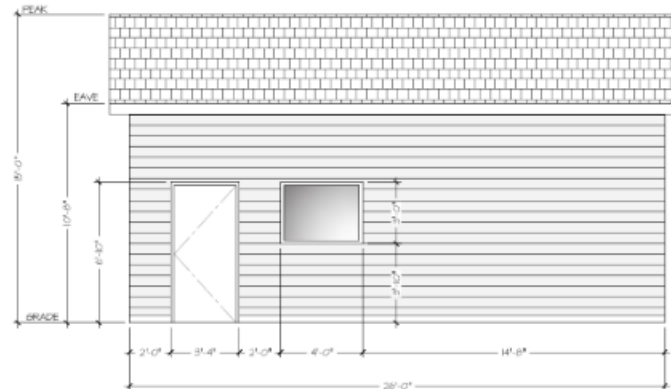
SOUTH ELEVATION
SCALE: 3/8" = 1'-0"



NORTH ELEVATION
SCALE: 3/8" = 1'-0"



WEST ELEVATION
SCALE: 3/8" = 1'-0"



EAST ELEVATION
SCALE: 3/8" = 1'-0"

CONTRACT 2024-0006 SITE PLAN & SITE SOLUTIONS
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| NO. | DATE | REVISIONS | BY |
|-----|-----------|------------------------|----|
| 1 | JAN 14 24 | ISSUED FOR MARCH USAGE | CP |



PROPOSED NEW GARAGE
3942 4TH CONC. RD
DANMORQUE, ON R7S 2V5

ELEVATIONS

| DATE | BY | CHECKED BY |
|----------|----------|------------|
| JAN 2024 | CP | CP |
| | CP | CP |
| | CP | CP |
| | AS NOTED | |

A.2



Figure 1: Looking north from the front lot line at the subject property.



Figure 2: Looking northwest at proposed location of the accessory structure.



Figure 3: Adjacent property to the east of the subject property.



Figure 4: Adjacent property to the west of the subject property.



Figure 5: Looking west along 4th Concession Road past the frontage of the subject property.



Figure 6: Looking east along 4th Concession Road from the frontage of the subject property.