



**City of Kingston
Report to Committee of Adjustment
Report Number COA-25-010**

To: Chair and Members of the Committee of Adjustment
From: Chanti Birdi, Intermediate Planner
Date of Meeting: December 16, 2024
Application for: Minor Variance
File Number: D13-076-2024
Address: 1727 Executive Avenue
District: Loyalist-Cataraqui
Owner: Shane Williams
Applicant: Trevor McCahill

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 a minor variance for the property located at 1727 Executive Avenue. The applicant is proposing to expand an existing upper-level deck from 25 square metres to 55 square metres.

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 D13-076-2024, for the property located at 1727 Executive Avenue to construct a deck above 1.2 metres in height at an area of 55 square metres, be approved, as described below:

Variance Number 1: Maximum deck surface area at a height of 1.2 metres or greater

By-Law Number: 2022-62 Table 4.20.4. Row 1

Requirement: 30 square metres

Proposed: 55 square metres

Variance Requested: 25 square metres; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-25-010.

Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

Chanti Birdi, Intermediate Planner

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

Tim Park, Director, Planning Services

James Bar, Manager, Development Approvals

Malcolm Norwood, Supervisor, Development Approvals

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Options/Discussion:

On October 16, 2024, a minor variance application was submitted by Trevor McCahill, on behalf of the owner, Shane Williams, with respect to the property located at 1727 Executive Avenue. The variance is requested to permit the existing deck to be expanded from 25 square metres to 55 square metres.

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

- Existing Plot Plan (Exhibit F)
- Site Plot Plan (Exhibit G)
- Deck Concept Plan (Exhibit H)
- Site Photographs (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 within a primarily residential neighbourhood bounded by Creekford Road to the north and Bayridge Drive to the west (Exhibit B – Key Map). The property abuts Creekford Road to the north which acts as a division between the residential neighbourhood and lands designated for future industrial use north of Creekford Road. The property directly abuts homes to the east and west (Exhibit C – Neighbourhood Context Map).

The subject property is designated Residential in the Official Plan (Exhibit D – Official Plan Map) and zoned Urban Residential Zone 3 (UR3) in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law 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.

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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 variance requested meets 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 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.

Subsection 9.5.19.(b) of the Official Plan provides that proposed development is to be compatible with surrounding uses, building or structures and development standards associated with adjacent properties, and if necessary, incorporate means of alleviating adverse effect on abutting land uses as recommended in Section 2.7 of the Official Plan.

Subsection 2.7.4 of the Official Plan identifies adequate setbacks and minimum yards as a means of mitigation of potential incompatibility. It is acknowledged that the property at 1729 Executive Avenue may be most impacted by the proposed deck, as the deck would be constructed towards this property. Recommended Conditions (Exhibit A) includes a 'Limitation' condition which limits the approval to the size and shape of the deck as shown on the approved plan provided, including 1.2 metre interior setbacks as shown on the plans.

The proposed deck does not impact the ability of the site to function as intended, including continued access to the rear yard via an existing walkway. Maintenance of a 1.2 metre setback provides separation from the adjacent property and secures sufficient space for a walkway should an additional residential unit be introduced and accessed from the rear yard in the future.

The property is not designated under the *Ontario Heritage Act* and is not subject to heritage features or protected views. The proposal does not impact municipal water or sewage services.

In relation to Subsection 9.5.19.(i), it is possible that other properties in the area may be suitable for an enlarged deck. A number of residential lots in the area contain existing decks that may be suitable for expansion. Each site would need to be assessed individually through subsequent application to ensure that any deck expansion above the zoning by-law requirement would meet the four tests of a minor variance.

The proposal meets the intent of the Official Plan, as the proposed deck is deemed a compatible in terms of use and setback, and will not result in any negative impacts to adjacent properties or to the neighbourhood.

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

The subject property is zoned Urban Residential Zone 3 (UR3) in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map). The UR3 zone permits a variety of residential uses, including houses. Section 4.1 of the Zoning By-Law provides that accessory uses are permitted where a principal use is established on the same lot.

The proposed deck exceeds the minimum interior setback required through the implementing zoning by-law by twice the requirement. Where the zoning by-law requires a minimum 0.6 metre interior setback, 1.2 metres is proposed.

It is noted that under the zoning by-law, the existing 25 square metre deck could be removed or reconstructed to include portions at the same proposed setback, without requiring a variance. The proposed deck extension will not protrude farther into the rear yard than the existing deck.

The proposal requires a variance to Table 4.20.4.

Variance Number 1: Maximum deck surface area at a height of 1.2 metres or greater

By-Law Number:	2022-62 Table 4.20.4. Row 1
Requirement:	30 square metres
Proposed:	55 square metres
Variance Requested:	25 square metres

The proposed deck requires one variance which does not impact required setbacks and complies with the maximum 10% cumulative lot coverage for decks and porches. The property does not contain any other decks but does contain an existing covered front porch at an area of 20.67 square metres.

With a lot area of 862 square metres (based on GIS data), an existing porch at 20.67 square metres and a proposed deck at 55 square metres, the total lot area occupied by porches and decks would be 8.78%, in compliance with the zoning by-law.

The intent of the maximum size for upper-storey decks is to support outdoor amenity spaces accessory to residential uses while acknowledging that not all lots can appropriately accommodate a larger deck at a height greater than 1.2 metres. The 30.0 square metre maximum for decks higher than 1.2 metres is the City-wide standard, regardless of lot size or configuration. This maximum allows the City to assess whether individual properties can accommodate decks larger than 30.0 square metres based on local conditions, such as ability to meet setbacks and location of the proposed deck.

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

The variance is minor in nature

The variance is considered minor as the setback and lot coverage requirements continue to be met which mitigate potential nuisance or overlook on adjacent properties. The proposed deck

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does not interfere with the intended uses of the residential zone or designation. The proposal does not necessitate a zoning by-law amendment.

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

Decks, including those above 1.2 metres from grade to walking surface, are considered permitted accessory structures to a principal residential use. The proposed deck is not anticipated to interfere with the intended long-term use of the subject property or adjacent lands.

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 type="checkbox"/> Utilities Kingston | <input type="checkbox"/> Real Estate |
| <input type="checkbox"/> Fire & Rescue | <input type="checkbox"/> Kingston Hydro | <input type="checkbox"/> Environment Division |
| <input 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 checked="" type="checkbox"/> Ministry of Transportation |
| <input type="checkbox"/> KEDCO | <input checked="" type="checkbox"/> Municipal Drainage | <input type="checkbox"/> Parks of the St. Lawrence |
| <input checked="" 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 type="checkbox"/> Hydro One | <input type="checkbox"/> Enbridge Pipelines | <input type="checkbox"/> TransCanada Pipelines |
| <input type="checkbox"/> 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 were received. Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

Previous or Concurrent Applications

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

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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 enable the expansion of the existing deck with a maximum area of 55 square metres.

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

Kingston Zoning By-Law Number 2022-62

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on December 16, 2024. Pursuant to the requirements of the *Planning Act*, a notice of Statutory Public Meeting was provided by advertisement in the Kingston Whig Standard on Friday November 29, 2024. The notice was also placed on the City's website and a sign was placed on the subject site.

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

Chanti Birdi, Intermediate Planner, 613-546-4291 extension 3273

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Neighbourhood Context Map (2022)
- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Map
- Exhibit F Existing Plot Plan
- Exhibit G Site Plot Plan
- Exhibit H Deck Concept Plan
- Exhibit I Site Photographs

Recommended Conditions

The approval of minor variance application, File Number D13-076-2024, to permit an existing deck to be expanded from 25 square metres to 55 square metres at a height greater than 1.2 metres from grade to walking surface, shall be subject to the following recommended conditions:

1. Limitation

That the approved minor variance applies only to the deck as shown on the approved drawings attached to the notice of decision.

2. No Adverse Impacts

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

3. 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.

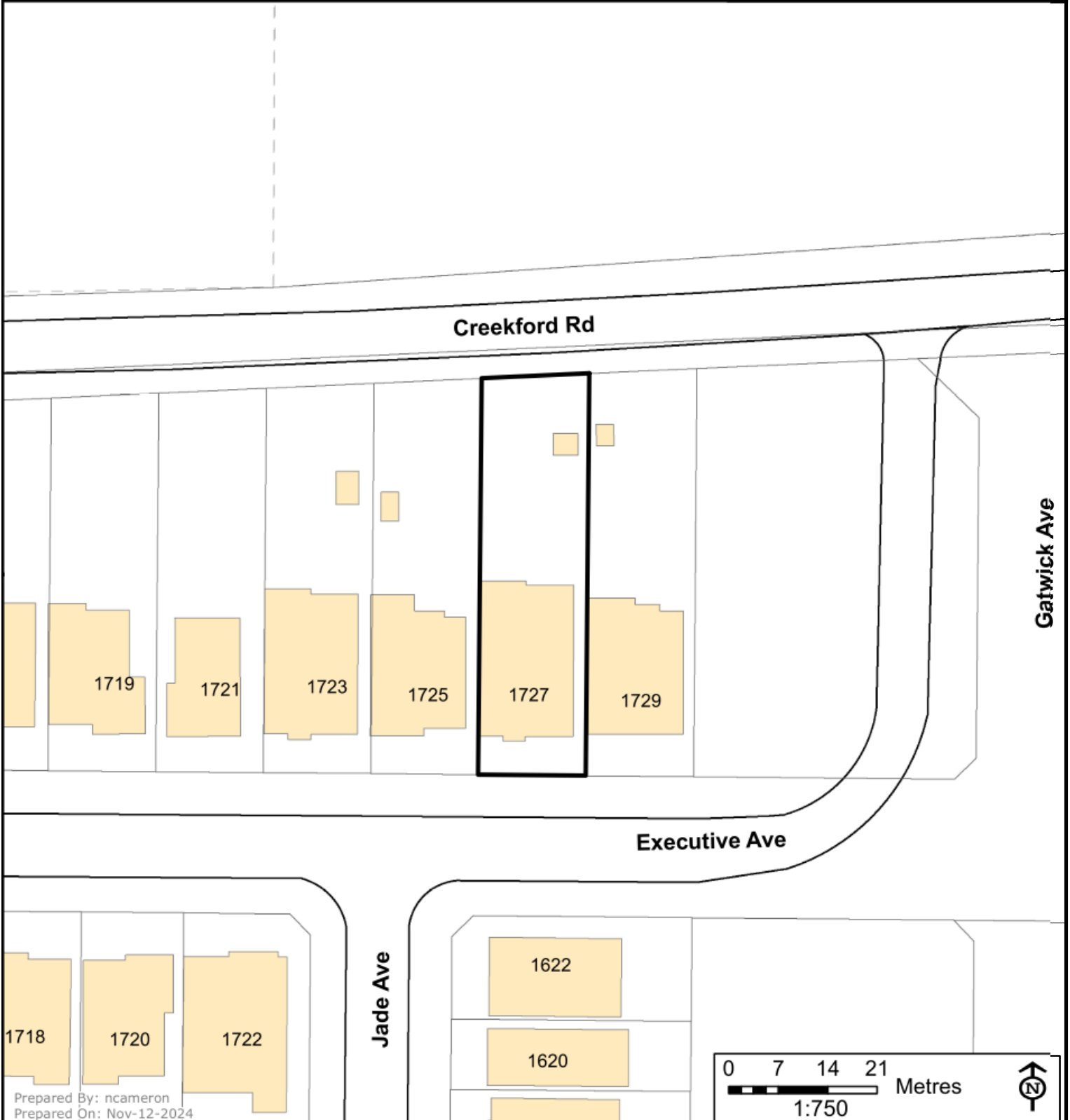
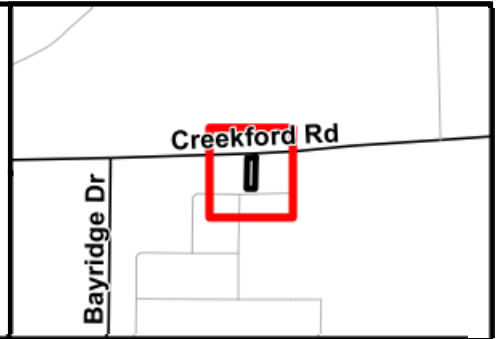
In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Office of the Chief Coroner as a part of the Ontario Ministry of the Solicitor General (1-877-991-9959), the Archaeology Program Unit of the Ministry 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: 1727 Executive Ave.
File Number: D13-076-2024
Prepared On: Nov-12-2024

 Lands Subject to Minor Variance



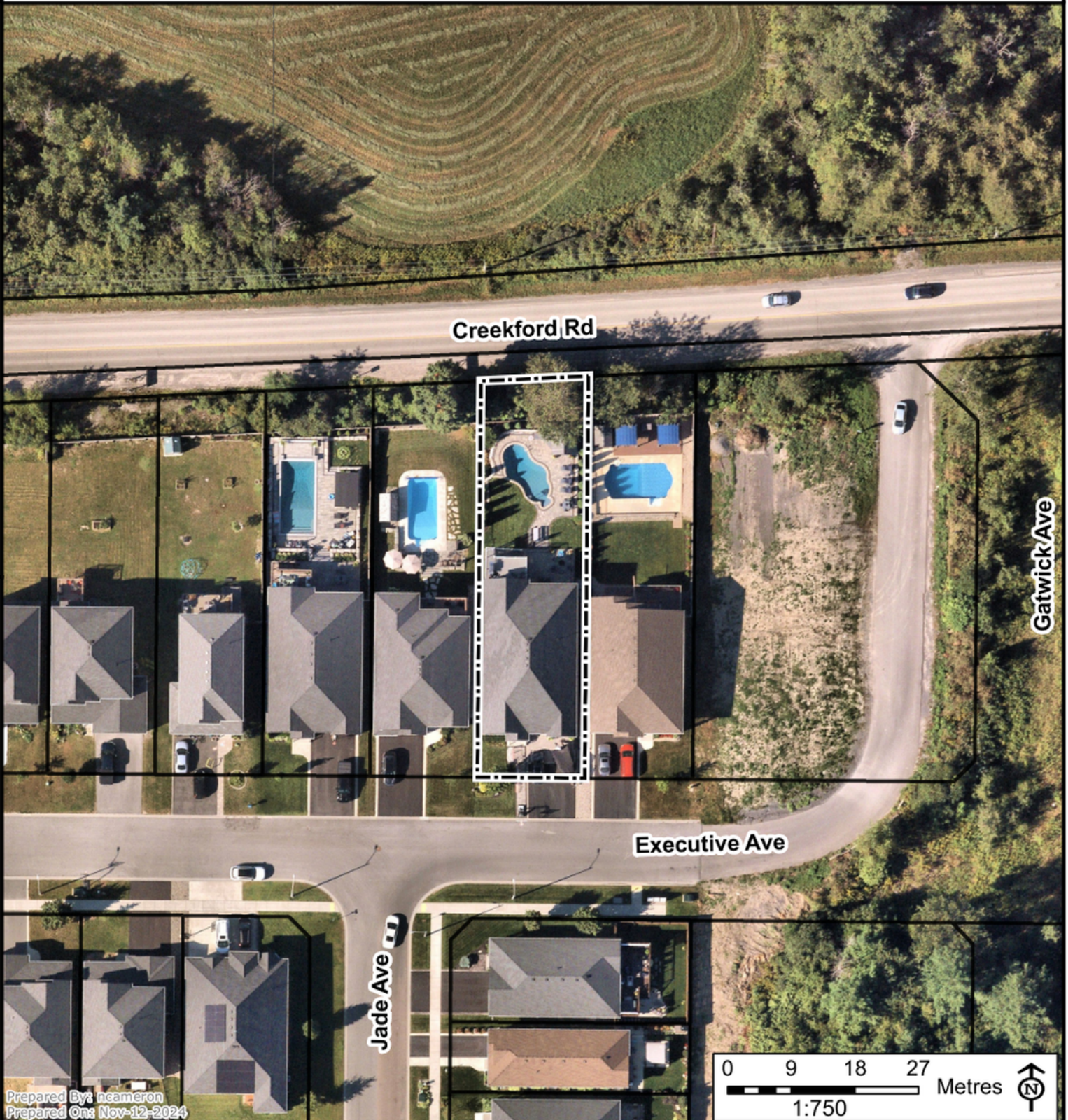
Prepared By: ncameron
Prepared On: Nov-12-2024



Committee of Adjustment Neighbourhood Context

Address: 1727 Executive Ave.
File Number: D13-076-2024
Prepared On: Nov-12-2024

- Subject Lands
- Property Boundaries
- Proposed Parcels



Prepared By: neameron
Prepared On: Nov-12-2024






Planning Services

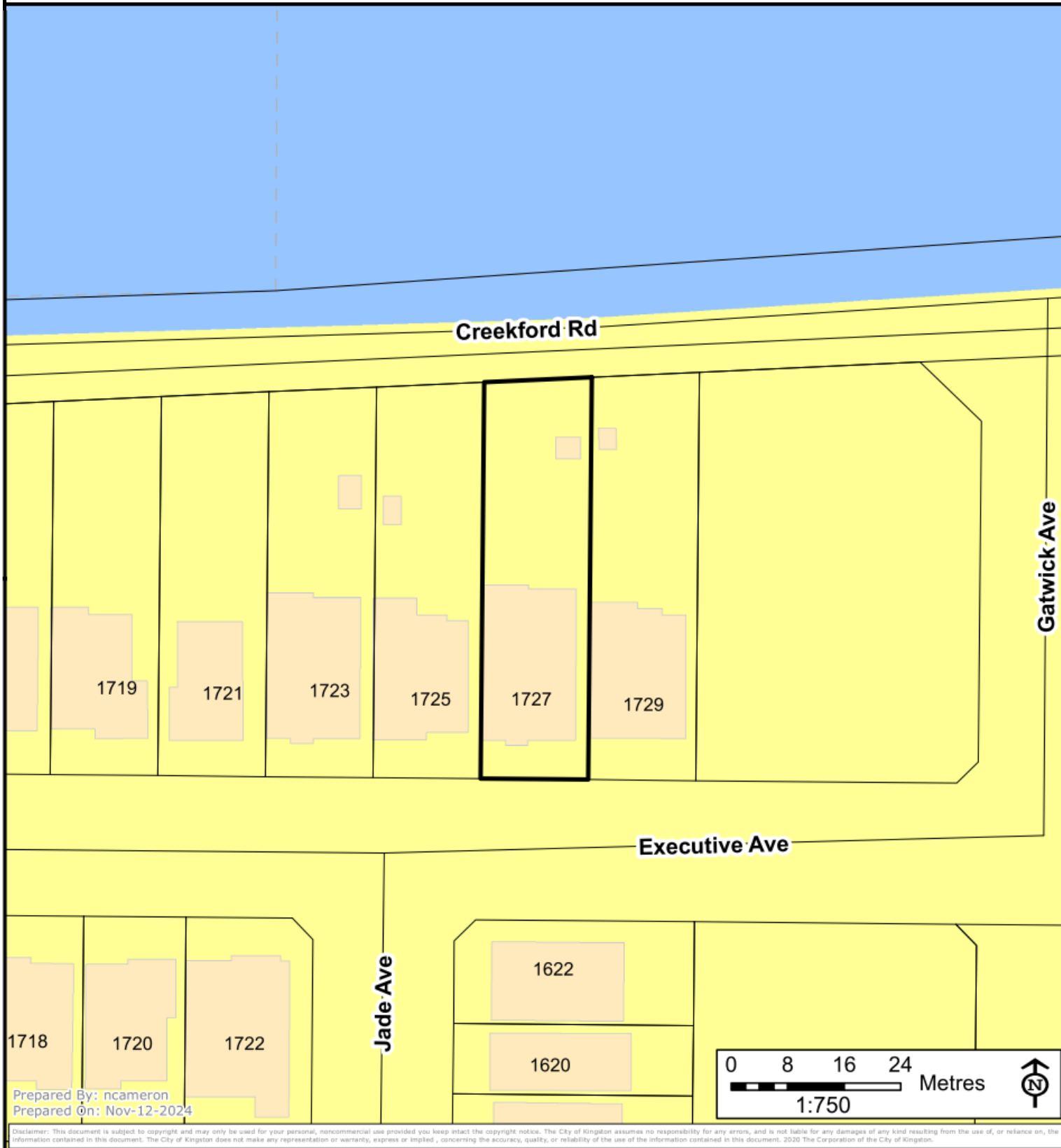
Committee of Adjustment
Official Plan, Existing Land Use

Address: 1727 Executive Ave.

File Number: D13-076-2024

Prepared On: Nov-12-2024

-  Subject Lands
-  BUSINESS PARK INDUSTRIAL
-  RESIDENTIAL



Prepared By: ncameron
Prepared On: Nov-12-2024




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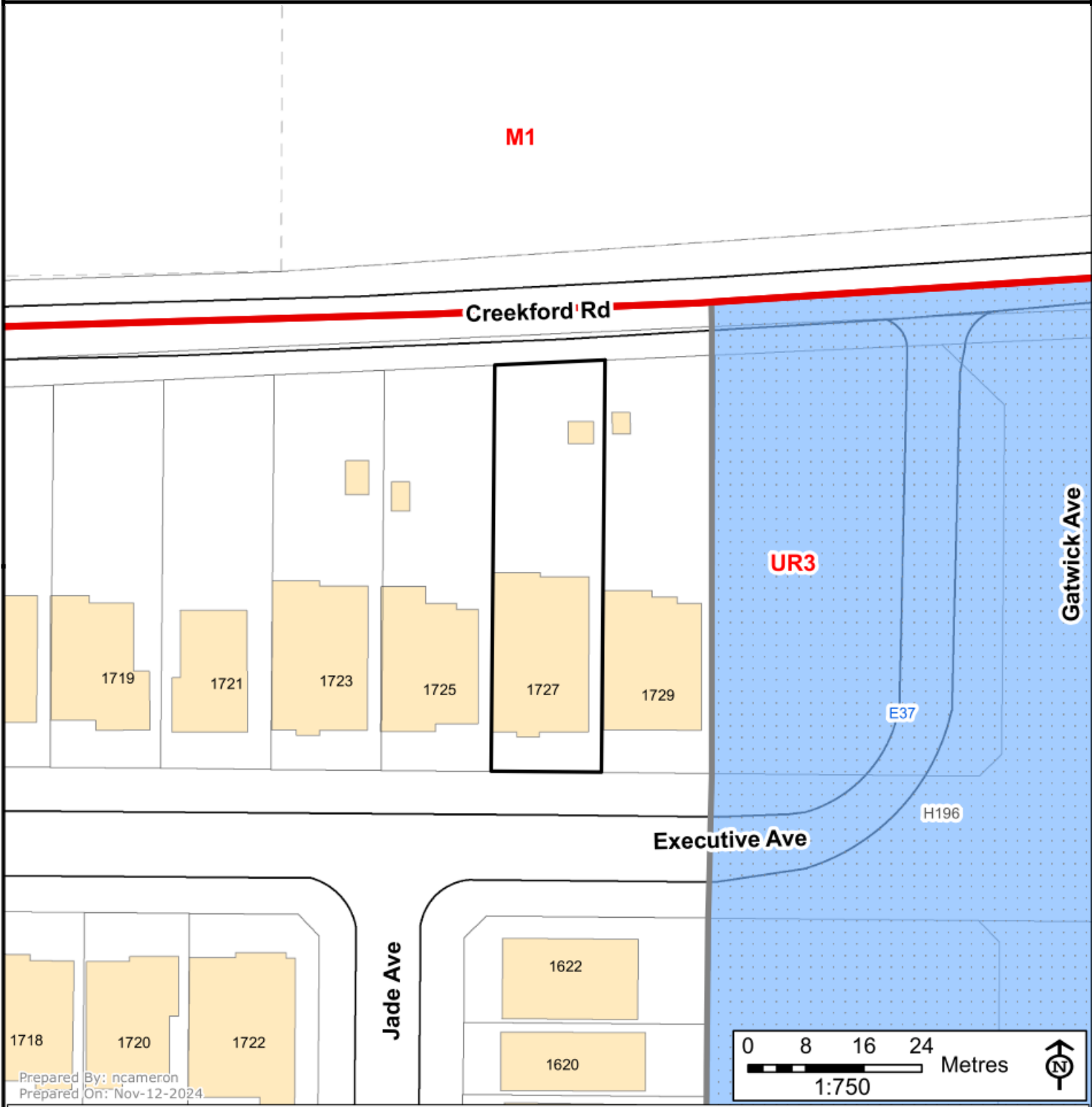
Committee of Adjustment
Existing Zoning
Kingston Zoning By-Law 2022-62

Planning Services

Address: 1727 Executive Ave.
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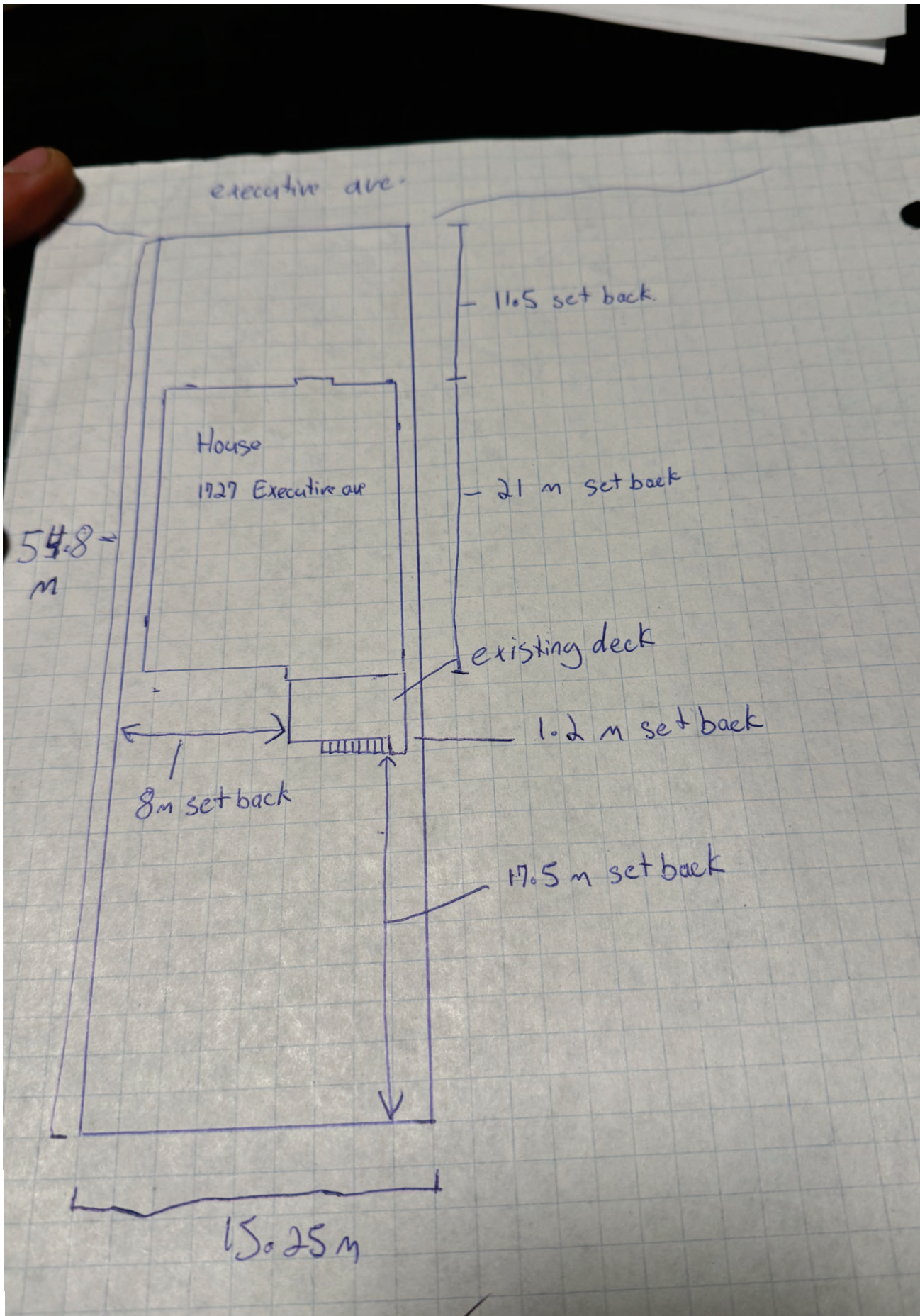
-  Subject Lands
-  Schedule 1 Zoning Map
-  Zone

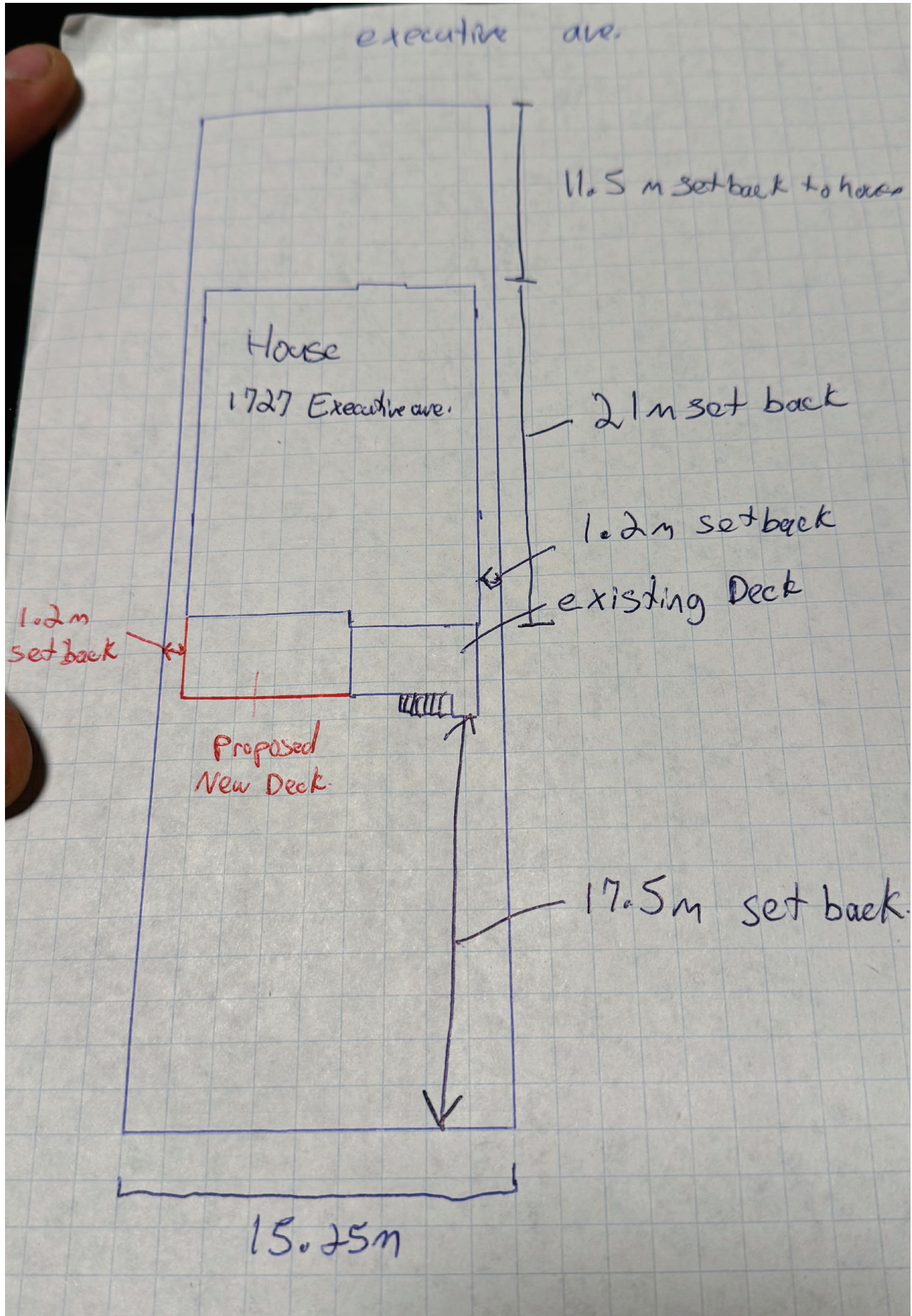
-  Schedule E - Exception Overlay
-  Legacy Exceptions (LXXX)
-  Exceptions (EXXX)
-  Schedule F - Holding Overlay
-  Holding Overlay (HXXX)



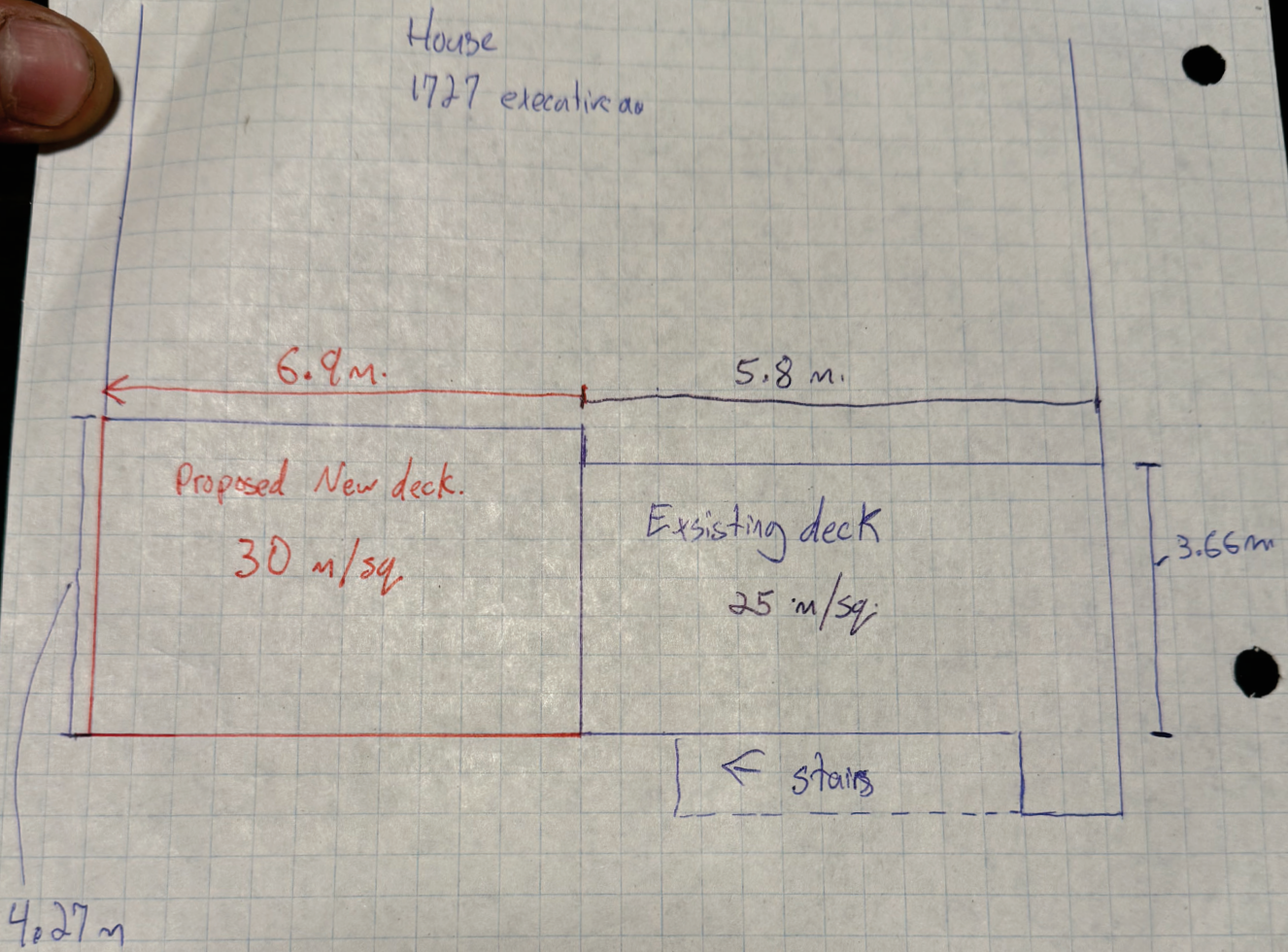
Prepared By: ncameron
Prepared On: Nov-12-2024

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House
1727 executive av



Site Photographs – November 18, 2024



Figure 1- View of home from rear yard of subject property, showing existing deck and area where deck extension is proposed.



Figure 2- View of existing deck from eastern interior yard (yard towards 1729 Executive Avenue).



Figure 3- View of existing 1.2 metre setback towards 1725 Executive Avenue (western interior yard).



Figure 4- View of eastern interior yard (towards 1729 Executive Avenue). Proposed deck to match existing house setback of 1.2 metres minimum.



Figure 5- View of adjacent property (1725 Executive Avenue).



Figure 6- View of rear decks at 1729 Executive Avenue (left on image) and 1727 Executive Avenue (centred on image), from Gatwick Avenue.



Figure 7- View of rear decks at 1729 Executive Avenue and 1727 Executive Avenue from Gatwick Avenue.