



**City of Kingston  
Report to Committee of Adjustment  
Report Number COA-25-015**

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**To:** Chair and Members of the Committee of Adjustment  
**From:** Jason Partridge, Planner  
**Date of Meeting:** January 27, 2025  
**Application for:** Minor Variance  
**File Number:** D13-091-2024  
**Address:** 2250 Highway 38  
**District:** D13-091-2024  
**Owner:** Jeff and Kristy Schwartzentruber.  
**Applicant:** Jeff Schwartzentruber

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**Council Strategic Plan Alignment:**

Theme: Policies & by-laws

Goal: 2.3 Maintain the City's natural heritage and environmental assets.

**Executive Summary:**

This report provides a recommendation to the Committee of Adjustment regarding an application for a minor variance for the property located at 2250 Highway 38. The applicant is proposing to construct a 26.76 square metre accessory building within the front yard of the property. The new accessory building will comply with all maximum accessory building height, front/rear yard setbacks and landscaped open space requirements.

The proposed accessory building requires relief from the minimum interior setback requirement of 9 metres, whereas 2.4 metres is proposed. 2250 Highway 38 is not subject to section 4.1.2.1 and allows for accessory buildings to be located within the front yard because the lot is located within an 'RU' zone and the lot is over 1 hectare in size.

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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.

**Recommendation:**

**That** minor variance application, File Number D13-091-2024, for the property located at 2250 Highway 38 to construct a 26.76 square metre accessory building within the front and interior yards of the property, be approved, as described below:

**Variance Number 1: Minimum interior setback**

By-Law Number 2022-62:8.3.1.7

Requirement: 9 metres

Proposed: 2.4 metres

Variance Requested: 6.6 metres

**That** approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-25-015.

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**Authorizing Signatures:**

ORIGINAL SIGNED BY PLANNER

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Jason Partridge, Planner

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

Tim Park, Director, Planning Services

Malcolm Norwood, Supervisor, Development Approvals

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**Options/Discussion:**

On December 6, 2024, a minor variance application was submitted by Jeff Schwartzentruber, on behalf of the owners, Jeff and Kristy Schwartzentruber, with respect to the property located at 2250 Highway 38. The variance is requested to construct a 26.76 square metre accessory building. The accessory building is proposed to be approximately 8 feet in height. The applicant is requesting relief from the minimum interior setback requirement of the Kingston Zoning By-Law 2022-62 to construct an accessory building. The proposed accessory building is to be 2.4 metres setback from eastern interior lot line whereas the permitted interior setback of an accessory building is 9.0 metres. The requested variance is to accommodate an accessory building that will provide additional storage associated to the single detached house. The new accessory building complies with all minimum height, rear, front yard setbacks and landscaped open space requirements.

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

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

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

**Site Characteristics**

The subject property is located 2250 Highway 38 (Exhibit B – Key Map) and has a lot area of approximately 1.7 hectares with approximately 90 metres of frontage along Highway 38. The property is currently developed with a single detached house, and abuts other single detached houses to the east, west and south. The subject property is also located in proximity to various community and open space uses, local schools and Highway 401. (Exhibit C – Neighbourhood Context Map).

The subject property is designated Rural Lands in the Official Plan (Exhibit D – Official Plan Map) and is located in the 'RU' zone in Kingston Zoning By-Law (Exhibit E – Zoning By-Law Map 32-74).

**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(s) is not a simple mathematical calculation, but rather a detailed assessment of whether the variance(s) requested, both separately and together, meet the four tests of a minor variance outlined in Subsection 45(1) of the *Planning Act*. The following provides this review:

**1. The general intent and purpose of the Official Plan are maintained**

The subject property is designated Rural in the City of Kingston Official Plan (Exhibit D – Official Plan Map).

In considering whether this proposed variance is desirable, the Committee of Adjustment will have regard to the nine requirements included in Section 9.5.19 of the Official Plan.

The proposed accessory building will not have any negative impacts on abutting properties. The proposal is compatible with the surrounding residential uses and will not result in significant impacts or changes to the surrounding area. No additional dwelling units are proposed and there is no increase in density or intensity of uses. The proposed accessory building is consistent with the intent of this policy.

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 and bicycles or generate issues relating to accessibility.

2250 Highway 38 is not a designated property under the Ontario Heritage Act, nor is it within a Heritage District. No impacts to any built heritage resources are anticipated as a result of this proposal, and as such, no Heritage Impact Statement is required. Furthermore, Heritage Planning staff have identified the subject property as having composite potential for archeological resources. However, as the development will not result in ground disturbance an archeological assessment is not required.

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

The Cataraqui Region Conservation Authority (CRCA) was circulated the minor variance application and noted that they had no concerns with the reduction of the interior setback based on natural hazards and wetland protection policies.

The subject property contains a significant woodland and unevaluated wetland feature in the area of the proposed accessory structure. The Environmental Department was circulated the application and noted the photos from the applicant depict an upland woodland habitat and not a wetland habitat which the CRCA concurred with. Therefore, no waterbody separation distance

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setback was assessed within 30 metres of the proposed area of development. The proposed accessory building construction is unlikely to negatively impact the significant woodland and will not require a scoped or detailed Environmental Impact Assessment.

The Forestry Department was circulated the minor variance application and noted that the proposed construction of the accessory building will require a Tree Permit to address tree preservation concerns within the significant woodland portion of the property. A recommended condition for the tree permit will be placed within the Notice of Decision. This will assist in mitigating any potential impacts to the woodland.

The proposed variance meets the four tests of a minor variance under the Planning Act and the development is consistent with the existing built form along Highway 38. Therefore, a zoning by-law amendment is not required.

The proposal meets the intent of the Official Plan, as the proposed will not result in any negative impacts to adjacent properties or to the neighbourhood.

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

The subject property is zoned General Rural Area (RU) in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map). A single detached house with an accessory building is a permitted use within the ‘RU’ zone.

The proposal requires a variance to Section 8.3.1.7 of the zoning by-law, as follows

**Variance Number 1: Minimum interior setback**

By-Law Number 2022-62:8.3.1.7

Requirement: 9 metres

Proposed: 2.4 metres

Variance Requested: 6.6 metres

The intent of the interior setback within an ‘RU’ zone is to maintain sufficient space around the periphery of any building to provide for functional access, to mitigate the potential for adverse impacts from adjacent agricultural operations, and to prevent intrusive overlook onto surrounding properties. A reduced interior side yard width of 2.4 metres will continue to provide sufficient space to allow for the functional movements of vehicles, equipment, and people to occur around the proposed accessory building. Existing vegetation along the eastern interior lot line serves to provide some buffering from the adjacent residential use to the east, which is currently only used as a driveway into the neighbouring property. The accessory building is intended to provide additional storage space associated to the permitted single detached house use. No adverse impacts in terms of intrusive overlook are anticipated as a result of the proposed accessory building. The decreased interior setback maintains the general intent and the purpose of the by-law.

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**The variance is minor in nature**

The proposed accessory building will result in a development that is consistent with the existing built form of residential development along Highway 38. The accessory building will be located within the front yard and will not result in intrusive overlook with respect to adjacent properties. The variance will not alter the character of the neighbourhood or the existing streetscape. There are no anticipated impacts to the significant woodland on the subject property with the recommended condition for a tree management plan. The total area of the proposed accessory building is 26.76 square metres and does not exceed the permitted lot coverage for accessory buildings.

The variance is considered minor as there will be no 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 existing residential use. The form of residential development is long established. Thus, the overall density, type of use and scale of activity as proposed is consistent with the existing built form of accessory building along Highway 38.

The resulting built form satisfies all applicable provisions of the zoning by-law, except for the required minimum interior setback. The proposal does not involve a significant alteration to the existing built form on the site and will not cause any adverse impacts on adjacent properties.

The 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 checked="" type="checkbox"/> Environment Division |
| <input checked="" type="checkbox"/> Solid Waste       | <input checked="" type="checkbox"/> Parks Development   | <input type="checkbox"/> Canadian National Railways      |
| <input type="checkbox"/> Housing                      | <input checked="" type="checkbox"/> District Councillor | <input type="checkbox"/> Ministry of Transportation      |
| <input type="checkbox"/> KEDCO                        | <input 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

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application from moving forward. Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

**Public Comments**

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

**Previous or Concurrent Applications****D10-191-2015 Consent application for a 1 lot consent on the property**

D10-029-2016 Consent application for a 1 lot consent on the property

**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 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 the construction of a new 26.76 square metre accessory building within the front yard of the subject property. The proposed front yard accessory building and will improve the function of the existing residential use on the site and represents good land use planning.

**Existing Policy/By-Law:**

The proposed application was reviewed against the policies of the Province of Ontario and City of Kingston to ensure that the changes would be consistent with the Province's and the City's vision of development. The following documents were assessed:

**Provincial**

Provincial Planning Statement, 2024

**Municipal**

City of Kingston Official Plan

Kingston Zoning By-Law Number 2022-62



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**Notice Provisions:**

A Committee of Adjustment Meeting is going to be held respecting this application on January 27, 2025 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 9 property owners (according to the latest Assessment Roll) within 60 metres of the subject property and a courtesy notice was placed in The Kingston Whig-Standard (Exhibit I – Public Notification Map).

Once a decision has been rendered by the Committee of Adjustment, a Notice of Decision will be circulated in accordance with the provisions of the *Planning Act*.

**Accessibility Considerations:**

None

**Financial Considerations:**

None

**Contacts:**

Malcolm Norwood, Supervisor, Development Approvals, 613-546-4291 extension 3236

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

**Other City of Kingston Staff Consulted:**

None

**Exhibits Attached:**

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Neighbourhood Context Map (2022)
- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Map
- Exhibit F Site Plan
- Exhibit G Elevations
- Exhibit H Site Photos

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Exhibit I      Public Notification Map

## Recommended Conditions

### Application for minor variance, File Number D13-091-2024

Approval of the foregoing application shall be subject to the following recommended conditions:

#### 1. Limitation

That the approved variance applies only to the minimum interior setback to construct a 26.76 front yard accessory building at 2250 Highway 38.

#### 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 Archeological Condition

In the event that deeply buried or previously undiscovered archaeological deposits are discovered in the course of development or site alteration, all work must immediately cease and the site must be secured. The Archaeology Program Unit of the Ministry of Citizenship and Multiculturalism ([archaeology@ontario.ca](mailto:archaeology@ontario.ca)) and City of Kingston's Planning Services (613-546-4291, extension 3180) must be immediately contacted.

In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Office of the Chief Coroner as a part of the Ontario Ministry of the Solicitor General (1-877-9919959), the Archaeology Program Unit of the Ministry of Citizenship and Multiculturalism ([archaeology@ontario.ca](mailto:archaeology@ontario.ca)), and City of Kingston's Planning Services (613-546-4291, extension 3180) must be immediately contacted.

#### 5. Forestry


Prior to the issuance of a building permit, the owner must apply for a Tree permit that includes a Tree Preservation Plan prepared by an ISA Certified Arborist with

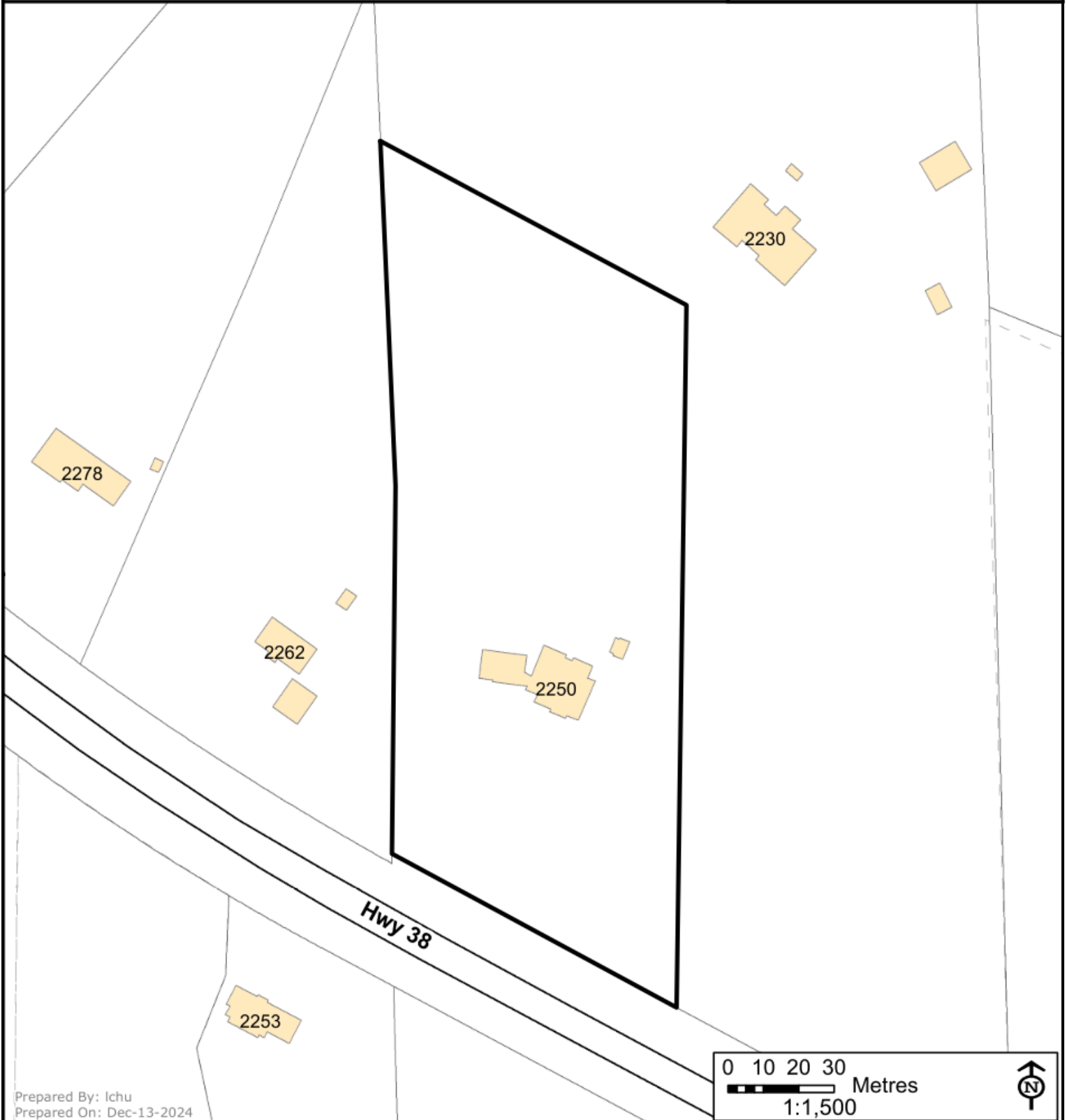
supporting documentation for the Tree permit submission that outlines specific measures to further minimize impacts, i.e. staging and placement of materials, mulch layers to minimize compaction within the treed areas, etc.



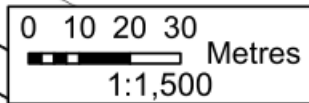
# Committee of Adjustment Key Map

Address: 2250 HWY 38  
File Number: D13-091-2024  
Prepared On: Dec-13-2024

 Lands Subject to Minor Variance



Prepared By: Ichu  
Prepared On: Dec-13-2024



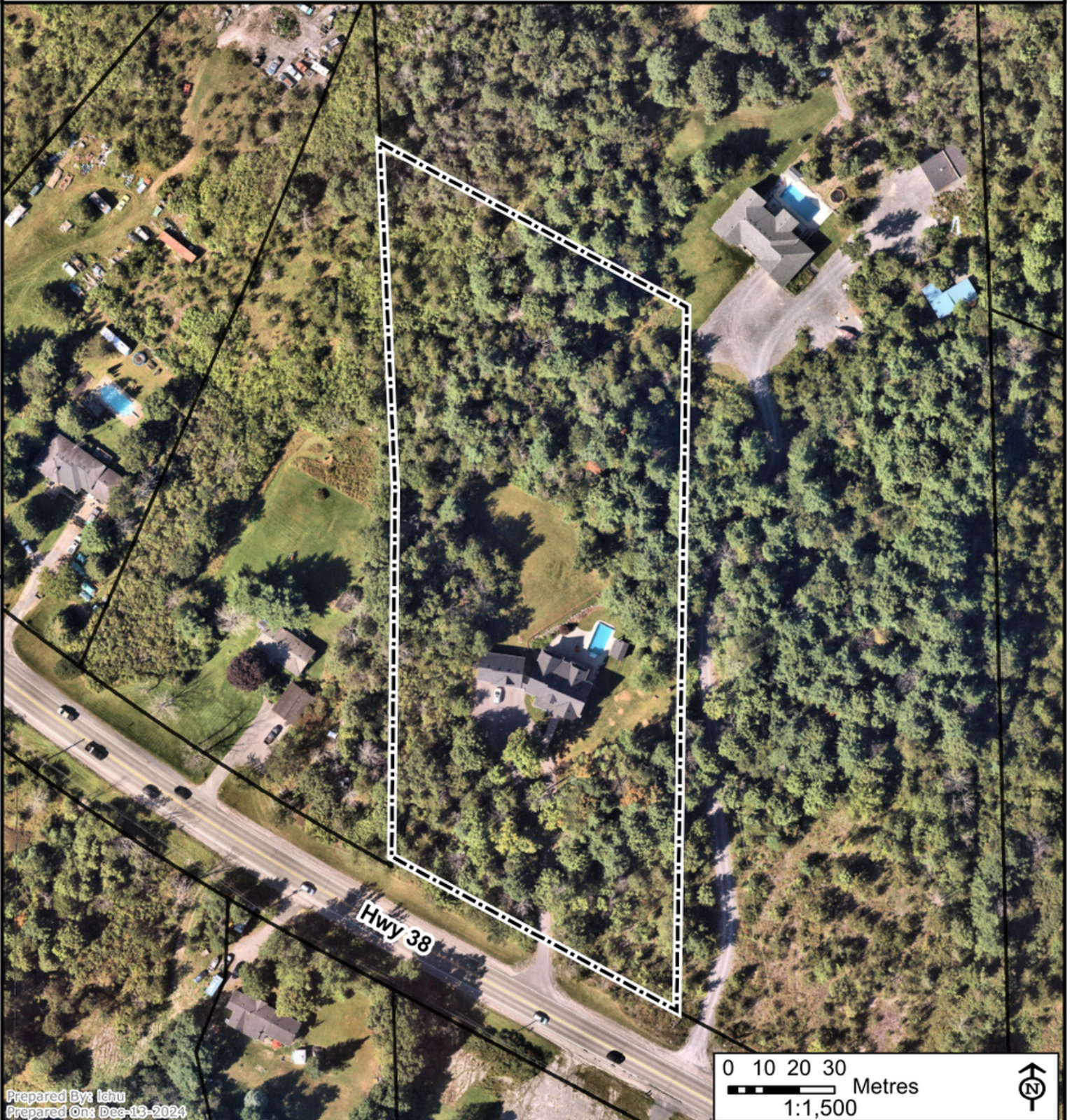
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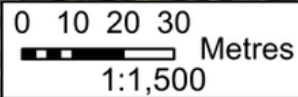
# Committee of Adjustment Neighbourhood Context

Address: 2250 HWY 38  
File Number: D13-091-2024  
Prepared On: Dec-13-2024

- Subject Lands
- Property Boundaries
- Proposed Parcels



Prepared By: lchu  
Prepared On: Dec-13-2024





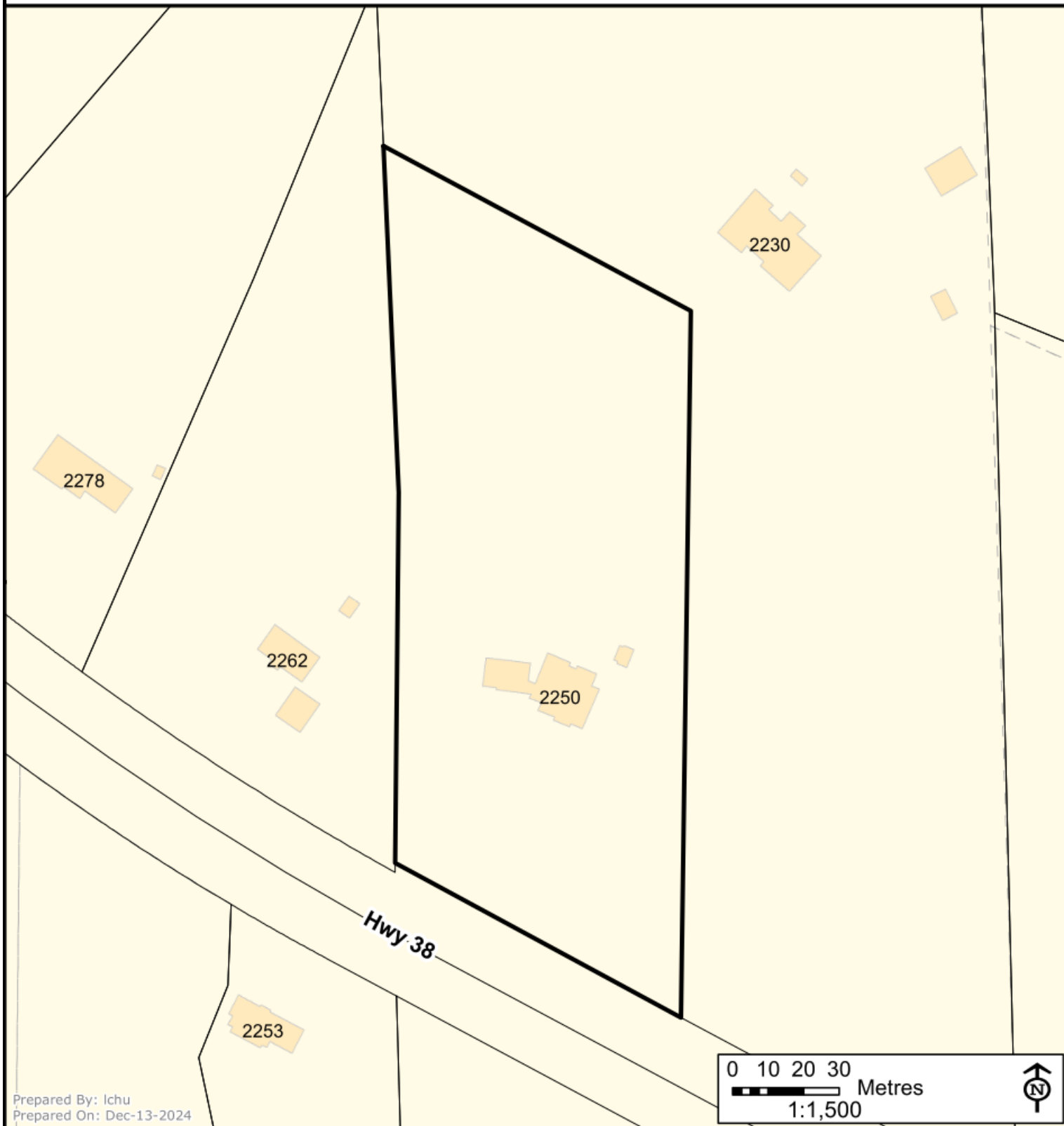
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# Committee of Adjustment Official Plan, Existing Land Use

Address: 2250 HWY 38  
File Number: D13-091-2024  
Prepared On: Dec-13-2024

-  Subject Lands
-  Rural Lands



Prepared By: Ichu  
Prepared On: Dec-13-2024

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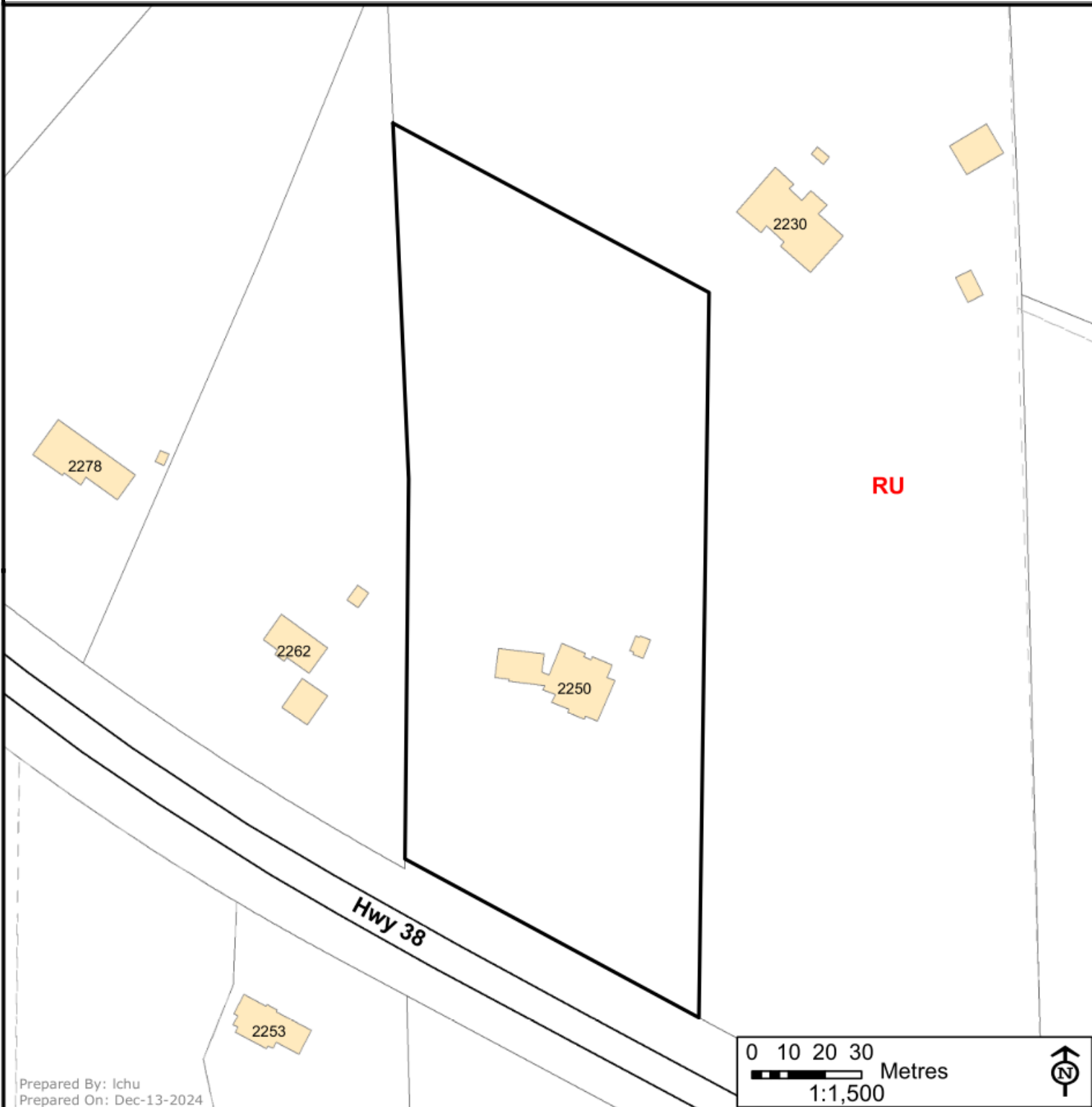
Planning Committee  
Existing Zoning  
Kingston Zoning By-Law 2022-62

Planning Services

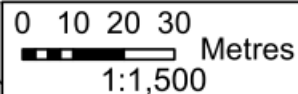
Address: 2250 HWY 38  
File Number: D13-091-2024  
Prepared On: Dec-13-2024

Subject Lands  
Schedule 1 Zoning Map  
Zone

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



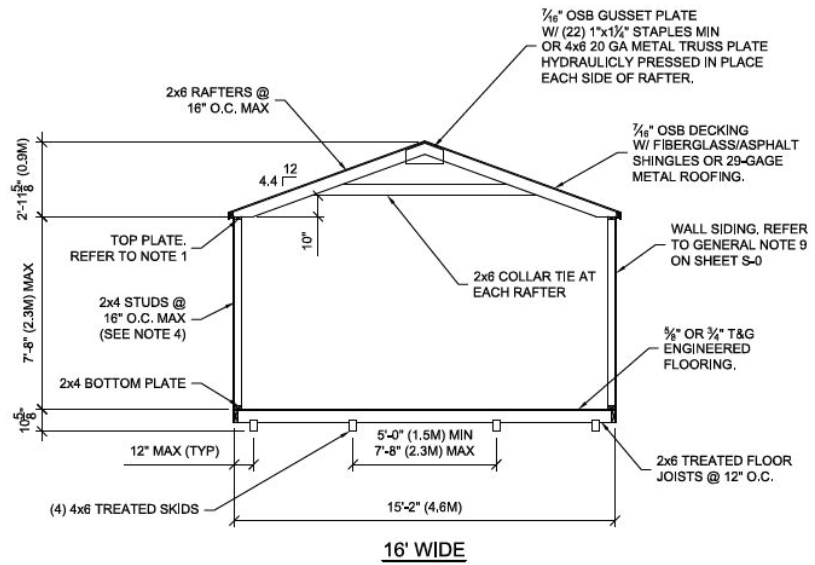
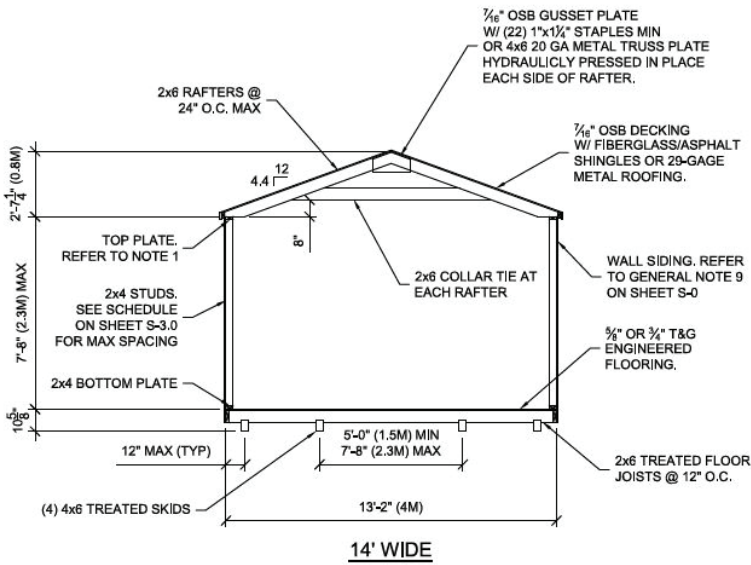
Prepared By: Ichu  
Prepared On: Dec-13-2024



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- NOTES: 1. PROVIDE A DOUBLE TOP PLATE ALONG THE SIDE WALLS WHEN THE RAFTER SPACING DOES NOT MATCH THE WALL STUD SPACING.  
 2. ACTUAL SKID SPACING MAY VARY PROVIDED THAT THE CENTER TO CENTER SPACING IS WITHIN THE MAX/MIN SPACING STATED.  
 3. 2x6 FRAMING MAY BE SUBSTITUTED FOR THE 2x4 FRAMING SHOWN. THE SPACING OF THE 2x6 FRAMING SHALL BE AS SHOWN FOR THE 2x4.  
 4. WALL STUDS ARE PERMITTED TO BE SPACED AT 24" O.C. FOR 3/4" T1-11 SIDING PROVIDED A DOUBLE TOP PLATE IS USED ALONG THE SIDE WALLS.

**BUILDING SECTIONS**



**UTILITY SHED w/ ROLL-UP DOOR--ONTARIO--2012 OBC**



PROJECT NO:	
DATE:	06-04-2024
DRAWN BY:	KLN
CHECKED BY:	KLN
REVISION:	

SHEET NUMBER	
<b>S-31</b>	
SCALE:	1/4" = 1'-0"

2250 Highway 38– December 16, 2024



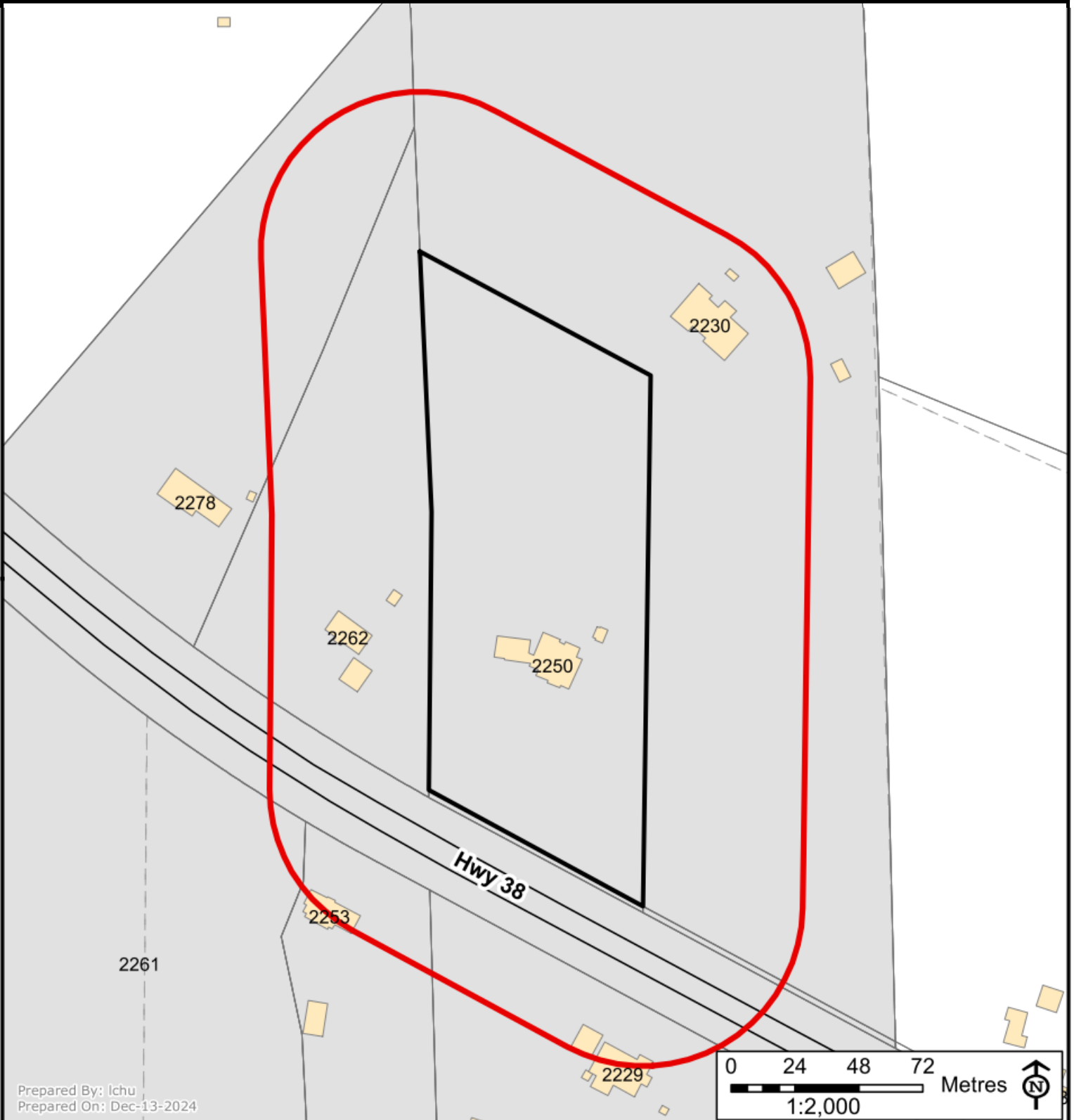
(South facing view of the proposed location of the accessory building)



# Committee of Adjustment Public Notice Notification Map

Address: 2250 HWY 38  
File Number: D13-091-2024  
Prepared On: Dec-13-2024

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



Prepared By: Ichu  
Prepared On: Dec-13-2024