



**City of Kingston
Report to Council
Report Number 19-077**

To: Mayor and Members of Council
From: Lanie Hurdle, Acting Chief Administrative Officer
Resource Staff: Paige Agnew, Director, Planning, Building & Licensing
Date of Meeting: March 19, 2019
Subject: Request for Exemption from Section 45(1.3) of the *Planning Act* as it Relates to a Minor Variance Application (D13-010-2019) for the Lands Known Municipally as 254 Collingwood Street

Executive Summary:

This is a report to recommend that the property known municipally as 254 Collingwood Street be permitted an exemption from the *Planning Act* regarding the inability to seek zoning relief via minor variance (Exhibit A – Key Map).

Bill 73, *Smart Growth for our Communities Act*; implemented changes to the *Planning Act* in 2017 which resulted in restrictions on applying for minor variances after a site-specific zoning amendment for a property was approved.

Section 45(1.3) of the *Planning Act* prohibits an applicant from submitting a minor variance application for a site that received approval through a zoning by-law amendment within two years of the passing of the amending by-law. An application for zoning by-law amendment was submitted in 2018 to permit two residential units within the existing structure (File Number D14-009-2018). The site-specific 'A4.556' zone was approved by Council on July 20, 2018. The site-specific zone requires a 320 square metre minimum lot area and a 10 metre minimum lot width for two dwelling units on the property (Exhibit B).

The applicant has submitted a minor variance application to reduce the minimum required setback for a projection from a side lot line from 1.2 metres to 0.6 metres. The applicant is proposing to construct an unenclosed roof structure to cover the existing below-grade walk-out foundation at the rear of the property in order to prevent flooding. The projection, as proposed, will have a greater setback from the side lot line than the existing non-complying building.

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Recommendation:

That Council permit the applicant, pursuant to Section 45(1.4) of the *Planning Act*, to proceed with an application for minor variance to the Committee of Adjustment to request a reduction in the minimum required side yard setback for projections.

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Authorizing Signatures:

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

Lanie Hurdle, Acting Chief Administrative Officer

Consultation with the following Members of the Corporate Management Team:

Gary Dyke, Commissioner, Corporate & Emergency Services	Not required
Peter Huigenbos, Acting Commissioner, Community Services	Not required
Jim Keech, President & CEO, Utilities Kingston	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	Not required

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Options/Discussion:

Section 45(1.3) of the *Planning Act* prohibits an applicant from submitting a minor variance application for a site that received approval through a zoning by-law amendment within two years of the zoning amendment approval.

Section 45(1.3) of the *Planning Act* states: Subject to subsection (1.4), no person shall apply for a minor variance from the provisions of the by-law in respect of the land, building or structure before the second anniversary of the day on which the by-law was amended.

Section 45(1.4) of the *Planning Act* goes on to state: Subsection (1.3) does not apply in respect of an application if Council has declared by resolution that such an application is permitted, which resolution may be made in respect of a specific application, a class of applications or in respect of such applications generally.

An application for zoning by-law amendment was submitted in 2018 to permit two residential units within the existing structure (File Number D14-009-2018) on the subject property. The 'A4' Zone allows two dwelling units on a property subject to a minimum lot area of 412 square metres per dwelling unit and minimum lot frontage of 12 metres per dwelling unit. Given the size of the property, a zoning by-law amendment was required to convert the existing 8-bedroom house into two separate dwelling units. A site-specific 'A4.556' zone was approved by Council on July 10, 2018. The site-specific zone requires a 320 square metre minimum lot area and 10 metre minimum lot width for two dwelling units on the property (Exhibit B).

On January 25, 2019, a minor variance application was submitted with respect to the subject property. The variance is requested to permit the construction of an unenclosed roof structure over the existing below-grade walk-out at the rear of the property in order to prevent flooding. The applicant obtained a Building Permit to construct the below-grade entrance foundation in 2018 (Exhibit C). The entrance landing currently has a floor drain, though the applicant indicates that flooding at this location remains a concern, and is proposing to construct an unenclosed, clear roof structure to mitigate this risk.

It is the intent of Section 45(1.3) of the *Planning Act* to ensure that the implementing site-specific zone resulting from a zoning by-law amendment application be adhered to and not undermined through a subsequent relief requested via minor variance (i.e. Committee of Adjustment). The proposed exemption does not propose any changes to the minimum lot area or minimum lot width which were the two provisions amended by the site-specific 'A5.556' Zone. The proposed exemption is site-specific (not City-wide) and solely related to reduction of the minimum required side yard setback for a projection from 1.2 metres to 0.6 metres at the southern lot line. The existing legal non-complying structure on the property sits nearly on the property line at this location; thus, the reduced setback will not alter the existing minimum setback at this property line.

The subject property is known to be vulnerable to below-grade flooding. Construction of a roof to mitigate flooding risks to this below-grade entrance as proposed will improve the function of this site, and contribute to the sustainability of this existing built resource. The setback of the

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projection at 0.6 metres, as proposed, will not have adverse effects on neighbouring properties and will not undermine the intent or considerations of the 2018 zoning by-law amendment.

In summary, the purpose of this report is to recommend that Council allow the applicant to proceed with submitting an application for minor variance to the Committee of Adjustment to request a reduction in the minimum required side yard setback for projections. Staff are in support of the proposed *Planning Act* exemption.

Existing Policy/By-Law:

254 Collingwood Street is located within a 'Housing District' as shown on Schedule 2 of the Official Plan. Housing districts are intended to remain stable, but will mature and adapt as the city evolves. Re-investment and upgrading through minor compatible development is encouraged within housing districts.

The subject property is designated 'Residential' in the City of Kingston Official Plan. Section 3.3 of the Official Plan provides that the goal of the Residential land use designation is to "respond to the housing needs of the city's citizens by retaining and augmenting a broad range of housing at all levels of affordability within a safe, convenient and stable setting, organized primarily into neighbourhoods."

Section 2.7 of the Official Plan provides that development within the city shall be guided by principles of land use compatibility in order to respect the quality of existing areas and avoid adverse effects on neighbouring properties. The Plan recognizes shadowing, loss of privacy, visual intrusion and architectural incompatibility, among others, as matters to be considered in assessing land use compatibility. Section 2.7.4 provides that the inclusion of minimum setback requirements in zoning by-laws is a measure through which the city may ensure compatibility between neighbouring properties.

The subject property is currently located in a site-specific One-Family and Two-Family 'A4' Zone in the City of Kingston Zoning By-Law Number 8499, entitled "Restricted Area (Zoning) By-Law of the Corporation of the City of Kingston", as amended. The existing two-family dwelling on the property is a permitted use in accordance with the provisions of the site-specific 'A4.556' zone.

The proposal to construct an unenclosed roof structure over the existing below-grade walk-out requires a variance to Section 5.8 (c) of Zoning By-Law Number 8499, as amended. Relief is required from the general provision regarding the minimum setback from an interior side lot line for projections with a height of more than 1.2 metres over finished grade level. Relief from this provision would reduce the setback from the required 1.2 metres to 0.6 metres at the southern lot line. The proposed structure complies with the remaining provisions for projections under Section 5.8, including maximum area, and minimum setbacks from rear and front lot lines. No changes are proposed to landscaped open space as part of this application. There are no provisions for lot coverage included in the A4 zoning.

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Notice Provisions:

Subject to Councils decision, a Committee of Adjustment meeting respecting this application is scheduled for April 15, 2019. Pursuant to the requirements of the *Planning Act*, a notice of the Statutory Public Meeting will be provided by advertisement in the form of signs posted on the subject site 10 days in advance of the meeting. In addition, notices will be sent by mail to a total of 37 property owners (according to the latest Assessment Roll) within 60 metres of the subject property and a courtesy notice will be placed in The Kingston Whig-Standard. If the minor variance application is approved, a Notice of Decision will be circulated in accordance with the provisions of the *Planning Act*.

Accessibility Considerations:

Not applicable

Financial Considerations:

Not applicable

Contacts:

Laura MacCormick, Deputy Director, Planning Division 613 546-4291 extension 3223

Genise Grant, Planner 613 546-4291 extension 3185

Other City of Kingston Staff Consulted:

Not applicable

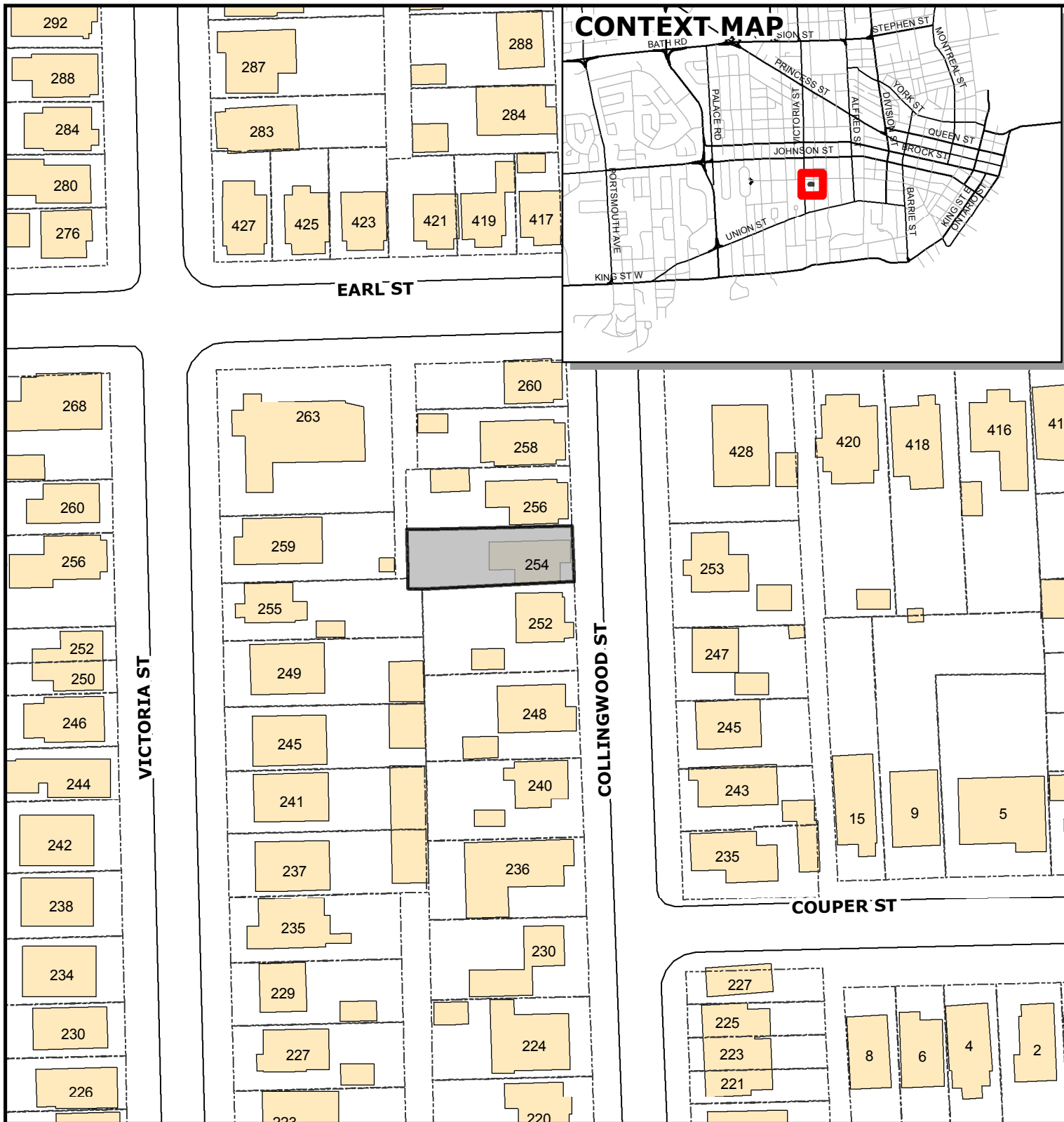
Exhibits Attached:

Exhibit A Key Map

Exhibit B Zoning By-Law Number 2018-122

Exhibit C Rear Entrance Context Photograph

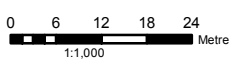
Exhibit D Proposed Elevations for Roof Structure



Planning, Building & Licensing Services
 a department of
 Community Services

COMMITTEE OF ADJUSTMENT
KEY MAP

File Number: D13-010-2019
 Address: 254 Collingwood Street



LEGEND

Lands Subject to Minor Variance



PREPARED BY: Ichu
 DATE: 2/12/2019

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By-Law Number 2018-122**A By-Law to Amend By-Law Number 8499, "Restricted Area (Zoning) By-Law of The Corporation of the City of Kingston" (Zone Change from 'A4' to 'A4.556', 254 Collingwood Street)****Passed: July 10, 2018**

Whereas by Order of the Minister of Municipal Affairs and Housing, The Corporation of the Township of Kingston, The Corporation of the Township of Pittsburgh and The Corporation of the City of Kingston were amalgamated on January 1, 1998 to form The Corporation of the City of Kingston as the successor municipal Corporation and pursuant to the Minister's Order, any By-Laws of the former municipality passed under the *Planning Act* continue as the By-Laws covering the area of the former municipality now forming part of the new City; and

Whereas the Council of The Corporation of the City of Kingston deems it advisable to amend By-Law Number 8499, as amended, of the former City of Kingston;

Therefore be it resolved that the Council of The Corporation of the City of Kingston hereby enacts as follows:

By-Law Number 8499 of The Corporation of the City of Kingston, entitled "Restricted Area (Zoning) By-Law of The Corporation of the City of Kingston", as amended, is hereby further amended as follows:

- 1.1. Map 30 of Schedule "A", as amended, is hereby further amended by changing the zone symbol of the subject site from 'A4' to 'A4.556', as shown on Schedule "A" attached to and forming part of By-Law Number 2018-122.
- 1.2. By **Adding** the following section 556 in Part VIII – Exceptions To Various Zone Classifications as follows:

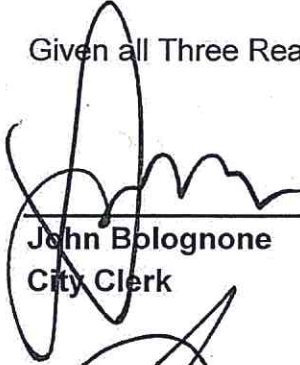
"556. 254 Collingwood Street

Notwithstanding the provisions of Section 5 and 10 hereof to the contrary, the lands designated 'A4.556' on Schedule 'A' hereto, the following regulations shall apply:

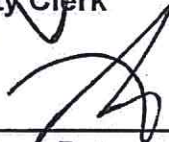
- a) Minimum Required Lot Area: 320 square metres for two dwelling units
- b) Minimum Required Lot Width: 10 metres for two dwelling units"

This By-Law shall come into force and take effect on the day it is passed subject to and in accordance with the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13 as amended from time to time.

Given all Three Readings and Passed: July 10, 2018



John Bolognone
City Clerk



Bryan Paterson
Mayor






**SCHEDULE 'A'
TO BY-LAW NUMBER 2018-122**

LEGEND

Reference By-Law 8499, Map 30

 Rezoned from A4 to A4.556

Certificate of Authentication

This is Schedule 'A' to By-Law Number 2018-122, passed this 10th day of July 2018.



Planning, Building & Licensing Services
a department of
Community Services

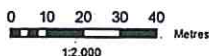
Applicant: Mason Laframboise
Owner: Mason Laframboise, David Goldstein and Elizabeth van den Kerkhof
File Number: D14-009-2018
Address: 254 Collingwood Street




Mayor


City Clerk

PREPARED BY: A. Dowker
DATE: 5/24/2018





Rear Entrance - Context photograph submitted by applicant

PROPOSED ROOF & SUPPORT STRUCTURES
254 COLLINGWOOD ST. KINISTON ONT
SCALE: 1/4" = 1 FOOT



NOTES
 ALL FRAMING MEMBERS TO
 BE PROTECT TREATED WOOD
 ALL FASTENERS TO BE NON-CORRODING
 ALL HANGERS & SHOULDS TO BE
 STEEL OR STEEL IN CORROSION RESISTANT

NORTH ELEVATION

EAST ELEVATION

