



**City of Kingston
Report to Committee of Adjustment
Report Numbers COA-20-032**

To: Chair and Members of Committee of Adjustment
From: Phillip Prell, Planner
Date of Meeting: April 20, 2020
Application for: Minor Variance & Consent
File Numbers: D10-013-2020 & D13-011-2020
Address: 28 Maitland Street
Owners: James & Helen Mathers
Applicant: Youko Leclerc-Desjardins

Council Strategic Plan Alignment:

Theme: Business as usual

Goal: 2.1 Pursue development of all types of housing city-wide through intensification and land use policies.

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variances and consent for a proposed two-family dwelling located at 28 Maitland Street. The applicant is proposing to sever the existing lot and residence into two lots, along a common party wall, with one semi-detached dwelling each for a total of two units. Severing this lot will require multiple technical variances to recognize the unique lot configuration. The result will be a two-family dwelling with a preserved exterior building façade, but with two addresses: 26 & 28 Maitland Street.

This consent application, File Number D10-013-2020, requires easements to provide sufficient site functionality. 28 Maitland Street requires right-of-way easements along the shared driveway and around the side and rear yards of 26 Maitland Street. 26 Maitland Street requires right-of-way easements along the shared driveway and to allow a parking space on the retained 28 Maitland Street lot. These easements are not irregular for the surrounding neighbourhood.

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The requested consent and minor variances are consistent with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 3077. The requested minor variances are desirable for the appropriate development or use of the land, building or structure and are minor in nature. The requested consent application has regard to the matters set out in subsection 51(24) of the *Planning Act*, the proposed easements are technical in nature, and are in keeping with the property fabric of the surrounding area. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval.

Recommendation:**Consent Application: D10-013-2020 (Easement & Severance)**

That the consent application, File Number D10-013-2020, for the property located at 28 Maitland sever a 212.3 square metre parcel of land with 1.2 metres of street frontage on Maitland Street containing one semi-detached dwelling municipally addressed as 26 Maitland Street be provisionally approved so long as the following condition(s) are fulfilled; and

That the consent application, File Number D10-013-2020, for the property located at 28 Maitland to create three right-of-way easements over 26 Maitland Street to benefit 28 Maitland Street be provisionally approved so long as the following condition(s) are fulfilled; and

That the consent application, File Number D10-013-2020, for the property located at 26 Maitland to create two right-of-way easements over 28 Maitland Street to benefit 26 Maitland Street be provisionally approved so long as the following condition(s) are fulfilled:

1. Deadline:

That all conditions are satisfied and the Certificate of Official be presented to the Secretary-Treasurer, Committee of Adjustment for certification under Section 53(42) of the *Planning Act*, R.S.O. 1990 as amended, within one year of the mailing of this notice. We suggest that the Land Registry Office be consulted for preapproval of the Certificate of Official to avoid delays.

The Certificate must be registered within two years from the issuance of the certificate as required under Section 53(43) of the *Planning Act*, R.S.O. 1990, as amended. A copy of the registered transfer certificate shall be provided to the Secretary-Treasurer, Committee of Adjustment to complete the file.

2. Reference Plan

That a Reference Plan illustrating the access, parking and driveway sharing (right-of-way) easements be prepared and presented to the Secretary-Treasurer, Committee of Adjustment prior to the issuance of the Certificate of Official. In addition, the Reference Plan is to be provided in a PDF and AutoCAD Windows readable format on a compact disc (CD), USB memory stick or by email.

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3. Payment of Taxes

That the owner/applicant shall contact the Tax Department at tax@cityofkingston.ca and secure in writing from the Treasurer or the Manager of Taxation and Revenue, proof of payment of current taxes and any special charges (not simply a copy of the tax bill) required to be paid out and a statement of proof that is received and shall be provided to the Secretary-Treasurer Committee of Adjustment, prior to the issuance of the consent certificate. The owner/applicant must pay any outstanding realty taxes and all local improvement charges levied against the property.

4. Cash-In-Lieu of Parkland

That the amount of \$1,921.27 shall be paid to the City of Kingston as cash-in-lieu of land dedication for park or public recreational purposes for each new building lot being created. The applicant may choose to pay the fee through their DASH application, provide a certified cheque or provide payment at the front desk at 1211 John Counter Boulevard, prior to the issuance of the consent certificate.

5. Utilities Kingston Requirements

That prior to the issuance of a "Certificate of Official" it shall be necessary for the applicant to provide and for Utilities Kingston to approve a sketch showing all existing services and the mains they connect to, and existing buildings and all proposed and existing property lines. This should also verify that there are no interconnections with the internal plumbing.

The owner/applicant shall provide written approval from Utilities Kingston to the Secretary-Treasurer Committee of Adjustment before issuance of a "Certificate of Official".

6. Additional Archaeological Assessment

That before ground disturbance, archaeological clearance of the subject property is required in the form of an archeological assessment report(s) in conformity with the Ministry of Heritage, Sport, Tourism, and Culture Industries' Standards and Guidelines for Consultant Archaeologists, must be submitted to the City heritage planning staff, together with correspondence from the Ministry outlining the results of their review.

7. Civic Address

That the owner/applicant shall contact the Planning Division once the Reference Plan has been deposited and provided to the City, and obtain a draft civic address for each new lot created and all appropriate fees shall be paid. The owner/applicant shall provide to the Secretary-Treasurer, Committee of Adjustment, written confirmation from the City that the civic address has been obtained prior to the issuance of the consent certificate.

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8. Variance Application

That the retained parcel and the severed parcel obtains a minor variance (File Number D13-011-2020) to reduce rear and side yard setback requirements and that all conditions of approval are complied with.

9. Easements in favour of 28 Maitland Street (Retained Lot)

That the Certificate of Official shall include:

A 1.2 metre wide by 11 metre length right-of-way over 26 Maitland Street to serve as part of a shared driveway in favour of the portion of the lands municipally addressed as 28 Maitland Street as per the severance/easement sketches attached to the Notice of Decision.

A 1.2 wide right-of-way from the edge of the driveway to the entrance of 28 Maitland Street over 26 Maitland Street in favour of the portion of the lands municipally addressed 28 Maitland Street as indicated in the severance/easement sketches attached to the Notice of Decision.

A 1.2 wide right-of-way around the edges of the side and rear side yards of 26 Maitland Street over 26 Maitland Street in favour of the portion of the lands municipally addressed 28 Maitland Street as indicated in the severance/easement sketches attached to the Notice of Decision.

10. Easements in favour of 26 Maitland Street (Severed Lot)

That the Certificate of Official shall include:

A 2.2 metre wide by 11 metre length right-of-way over 28 Maitland Street to serve as part of a shared driveway in favour of the portion of the lands municipally addressed as 26 Maitland Street as indicated in the severance/easement sketches attached to the Notice of Decision.

A 2.75 metre wide by 6.7 metre length parking spot over 28 Maitland Street to provide off-site parking for the residents of 26 Maitland Street in favour of the portion of the lands municipally addressed as 26 Maitland Street as indicated in the severance/easement sketches attached to the Notice of Decision.

Minor Variance Application: D13-011-2020

That minor variance application, File Number D13-011-2020, for the property located at 28 Maitland Street, be approved so long as the following condition(s) are fulfilled:

Variance Number 1:	28 Maitland Street (Retained Lot): Rear Yard Setback
By-Law Number 3077:	2.5(a)
Requirement:	7.6 metres (25 feet)
Proposed:	1.8 metres (6 feet)
Variance Requested:	5.8 metres (19 feet)

Variance Number 2:	26 Maitland Street (Severed Lot): Rear Yard Setback
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By-Law Number 3077: 2.5(a)
Requirement: 7.6 metres (25 feet)
Proposed: 1.8 metres (6 feet)
Variance Requested: 5.8 metres (19 feet)

Variance Number 3: 28 Maitland Street (Retained Lot): Side Yard Setback
By-Law Number 3077: 2.6(a)
Requirement: Side yards shall be provided on each side of the building with a minimum width of 0.6 metres (2 feet), provided that the aggregate width shall be at least three-tenths of the width of the lot, which is: 3.1 metres (10.1 feet)
Proposed: 0 metre (0 feet) width on northern side yard and 1.3 metre (4.2 feet) aggregate side yard width
Variance Requested: 0.6 metres (2 feet) of relief for the side yard and 1.8 metres (5.9 feet) of relief for the aggregate side yard requirements

Variance Number 4: 26 Maitland Street (Severed Lot): Side Yard Setback
By-Law Number 3077: 2.6(a)
Requirement: Side yards shall be provided on each side of the building with a minimum width of 0.6 metres (2 feet)
Proposed: 0 metre (0 feet) width on the northern side yard
Variance Requested: 0.6 metres (2 feet) of relief for the side yard

Variance Number 5: 28 Maitland Street (Retained Lot): Side Yard Setback (Windows)
By-Law Number 3077: 2.6(b)
Requirement: At least 1.8 metres (5.9 feet) shall be provided between any wall containing a window or windows and the nearest lot or property line
Proposed: 1.3 metres (4.3 feet)
Variance Requested: 0.5 metres (1.6 feet) of relief

Approval of the foregoing variance shall be subject to the following conditions:

1. Limitation

That the approved variance(s) applies only to 26 & 28 Maitland Street 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

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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 an 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 Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132) and the 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 Registrar of Cemeteries Regulation Section of the Ontario Ministry of Consumer Business Services (416-326-8404), the Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132), and the City of Kingston's Planning Services (613-546-4291, extension 3180) must be immediately contacted.

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Authorizing Signatures:

Phillip Prell, Planner

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

Paige Agnew, Commissioner, Community Services

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Options/Discussion:

On February 28, 2020, a minor variance and consent application was submitted by Youko Leclerc-Desjardins, on behalf of the owners, James & Helen Mathers, with respect to the property located at 28 Maitland Street. This report recommends approval to the Committee of Adjustment regarding applications for a minor variance and consent. The subject property is a non-conforming multi-residential building with six units, has existed prior to the passage of By-Law 3077, and has a distinctive lot configuration (i.e. abuts a neighbour's garage, has front yard parking and has minimal rear and side yard setbacks).

The purpose of the applications is to sever the existing lot and residence into two lots, along a common party wall, with one semi-detached dwelling for each lot for a total of two units. Severing this lot will require technical variances to recognize the unique lot configuration. The result will be a two-family dwelling with a preserved building exterior, but with two addresses: 26 & 28 Maitland Street. Maintaining the existing building is beneficial since the property is within the Old Sydenham Heritage Conservation District and is located near/abuts multiple Part IV designated properties.

The proposed lots will accommodate access and parking requirements by sharing portions of each lot through various easements (Exhibit E – Easement Drawing (colour)). The three rights-of-way in favor of 28 Maitland Street will facilitate rear yard access and create a shared driveway (see the orange and purple colours in Exhibit E). The two rights-of-way in favor of 26 Maitland Street will allow the use of a parking spot on 28 Maitland Street and create a shared driveway (see the blue and purple colours in Exhibit E). The shared driveway exceeds minimum width requirements.

The intent of Official Plan policy 9.6.13.b. is to avoid irregularly shaped lot where possible. The proposed severance would create two lots, one that is mostly rectangular in shape and one that has a flag shape; with a jog to the east that connects the westerly rectangular portion of 26 Maitland Street to the street (Exhibit D – Proposed Site Plans). Both properties have frontage on Maitland Street.

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

- Key Map (Exhibit A)
- Zoning By-Law Map (Exhibit B)
- Official Plan Map (Exhibit C)
- Proposed Site Plans (Exhibit D)
- Easement Drawing (Colour) (Exhibit E)
- Existing Building Drawing (Exhibit F)
- FOTENN Cover Letter & Memorandum (Exhibit G)
- By-Law Amending 3077 (Exhibit H)

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

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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 designated “Residential” in the Official Plan and zoned “One family & two family” in Zoning By-Law Number 3077. The property is located within the Old Sydenham Heritage Conservation District and abuts several residential properties with Part IV heritage designations. The subject property is applying for a consent to sever the existing building along a common party wall and for variances to bring non-complying metrics into compliance. To achieve appropriate site functionality, multiple variances are proposed.

Consent Application

The review of an application for consent is subject to Section 53 of the *Planning Act*. The Committee of Adjustment may grant a consent if it is satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality and shall have regard to matters under Subsection 51(24) when granting a provisional consent, including:

- the effect of development on matters of provincial interest;
- whether the proposed consent is premature or in the public interest;
- whether the plan conforms to the Official Plan;
- the suitability of the land for the purposes for which it is to be subdivided;
- if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;
- the dimensions and shapes of the proposed lots;
- the proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;
- conservation of natural resources and flood control;
- the adequacy of utilities and municipal services;
- the adequacy of school sites;
- the area of land, if any, that is to be conveyed or dedicated for public purposes;
- the extent to which the plan’s design optimizes the available supply, means of supplying, efficient use and conservation of energy; and
- the interrelationship between the proposed consent and Site Plan Control matters, if the development is subject to Site Plan Control.

The following provides this review:

Provincial Policy Statement (Consent)

The 2014 Provincial Policy Statement (PPS) provides policy direction on matters of Provincial Interest. The *Planning Act* requires that municipal councils be consistent with the PPS in carrying out their responsibilities under the Act. Generally, the PPS encourages efficient, cost effective development and patterns of land use which stimulate economic growth and protect the environment and public health. It encourages redevelopment where this can be accommodated taking into account existing building stock or areas.

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In regards to the PPS, the following was considered regarding the application submitted:

- Promoting efficient development and land use patterns which sustain the financial well-being of the province and municipalities over the long-term (Section 1.1.1.a).
- Accommodating an appropriate range and mix of residential, employment (including industrial, commercial and institutional uses), recreational and open space uses to meet long-term needs (Section 1.1.1.b).
- Promoting cost-effective development standards to minimize land consumption and servicing costs (Section 1.1.1.e).
- Promoting opportunities for intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, including brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs (Section 1.1.3.3).
- Municipal sewage services and municipal water services are the preferred form of servicing for settlement areas. Intensification and redevelopment within settlement areas on existing municipal sewage services and municipal water services should be promoted, wherever feasible (Section 1.6.6.2).

The proposed consent application is consistent with the 2014 PPS. The proposed consent will represent a lot fabric that is compatible with the surrounding residential development. The proposal will be serviced by municipal infrastructure.

The general intent and purpose of the Official Plan are maintained (Consent)

The creation of individual parcels of land by way of consent is subject to the consent policies of the Official Plan. In considering whether the proposal is appropriate, the Committee of Adjustment will have regard for the requirements included within the Official Plan, specifically section 9.6.13 titled: "Criteria for Consent Approval". The following lists these requirements and is an assessment of how the proposal is consistent with each relevant policy.

1. The lot frontage, depth and area of any lot created by consent (severed and retained parcel) must be appropriate for the use proposed for the lot, be in compliance with the provisions of the zoning by-law and consistent, where possible, with adjacent lots;

The proposed consent will create two semi-detached buildings on two lots, but is still considered a two-family dwelling. Zoning By-Law Number 3077 has no frontage minimums/maximums or building depth requirements. However, By-Law Number 3077 requires that newly erected or altered buildings have street frontage. This property is not being redeveloped, but meets the intent to maintain street frontage. In addition, By-Law Number 3077 contains rear and side yard provisions; both 26 & 28 Maitland Street require variances to recognize the non-complying rear and side yard provisions. The use of both lots is appropriate since multiple proposed easements will enhance site functionality. The Maitland Street neighbourhood has multiple properties with a fragmented lot fabric due to easements, non-complying buildings and lots, and irregularly shaped lots.

The proposed consent is appropriate for the use proposed on the lot, is/will be in compliance with the provisions of the zoning by-law and is characteristic of the lot fabric of adjacent lots.

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2. Proposed severances that would result in irregularly shaped lots are to be avoided where possible;

The proposed severance would create two lots, one is mostly rectangular in shape and one with a flag shape; with a rectangular portion to the west and a jog to the east that connects to the street. The result is that both properties have frontage along Maitland Street.

Despite the irregular shape of the proposed lots, the shape of the proposed lots is logical given the non-complying status, frontage on Maitland Street and surrounding neighbourhood lot fabric.

3. Consents may be granted only when each parcel of land has frontage and direct access from an assumed road, except for conservation lands such as those held by the Conservation Authority or a land trust that can be accessed through an easement or right-of-way on abutting lands;

The severed and retained lots will have frontage on Maitland Street. Both lots will have direct access from an assumed road via a shared driveway.

4. Direct access from major roads is limited and is subject to the terms of any permits or approvals required from an agency having jurisdiction, with particular attention to controlled areas subject to Ministry of Transportation review and approval;

Direct access will be obtained from Maitland Street, which is a local municipal road.

5. New access points or driveways must be located where they could not create a traffic hazard because of sight lines on curves, grades or corners;

The driveway will not result in any traffic hazards due to sightlines on curves, grades or corners.

6. Any application for consent must assess the impact on the natural heritage system, natural heritage features and areas, natural hazards, cultural heritage resources and areas of archaeological potential, or areas of archeological significance as set out in Section 5, 6 and 7 of this Plan; and

The proposed consent is not adjacent to any natural heritage features or areas, natural hazards or significant environmental features. The subject property is designated under Part V of the Ontario Heritage Act. City heritage staff determined that since no exterior building changes were proposed, a Heritage Impact Statement was not required.

The proposed applications maintain the intent and cultural heritage attributes of the Heritage Conservation District since the exterior will remain in its current state. An Archaeological Assessment is required as a condition of approval for the consent application.

7. The City must be satisfied that any development lots created by consent can be supplied with such municipal services as fire protection, road maintenance, storm drainage and where applicable, water supply and sewage disposal facilities, such that the provision of services does not adversely affect the City's finances.

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The property is within the Urban Boundary and will make use of existing services. This concurrent consent and minor variance proposal has been circulated to Utilities Kingston, Kingston Hydro, and the City's Engineering and Fire Department(s). None of the above list departments have noted any concerns. Utilities Kingston requires a servicing plan showing any existing and proposed services, and is a condition of issuance of a "Certificate of Official".

Easement Information

Section 9.6.10(c) of the Official Plan states that consents which do not create a new lot will be considered if required for such technical or legal reasons as minor boundary adjustments, easements, right-of-way, leases in excess of 21 years, validation of title, partial discharge of a mortgage, power of sale, or severance along common party walls.

The consent application also requires that easements are used to improve the site functionality by sharing portions of each lot through various easements (Exhibit E – Easement Drawing colour).

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:

Provincial Policy Statement (Minor Variance)

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 Policy 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

1) The general intent and purpose of the Official Plan are maintained (Minor Variance)

The subject property is designated "Residential" in the City of Kingston Official Plan. 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 following lists these nine requirements and an assessment of how the proposal is consistent with each.

1. The proposed *development* meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of this Plan;

The proposal to permit minor variances for rear and side yard setbacks to facilitate a consent with multiple easements and a severance, meets the intent of section 2 and other applicable policies of the Official Plan.

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The subject property is located within the Urban Boundary, which is the area envisioned to be the focus of growth and development within the City. This consent represents an opportunity for future minor infill and redevelopment. The existing site is also connected to municipal sewage and water services, which maximizes the utility of existing municipal infrastructure. The proposed lot changes reflect what exists in the neighbourhood since the surrounding area contains multiple irregularly shaped lots, and has easements to provide site functionality. The existing built form will be preserved, which maintains a common architectural character. This preserved built form will not accentuate land use compatibility concerns as the use will remain residential, the scale of activity will decrease from a multi-residential use with six units to a two-family use with two units and cultural heritage is preserved. Both proposed lots fulfill the minimum existing residential development density requirements for (re)development in built up residential areas. Finally right-of-way easements on both lots allow the use of a shared driveway and parking area. This sharing of resources supports sustainable development.

2. The proposed *development* will be *compatible* with surrounding uses, buildings or structures and *development* standards associated with adjacent properties, and if necessary, incorporate means of alleviating *adverse effects* on abutting land uses as recommended in Section 2.7 of this Plan;

The surrounding community contains: multiple irregularly shaped lots, has numerous easements, and has generally existed before Zoning By-Law Number 3077 came into effect. The proposed lots reflect what exists in the neighbourhood. Since the proposed lots will preserve the existing built form, the proposed dwellings are compatible with the surrounded cultural heritage and architectural character. In addition, there are no land use compatibility concerns or expected adverse effects as the use will retain residential and the scale of activity will decrease from the current non-conforming six units to a permitted two units.

3. The ability of the site to function in an appropriate manner in terms of access, parking for vehicles and bicycles or any other matter and means of improving such function including considerations for universal accessibility;

The proposed lots will accommodate access and parking by sharing portions of each lot through easements (Exhibit E – Easement Drawing (Colour)). The three rights-of-way in favor of 28 Maitland Street will facilitate rear yard access and create a shared driveway (see the orange and purple colours in Exhibit E). The two rights-of-way in favor of 26 Maitland Street will allow the use of a parking spot on 28 Maitland Street and create a shared driveway (see the blue and purple colours in Exhibit E). These easements are a common tool in this neighbourhood and improve site functionality.

4. The conformity of the proposal to any applicable urban design policies endorsed by Council, particularly if the site includes or could impact a *built heritage resource* or is within a Heritage District;

The subject property is within the Old Sydenham Heritage Conservation District. Of note it abuts several lots with Part IV designations (45 & 49 King Street East, 5 & 7 Emily Street, and 16

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Maitland Street). The existing building will have no external changes and is decreasing its scale of use. There is no anticipated negative impact to these heritage resources or the streetscape.

5. If the site is designated under Part V of the *Ontario Heritage Act*, the application shall be reviewed by Heritage Kingston for approval. If the property is adjacent to a designated property under the *Ontario Heritage Act* or shown as a Heritage Area feature, or is affected by the protected views shown on Schedule 9 of this Plan, then a heritage impact statement may be required to assist staff to determine if the resulting *development* is desirable;

The subject property is designated under Part V of the *Ontario Heritage Act*. City heritage staff determined that since no exterior building changes were proposed, a Heritage Impact Statement was not required. This proposal maintains the District's cultural heritage attributes.

6. The resulting *development* has adequate *municipal water and sewage services* within the *Urban Boundary*, or is capable of providing *individual on-site water and sewage services* outside the *Urban Boundary*;

The proposed lots are located within the Urban Boundary, are within the Utilities Kingston service area and have access to municipal water and sewage services. Utilities Kingston, the City's Engineering Department and Kingston Hydro have not noted any concerns regarding the property. However, Utilities Kingston does require a servicing plan showing any existing and proposed services before the issuance of a "Certificate of Official".

7. Whether the application and the cumulative impact of the proposed variances would be more appropriately addressed by a zoning amendment to the applicable zoning by-law;

The proposed variances will recognize the non-complying built form by reducing side and rear yard setback requirements. These variances are technical in nature since they are to facilitate a consent. These variances are minor and a zoning by-law amendment is not required.

8. The Committee of Adjustment may attach such conditions as it deems appropriate to the approval of the application for a minor variance including any reasonable requirements, recommendations of City departments, or the submission of studies as listed in Section 9.12 of this Plan that may be required to properly evaluate the application;

As part of the consent and minor variance application, suggested conditions will be listed. The conditions may be added, altered or removed at the Committee's discretion.

9. The degree to which such approval may set an undesirable precedent for the immediate area.

The approval of the requested variances will not set a precedent for the immediate area, since each minor variance is reviewed independently and judged on its own merits and metrics.

The proposed variances are consistent with the general purpose and intent of the Official Plan.

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2) The general intent and purpose of the zoning by-law are maintained

The subject property is zoned One-family dwelling and two-family dwelling zone “A” in the City of Kingston Zoning By-Law Number 3077 entitled: “A Restricted Area (Zoning) By-Law for the City of Kingston” as amended. The “A” zone permits one and two family dwellings, accessory buildings, and various institutional and community uses such as libraries. The existing non-conforming multi-residential development will be converted into a two-family dwelling. The proposed two-family dwelling is a permitted use in the “A” zone of Zoning By-Law Number 3077.

The proposal requires five variances to the following sections in Zoning By-Law Number 3077: **Variations 1 & 2:** 2.5(a), **Variations 3 & 4:** 2.6(a), and **Variance 5:** 2.6(b).

Please note that the Fotenn Memorandum, requested to vary minimum driveway widths found in amending By-Law Number 2019-151 (Exhibit H – Declaration By-Law). This change applied the driveway widths from 8499 into 3077 (see Section 5.3B.(k)(i) in Zoning By-Law Number 8499). It has been determined that this variance is no longer required since the driveway easements will satisfy the 3 metre minimum requirement by creating a single driveway with a width of 3.3 metres to service both properties.

Variance Number 1: 28 Maitland Street (Retained Lot): Rear Yard Setback
By-Law Number 3077: 2.5(a)
Requirement: 7.6 metres (25 feet)
Proposed: 1.8 metres (6 feet)
Variance Requested: 5.8 metres (19 feet)

Variance Number 2: 26 Maitland Street (Severed Lot): Rear Yard Setback
By-Law Number 3077: 2.5(a)
Requirement: 7.6 metres (25 feet)
Proposed: 1.8 metres (6 feet)
Variance Requested: 5.8 metres (19 feet)

Variance Number 3: 28 Maitland Street (Retained Lot): Side Yard Setback
By-Law Number 3077: 2.6(a)
Requirement: Side yards shall be provided on each side of the building with a minimum width of 0.6 metres (2 feet), provided that the aggregate width shall be at least three-tenths of the width of the lot, which is: 3.1 metres (10.1 feet)
Proposed: 0 metre (0 feet) width on northern side yard and 1.3 metre (4.2 feet) aggregate side yard width
Variance Requested: 0.6 metres (2 feet) of relief for the side yard and 1.8 metres (5.9 feet) of relief for the aggregate side yard requirements

Variance Number 4: 26 Maitland Street (Severed Lot): Side Yard Setback
By-Law Number 3077: 2.6(a)
Requirement: Side yards shall be provided on each side of the building with a minimum width of 0.6 metres (2 feet)

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Proposed:	0 metre (0 feet) width on the northern side yard
Variance Requested:	0.6 metres (2 feet) of relief for the side yard
Variance Number 5:	28 Maitland Street (Retained Lot): Side Yard Setback (Windows)
By-Law Number 3077:	2.6(b)
Requirement:	At least 1.8 metres (5.9 feet) shall be provided between any wall containing a window or windows and the nearest lot or property line
Proposed:	1.3 metres (4.3 feet)
Variance Requested:	0.5 metres (1.6 feet) of relief

Variance Number 1 & 2: Rear Yard Setback

The 26 & 28 Maitland Street fulfills the intent of section 2.5(a) for Zoning By-Law Number 3077 for the following reasons: (1) the rear yard of the existing 28 Maitland Street abuts properties that provide adequate buffering, via existing structures or distance, to mitigate privacy concerns. This includes rear yard garages for 45 and 49 Kings Street East, and an approximate 11 metre backyard for 5 Emily Street. (2) Both proposed properties exceed the 50 percent open space requirement for two-family dwellings. (3) The building exterior will not be changing. (4) Since the building is becoming a two-family dwelling, there is no rear yard parking requirement.

A number of non-complying standards exist because the lot and building predate the passage of the regulating bylaw. These proposed variances will recognize these conditions and will bring the site's rear yard setback into compliance with section 2.5(a) of Zoning By-Law Number 3077.

28 Maitland Street (Retained Lot) & 26 Maitland Street (Severed Lot):

The 26 & 28 Maitland Street properties require a rear yard setback minimum of 7.6 metres. The existing building is currently setback 1.8 metres from the lot line. Therefore, 26 & 28 Maitland Street is requesting a variance of 5.8 metres to recognize the existing condition.

The requested relief from section 2.5(a) of Zoning By-Law Number 3077 will have no neighbourhood character impacts. The requested variance is compatible with the surrounding area and reflects the existing property's rear yard.

Variance Number 3 & 4: Side Yard Setback

28 Maitland Street (Retained Lot):

Proposed 28 Maitland Street fulfills the intent because: (1) the zero metre setback abutting the lots of 45 and 49 King Street East is currently non-complying. (2) Despite the proposed zero side yard setbacks, the properties to the north (45 & 49 King Street East) are buffered by garages and the setback to the south is part of the proposed common party wall. (3) 28 Maitland Street exceeds the 50 percent open space requirement. (4) The existing external building configurations will not be changing. (5) Access to the rear yard will be provided by an easement along the side yard of 26 Maitland Street (see the orange colour in Exhibit E).

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The side yard regulations require both a side yard on each side of the building of at least 0.6 metres and an aggregate width of 3.1 metres. The proposed retained lot will have zero setbacks along both side yards. Therefore, the proposed 28 Maitland Street is requesting a variance of 0.6 metres for the required side yard and a variance of 1.8 metres for the aggregate side yard width. 28 Maitland Street's setbacks are proposed to be 0.0 metres along the north and south side of the property and to have an aggregate side yard width of 1.3 metres.

26 Maitland Street (Severed Lot):

Proposed 26 Maitland Street fulfills the intent for the following reasons: (1) the zero yard setback will be the result of sharing a common party wall with 28 Maitland Street. (2) 26 Maitland Street exceeds the 50 percent open space requirement. (3) The existing building exterior will not be changing. (4) The rear yard is accessible via the existing side yard to the south.

The side yard regulations require a side yard on each side of the building of at least 0.6 metres. The common party wall necessitates a zero metre setback. Therefore, 26 Maitland Street is requesting a variance of 0.6 metres for the side yard, which results in a 0.0 metre setback.

The requested relief from section 2.6(a) of Zoning By-Law 3077 will have no impact on the streetscape and character of the neighbourhood since the building will retain its existing built form. The requested variance is compatible with the surrounding area, reflects the long standing existing setback conditions and recognizes the proposed common party wall.

Variance Number 5: Side Yard Setback (Windows)

28 Maitland Street (Retained Lot):

28 Maitland fulfills the fire safety intent related to section 2.6(b) since the City of Kingston Fire department has been circulated on the application and has not raised any concerns. In addition, some of the existing windows have fire-rated windows and installed fire shutters (Exhibit F – Existing Building Drawing).

The side yard setback regulations related to 28 Maitland Street's windows requires at least 1.8 metres between any wall containing a window(s) and the nearest lot or property line. The retained lot will keep its existing 1.3 metre setback along the windowed area. Therefore, the proposed 28 Maitland Street is requesting a variance of 0.5 metres for the required setback where windows face the south property line. This recognizes the newly created lot boundary.

The requested relief from section 2.6(b) of Zoning By-Law 3077 will have no impact on the streetscape and character of the neighbourhood since the building will retain its existing built form. The requested variances are compatible with the surrounding area and reflect the long standing existing side yard setback conditions of the property.

The general intent and purpose of Zoning By-Law 3077 are maintained.

3) The variance is minor in nature

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Variance numbers 1 through 5 reflect the long standing non-complying standards of the dwelling and lot configuration, while also recognizing the resulting property/lot orientation after the consent is granted. These variances are technical in nature given that the building is not changing, but requires zoning compliance to facilitate a consent. A two-family dwelling could exist on the property without creating a new lot and would result in a similar configuration without the need for variances. The creation of a new lot does not alter the streetscape and the use of easements supports the pedestrian and vehicular access needs of current/future occupants/owners. The proposed variances are not anticipated to have a negative impact on the character of the surrounding neighbourhood or on abutting properties.

The proposed variances are considered minor in nature.

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

The proposed variances and consent application are compatible with Official Plan policies that regulate the development of land within the Urban Boundary. In particular, Section 2 notes the necessity of appropriate servicing, changes that reflect the existing neighbourhood, land use compatibility matters and maintaining residential density standards. The current proposal fulfills or will fulfill the above mentioned policies. The proposed flag lot configuration of 26 Maitland Street reflects the existing neighbourhood and is not considered irregular. Finally, the use of easements is a common occurrence for the area and will increase site functionality.

The requested variances are technical in nature and are only required to facilitate a severance. This application exemplifies the existing lot configuration of the area while ensuring the streetscape remains unchanged. Since the existing building will remain unchanged there are no anticipated adverse impacts. The proposed variances, severance and easements represent a compatible form of development and maintain the surrounding neighbourhood character.

The proposed variances are desirable and appropriate development of the subject property.

Technical Review: Circulated Departments and Agencies

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> Building Services | <input checked="" type="checkbox"/> Engineering Department | <input checked="" type="checkbox"/> Heritage (Planning Services) |
| <input type="checkbox"/> Finance | <input checked="" type="checkbox"/> Utilities Kingston | <input checked="" type="checkbox"/> Real Estate & Environmental Initiatives |
| <input checked="" type="checkbox"/> Fire & Rescue | <input checked="" type="checkbox"/> Kingston Hydro | <input checked="" type="checkbox"/> City’s 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 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 | | |

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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, (revise date April 6th 2020) 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

The application is to process both Minor Variances, File Number: D13-011-2020, and Consent/Easements, File Number D10-013-2020.

Conclusion

The requested variances maintain the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 3077. The proposal is desirable for the appropriate development or use of the land, building or structure and the requested variances 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 be approved.

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, 2014

Municipal

City of Kingston Official Plan
Zoning By-Law Number 3077

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on April 20, 2020. Pursuant to the requirements of the *Planning Act*, notices were placed in The Kingston Whig-Standard, and additional courtesy notices were placed on the City's Committee of Adjustment webpage and on the City's "Get Involved Kingston" webpage.

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*.

April 20, 2020

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Accessibility Considerations:

None

Financial Considerations:

None

Contacts:

Tim Park, Manager of Development Approvals 613-546-4291 extension 3223

Phillip Prell, Planner 613-564-4291 extension 3219

Other City of Kingston Staff Consulted:

The application was circulated to the relevant internal departments and external agencies for review and comment. The responses to the technical circulation have been addressed in the technical review and included in this report.

Exhibits Attached:

- Exhibit A Key Map
- Exhibit B Zoning By-Law Map
- Exhibit C Official Plan Map
- Exhibit D Proposed Site Plans
- Exhibit E Easement Drawing
- Exhibit F Existing Building Drawing
- Exhibit G Fotenn Cover Letter & Memorandum
- Exhibit H By-Law Amending 3077



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COMMITTEE OF ADJUSTMENT
Key Map

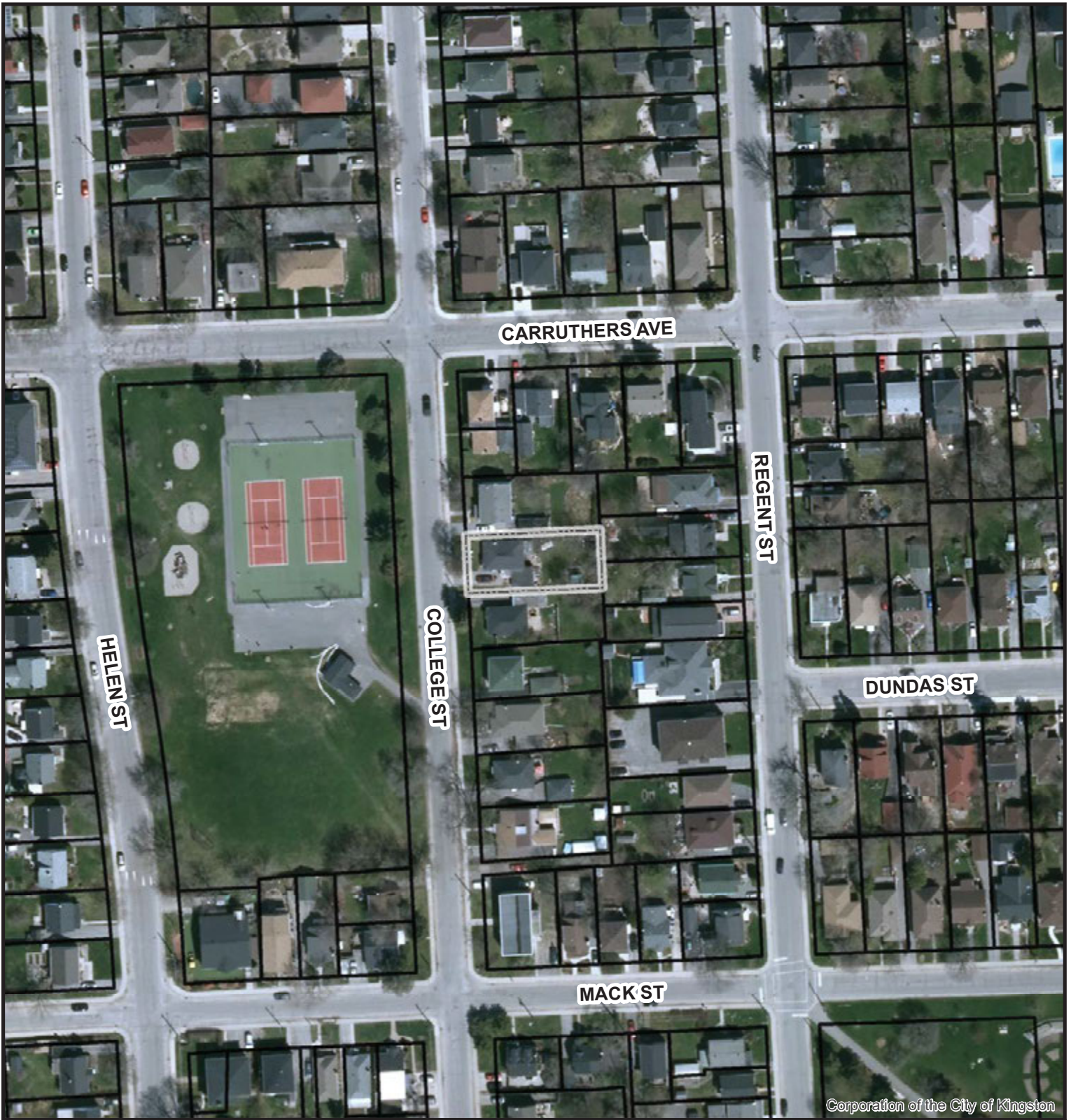
File Number: D13-007-2020
Address: 363 College Street



DATE: 2020-03-11
PREPARED BY: rrochefort



Lands Subject to Minor Variance



Corporation of the City of Kingston



Planning Services
a department of
Community
Services

COMMITTEE OF ADJUSTMENT
Neighbourhood Context (2018)

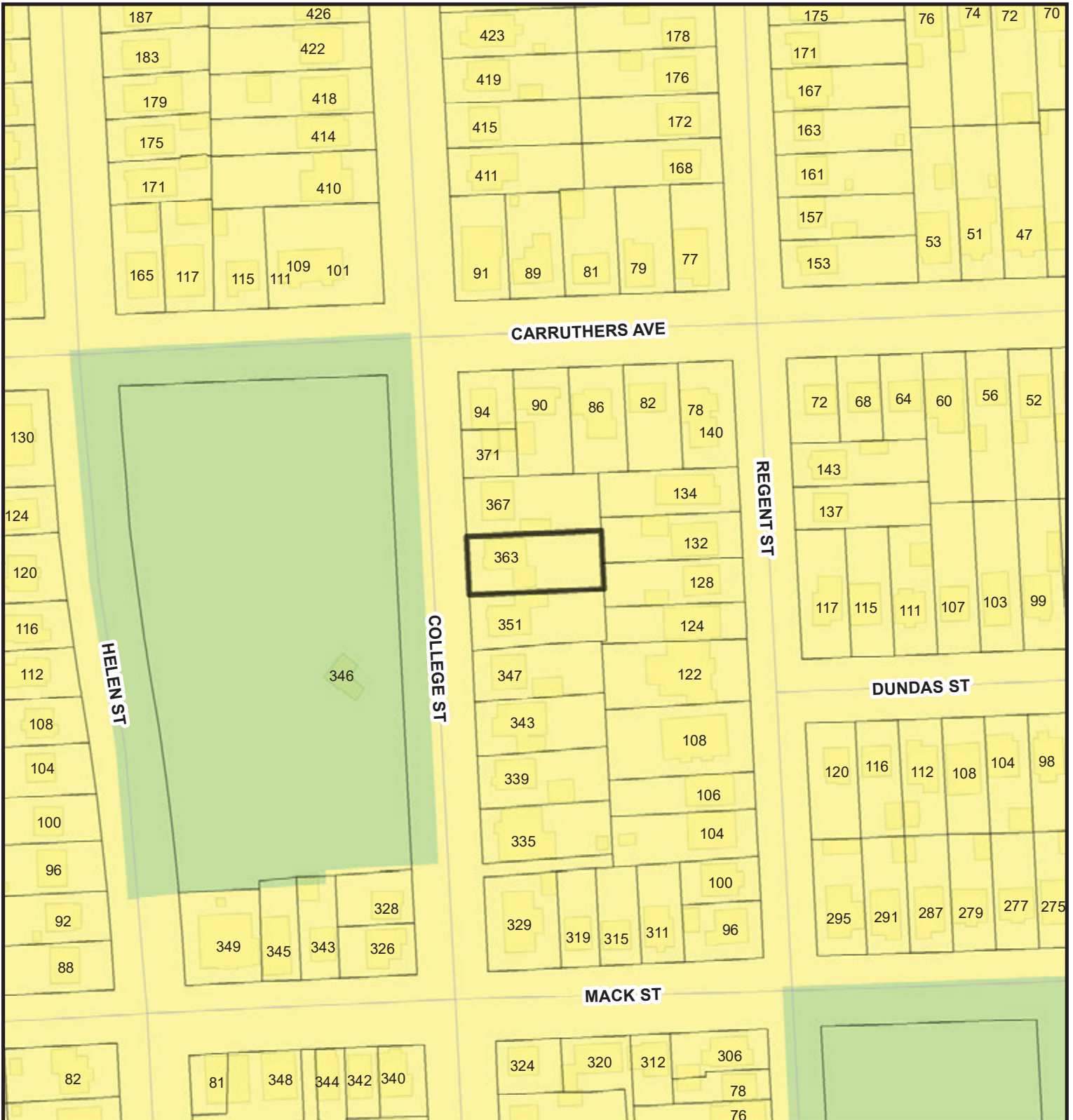
File Number: D13-007-2020
Address: 363 College Street



Legend

-  Subject Lands
-  Property Boundaries








Planning Services
a department of
Community Services

**COMMITTEE OF ADJUSTMENT
Official Plan, Existing Land Use**

File Number: D13-007-2020
Address: 363 College Street



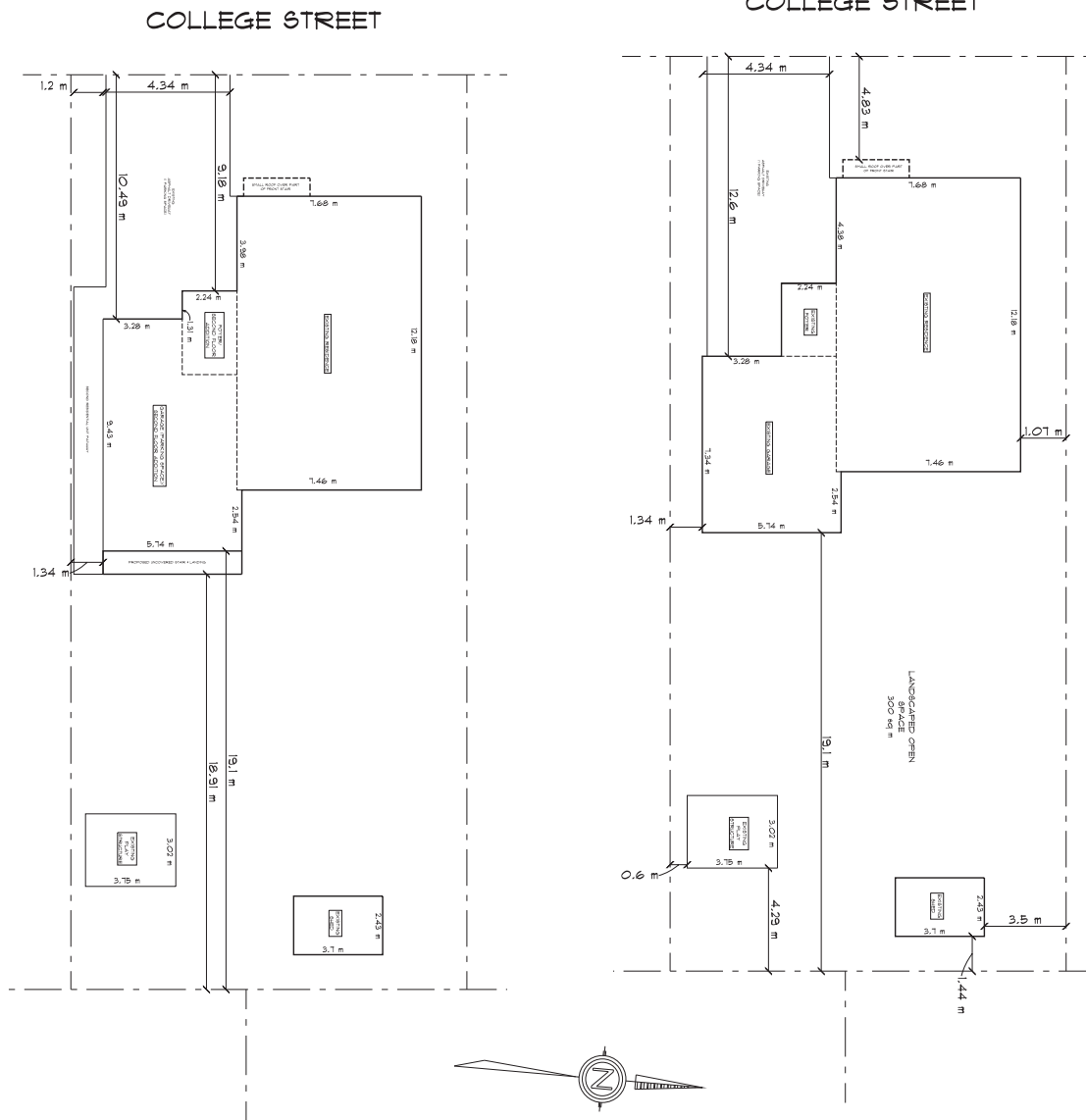
Legend

-  Subject Lands
-  OPEN SPACE
-  RESIDENTIAL



PROPOSED
SCALE: 1/16" = 1'-0"

EXISTING
SCALE: 1/16" = 1'-0"



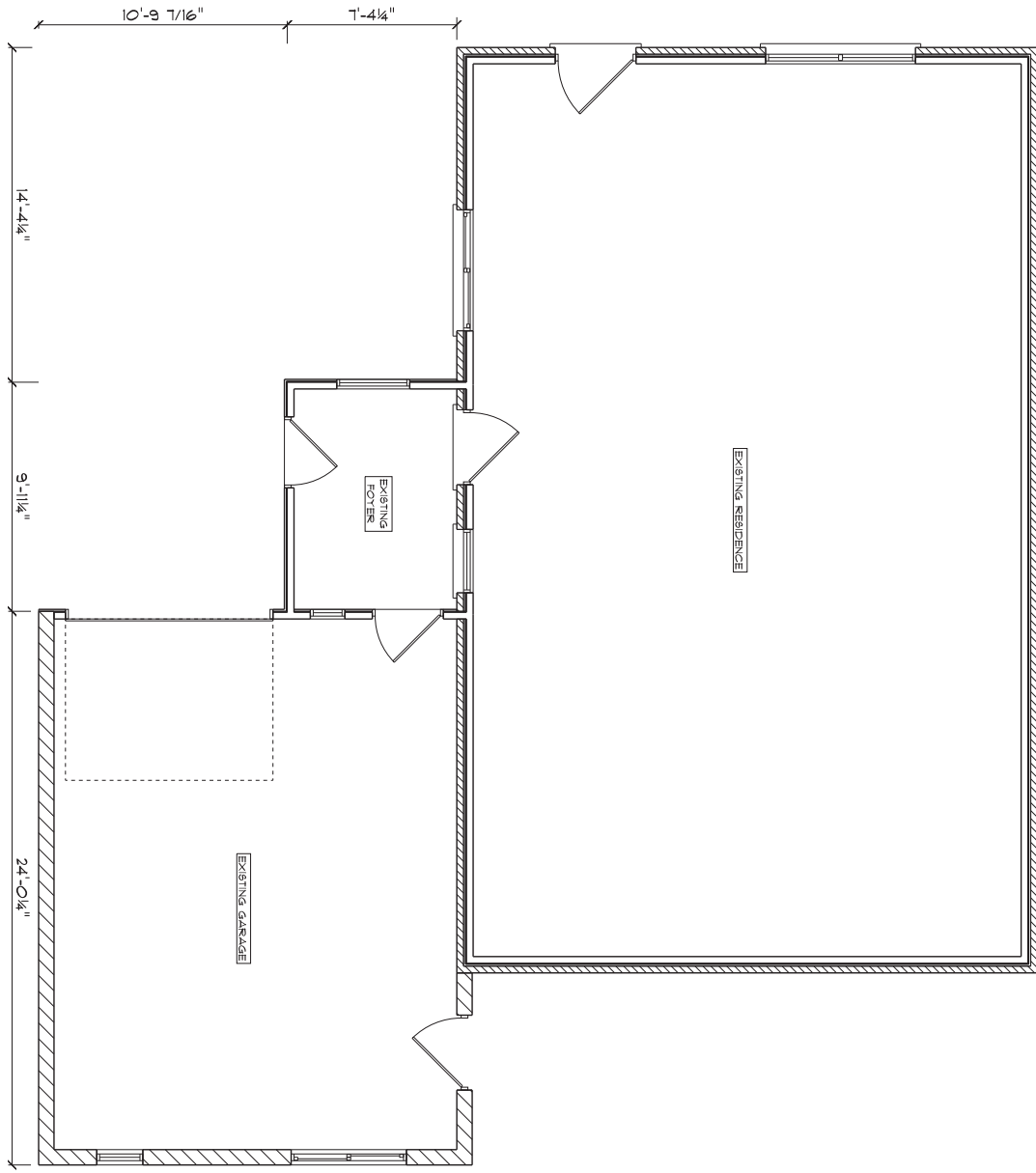
NBS Design Group
398 Barrie Street PHONE: 613-449-5240
Kingston ON aosmar@nbsdesigngroup.com
K7K 3T7
www.nbsdesigngroup.com

These plans form the basis for permit issuance. Any deviations from these plans, notes, and details will require revised drawings and specifications, and approval from the Building Department.
I have reviewed and take responsibility for the design activities which bear this declaration and meet the requirements set out in the Ontario Building Code.
Firm: NBS Design Group
BCIN: 44002
Designer: A. Osmar
BCIN: 33421

363 College Street

DRAWN BY: A Osmar
SCALE: As Noted
DATE: March 2, 2020

PAGE:
1
Plot Plan

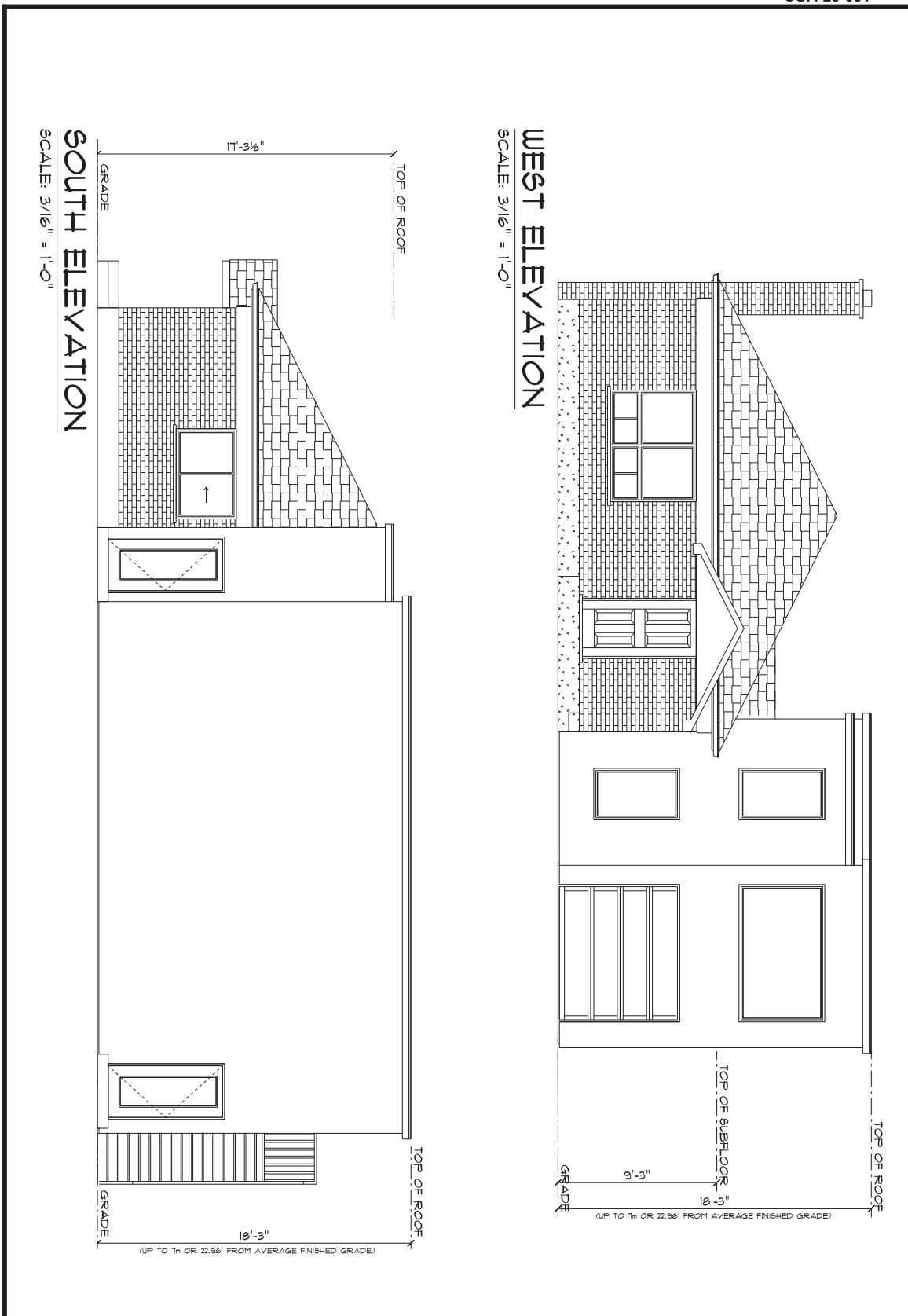


<p>NBS Design Group 398 Barrie Street PHONE: 613-449-5240 Kingston ON aosmar@nbsdesigngroup.com K7K 3T7 www.nbsdesigngroup.com</p>	<p>363 College Street</p>	
	<p>DRAWN BY: A Osmar</p>	<p>PAGE:</p>
	<p>SCALE: 1" = 5'-0"</p>	<p>2 Existing</p>
<p>DATE: March 2, 2020</p>		

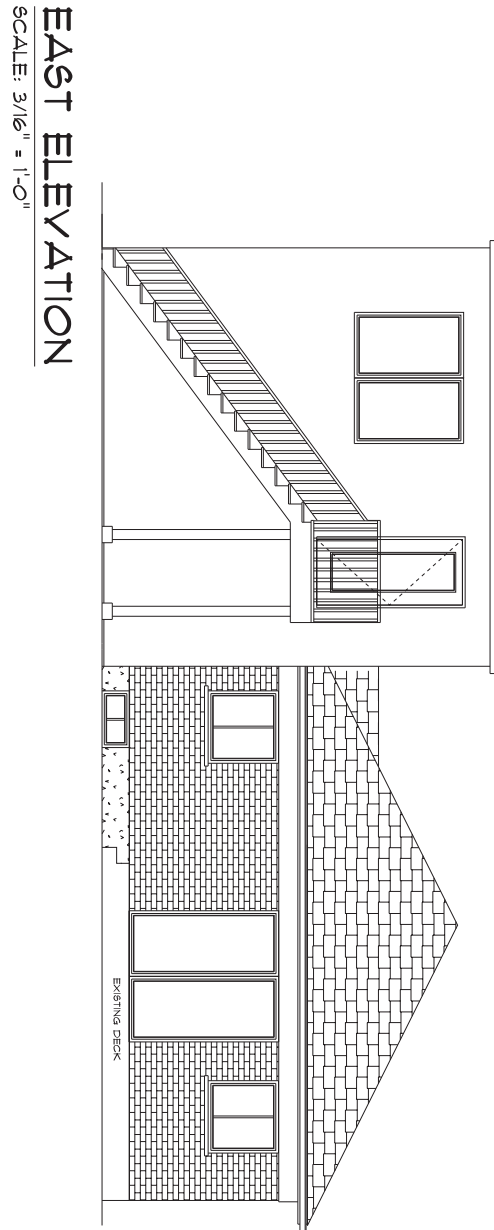
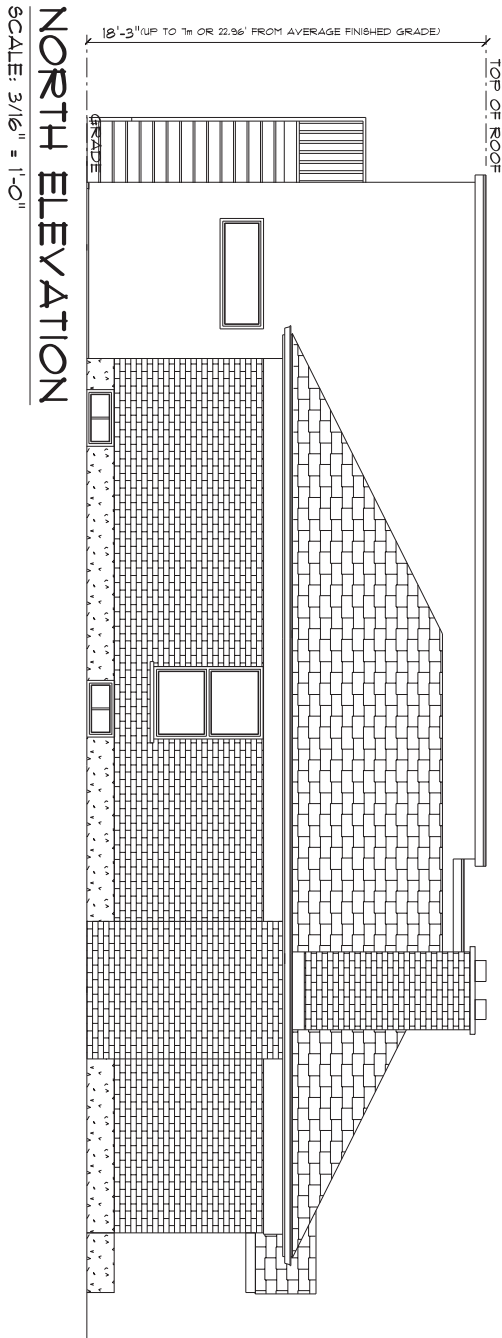
These plans form the basis for permit issuance. Any deviations from these plans, notes, and details will require revised drawings and specifications, and approval from the Building Department.

I have reviewed and take responsibility for the design activities which bear this declaration and meet the requirements set out in the Ontario Building Code.

Print: NBS Design Group
BCIN: 44005
Designer: A. Osmar
BCIN: 33421



<p>NBS Design Group 398 Barrie Street Kingston ON K7K 3T7 PHONE: 613-449-5240 aosmar@nbsdesigngroup.com www.nbsdesigngroup.com</p>	<p><small>These plans form the basis for permit issuance. Any deviations from these plans, notes, and details will require revised drawings and specifications, and approval from the Building Department.</small></p> <p><small>I have reviewed and take responsibility for the design activities which bear this declaration and meet the requirements set out in the Ontario Building Code.</small></p> <p><small>Firm: NBS Design Group BCIN: 44002 Designer: A. Osmar BCIN: 33421</small></p>	<p>363 College Street</p>	<p>DRAWN BY: A Osmar SCALE: 3/16" = 1'-0" DATE: March 10, 2020</p>	<p>PAGE: 4 SW Elevations</p>
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<p>NBS Design Group 398 Barrie Street PHONE: 613-449-5240 Kingston ON aosmar@nbsdesigngroup.com K7K 3T7 www.nbsdesigngroup.com</p>	<p><small>These plans form the basis for permit issuance. Any deviations from these plans, notes, and details will require revised drawings and specifications, and approval from the Building Department.</small></p> <p><small>I have reviewed and take responsibility for the design activities which bear this declaration and meet the requirements set out in the Ontario Building Code.</small> Firm: NBS Design Group BCIN: 44002 Designer: A. Osmar BCIN: 33421</p>	<p>363 College Street</p>	<p>DRAWN BY: A Osmar</p>
		<p>SCALE: 3/16" = 1'-0"</p>	<p>PAGE: 5</p>
		<p>DATE: March 10, 2020</p>	<p>NE Elevations</p>

Site Photographs – March 18, 2020



Figure 1 - 363 College Street Facade



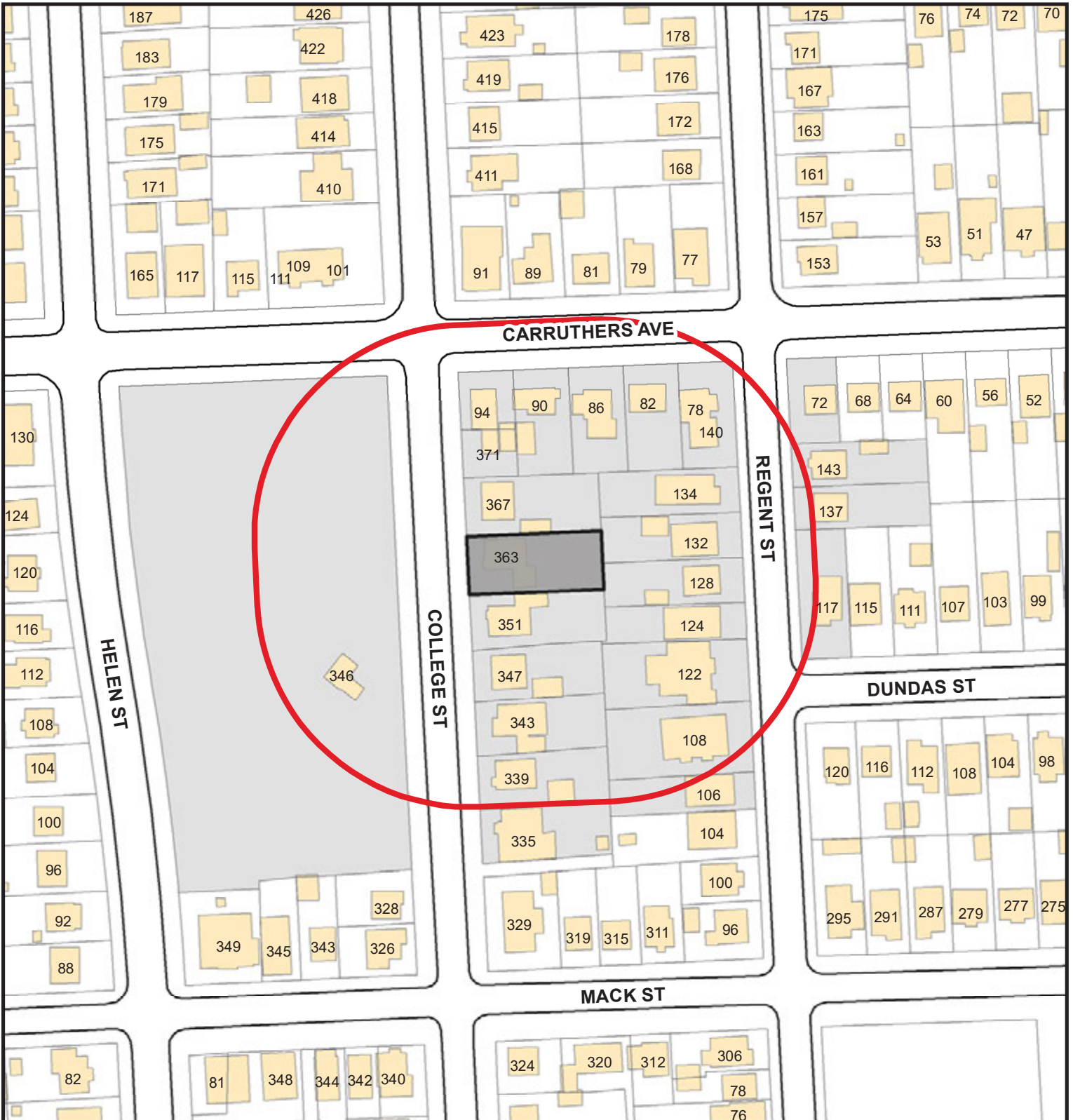
Figure 2 - Abutting Property (orth)



Figure 3 - Abutting Property (South)



Figure 4 - College Street (South)



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a department of
Community
Services

COMMITTEE OF ADJUSTMENT
Public Notice Notification Map

File Number: D13-007-2020
Address: 363 College Street



Legend

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

