



**City of Kingston
Report to Committee of Adjustment
Report Number COA-20-041**

To: Chair and Members of Committee of Adjustment
From: Tim Fisher, Planner
Date of Meeting: July 20, 2020
Application for: Minor Variance
File Number: D13-020-2020
Address: 153 Mowat Avenue
Owner: Susana Reisman
Applicant: Mac Gervan, Gervan and Associates

Council Strategic Plan Alignment:

Theme: 2. Increase housing affordability

Goal: See above

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variance for the property located at 153 Mowat Avenue. The variance is requested to reduce the minimum rear yard requirement in the One-Family Dwelling 'A5' Zone in Zoning By-Law Number 8499. The applicant proposes to reduce the rear yard setback from 6 metres to 3 metres to permit the construction of a 22.2 square metre addition under the raised deck in the rear yard.

The owner/applicant proposes to convert an area under the raised deck to provide additional living space to the second residential unit in the basement. The 22.2 square metre area is currently a patio which provides private amenity space for the basement unit. The addition will provide an entrance/ vestibule and additional living space in the living room. The addition and its windows will provide extra natural light into the basement unit.

Variance:

By-Law Number 8499: Section 11.3(d) Minimum Rear Yard

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Requirement:	6.0 metres
Proposed:	3.0 metres
Variance Requested:	3.0 metres

The requested minor variance is consistent with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 8499. 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 D13-020-2020, for the property located at 153 Mowat Avenue to reduce the minimum rear yard requirement to construct a 22.2 square metre addition under a raised deck which projects into the rear yard, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-20-041.

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Authorizing Signatures:

Tim Fisher, Planner

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

Paige Agnew, Commissioner of Planning Services

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Options/Discussion:

On April 29, 2020, a minor variance application was submitted by the agent Mac Gervan, Gervan and Associates on behalf of the owner, OTSusana Reisman, with respect to the property located at 153 Mowat Avenue. The variance is requested to reduce the minimum rear yard requirement in the One-Family Dwelling 'A5' Zone in Zoning By-Law Number 8499. The applicant proposes to reduce the rear yard setback from 6 metres to 3 metres to permit the construction of a 22.2 square metre addition under the raised deck in the rear yard.

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

- Site Plan (Exhibit E);
- Elevation and Floor Plan Drawings (Exhibit F); and
- Survey (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 at 153 Mowat Avenue. The property is designated Residential in the Official Plan and zoned One-Family Dwelling 'A5' zone in Zoning By-Law Number 8499. The subject property is currently developed with a single-detached dwelling with an attached garage. A second residential unit occupies the basement.

The property abuts The Domino Theatres Inc to the north, a single-detached dwelling to the east and west and a two-unit dwelling to the south. The neighbourhood consists of a variety of housing types which include one and two-family dwellings and multiple family dwellings.

Application

The review of an application for minor variance is not a simple mathematical calculation, but rather a detailed assessment of whether the variance requested 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

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.

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

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 provides 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 will not have any negative impacts on abutting properties or residential uses and/or structures. The proposal is compatible with the surrounding residential uses and will not result in significant impacts or changes to the surrounding area.

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 proposed 22.2 square metre addition will result in a development that is consistent with the existing built form of several residential buildings located along Mowat Avenue. The overall design and scale of the proposal is not anticipated to cause any adverse impacts on the adjacent residential properties and is in keeping with the existing character of the street. Defined private outdoor amenity space will be provided for each dwelling unit.

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 proposal includes the construction of a 22.2 square metre addition at the rear of the dwelling. The addition will maintain separate and independent entrances to the second residential unit located in the basement. The addition will create a vestibule and additional living space to the living room. It is intended that the addition will provide additional natural light into the basement unit.

There will be no concerns with respect to the parking of vehicles and bicycles or issues relating to accessibility as one parking space is provided for each dwelling unit, and road access will be maintained from Mowat Avenue.

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;

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The proposal generally conforms to applicable urban design policies, as outlined in Section 8 of the Official Plan. The addition will project from the rear of the house and will not be any higher than the existing bungalow or visible from Mowat Avenue. The addition will comply with all other zoning standards. The proposed development has been designed to be in keeping with the character of the existing dwelling on the subject property and to be visually compatible with the surrounding dwellings.

5. If the site is designated under 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 not on the City's Heritage Register; however, it is adjacent to designated heritage properties at 162 Mowat Avenue and 29 Baiden Street. The proposal will result in the construction of an addition at the rear of the dwelling and will not be seen from the road. The proposal will have a neutral effect on the adjacent heritage resource and as a result no Heritage Impact Statement is required.

The City of Kingston Archaeological Master Plan indicates that the subject property has been cleared of Archaeology through a registered Archeological Assessment.

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 subject property is located within the Urban Boundary with municipal water and sanitary services. The application was circulated to Utilities Kingston through technical review, who noted that there were no concerns with the application.

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 proposal meets the four tests of a Minor Variance as outlined in the *Planning Act*, and described herein.

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;

Multiple conditions of approval are recommended in this report.

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

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The proposal is in keeping and compatible with the existing development in the surrounding area and will not set an undesirable precedent.

The proposal meets the intent of the Official Plan, as the proposed addition 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 One and Two-Family Dwelling 'A5' 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 'A5' zone permits a one-family dwelling and two-family dwellings. Section 5.45 of the zoning by-law regulates second residential units. The existing single-detached dwelling and basement second residential unit is a permitted use.

The owner/applicant proposes to construct a 22.2 square metre addition projecting into the rear yard. The addition and internal renovations will result in additional living space for the living room and an entrance/ vestibule.

The addition will be located under the existing deck. The deck is permitted to extend into the rear yard setback however the addition is required to comply with the 'A5' zone requirements. The addition will therefore project 3 metres from the rear wall of the dwelling which will encroach in the minimum rear yard setback requirement. A variance is required to reduce the rear yard setback.

Variance:

By-Law Number 8499:	Section 11.3(d) Minimum Rear Yard
Requirement:	6.0 metres
Proposed:	3.0 metres
Variance Requested:	3.0 metres

The intent of the rear yard requirement is to provide buffering between adjacent uses while providing landscape opened space for outdoor amenities associated with the residential use. The addition will not be any closer to the rear lot line than the existing deck. Amenity space for the basement unit has been illustrated on the revised site plan. The main floor residential unit will maintain its private outdoor amenity space on the deck. The proposal will comply with the minimum landscape open space requirement of 30%.

The proposal complies with all other requirements of the 'A5' zone.

3) The variance is minor in nature

The proposal involves the construction of a 22.2 square metre addition under an existing deck in the rear yard while maintain the side yard setbacks. The addition will provide additional living space to the basement unit and will provide additional natural light.

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The addition will not cause an adverse impact on adjacent residential properties and will not have an impact on the existing streetscape. The variance will maintain the character of the house or the neighbourhood, and the addition is being designed to avoid impacts such as loss of privacy or overlook to the surrounding area. The proposed addition meets all other required provisions.

The variance is therefore considered minor.

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

The location of the addition presents the area of least impact for the development of additional living space on the property. It is anticipated that it will be compatible in terms of design, materials and colour to the existing building and is appropriate in scale and will be similar to other forms of development found in the surrounding area. The addition will be no closer to the rear lot line than the existing deck. The development will remain functional for its intended residential use as each dwelling unit will have separate entrances.

The variance is therefore desirable and appropriate use of the land.

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 checked="" 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 checked="" 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 type="checkbox"/> CRCA | <input type="checkbox"/> KFL&A Health Unit | <input type="checkbox"/> Trans Northern Pipelines |
| <input type="checkbox"/> Parks Canada | <input type="checkbox"/> Eastern Ontario Power | <input type="checkbox"/> CFB Kingston |
| <input type="checkbox"/> Hydro One | <input type="checkbox"/> Enbridge Pipelines | <input type="checkbox"/> TransCanada Pipelines |
| <input type="checkbox"/> Kingston Airport | | |

Technical Comments

This application was circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude this application from moving forward. Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda.

Public Comments

At the time this report was finalized, there were no written public concerns or objections received. Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

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Previous or Concurrent Applications

D10-748-2011 – consent to sever 153 Mowat Ave from 21 Baiden Street. Certificate of Official issued.

D10-749-2011 – minor variance to reduce the front yard setback at 153 Mowat Ave from 7.5 metres to 0.9 metres, Approved.

Conclusion

The requested variance maintains the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 8499. 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 22.2 square metre addition at the rear of the dwelling. The addition will provide additional living space and vestibule to the basement unit.

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, 2020

Municipal

City of Kingston Official Plan
Zoning By-Law Number 8499

Notice Provisions:

Pursuant to the requirements of the *Planning Act*, a notice of the Statutory Public Meeting was provided by advertisement in the Kingston Whig Standard at least 10 days in advance of the Public Meeting. A courtesy notice was also placed in The Kingston Whig-Standard.

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

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Financial Considerations:

None

Contacts:

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

Tim Fisher, Planner 613-564-4291 extension 3215

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 Recommended Conditions
- Exhibit B Key Map
- Exhibit C Official Plan Map
- Exhibit D Zoning By-Law Map
- Exhibit E Revised Site Plan
- Exhibit F Elevations and Floor Plans
- Exhibit G Survey

Recommended Conditions

Application for minor variance, File Number D13-020-2020

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

1. Limitation

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

2. No Adverse Impacts

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

3. Building Permit Application Requirements

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

Prior to the issuance of a Building Permit, the applicant will need to contact a services advisor at Utilities Kingston (613 546 1181 x2285) if a disconnect is required

A service request is required if additional metering or a service upgrade is needed. Service request can be completed online at:
<https://utilitieskingston.com/Electricity/ServiceRequest>.





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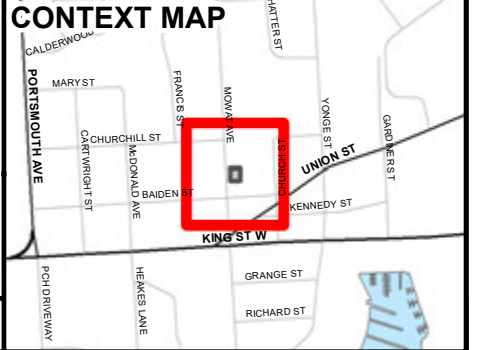
 **COMMITTEE OF ADJUSTMENT**
Key Map

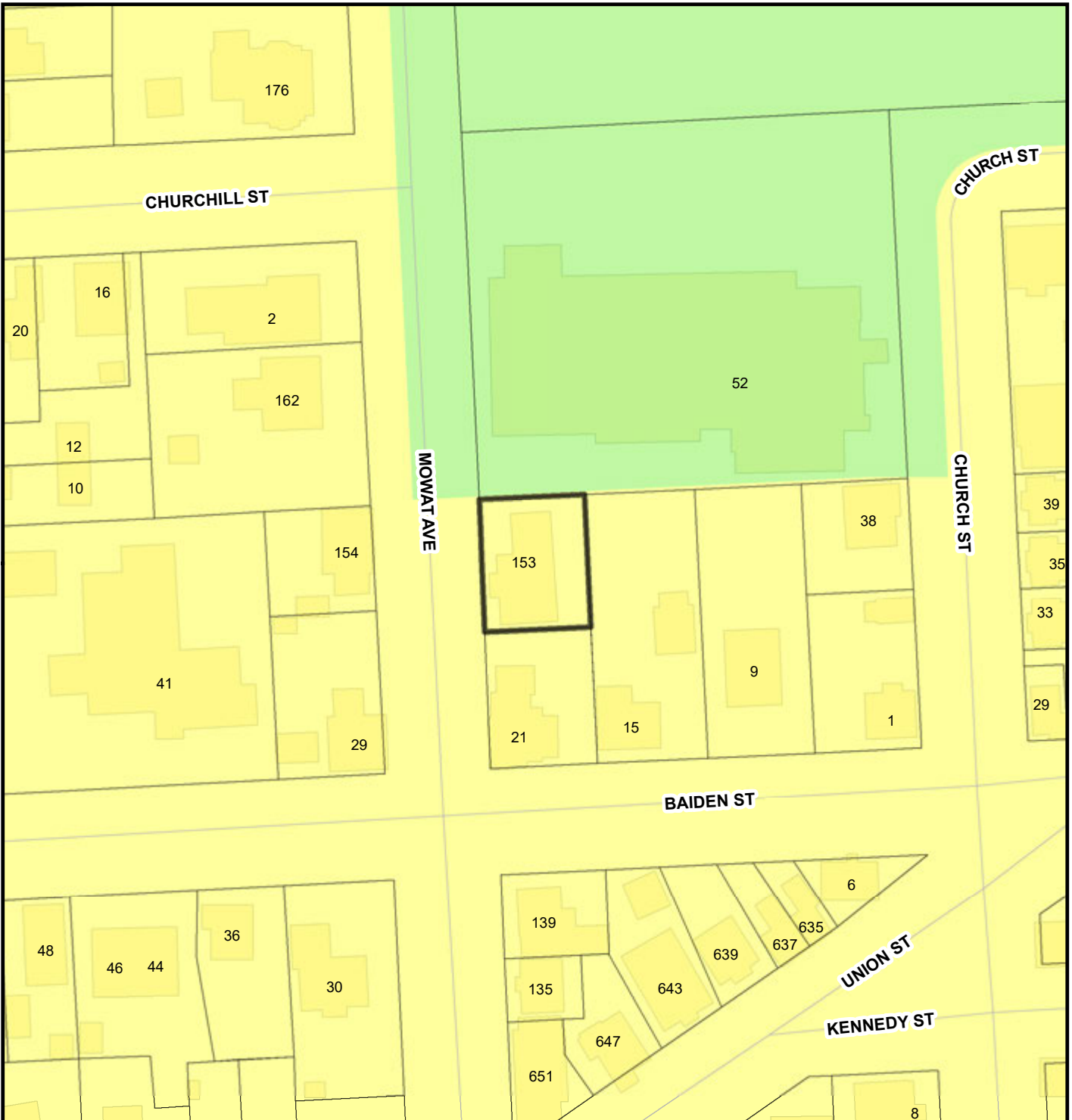
File Number: D13-020-2020
Address: 153 Mowat Ave

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 Lands Subject to Minor Variance

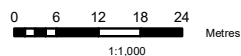







Planning Services
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Services

COMMITTEE OF ADJUSTMENT
Official Plan, Existing Land Use

File Number: D13-020-2020
Address: 153 Mowat Ave



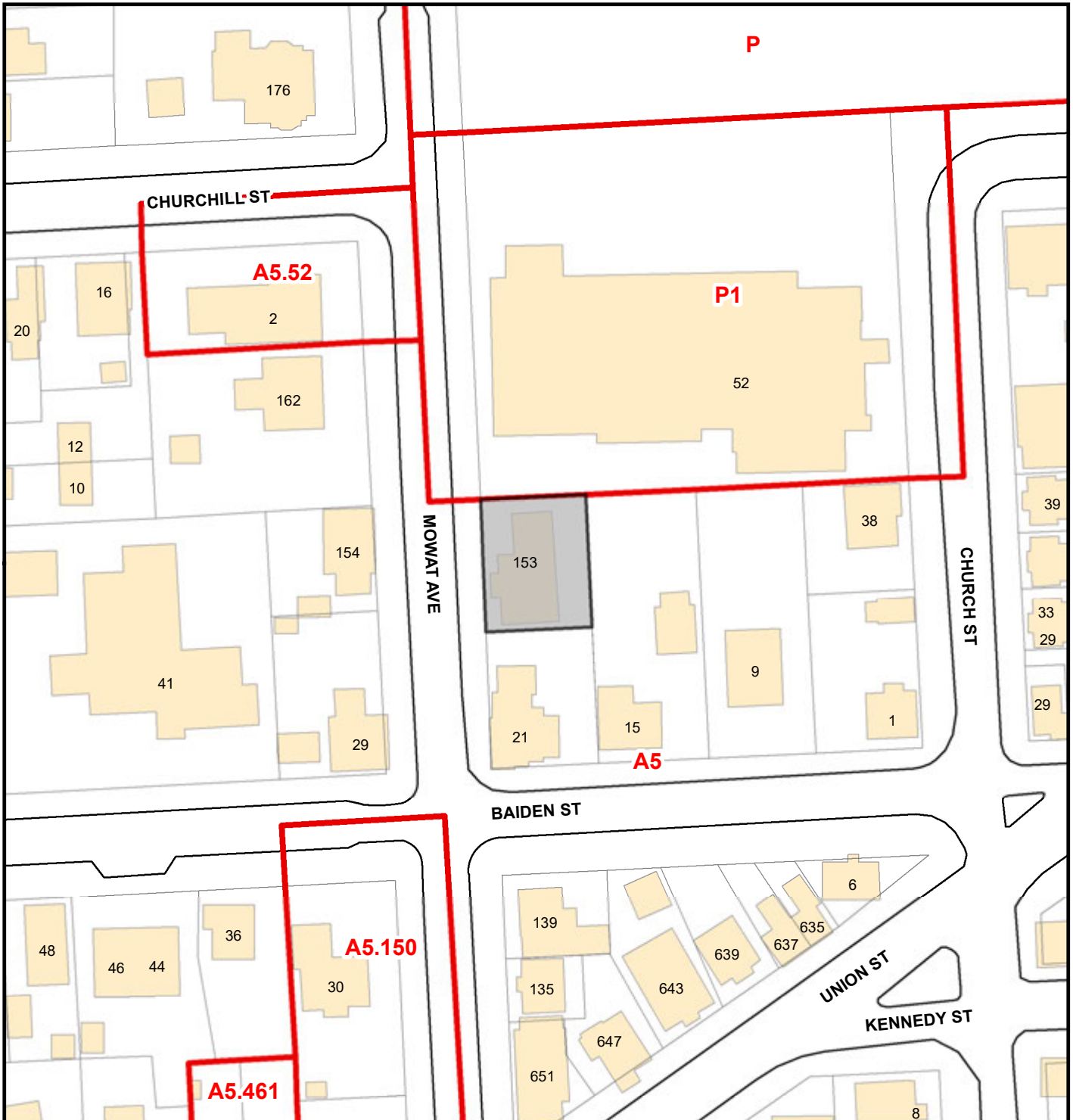
Legend

-  Subject Lands
-  OPEN SPACE
-  RESIDENTIAL



PREPARED BY: akeeping
DATE: 2020-06-23

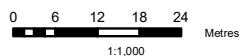
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Planning Services
a department of
Community
Services

COMMITTEE OF ADJUSTMENT
Existing Zoning - By-law 8499, Map 29

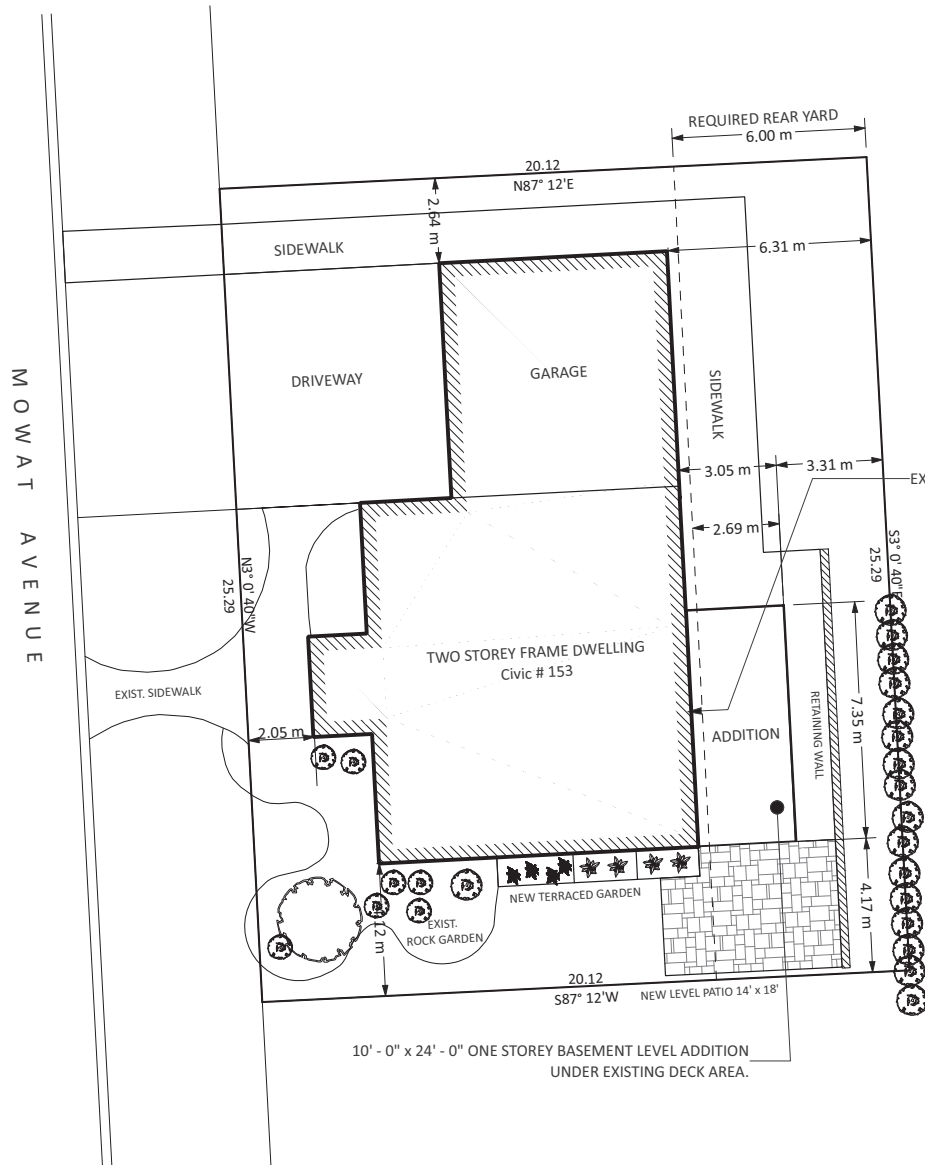
File Number: D13-020-2020
Address: 153 Mowat Ave



Legend

-  Subject Lands
-  Consolidated Zoning





PART of LOT 8,
NORTH SIDE OF BAIDEN STREET,
REGISTERED PLAN No. 54.
(PART 1, PLAN 13R-20241)
CITY of KINGSTON,
COUNTY of FRONTENAC.

This Site Plan is based on a survey by
William H Card Ontario Land Surveyor
dated December 23, 2011.

CITY OF KINGSTON BY-LAW 8499, ZONE A5.

	EXISTING	PROPOSED	
11.3 (a) Max Height	9.32	9.32	No Change
(b) Front Yard	2.05	2.05	No Change
(c)(ii) Agg. Side Yard	6.76	6.76	No Change
(c)(iii) Int. Side Yard	2.64	2.64	No Change
(d) Min Rear Yard	6.31	3.31	Variance 2.69m
(e) Lot Area	509m ²		No Change
(f) Lot Width	25.29		No Change
(g) Parking	2 Spaces		No Change
(j) Landscaped Open Space	268m ²		No Change

Contents:

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A-2	Site Plan	
A-3	Foundations plan	
A-4	Plan Floor 1	
A-5	Plan Floor 2	
A-6	Elevations	
A-7	Elevations	

Revisions:

MAY 12, 2020	PATIO / SITE PLAN
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Mac GERVAN & ASSOCIATES Ltd.

Residential and Commercial Design Services

Consulting and Project Management

phone 546-5097
fax 546-6249
e-mail mac@gervan.ca
Company BCIN # 33630
Mac Gervan BCIN# 21054

Project:

REISMAN RESIDENCE
153 MOWAT AVE.
KINGSTON, ON

Drawing:

Revised Site Plan

Date: APRIL 29, 2020
Issue for Minor Variance

Scale: 1 : 150

Drawn By: MG/GF

File: 01002-REISMAN 153 MOWAT AVE.dwg
Drawing #: **A-2**



Photo looking east at north property line.



Photo of property to south east. (15 Baiden St.)

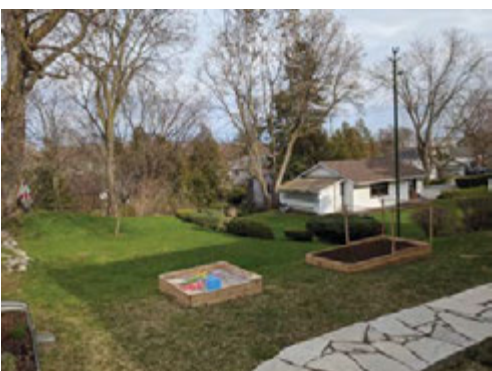


Photo of property to south east. (15 Baiden St.)



SKETCH OF ONE STOREY 10' x 24' BASEMENT LEVEL ADDITION.



Photo of existing deck at SE corner and location of addition under deck area.

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A-6	Elevations	
A-7	Elevations	

Revisions:

Mac GERVAN & ASSOCIATES Ltd.

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Project:

REISMAN RESIDENCE
153 MOWAT AVE.
KINGSTON, ON

Drawing:

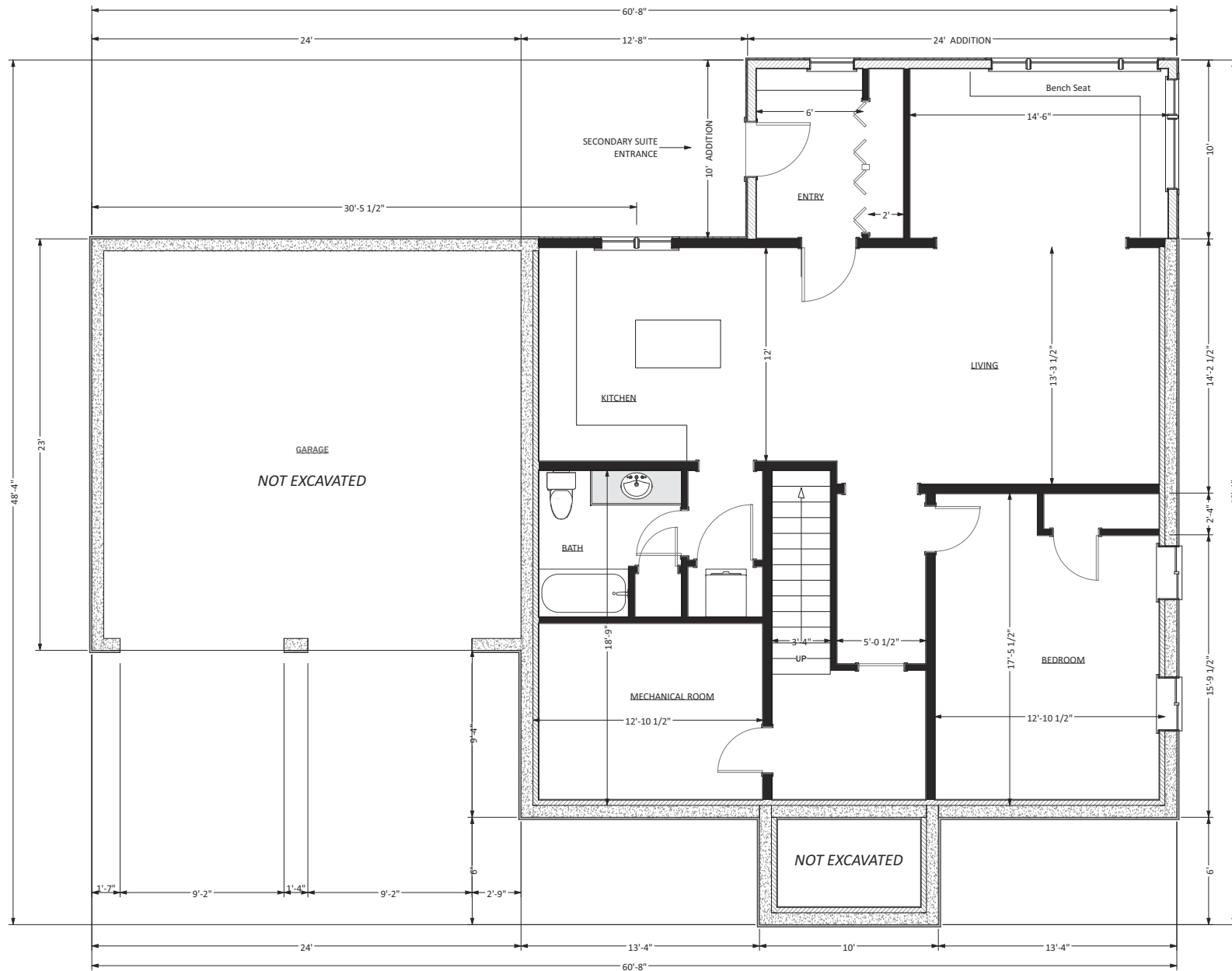
General Notes
Perspective

Date: APRIL 29, 2020
 Issue for Minor Variance

Scale:

Drawn By: MG/GF

File: 09024-REISMAN 153
REPORT FILE
DATE: 2020/04/29 Drawing #: **A-1**



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Revisions:

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Mac Gervan BCIN# 21054

Project:

REISMAN RESIDENCE
153 MOWAT AVE.
KINGSTON, ON

Drawing:

Foundation plan

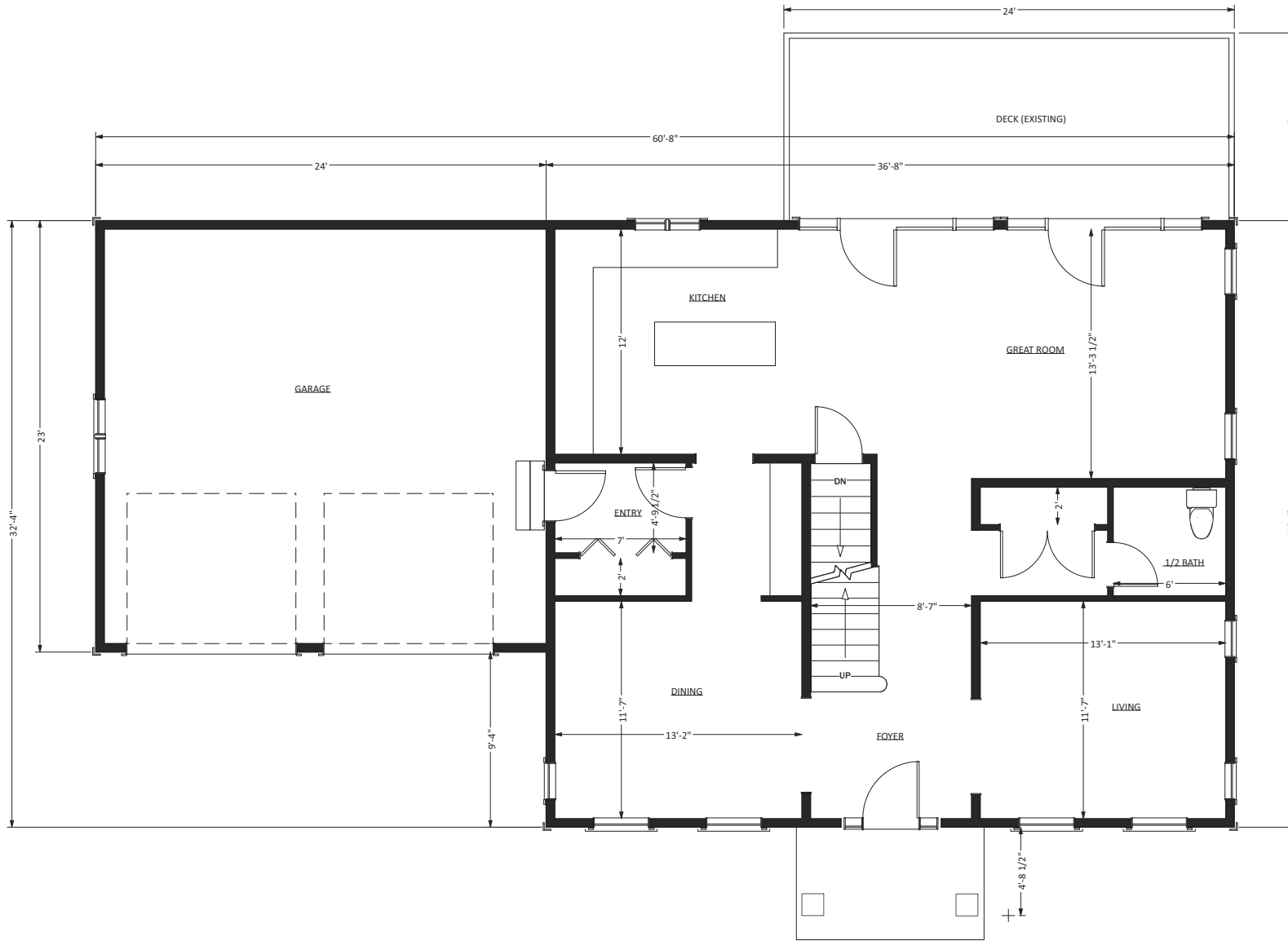
Date: APRIL 29, 2020
Issue for Minor Variance

Scale: 3/16" = 1' - 0

Drawn By: MG/GF

File: 09024-REISMAN 103
REVISED PLAN
ISSUED 20200429

Drawing #: **A-3**



Contents:

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A-7	Elevations	

Revisions:

Mac GERVAN
& ASSOCIATES Ltd.

Residential and Commercial
Design Services
Consulting and Project
Management

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Company BCIN # 33630
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Project:
REISMAN RESIDENCE
153 MOWAT AVE.
KINGSTON, ON

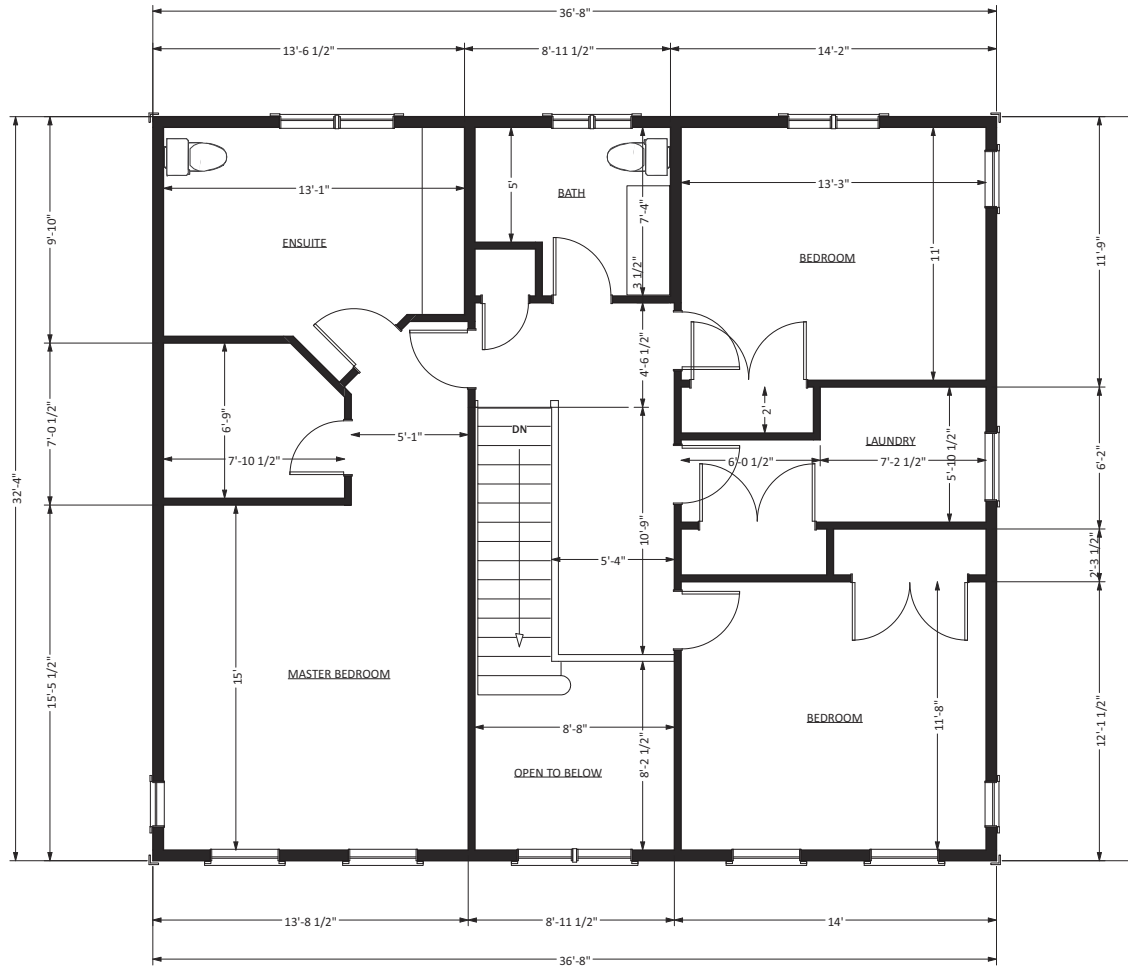
Drawing:
Plan Floor 1

Date: APRIL 29, 2020
Issue for Minor Variance

Scale: 3/16" = 1' - 0

Drawn By: MG/GF

File: Drawing #: **A-4**



Contents:

	General Notes	Perspective
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A-5	Plan Floor 2	
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A-7	Elevations	

Revisions:

Mac GERVAN
& ASSOCIATES Ltd.

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Management

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Mac Gervan BCIN# 21054

Project:

REISMAN RESIDENCE
153 MOWAT AVE.
KINGSTON, ON

Drawing:

Plan Floor 2

Date: APRIL 29, 2020
Issue for Minor Variance

Scale: 3/16" = 1' - 0

Drawn By: MG/GF

File: Drawing #: **A-5**



EAST ELEVATION

10' x 24' ADDITION UNDER
EXISTING 10' x 24" DECK.



WEST ELEVATION

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A-7	Elevations	

Revisions:

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& ASSOCIATES Ltd.

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Mac Gervan BCIN# 21054

Project:
REISMAN RESIDENCE
153 MOWAT AVE.
KINGSTON, ON

Drawing:
Elevations

Date: APRIL 29, 2020
Issue for Minor Variance

Scale: 1/8" = 1' - 0"

Drawn By: MG/GF

File: 01024-REISMAN 153
MOWAT AVE
150101 20200429 Drawing #: **A-6**



SOUTH ELEVATION

10' x 24' ADDITION UNDER
 EXISTING 10' x 24" DECK.



NORTH ELEVATION

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Revisions:

Mac GERVAN & ASSOCIATES Ltd.

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 Company BCIN # 33630
 Mac Gervan BCIN# 21054

Project:
REISMAN RESIDENCE
153 MOWAT AVE.
KINGSTON, ON

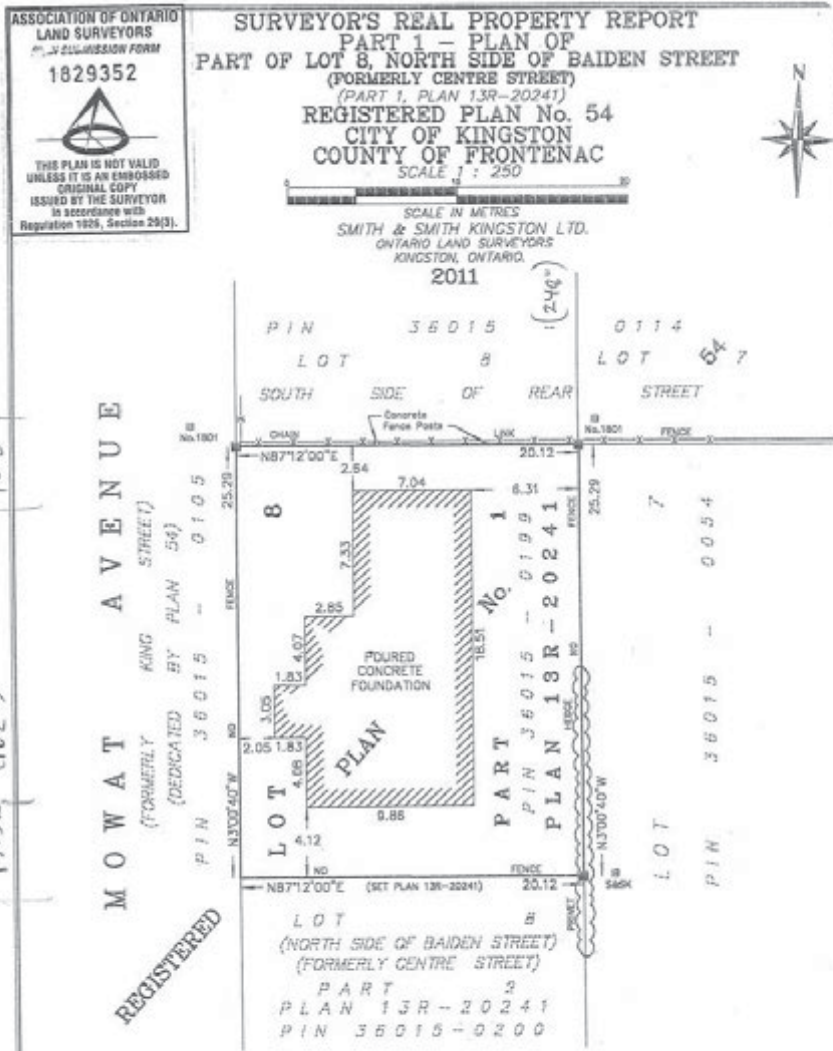
Drawing:
Elevations

Date: **APRIL 29, 2020**
 Issue for Minor Variance

Scale: **1/8" = 1' - 0"**

Drawn By: **MG/GF**

File: 09024-REISMAN 153
MOWAT AVE
ISSUE FOR 2020-04-29 Drawing #: **A-7**



13.52' (162")
103.4'

**SURVEYOR'S REAL PROPERTY REPORT
PART 2, REPORT SUMMARY**

DESCRIPTION OF LAND	Part of Lot 8, North side of Baiden Street (formerly Centre Street), Registered Plan No. 54 (Part 1, Plan 13R-20241) City of Kingston, County of Frontenac.
REGISTERED EASEMENTS/RIGHTS OF WAY	None on title or evident on site.
ENCROACHMENTS	None evident.
COMPLIANCE WITH MUNICIPAL ZONING BY-LAWS	Not certified by this report.
ADDITIONAL REMARKS	New dwelling under construction.

Bearings are Grid Bearings derived from Plan 13R-20241.

METRIC
Distances shown on this plan are in metres and can be converted to feet by dividing by 0.3048.
This report was prepared for JEFF McCORD and the undersigned accepts no responsibility for use by other parties.

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:
1. This SURVEY and PLAN are correct and in accordance with THE SURVEYS ACT, THE SURVEYORS ACT and THE LAND TITLES ACT and the REGULATIONS made under them.
2. The SURVEY was completed on the 7th. day of December 2011.

23 DEC 2011
Job No. 274-11

William H. Card
William H. Card
Ontario Land Surveyor