

# City of Kingston Report to Committee of Adjustment Report Number COA-20-047

То:	Chair and Members of Committee of Adjustment
From:	Tim Fisher, Planner
Date of Meeting:	September 21, 2020
Application for:	Minor Variance
File Number:	D13-036-2020
Address:	266 Rideau Street
<b>Owner/Applicant:</b>	Christopher Omelon

#### **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 a minor variance for the property located at 266 Rideau Street. The proposal is to construct a new roof with knee walls to create a half storey on top of the second floor of an existing two-storey single-detached dwelling. The half storey will provide a master bedroom suite while providing two bedrooms on the second storey. The applicant is also proposing to widen the existing covered porch over the Charles Street access to the home.

The existing dwelling and the covered porch encroach into the minimum front yard setback (Rideau Street) and minimum exterior side yard (Charles Street). Variances are requested to reduce the minimum front yard and exterior side yard setbacks in order to build on the existing building footprint to construct the new roof and knee walls. An additional variance is requested to reduce the projections into yard setbacks to permit the widening of the covered porch.

The widening of the porch also requires variances to increase the percentage of lot coverage as covered porches are calculated as part of lot coverage and to reduce the minimum landscape open space requirement. No expansion of the building footprint is proposed.

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The requested minor variances are consistent with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 8499. The requested minor variances are desirable for the appropriate development or use of the land, building or structure and are minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act*.

#### Variance Number 1:

By-Law Number 8499:	Section 6(3)(b)(ii) Minimum Front Yard (Rideau Street)
Requirement:	2.2 metres
Proposed:	2.0 metres
Variance Requested:	0.2 metres
-	

### Variance Number 2:

By-Law Number 8499:	Section 6(3)(b)(ii) Minimum Front Yard (Charles Street)
Requirement:	1.27 metres
Proposed:	0.87 metres
Variance Requested:	0.4 metres

### Variance Number 3:

By-Law Number 8499:	Section 6(3)(e) Maximum Percentage of Lot Coverage
Requirement:	33.3 percent
Proposed:	50 percent
Variance Requested:	16.7 percent

## Variance Number 4:

By-Law Number 8499:	Section 6(3)(o) Minimum Percentage of Landscape Open Space
Requirement:	30 percent
Proposed:	24 percent
Variance Requested:	6 percent

## Variance Number 5:

By-Law Number 8499:	Section 5.8C Projections into Yards (Charles Street)
Requirement:	3.5 metres
Proposed:	0.86 metres
Variance Requested:	2.64 metres

## **Recommendation:**

**That** minor variance application, File Number D13-036-2020, for the property located at 266 Rideau Street to reduce the minimum front yard and exterior side yard setbacks in order to building on the existing building footprint to construct the new roof and knee walls and variances to reduce the projections into yards setback, reduce the minimum landscape open space requirements and increase the maximum percentage lot coverage requirement to permit the widening of the covered porch, be Approved; and

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**That** approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-20-047.

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Authorizing Signatures:

 $\checkmark$ 

Tim Fisher, Planner

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

Paige Agnew, Commissioner of Community Services

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## **Options/Discussion:**

On May 9, 2019, a minor variance application was submitted by Christopher Omelon with respect to the property located at 266 Rideau Street. The proposal is to construct a new roof with knee walls to create a half storey on top of the second floor of an existing two-storey single-detached dwelling. The half storey will provide a master bedroom suite while providing two bedrooms on the second storey. The applicant is also proposing to widen the existing covered porch over the Charles Street access to the home.

The existing dwelling and the covered porch encroach into the minimum front yard setback (Rideau Street) and minimum exterior side yard (Charles Street). Variances are requested to reduce the minimum front yard and exterior side yard setbacks in order to build on the existing building footprint to construct the new roof and knee walls. An additional variance is requested to reduce the projections into yard setbacks to permit the widening of the covered porch.

The widening of the porch also requires variances to increase the percentage of lot coverage as covered porches are calculated as part of lot coverage and to reduce the minimum landscape open space requirement.

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

• Site Plan, Elevation and Floor Plan Package (Exhibit F)

All submission materials are available online through the Development and Services Hub (DASH) at the following link, <u>DASH</u>, 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 on the northwest corner of Rideau Street and Charles Street. (Exhibit B and Exhibit C). The subject property is currently developed with a two-storey singledetached dwelling. The subject property is approximately 143 square metres in lot area with approximately 8.2 metres of road frontage along Rideau Street and 17 metres of road frontage on Charles Street. The site is adjacent to single detached residential dwellings located north, south, and west, and multiple family dwellings (apartments and row houses) to the east.

The subject property is designated 'Residential' in the Official Plan and is zoned One-Family Dwelling and Two-Family Dwelling Zone 'A' in Zoning By-Law Number 8499, as amended.

## **Provincial Policy Statement**

In addition to the four tests of a minor variance detailed in this report, Subsection 3(5) of the *Planning Act* requires that a decision with respect to 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

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involve any major policy considerations and as such, the proposal conforms to and is consistent with the PPS.

### Application

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

# 1) The proposal shall be consistent with the general intent and purpose of the Official Plan

The subject property is designated 'Residential' in the City of Kingston Official Plan (Exhibit D). Section 3.3 of the Official Plan specifies that the goal of the Residential designation is to respond to the housing needs of the City's citizens by retaining and augmenting a broad range of housing within a safe, convenient and stable setting, organized primarily into neighbourhoods.

The goal of the Residential designation is to respond to the housing needs of the City's citizens by retaining and augmenting a broad range of housing within a safe, convenient and stable setting, organized primarily into neighbourhoods.

The predominant use within the 'Residential' designation is residential dwellings, including detached, semi-detached or duplex dwellings, townhouses, and apartments of various types, tenure, and density that respond to a wide range of housing needs. In addition to the various forms of housing, community facilities such as schools and places of worship are also permitted. Small-scale, convenience commercial uses which support residential neighbourhoods and are compatible with the residential setting may also be permitted in the designation. Single-detached dwellings are a permitted use in the Residential designation.

The impact of the proposal and the requested variances are minor, and it is therefore not subject to a zoning by-law amendment application process. In considering whether the proposed variance is desirable, the Committee of Adjustment will give 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.

a. The proposed development meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of the Official Plan.

The proposal meets the intent of Section 2 of the Official Plan, and the strategic policy direction that the focus of the City's growth will be within the Urban Boundary, where adequate services exist (Section 2.3.1). The proposed addition is for a permitted residential use. Section 2.2.5 – Housing Districts – states that these areas are planned to remain stable in accordance with Section 2.6 of the Official Plan but will continue to mature and adapt as the City evolves. Re-investment and upgrading will be encouraged

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through minor infilling and minor development (i.e. that which can integrate compatibly with the prevailing built form standards of height, density, and amenity that are generally found in the neighbourhood). The proposed development represents a reinvestment in a property that is not proposed to change in form or density. The proposal is also supporting the sustainability objectives of the Official Plan by maximizing the use of the existing footprint of the building, reducing the need for an expansion that might otherwise increase stormwater discharge (Section 2.1.4).

b. 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 addition is to be constructed with an architectural character that is similar to the existing single-detached residence. One of the reasons the minor variance is being sought is to ensure that the existing character of the house is maintained while expanding the floor area of the dwelling by creating a usable half storey in the attic. The single-detached dwelling use will be maintained and no new bedrooms are proposed. The dwelling has 3 bedrooms within the second storey. The new roof and living space in the attic will remove a bedroom on the second storey and relocate it in the attic space to create a master bedroom suite.

A window in the front and rear wall of the roof is proposed as well as several skylights to provide natural light into the master bedroom suite. There are no adverse effects anticipated to result from the proposed development, such as shadowing or intrusive overlook.

c. The ability of the site to function in an appropriate manner in terms of access, parking or any other matter and means of improving such function.

There is no change to the function of the site at grade. The most significant changes being the slight increase in height and the new roofline. The widening of the covered porch will visually place the door in the centre of the porch. It will not affect the site function.

d. 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 proposal generally conforms to applicable urban design policies, as outlined in Section 8 of the Official Plan. The addition is located directly above the existing dwelling, and 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.

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e. 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 designated as a cultural heritage resource under the *Ontario Heritage Act*. The property has also been identified as having "Composite Archaeological Potential" on the City's Archaeological Master Plan. However, no disturbance is planned at grade as the work proposed will be for a second-floor addition and cantilevered extension, with no changes to the building foundation. As such, no further studies are required at this time.

f. 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.

g. 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.

 h. 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.

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

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

In summary, the proposal maintains the general intent and purpose of the Official Plan as the proposed development will not result in any negative impacts to adjacent properties or to the neighbourhood.

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#### 2) The general intent and purpose of the zoning by-law varied is maintained

The subject property is located in a One-Family and Two-Family 'A' 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 (Exhibit E). The 'A' Zone permits residential uses including one-family dwellings, two-family dwellings, libraries, art galleries and museums, public or private day schools, community halls, churches and church halls, institutions or homes operated or supervised by a Children's Aid Society, community homes, Providence Manor and Rideaucrest Home for the Aged, and accessory buildings to any use permitted in the 'A' Zones.

The existing dwelling was built in 1890 and is deemed to have non-complying status as the structure does not comply with current zoning requirements of Zoning By-Law Number 8499. Variances are requested to permit the half storey addition above the two storey dwelling and to widen and repair the existing poches.

The first two variances requested are to reduce the minimum front yard requirements for both Rideau Street and Charles Street. The existing dwelling encroaches into the required front yards however the proposed half storey addition is proposed to continue with the existing building footprint. The half storey will not encroach any further into the front yard than the existing dwelling.

#### Variance Number 1:

By-Law Number 8499: Requirement:	Section 6(3)(b)(ii) Minimum Front Yard (Rideau Street) 2.2 metres
Proposed:	2.0 metres
Variance Requested:	0.2 metres

#### Variance Number 2:

By-Law Number 8499:	Section 6(3)(b)(ii) Minimum Front Yard (Charles Street)
Requirement:	1.27 metres
Proposed:	0.87 metres
Variance Requested:	0.4 metres

The third variance is to increase the maximum percentage of lot coverage to permit the widening of the front covered porch along the Charles Street. This provision includes the dwelling occupying the lot and any porch or deck which is covered by a roof. The existing dwelling and covered porches currently occupy 49% of the lot and the widening of the front porch will increase the lot coverage by 1%. The variance is based on the zoning requirement and not what currently exists on the lot therefore the variance may look large but in fact is only an increase of 1%.

#### Variance Number 3:

By-Law Number 8499:	Section 6(3)(e) Maximum Percentage of Lot Coverage
Requirement:	33.3 percent
Proposed:	50 percent

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Variance Requested: 16.7 percent

The fourth variance is to reduce the minimum percentage of landscape open space. The existing development provides 25% of landscape open space. The widening of the covered porch along Charles Street will remove approximately 1% of landscape open space and therefore a variance is required. The variance is based on the zoning requirement and not what currently exists on the lot therefore the variance may look large but in fact is only an increase of 1%.

#### Variance Number 4:

By-Law Number 8499:Section 6(3)(o) Minimum Percentage of Landscape Open SpaceRequirement:30 percentProposed:24 percentVariance Requested:6 percent

The fifth and final variance requested is to reduce the projection into yards provision which requires a minimum 3.5 metre setback from the front lot line. The existing covered front porch is currently setback approximately 1 metre from the front lot line. The widening of the porch will result in the south east corner of the covered porch to be 0.86 metres to the front lot line. The variance is based on the zoning requirement and not what currently exists on the lot therefore the variance may look large but in fact is only an increase of 0.14 metres.

#### Variance Number 5:

By-Law Number 8499:Section 5.8C Projections into Yards (Charles Street)Requirement:3.5 metresProposed:0.86 metresVariance Requested:2.64 metres

The proposal complies will all other zoning requirements in the 'A' zone.

#### 3) The variance is minor in nature

The subject property is an undersized corner lot with a lot area of 142.9 square metres. The dwelling occupies approximately 49% of the lot with a parking space located in the rear yard accessed from Charles Street.

The site is constrained to provide any expansion of lot living space; therefore the applicant proposes to go up instead of out with the addition. The proposal involves the construction of a half storey addition directly above an existing two storey single detached dwelling. The proposed half storey will result in the removal of a bedroom on the second storey and relocate it in the half storey to create a master bedroom suite. The dwelling will remain a three-bedroom, single family dwelling.

The applicant is also proposing to widen the existing covered porch along Charles Street. The proposal will result in the covered porch to be symmetrical and have the appearance of the doorway to be centre with the porch.

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The proposal will not cause an adverse impact on adjacent residential properties and will not have an impact on the existing streetscape. The variances 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 proposal is therefore minor in nature.

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

The variances are technical in nature as it will permit a half storey addition to be constructed on the existing building footprint and to expand an existing covered porch on a constrained lot. The dwelling will remain a three-bedroom, single-detached dwelling and parking will be maintained at the rear of the dwelling with its access from Charles Street.

The proposal is appropriate and desirable for the site and will be in keeping with the existing residential development in the neighbourhood.

# **Technical Review: Circulated Departments and Agencies**

- Building Division
- $\boxtimes$  Finance
- ☑ Utilities Kingston

⊠ Engineering Department

- ☑ Fire & Rescue
- Solid Waste
- □ Housing
- □ KEDCO
- Parks Canada
- □ Hydro One
- □ Kingston Airport

- Kingston Hydro
- $\boxtimes\,$  Parks Development
- ☑ District Councillor
- □ Municipal Drainage
- □ KFL&A Health Unit
- □ Eastern Ontario Power
- □ Enbridge Pipelines

- ⊠ Heritage (Planning Service)
- Real Estate & Environmental Initiatives
- ☑ City's Environment Division
- □ Canadian National Railways
- □ Ministry of Transportation
- □ Parks of the St. Lawrence
- □ Trans Northern Pipelines
- □ CFB Kingston
- □ TransCanada Pipelines

# **Technical Comments**

This application was circulated to external agencies and internal departments for their review and comment. No issues or concerns were raised. Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda. The comments below will be addressed through the Building Permit application process.

Kingston Hydro	The proposed changes to the structure do not meet the minimum
	required clearances from the existing powerline as per the Ontario
	Building Code. The building code requires a clearance of 3m from
	maximum conductor swing (approximately 2 metres max). The

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	applicant will need to contact Utilities Kingston for an estimate to relocate the powerline.
Building	<ul> <li>Insufficient information has been provided at this time to provide detailed comments, however the applicant is advised of the following:</li> <li>A Building Permit is required for the proposed construction</li> <li>Spatial to be considered for type of construction for the North East and South Elevations</li> <li>Travel limit to exits or egress doors from the proposed third storey to be considered</li> <li>Conformance with headroom heights to be considered when constructing the third storey</li> <li>Foundation of the single storey addition to be considered when proposing a balcony above</li> </ul>

### **Public Comments**

At the time this report was finalized, 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**

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

#### Conclusion

The requested variance is consistent with the general purpose and general intent of both the City of Kingston Official Plan and Zoning By-Law Number 8499. The variance meets all four tests under the *Planning Act* and as such the application is being recommended for approval, subject to the proposed conditions.

Approval of this application will allow for the construction of a half storey addition on top of an existing two storey single detached dwelling on the subject property and expansion of a covered front porch. The proposed development is not anticipated to have any adverse impacts on the abutting residential properties.

#### **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

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City of Kingston Official Plan Zoning By-Law Number 8499

#### **Notice Provisions:**

A Committee of Adjustment Meeting is going to be held respecting this application on September 21, 2020 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

## **Financial Considerations:**

None

### Contacts:

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

Tim Fisher, Planner 613-546-4291 extension 3215

## Other City of Kingston Staff Consulted:

None

## **Exhibits Attached:**

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Neighbourhood Context Map
- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Map
- Exhibit F Site Plan and Elevations
- Exhibit G Photo

## **Recommended Conditions**

## Application for minor variance, File Number D13-036-2020

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

### Limitation

That the approved variances apply only to the covered porches and new roof with knee walls as per the approved plans attached to the notice of decision.

### **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.

### **Building Permit Application Requirements**

The owner/applicant shall provide to the Building Division 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.

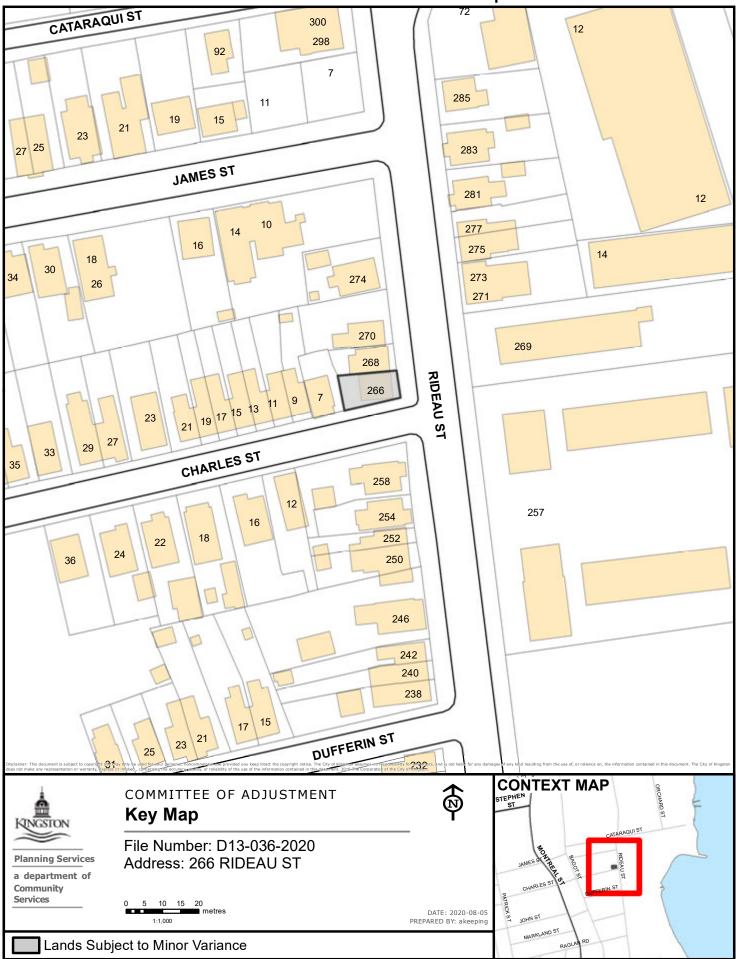
The drawings submitted with the Building Permit application must, in the opinion of the City, conform to the general intent and description of the approved drawing(s), including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. It must be noted that additional planning approvals may be required should further zoning deficiencies be identified through the Building Permit application process.

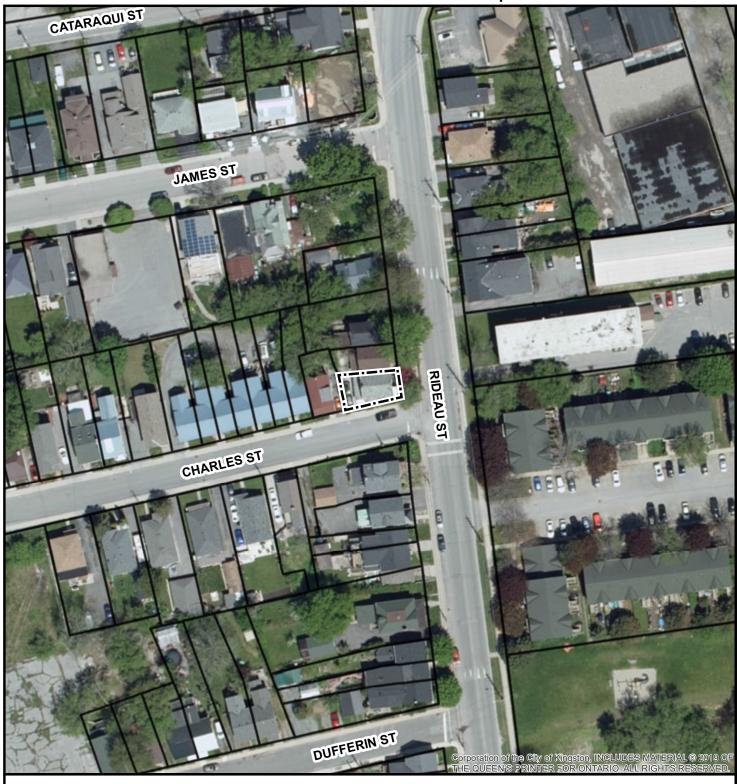
## Standard Archaeological Condition

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 Division (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 Division (613-546-4291, extension 3180) must be immediately contacted.

Exhibit B Report Number COA-20-047







COMMITTEE OF ADJUSTMENT Neighbourhood Context (2019)

Planning Services a department of Community Services

PREPARED BY: akeeping DATE: 2020-08-05 File Number: D13-036-2020 Address: 266 RIDEAU ST

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## Legend

Subject Lands

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