

# City of Kingston Report to Committee of Adjustment Report Number COA-20-048

To: Chair and Members of Committee of Adjustment

From: Tim Fisher, Planner
Date of Meeting: September 21, 2020

Application for: Minor Variance

File Number: D13-034-2020

Address: 272 Mowat Avenue

Owner/Applicant: Sarah Moore and Saneel Vasram

#### **Council Strategic Plan Alignment:**

Theme: 2. Increase housing affordability

Goal: See above

#### **Executive Summary:**

A minor variance application for the subject property was previously approved by the Committee of Adjustment during the May 11, 2020 Public Meeting to reduce the minimum aggregate side yard requirement in the One-Family Dwelling 'A2' Zone in Zoning By-Law Number 8499, to remove an attached garage located along the southern portion of the dwelling and replace with two parking spaces and to construct a 57 square metre addition to the front of the dwelling along the northern half of the existing dwelling. The applicant has since decided to rebuild the attached garage which triggers a resubmission.

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variance for the property located at 272 Mowat Avenue. The variance is requested to reduce the minimum aggregate side yard requirement in the One-Family Dwelling 'A2' Zone in Zoning By-Law Number 8499. The applicant proposes to reconstruct the attached garage located along the southern portion of the dwelling and construct an approximately 57 square metre addition to the front of the dwelling along the northern half of the existing dwelling.

The owner/applicant proposes to renovate the existing dwelling and use a portion of the addition to create a secondary dwelling unit. The main floor dwelling unit will consist of a kitchen, dining

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room, living room study and three bedrooms. A rooftop balcony will be provided over the addition and attached garage which will provide private amenity area for the upper residential unit.

The basement residential unit will consist of a kitchen, mudroom and living room/dining room in the addition and two bedrooms, bathroom, recreation room and utility storage within the basement of the existing dwelling.

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*.

#### Variance:

By-Law Number 8499: Section 8.3(c)(ii) Minimum Aggregate Side Yard

Requirement: 3.6 metres
Proposed: 2.5 metres
Variance Requested: 1.1 metres

#### Recommendation:

**That** minor variance application, File Number D13-034-2020, for the property located at 272 Mowat Avenue to reduce the minimum aggregate side yard requirement to reconstruct the two car attached garage and construct an approximate 57 square metre addition, be approved; and

**That** approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-20-048.

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Authorizing	Signatures:
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$\checkmark$	
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 December 31, 2019, a minor variance application was submitted by the owners, Sarah Moore and Saneel Vasram, with respect to the property located at 272 Mowat Avenue. The variance was to reduce the minimum aggregate side yard requirement in the One-Family Dwelling 'A2' Zone in Zoning By-Law Number 8499. The applicant proposed to remove an attached garage located along the southern portion of the dwelling and replace with two parking spaces and to construct a 57 square metre addition to the front of the dwelling along the northern half of the existing dwelling. The variance was approved by the Committee of Adjustment during the May 11, 2020 Public Meeting. The applicant has since decided to rebuild the attached garage which triggers a resubmission.

On July 22, 2020, a minor variance was resubmitted by the owners, Sarah Moore and Saneel Vasram, with respect to 272 Mowat Avenue. The variance is requested to reduce the minimum aggregate side yard requirement in the One-Family Dwelling 'A2' Zone in Zoning By-Law Number 8499. The applicant proposes to reconstruct the attached garage located along the southern portion of the dwelling and construct an approximately 57 square metre addition to the front of the dwelling along the northern half of the existing dwelling.

The owner/applicant proposes to renovate the existing dwelling and use a portion of the addition to create a secondary dwelling unit. The main floor dwelling unit will consist of a kitchen, dining room, living room study and three bedrooms. A rooftop balcony will be provided over the addition and attached garage which will provide private amenity area for the upper residential unit.

The basement residential unit will consist of a kitchen, mudroom and living room/dining room in the addition and two bedrooms, bathroom, recreation room and utility storage within the basement of the existing dwelling.

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

Site Plan and Elevations (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 at 272 Mowat Avenue. The property is designated Residential in the Official Plan and zoned One Family Dwelling 'A2' zone in Zoning By-Law Number 8499. The subject property is currently developed with a single-detached dwelling with an attached garage.

The property abuts single detached dwellings to the north, east south and west (Exhibit B and Exhibit C). The neighbourhood consists of a variety of housing types which include one and two-family dwellings and multiple-family dwellings.

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#### 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.

#### 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 (Exhibit D). 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 57 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;

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The proposal includes the construction of a 57 square metre addition on the north side of the dwelling. The addition will provide separate and independent entrances to the principle dwelling unit on the ground floor and to the secondary unit located in the basement. The addition will provide additional living space to the secondary suite unit located in the basement and direct access to a patio. The addition will provide a study with direct access to a roof top balcony.

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 within the attached garage, and road access will be maintained from Mowat Avenue.

 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 will project from the front of the house and will not be any higher than the existing bungalow. The addition and attached garage will comply with the minimum front yard requirement and side yard requirement along the northern lot line. 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 proposed site alterations may be reviewed by Heritage Kingston and provided to City Council for approval. If the property is adjacent to a protected heritage property under the *Ontario Heritage Act*, or shown as being located in a Heritage Character Area or is affected by the protected views shown on Schedule 9 of this City of Kingston Official Plan, then a Heritage Impact Statement may be required to assist staff to determine if the resulting development is appropriate.

The subject property is not on the City's Heritage Register; however, it is adjacent to a protected (listed) heritage property at 266 Mowat Avenue. The proposed addition on the northern side of the dwelling, is located further away from the heritage resource than the existing garage and is proposed to be of a comparable scale and massing. 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 composite archaeological potential. Archaeological clearance of the property is required prior to the issuance of a Building Permit.

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;

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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. The owner/applicant is responsible to ensure existing services are sufficient for the addition. This will be addressed through the Building Permit application process.

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.

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-Family Dwelling 'A2' 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 'A2' zone permits a one-family dwelling; therefore, the existing single-detached dwelling is a permitted use.

The owner/applicant proposes to construct a 57 square metre addition projecting from the front of the dwelling and reconstruct the attached garage. The addition and internal renovations will result in additional living space to accommodate a secondary suite located in the basement and the primary dwelling unit on the main floor of the bungalow.

The secondary residential unit is permitted subject Section 5.45 of the zoning by-law. Based on the drawings provided, the proposal complies with the requirements and is permitted subject to obtaining a variance for the addition.

The dwelling and other dwellings within the neighbourhood were constructed in the early 1960's which complied with the zoning by-law requirements which predates the current zoning by-law (1976) and is recognized as legal non-complying structure. Any new

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development however is required to comply with the current zoning requirements; therefore, a variance is required from Section 8.3(c)(ii) to reduce the aggregate side yard setback in order to construct the addition.

#### Variance:

By-Law Number 8499: Section 8.3(c)(ii) Minimum Aggregate Side Yard

Requirement: 3.6 metres
Proposed: 2.5 metres
Variance Requested: 1.1 metres

The intent of the aggregate side yard requirement is to provide access to parking located either within the side yard or access to rear yard parking. The zoning by-law does not provide additional requirements if a dwelling is constructed with an attached garage or provides parking within the front yard on a driveway. The proposal will provide its parking within an attached garage. The location of the parking will comply with the zoning by-law requirement. The existing building however does not comply with the aggregate side yard requirement. The attached garage and addition will not be any closer to the northern and southern lot lines than the existing dwelling, therefore the variance will recognize the existing setbacks and the projection of the addition and attached garage within the front yard.

The proposal complies with all other requirements of the 'A2' zone.

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

The proposal involves the construction of a 57 square metre one-storey addition with walkout basement to the front yard while maintaining the existing side yard setbacks. The addition will extend the main floor living space by adding an entrance from the parking area, and a study with access to a roof top balcony over the roof of the basement portion of the addition. The addition will also provide additional living space to the basement and its intended second dwelling unit by adding a living/dining area, kitchen while the existing basement will be renovated to accommodate two bedrooms, bathroom and a utility/storage area.

The attached garage will be reconstructed and will provide two secure parking spaces. A roof top deck is proposed which will provide private outdoor amenity area for the ground floor residential unit.

The proposal 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 proposal meets all other required provisions including front, side and rear yard setbacks, building height, lot coverage and landscaped open space requirements.

The variance is therefore considered minor.

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

The location of the addition and attached garage 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 northern and southern lot lines than the existing dwelling and will comply with the minimum side yard setback of 1.2 metres. The development will remain functional for its intended residential use as each dwelling unit will have separate entrances, two parking spaces will be provided.

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

Technical Review:	Circulated	Departments and	d Agencies
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$\boxtimes$	<b>Building Services</b>	$\boxtimes$	Engineering Department	$\boxtimes$	Heritage (Planning Services)
$\boxtimes$	Finance	$\boxtimes$	Utilities Kingston	$\boxtimes$	Real Estate & Environmental Initiatives
$\boxtimes$	Fire & Rescue	$\boxtimes$	Kingston Hydro	$\boxtimes$	City's Environment Division
$\boxtimes$	Solid Waste	$\boxtimes$	Parks Development		Canadian National Railways
$\boxtimes$	Housing	$\boxtimes$	District Councillor		Ministry of Transportation
	KEDCO		Municipal Drainage		Parks of the St. Lawrence
	CRCA		KFL&A Health Unit		Trans Northern Pipelines
	Parks Canada		Eastern Ontario Power		CFB Kingston
	Hydro One		Enbridge Pipelines		TransCanada Pipelines
	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.

#### **Previous or Concurrent Applications**

Minor Variance, File Number D13-008-2020, approved by the Committee of Adjustment to construct a 57 square metre addition with the removal of the attached garage.

#### 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

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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 one-storey addition to an existing one-storey single-detached dwelling with a walk out basement. The addition will provide additional living space and parking for the single detached dwelling and the proposed second dwelling 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:**

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 of Development Approvals 613-546-4291 extension 3223

Tim Fisher, Planner 613-564-4291 extension 3215

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### **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 D13-034-2020**

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

#### Limitation

That the approved variance applies only to the attached garage and addition as shown on the approved drawings 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 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.

#### **Utilities Kingston**

Prior to the issuance of a Building Permit, the owner/applicant is responsible to ensure the existing services are sufficient for the addition. The owner/applicant may contact a service advisor at Utilities Kingston (613 546 1181 x2285) to obtain a servicing locate.

#### **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:

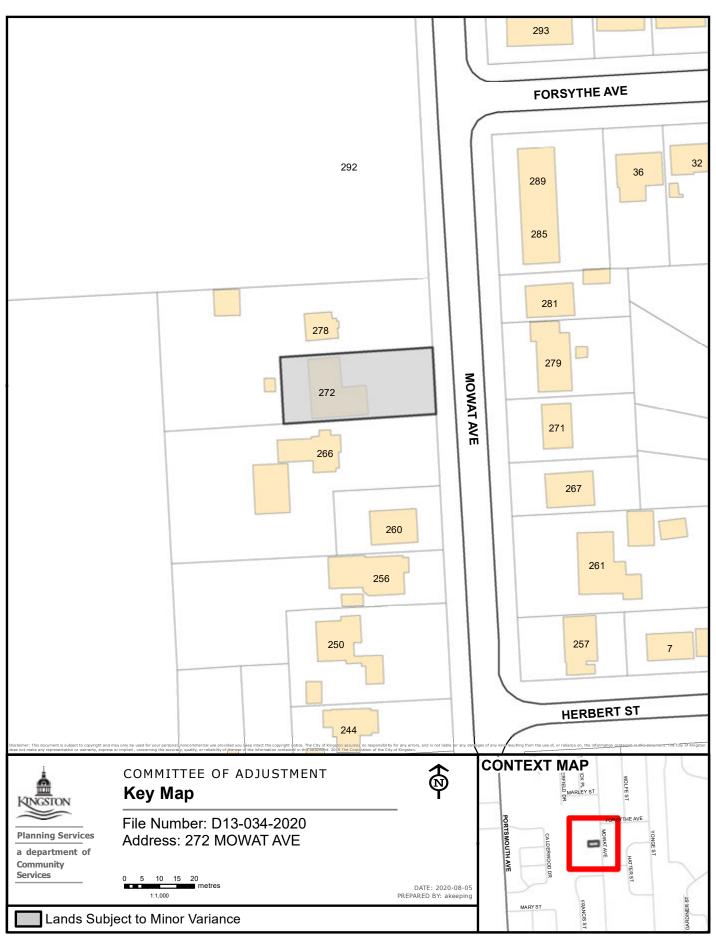
https://utilitieskingston.com/Electricity/ServiceRequest

#### **Archaeological Condition**

An Archaeological Assessment (beginning with a Stage One Assessment) and any subsequent or supporting studies are required on the property prior to the issuance of a Building Permit, as the site falls under several of the criteria for archaeological potential. Any area of development or site alteration, including access routes, on lands containing archaeological resources or areas of archaeological potential will need to be assessed by an archaeologist licensed in the Province of Ontario. The applicant shall contact the Planning Services to confirm their requirements for approval of this condition.

Two (2) copies of the study and all relative information shall be provided to the Building Division. The report shall be registered with the Ministry of Tourism, Culture and Sport or an acceptance letter shall be obtained by the Ministry prior to the issuance of a Building Permit.

The City relies upon the report of the professional archaeologist as filed, but reserves the right to require further reports should further evidence be uncovered. The applicant may be required to further review the state of archaeological resources on the property depending on the recommendations of the report and subject to input and review from the Ministry of Tourism, Culture and Sport. The City shall not be restricted in its ability to determine requirements related to review, assessment and/or protection should archaeological resources be found on site. Any costs arising from such requirements of the City, or any other duly authorized Government body, shall be borne solely by the applicant.







Planning Services
a department of
Community
Services

COMMITTEE OF ADJUSTMENT

# Neighbourhood Context (2019)

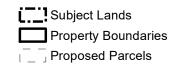
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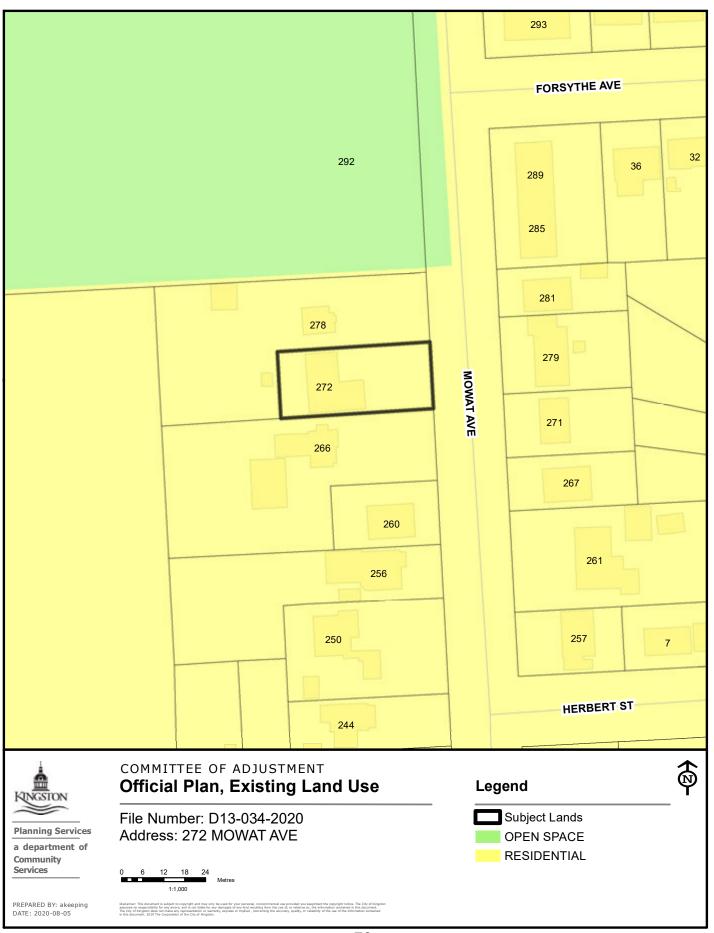
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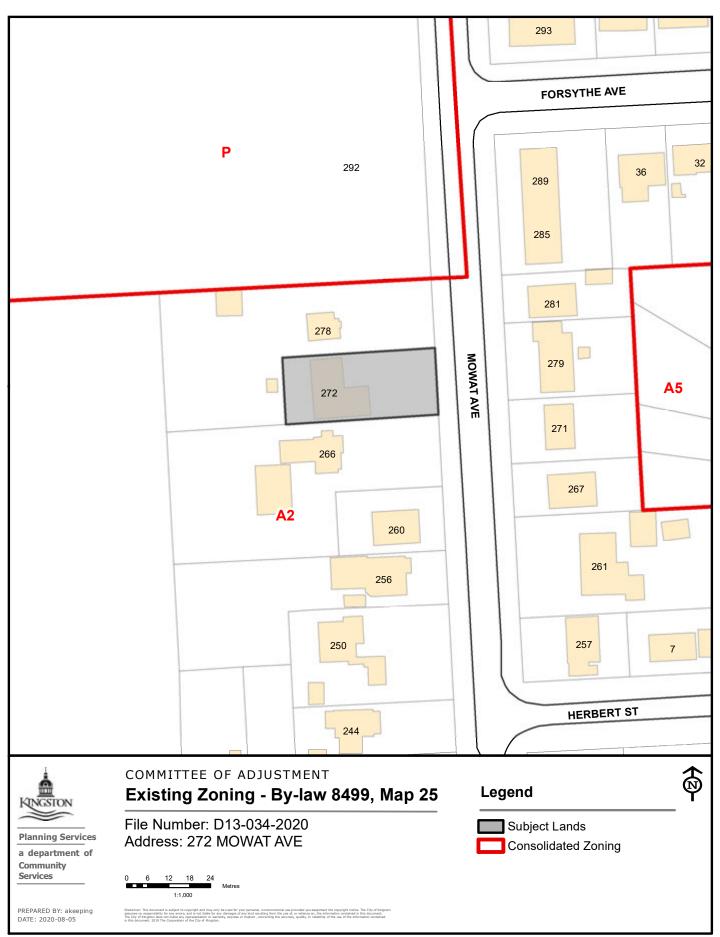
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### Legend

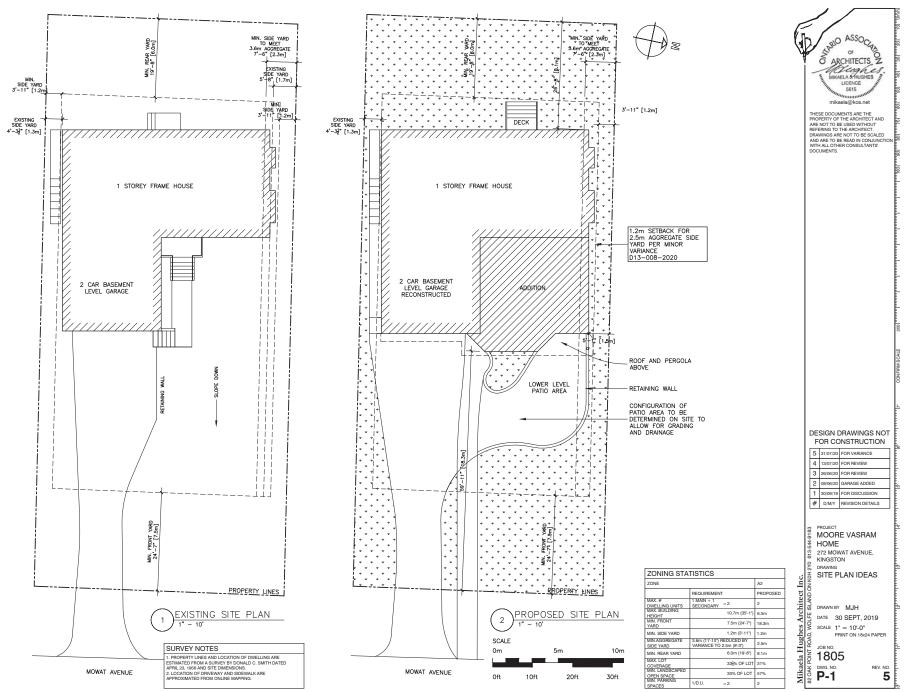




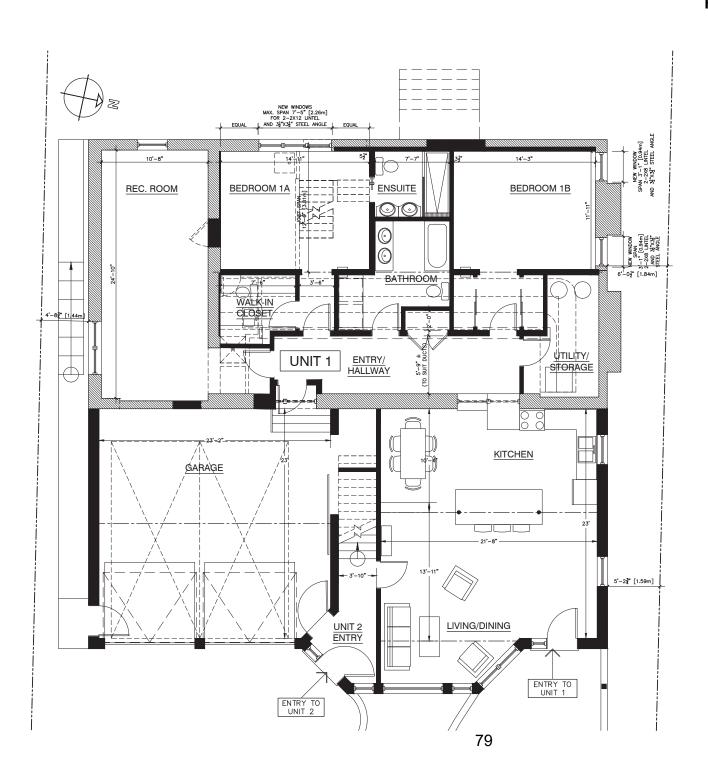


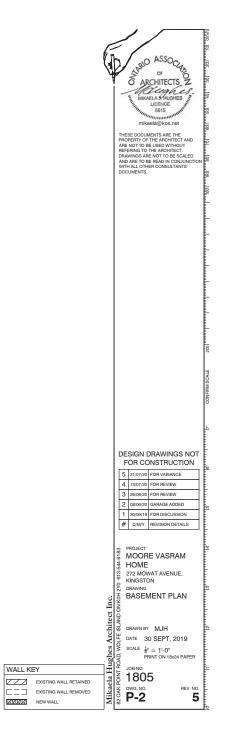


# Exhibit F Report Number COA-20-048

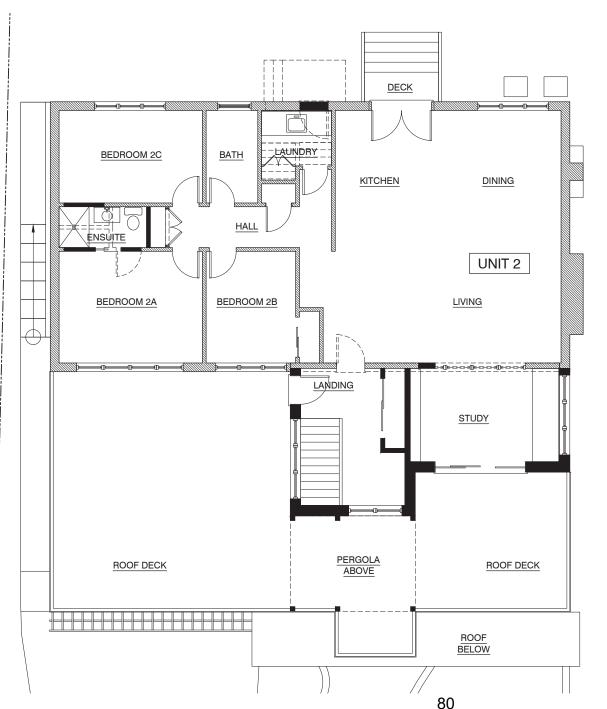


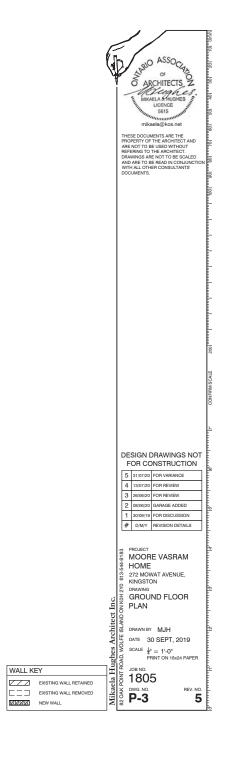
# Exhibit F Report Number COA-20-048



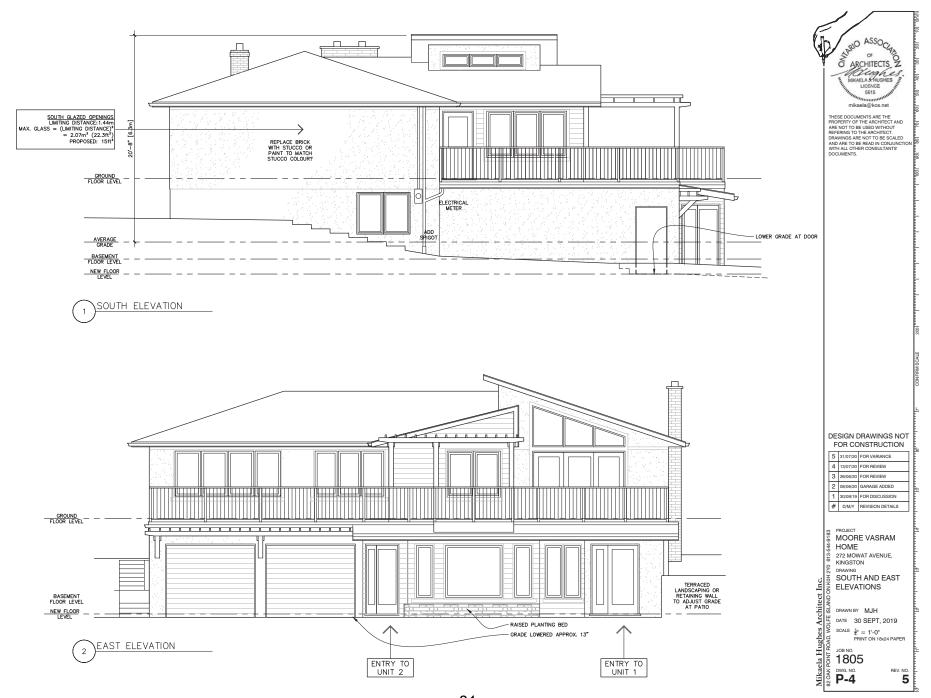


### **Exhibit F Report Number COA-20-048**





# Exhibit F Report Number COA-20-048





Above Photo: View from Mowat Avenue

Below Photo: 272 Mowat Avenue

