



**City of Kingston
Committee of Adjustment
Meeting Number 2020-09
Monday, September 21, 2020 at 5:30 p.m.**

Business

g) Application for: Minor Variance

File Number: D13-029-2020

Address: 390 Montreal Street

Owner: Andrew Embury

Applicant: Kim Cormier

The Report of the Commissioner of Community Services (COA-20-054) is attached.

Schedule Pages 1 – 19

The consent of the Committee of Adjustment is requested to substitute Report Number COA-20-52 with Report Number COA-20-54.

Recommendation:

That minor variance application, File Number D13-029-2020, for the property located at 390 Montreal Street seeking relief from the front yard setback, in order to permit the construction of 10.53 square metre two-story balcony/deck, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-20-054.



**City of Kingston
Report to Committee of Adjustment
Report Number COA-20-054**

To: Chair and Members of the Committee of Adjustment
From: Jason Partridge, Planner
Date of Meeting: September 21, 2020
Application for: Minor Variance
File Number: D13-029-2020
Address: 390 Montreal Street
Owner: Andrew Embury
Applicant: Kim Cormier

Council Strategic Plan Alignment:

Theme: Policies & by-laws

Goal: See above

Executive Summary:

This report provides recommendations to the Committee of Adjustment regarding a minor variance application for the property located at 390 Montreal Street. The applicant is proposing a two-story balcony/deck within the front yard near the eastern front property line. The total area of the proposed two-story balcony/deck will be 10.53 square metres. The resulting new second floor balcony/deck complies with all minimum rear/side yard and landscaped open space requirements.

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 and is recommended for approval.

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Variance Number 1:

By-Law Number 8499:Section 5.8 (c) (Deck)

Requirement:4.5 Metres

Proposed:3.4 Metres

Variance Requested:1.1 Metres

Variance Number 2:

By-Law Number 8499:Section 5.8 (c) (Steps)

Requirement:3.5 Metres

Proposed:2.7 Metres

Variance Requested:0.8 Metres

Recommendation:

That minor variance application, File Number D13-029-2020, for the property located at 390 Montreal Street seeking relief from the front yard setback, in order to permit the construction of 10.53 square metre two-story balcony/deck, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-20-054.

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Authorizing Signatures:



Jason Partridge, Planner

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

Paige Agnew, Commissioner, Community Services

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Options/Discussion:

On June 24, 2020, a minor variance application was submitted by Kim Cormier, on behalf of the owner, Andrew Embury, with respect to the property located at 390 Montreal Street.

The purpose of the application is to permit the construction of a two-story deck within the front yard near the front property line of the property. The total area of the proposed second floor addition is 10.53 square metres.

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

- Site Plan (Exhibit F)

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 on the east side of Montreal Street and is situated within an established residential area in Inner Harbour neighbourhood (Exhibit B – Key Map and Exhibit D – Neighbourhood Context). The site is currently developed with a two-unit residential building on municipal services. The surrounding area includes single-family dwellings and municipal owned buildings.

The subject property is designated Residential in the Official Plan and zoned A in Zoning By-Law Number 8499.

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

In addition to the four tests of a minor variance detailed above, 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.

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

The proposed two-story balcony/deck 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 this Plan but will continue to mature and adapt as the City evolves. Reinvestment and upgrading will be encouraged through minor in-filling and minor development (i.e. that which can integrate compatibility within the prevailing built form standards of height, density and amenity that are generally found in the neighbourhood.”

The proposed two-story balcony/deck represents a reinvestment to the property that will result in a minor development on the subject property. No additional dwelling units are proposed. There is no increase in density or intensity of uses. The proposed two-story balcony/deck is consistent with the intent of this policy.

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 two-story balcony/deck will result in a development that is consistent with the existing front yard built form of several residential buildings located north, west and east of the subject property along Montreal Street. The overall design and scale of the proposal is not anticipated to cause any adverse impacts on the adjacent residential properties.

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 involves the construction of a two-story balcony/deck in the front yard of the subject property. There will be no concerns with respect to the parking of vehicles and bicycles or issues relating to accessibility. Two parking spaces are required and provided.

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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 Official Plan also contains policies with respect to urban design in Section 8.3 to ensure that new residential development is integrated into the existing built fabric and conducive to active transportation: Protect and preserve stable residential communities (in accordance with Section 2.6 of this Plan);

- a. A well-established land use pattern in terms of density, type of use(s) and activity level;

The form of residential development is long established. Thus, the overall density, type of use and scale of activity as proposed is consistent with the existing built form of residential buildings along Montreal Street.

- b. A common or cohesive architectural and streetscape character, in terms of massing and built form, architectural expression, age of building stock, and street cross-section;

The proposed development will not create intrusive overlook with respect to adjacent residential properties. The proposed two-story balcony/deck located within the front yard and won't exceed the maximum permitted height in the zoning by-law. It will also be compatible with the style, colour and massing of other balcony's/decks in the area. The proposed variances will not alter the character of the neighbourhood or the existing streetscape.

- c. A stable pattern of land ownership or tenure;

The proposal will result in a stable pattern of land ownership.

- d. A consistent standard of property maintenance with relatively little vacancy in land or building occupancy;

All properties are subject to the City's Property Standards By-Law and Yards By-Law. This proposal does not change the enforcement or applicability of the by-laws.

- e. A limited number of applications for development that would alter the established pattern of land assembly and built form;

The proposed variance will not significantly alter the established pattern of land assembly and built form.

- f. A sufficient base of social and physical infrastructure to support existing and planned development;

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No deficiencies in social infrastructure were identified to limit this application. The appropriate level of physical infrastructure is present to support the development permitted by the draft by-law.

- g. Foster developments that are context appropriate;

The proposal does not involve a significant alteration to the existing built form on the site and will not cause any adverse impacts on adjacent properties.

- h. Foster attractive developments which add to the existing sense of place;

The proposal will not alter the existing character of the established surrounding residential neighbourhood.

- i. Provide a variety of housing types;

The existing two-family dwelling on the site will provide housing which will assist in meeting the housing demand in the City.

- j. Ensure compact, accessible mixed-use development;

The proposal contributes to the compact nature of the neighbourhood.

- k. Encourage environmentally sustainable development;

The proposal will not create a significant impact on the existing built form along Montreal Street. The subject property is located within a serviced area which supports the sustainable use of lands, infrastructure and resources.

- l. Integrate and highlight cultural heritage resources;

The subject lands are not designated cultural heritage and there are no identified cultural heritage resources in the immediate area.

The existing residential use will be maintained on the subject property. The site is not located within a Heritage District. The site is not identified on the City of Kingston Heritage Register, therefore, there will be no impact on built heritage resources.

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 and as such a Heritage Impact Statement is not required.

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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 site is located within the Urban Boundary and is developed with sufficient municipal water and sewage services.

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 variance is considered minor and the development is consistent with the existing built form along Montreal Street. Therefore, 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 recommendation, suggested conditions have been 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 surrounding residential uses include Single Family Dwellings. The approval of the requested variance is considered minor and will not set a precedent for the immediate area.

The proposal meets the intent of the Official Plan, as the proposed 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 '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. The A zone permits a One and Two-Family Dwelling. The existing Two-Family Dwelling house with a front yard balcony/deck is a permitted use within the 'A' zone (Exhibit E).

The proposal requires the following variances:

Variance Number 1:

By-Law Number 8499:Section 5.8 (c) (Deck)

Requirement:4.5 Metres

Proposed:3.4 Metres

Variance Requested:1.1 Metres

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Variance Number 2:

By-Law Number 8499:Section 5.8 (c) (Steps)

Requirement:3.5 Metres

Proposed:2.7 Metres

Variance Requested:0.8 Metres

A variance is required from Section 5.8 (c) of Zoning By-Law Number 8499 to seek relief for the balcony/deck from the minimum setback from front lot line Section 5.8 (c) provision. Within Section 5.8 9 (c) the minimum setback from the front lot line is 4.5 metres. The proposed two-story balcony/deck will be setback.3.4 metres, which does not comply with the minimum front yard setback of Section 5.8 (c). As such, the applicant is seeking a variance of 1.1 metres two story balcony/deck.

A second variance is required from Section 5.8 (c) of Zoning By-Law Number 8499 to seek relief for the steps from the minimum setback from front lot line Section 5.8 (c) provision. Within Section 5.8 (c) the minimum setback from the front lot line is 3.5 metres for steps. The proposed steps will be setback 2.7 metres, which does not comply with the minimum front yard setback Section 5.8 (c) for steps. As such, the applicant is seeking a variance of 0.8 metres for the steps.

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

3) The variance is minor in nature

The proposed two-story balcony/deck will result in a development that is consistent with the existing built form of residential development along Montreal Street. The proposed two-story balcony/deck will be located within the front yard and will not result in intrusive overlook with respect to adjacent residential properties. The variances will not alter the character of the neighbourhood or the existing streetscape. The total area of the proposed second floor addition is 10.53 square metres.

The variances are considered minor as there will be no negative impacts on abutting properties or residential and/or uses or structures.

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

The proposed development will provide the functional needs for the proposed residential use. The resulting built form satisfies all applicable provisions of the zoning by-law, except for the decks/stairs minimum front lot line setback.

The proposal is appropriate and compatible with the surrounding residential uses and will not result in significant impacts or changes to the surrounding area.

The variance is desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

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- | | | |
|---|--|--|
| <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 type="checkbox"/> Real Estate & Environmental Initiatives |
| <input checked="" type="checkbox"/> Fire & Rescue | <input checked="" type="checkbox"/> Kingston Hydro | <input type="checkbox"/> City's Environment Division |
| <input 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 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 Comment

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, no 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(s) maintain(s) 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 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.

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

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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 Statutory Public Meeting was circulated by advertisement in The Kingston Whig-Standard at least 10 days in advance of the meeting. An additional courtesy notice was placed in The Kingston Whig-Standard seven days in advance of the meeting.

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

Jason Partridge, Planner 613-564-4291 extension 3216

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

Exhibit A Recommended Conditions

Exhibit B Key Map

Exhibit C Official Plan

Exhibit D Neighbourhood Context

Exhibit E Existing Zoning

Exhibit F Site Plan

Exhibit G Photo

Recommended Conditions

Application for minor variance, File Number D13-029-2020

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

1. Limitation

That the approved permission applies only to the balcony/deck 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. Fire

The owner/applicant shall obtain Kingston Fire inspection approval for the second residential unit that is legally recognized under section 76 of the Planning Act. No building permit can be issued for balcony/deck unless Kingston Fire passes an inspection of the second residential unit on the property

4. 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 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.

5. 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.



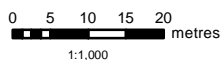
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Planning Services
a department of
Community
Services


COMMITTEE OF ADJUSTMENT
Key Map

File Number: D13-029-2020
Address: 390 Montreal Street



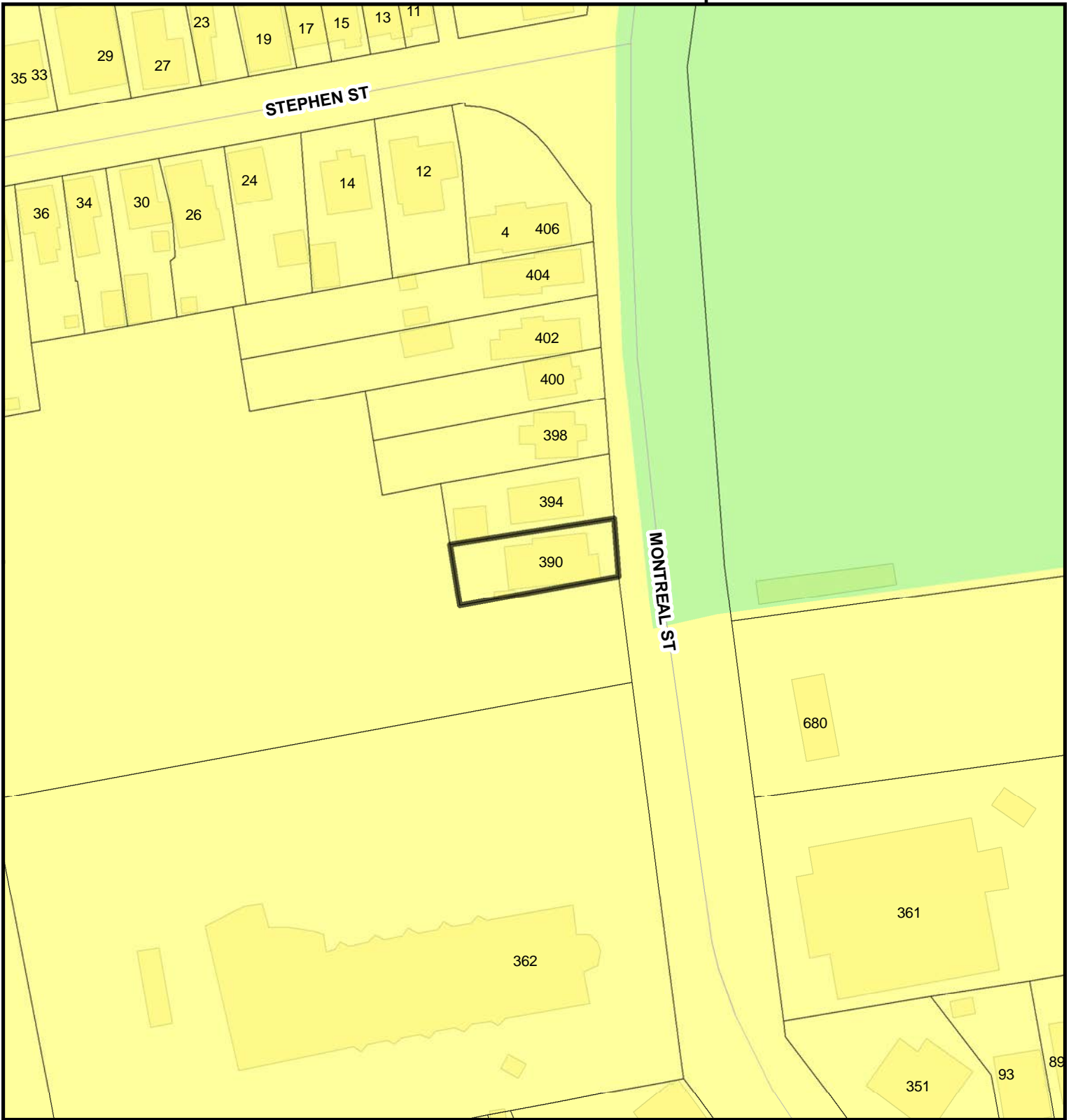
DATE: 2020-08-12
PREPARED BY: rrochefort



 Lands Subject to Minor Variance

CONTEXT MAP

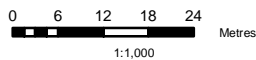







Planning Services
a department of
Community
Services

COMMITTEE OF ADJUSTMENT
Official Plan, Existing Land Use

File Number: D13-029-2020
Address: 390 Montreal Street



Legend

-  Subject Lands
-  OPEN SPACE
-  RESIDENTIAL





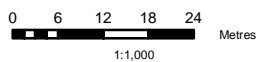
Corporation of the City of Kingston





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Services

COMMITTEE OF ADJUSTMENT
Neighbourhood Context (2019)

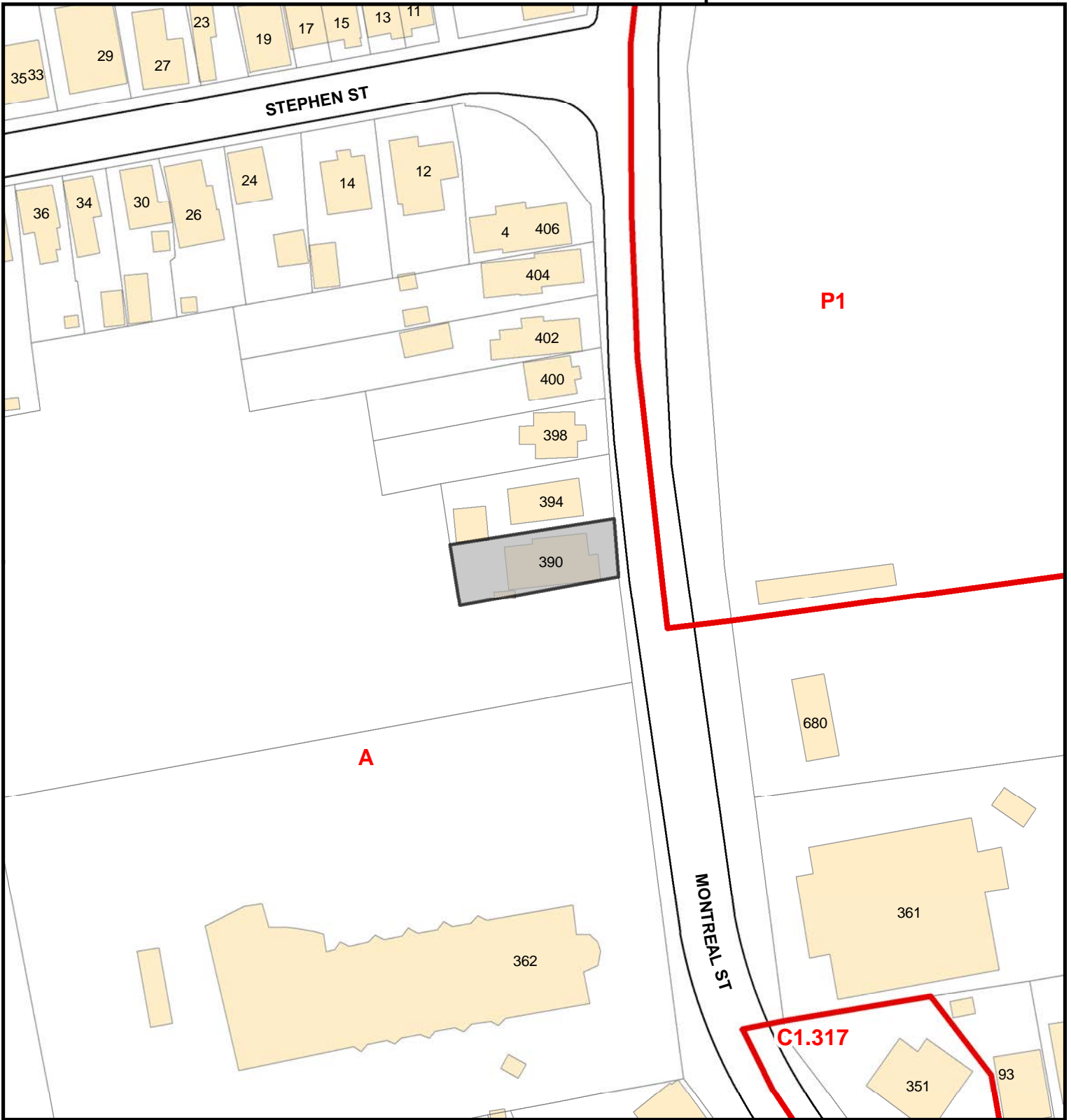
File Number: D13-029-2020
Address: 390 Montreal Street



Legend

-  Subject Lands
-  Property Boundaries





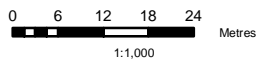


COMMITTEE OF ADJUSTMENT
Existing Zoning - By-law 8499, Map 17

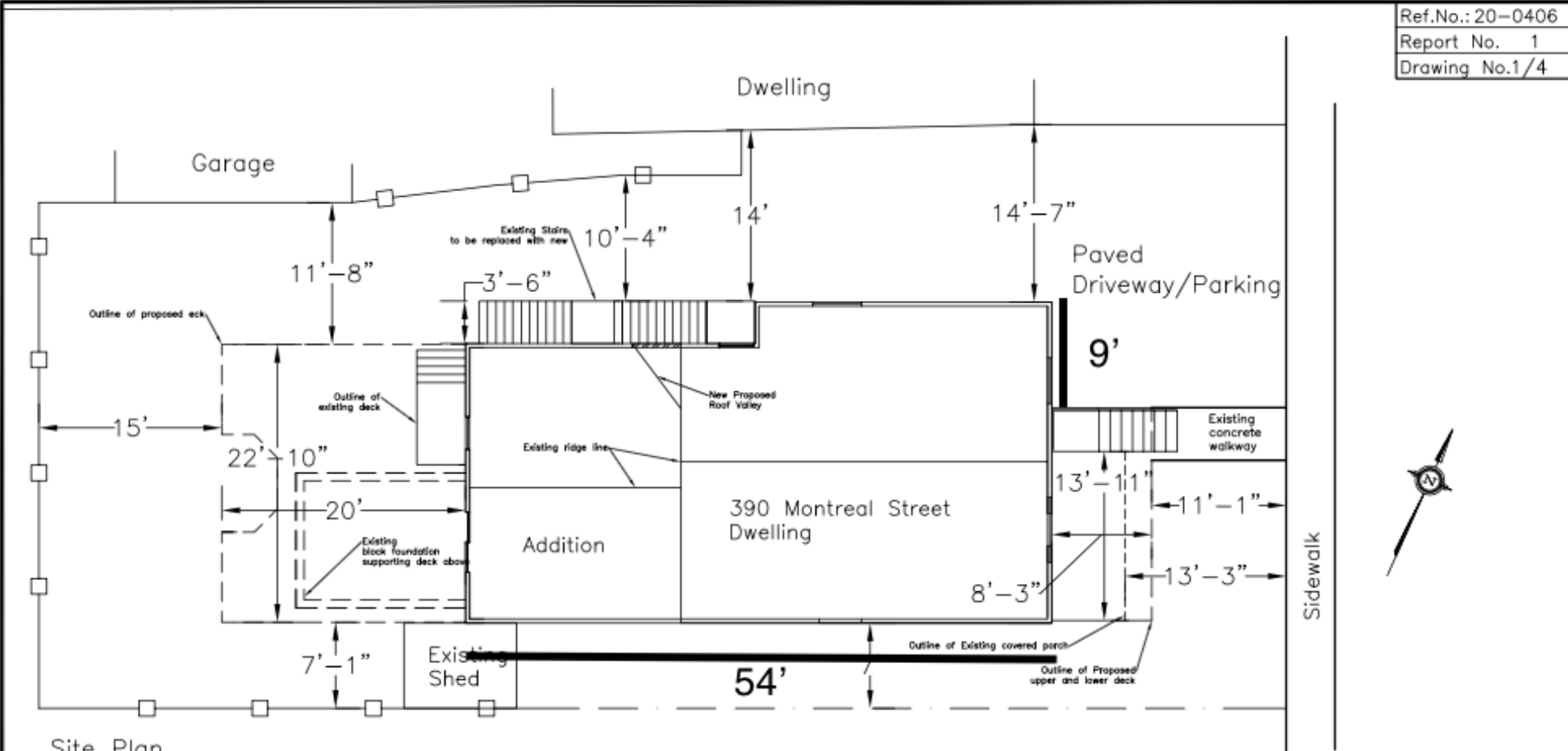
File Number: D13-029-2020
Address: 390 Montreal Street

Legend

-  Subject Lands
-  Consolidated Zoning



Ref.No.: 20-0406
 Report No. 1
 Drawing No.1/4



Site Plan

	m ²	%	Occupancy
Lot Area	424.5		
Existing Dwelling	110.1	25.6	Group C
Existing Out Building	5.9	1.4	
Existing Deck Areas	25.5	6.0	
Proposed Deck Areas	52.6	12.4	
Total Development	193.9	45.7	

Legend	
—	Property Line (approximate)
—	Wood Fence
- - -	Proposed Deck





CONCORD

ENGINEERING

755 Baker Crescent
Kingston, Ontario K7M 6P6

Tel: (613) 634-4357
Fax: (613) 634-4355
E-mail: concord@koe.net

Project: Deck Design

390 Montreal Street
Kingston, Ontario

Drawing: Site Plan

Client: Wedo Construction

Designer:	Dwn by: CAO	Chd by:	Date: 15-May-20
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