



**City of Kingston
Report to Committee of Adjustment
Report Number COA-21-001**

To: Chair and Members of the Committee of Adjustment
From: Phillip Prell, Planner
Date of Meeting: December 14, 2020
Application for: Minor Variance
File Number: D13-037-2020
Address: 61 Livingston Avenue
Owner/Applicant: Jeff Masuda

Council Strategic Plan Alignment:

Theme: Corporate Business

Goal: See above

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variances for the property located at 61 Livingston Avenue. The applicant is proposing to add a one-storey addition with approximately 40 square metres (430 square feet) of additional floor space to the existing single-family house. The proposal will also move the driveway entrance from Davidson Street to Livingston Avenue. Due to the site configuration (i.e. located on a corner lot) and non-conforming built aspects this addition triggers multiple variances to bring the property into compliance with the zoning by-law.

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.

December 14, 2020

Page 2 of 16

Variance Number 1: Minimum Front Yard (Davidson Street Frontage)

By-Law Number 8499: Section 6.3(b)(ii)

Requirement: Average of front yards of adjacent properties fronting on same street: 1.7 metres (5.6 feet)

Proposed: 0.6 metres (2 feet)

Variance Requested: 1.1 metre (3.6 foot) reduction

Variance Number 2: Minimum Side Yard (Aggregate Side Yard)

By-Law Number 8499: Section 6.3(c)(i)

Requirement: The minimum aggregate side yard shall be 3/10 of lot width or 3.6 metres (11.8 feet), whichever is lesser: 3.0 metres (9.8 feet)

Proposed: 1.6 metres (5.2 feet)

Variance Requested: 1.4 metre (4.6 foot) reduction

Variance Number 3: Maximum Percentage of Lot Coverage

By-Law Number 8499: Section 6.3(e)

Requirement: 33.33 percent of the total lot area

Proposed: 48 percent

Variance Requested: 14.66 percent increase

Variance Number 4: Maximum Permitted Residential Building Depth

By-Law Number 8499: Section 6.3(g)(ii)(1)(a)

Requirement: Average building depth of two nearest residential buildings on opposite sides of the subject building: 10.1 metres (33.1 feet)

Proposed: 17.3 metres (56.8 feet)

Variance Requested: 7.2 metre (23.6 foot) increase

Variance Number 5: Driveway Width

By-Law Number 8499: 5.3B.(k)(i)

Requirement: In Residential Zones the minimum width of a driveway shall be: 3.0 metres (9.8 feet)

Proposed: 2.5 metres (8.2 feet) (due to existing fireplace bump out)

Variance Requested: 0.5 metre (1.6 foot) reduction

Recommendation:

That minor variance application, File Number D13-037-2020, for the property located at 61 Livingston Avenue, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-21-001.

December 14, 2020

Page 3 of 16

Authorizing Signatures:



Phillip Prell, Planner

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

Paige Agnew, Commissioner, Community Services

December 14, 2020

Page 4 of 16

Options/Discussion:

On July 31, 2020, a minor variance application was submitted by Jeff Masuda, the applicant and owner, with respect to the property located at 61 Livingston Avenue. The variance is requested to add a one-storey addition with approximately 40 square metres (430 square feet) of additional floor space to the existing single-family house. The proposal will also move the driveway entrance from Davidson Street to Livingston Avenue. Due to the site configuration (i.e. located on a corner lot) and existing non-conforming building aspects, this addition triggers multiple variances to bring the property into compliance with the zoning by-law.

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

- Site Plan (Exhibit G);
- Building Elevations (Exhibit H);
- Cover Letter and Applicant Calculations (Exhibit I); and
- Letters of Support (Exhibit K).

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 designated “Residential” in the Official Plan and zoned “A” – One-Family Dwelling and Two-Family Dwelling in Zoning By-Law Number 8499. The property abuts two residential uses in the “A” zone.

The subject property is located within the Urban Boundary along Livingston Avenue and Davidson Street, both are local streets. The subject property is approximately 190 metres (623 feet) north from a designated Arterial Road, King Street West, as listed in the City’s Official Plan. The property is also approximately 175 metres (574 feet) south from Union Street, a designated collector road. To the east, approximately 90 metres (295 feet) away, is the former St. Mary’s of the Lake Hospital. There is also a waterfront trail located approximately 190 metres (623 feet) south along King Street West.

Application

The review of an application for minor variances 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:

December 14, 2020

Page 5 of 16

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.

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 development is within the Urban Boundary, the area to be the focus of growth within the City. The property is located within a stable neighbourhood, as such changes should reflect the prevailing pattern of development in the neighbourhood. The subject property is an existing single-family house that is opposite a large two-storey single-family house across the street and on a corner (62 Livingston Avenue). A block away and on a corner is another house with a large ground floor but is only a single-storey (48 Ellerbeck Street). Both properties have larger lots, but both shape the character of the neighborhood by having wide/deep buildings situated on corner lots, like what is proposed for 61 Livingston Avenue (Exhibits B & F).

Such an expansion of the subject building would result in a similar massing, but with a one-storey addition, on a corner that already has a large house occupying the intersection opposite the subject property (62 Livingston Avenue). Having another building that occupies the frontage on both streets (Davidson Street and Livingston Avenue) would create an informal, but meaningful entrance to the street. A site visit of the property and surrounding streets notes that the area has a mixture of single detached houses, row houses and two-family dwellings.

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;

December 14, 2020

Page 6 of 16

Section 2.7 focuses on land use compatibility matters and potential adverse effects on neighbouring properties. As the proposal seeks to increase building depth and is proposing a walk out patio on the roof of the one-storey addition a review of potential intrusive overlook, which could impact how one enjoys an abutting property, is necessary. The roof top patio would have a direct view into the northern neighbour's rear yard (63 Livingston Street), which is typically considered the most private "yard" associated with a residential use. This roof top patio/addition will be 2 metres (6.6 feet) closer to the northern property, with a resulting side yard setback of 1 metre (3.3 feet) (Exhibit G). In addition, 3 Davidson Street to the east also abuts the subject property and would potentially have increased intrusive overlook concerns into the side yard of the property. Both abutting properties could face potential issues for intrusive overlook, but this proposal also details additional mitigation measures/existing factors that should remedy this concern. The applicant notes that existing mature coniferous fir trees, between 61 and 63 Livingston Avenue, will mitigate some of this concern especially since these trees retain their leaves year-round. In addition, the applicant is proposing a privacy wall along the north side of this rooftop area to further mitigate intrusive overlook concerns (Exhibit I). Further, the proposal is not proposing to remove existing trees in the rear yard that abuts 3 Davidson Street, which help create a visual buffer between the semi-private side yard of 3 Davidson Street and the back yard of 61 Livingston Street.

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 existing driveway is located on a combination of private and city property. The proposal is to move the driveway from its entrance on Davidson Street to private property in a new location on Livingston Avenue (Exhibit J). The proposed driveway will be 2.5 metres (8.2 feet) wide at its shortest point, which is 0.5 metres (1.6 feet) less than required in Zoning Bylaw 8499, but will have a zone compliant parking space with dimensions of 6.0 metres (19.7 feet) by 2.7 metres (8.9 feet), just past this shortest point (Exhibit G). By moving the driveway from public property to private property and by only slightly reducing the driveway width, this would improve the existing situation while preserving site functionality.

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

The property is not within a Heritage District, nor would the proposal impact existing built heritage resources. As the property is a single detached house, site plan control is not applicable.

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

December 14, 2020

Page 7 of 16

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 property is not adjacent to any designated heritage property nor is it designated under the *Ontario Heritage Act*. The one-storey addition will not impact any protected views as listed in schedule 9 of the City's Official Plan.

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 property utilizes both municipal water and wastewater services. As the property is not adding any additional units, changes to existing service demand will likely be minimal.

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 application and cumulative impact of the proposal does not warrant a zoning by-law amendment.

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;

The Committee of Adjustment may require additional conditions as it deems appropriate to the approval of the application. Recommended conditions are listed in "Exhibit A - Recommended Conditions", attached to this document. Conditions may be added, altered or removed at the Committee's discretion.

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

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

The proposal meets the intent of the Official Plan, as the proposed rear and side yard 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 "A" One-Family and Two-Family 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 one-and-two-family dwellings,

December 14, 2020

Page 8 of 16

in addition to the following non-residential uses: libraries, public/private schools, community halls, churches, and Community Homes.

The proposal requires variances to the following sections of Zoning By-Law Number 8499:

6.3(b)(ii), 6.3(c)(i), 6.3(e), 6.3(g)(ii)(1)(a), & 5.3B.(k)(i)

Variance Number 1: Minimum Front Yard (Davidson Street Frontage)

By-Law Number 8499: Section 6.3(b)(ii)

Requirement: Average of front yards of adjacent properties fronting on same street: 1.7 metres (5.6 feet)

Proposed: 0.6 metres (2 feet)

Variance Requested: 1.1 metre (3.6 foot) reduction

Variance Number 2: Minimum Side Yard (Aggregate Side Yard)

By-Law Number 8499: Section 6.3(c)(i)

Requirement: The minimum aggregate side yard shall be 3/10 of lot width or 3.6 metres (11.8 feet), whichever is lesser: 3.0 metres (9.8 feet)

Proposed: 1.6 metres (5.2 feet)

Variance Requested: 1.4 metre (4.6 foot) reduction

Variance Number 3: Maximum Percentage of Lot Coverage

By-Law Number 8499: Section 6.3(e)

Requirement: 33.33 percent of the total lot area

Proposed: 48 percent

Variance Requested: 14.66 percent increase

Variance Number 4: Maximum Permitted Residential Building Depth

By-Law Number 8499: Section 6.3(g)(ii)(1)(a)

Requirement: Average building depth of two nearest residential buildings on opposite sides of the subject building: 10.1 metres (33.1 feet)

Proposed: 17.3 metres (56.8 feet)

Variance Requested: 7.2 metre (23.6 foot) increase

Variance Number 5: Driveway Width

By-Law Number 8499: 5.3B.(k)(i)

Requirement: In Residential Zones the minimum width of a driveway shall be: 3.0 metres (9.8 feet)

Proposed: 2.5 metres (8.2 feet) (due to existing fireplace bump out)

Variance Requested: 0.5 metre (1.6 foot) reduction

Variance Number 1 (Minimum Front Yard):

The purpose of front yard regulations in the “A” zone of Zoning By-Law Number 8499 is to maintain a consistent visual setback for the street while it evolves over time. For corner lots, Section 6.3(c)(iii), which concerns minimum side yard regulations, defaults to front

December 14, 2020

Page 9 of 16

yard regulations (section 6.3(b)) when calculating yards that abut two streets. As a result, both yards that abut Livingston Avenue and Davidson Street are considered front yards for the purpose of this section.

The general intent and purpose of the zoning by-law is maintained as the main purpose for this regulation in the “A” zone is to control for visual disruption resulting from new development and to consider the average adjacent properties’ setback as a part of this visual disruption. This variance will not frustrate the existing visual continuity resulting from a decreased setback along Davidson Street. The front yard setback for the Livingston Street side will not be changing and will remain an existing non-conforming building aspect, as a result it is not part of this minor variance application. The front yard setback on the Davidson Street side will be decreasing this setback from 0.8 metres (2.6 feet) to 0.6 metres (2 feet), which was already the result of an existing non-conforming built form. This 0.2 metre (0.6 foot) change is negligible and will have a similar setback from the property line as a comparable building on the opposite Livingston Avenue corner (62 Livingston Street). The Davidson Street side is requesting 1.1 metres (3.6 feet) of relief.

Variance Number 2 (Aggregate Side Yard):

The purpose of aggregate side yard regulations in the “A” zone of Zoning By-Law Number 8499 is to provide for rear yard access, to provide adequate room to have a driveway accommodate a parking space or access to a garage behind the front wall of the property, and can increase privacy by having an additional setback. The general intent and purpose of the zoning bylaw are maintained as the proposed 1 metre (3.3 foot) setback between 61 and 63 Livingston Avenue will allow for rear yard access, the property is accommodating parking in a zone compliant parking space behind the front building wall, and the proposed addition along the north part of the property abutting 63 Livingston Avenue will not have additional windows while also utilizing existing trees to maintain current privacy levels (Exhibit H & J). The proposal is requesting the side yard between 61 and 63 Livingston Avenue be reduced by 2 metres (6.6 feet) and the side yard along Davidson Street be reduced by 0.2 metres (0.6 feet), which will result in a 1.6 metre (5.2 foot) aggregate side yard (Exhibit H & G).

Variance Numbers 3 & 4 (Maximum Percentage of Lot Coverage & Maximum Permitted Residential Building Depth):

The purposes of the maximum percentage of lot coverage and maximum permitted residential building depth in the “A” zone of Zoning By-Law Number 8499 are related as both are in place to control for potential overdevelopment of residential properties. Building depth regulations are also meant to control for adjacent property rear yard privacy concerns. Lot coverage regulations are also in place to maintain greenery and to influence the resulting built form (e.g. higher versus wider). In addition, lot coverage and building depth limits are in place to maintain at least 30% landscaped open space, keep a development at/under a 1.0 Floor Space Index (FSI), and work with maximum permitted building height to regulate the resulting building envelope.

December 14, 2020

Page 10 of 16

The neighbourhood of 61 Livingston Avenue has a diversity of buildings, many of which would be smaller than the resulting built form envisioned for 61 Livingston Avenue. However, there are select buildings in the immediate vicinity also on corner lots that have a generous width/depth, like that proposed at 61 Livingston Avenue; specifically, 62 Livingston Avenue and 48 Ellerbeck Street (Exhibits B, F & J). 62 Livingston Avenue is a large single-family dwelling with two storeys and has a building depth of approximately 20 metres (66 feet), while 48 Ellerbeck Street is a single storey and has an approximate building width of 18.5 metres (61 feet). As both buildings are corner lots, their depth and width both contribute to their impact on street continuity and are examples of corner lots within a block of 61 Livingston Avenue. When completing a general desktop calculation for maximum percentage of lot coverage it appears that 62 Livingston Avenue uses approximately 47%, while 48 Ellerbeck uses approximately 41% of the land on their respective properties, where "A" zone properties are only permitted 33.33%. The proposal for 61 Livingston Avenue will be reviewed against these two noted corner buildings to expand on their similarities.

61 Livingston Avenue is similar in many respects, minus that it is on a smaller lot than the two above examples. Like the front yard regulations listed earlier, both the lot coverage and residential building depth are already non-conforming metrics as 61 Livingston Avenue already exceeds the 33.33% lot coverage requirement with 34% and the building depth requirement of 10.1 metres (33.1 feet) with 13.7 metres (45 feet). The proposal aims to increase the existing lot coverage from 34% to 48% and the building depth from 13.7 metres (45 feet) to 17.3 metres (56.8 feet). This would place the building just above the estimated lot coverage for 62 Livingston Avenue (situated on a larger lot) while also being below the approximate 18.5 metre (61 foot) building width of 48 Ellerbeck Street and below the 20 metre (66 foot) building depth estimate of 62 Livingston Avenue.

When reviewing the maximum percentage of lot coverage and maximum permitted residential building depth, it is important to also consider building height, Floor Space Index (FSI), and landscaped open space regulations to determine if a project will result in an overdevelopment of land. The existing building height will not change as the addition will be a single storey addition and only be 4 metres (13.1 feet) in height, which should not further frustrate the current skyline of the residential street while also increasing site usability (Exhibit H). Next, the property is proposing to increase its FSI from 0.5 to 0.7, which is permitted as of right (Exhibit I). FSI is a function of the 'livable space' (based on a headroom of 2.1 metres (6.9 feet)) in a dwelling versus lot area, where exceeding 1.0 (or 100%) is considered an overdevelopment of land. As the basement of 61 Livingston Avenue does not meet this 2.1 metre (6.9 foot) height threshold, this addition will be increasing their livable space by approximately 24% (Exhibit I). Finally, the landscaped open space regulations are important considerations as this 30% maintains green space, which assists with stormwater management and flood prevention. The proposal lists two potential landscaped open space measurements, one with a carport and one without; the carport would reduce the landscaped open space to 40%, while the one without the carport increases this to 50%. In both circumstances the minimum 30% landscaped open space is maintained while not further increasing building height or exceeding a FSI of 1.0 (Exhibit I).

December 14, 2020

Page 11 of 16

Importantly, if the variance is approved, further height or area increases to this one-storey addition will necessitate an additional planning application and will be reviewed again against the in-effect zoning regulations at such time (Exhibit A).

As overdevelopment relates to the listed minimum/maximum regulations found within the "A" zone of zoning bylaw 8499, the surrounding communities' built form and neighbourhood character, a determination of overdevelopment of lands is not always clear. Since the property is situated on a corner lot, this gets more complex as corner lot calculations, such as building depth, typically relate to the block they are on (i.e. the immediate abutting lots) and not the surrounding community's character in general. When considering the increased prominence of a corner lot, the other examples of width/deep buildings on nearby corner lots, and the fact that the property is only expanding building depth as a one storey addition, the general intent and purpose of the zoning bylaw are maintained.

Variance Number 5: Driveway Width

The purpose of a minimum driveway width in residential zones is to provide for adequate width to maintain a zone compliant driveway space of 6 metres (19.7 feet) by 2.7 metres (8.9 feet) and provide extra room for getting in/out of vehicles (Exhibit G). The applicant is seeking to relocate the driveway from public property (along Davidson Street) to private property with an entrance along Livingston Avenue (Exhibit G). A variance is sought to avoid removing a fireplace bump out that projects 0.3 metres (1 foot) into the relocated driveway area and to recognize that the driveway has a reduced entrance width measuring 2.8 metres (9.2 feet), that gets wider as the proposed driveway extends into the property. Despite this, the area behind the bump out is wide enough to nearly meet driveway minimums and supports the area necessary for a zone compliant parking space. The general intent and purpose of the zoning bylaw are maintained as a zone compliant parking space is provided behind the bump out area, which is situated behind the front building wall, and the driveway width will increase as the driveway goes deeper into the property.

The general intent and purpose of the zoning bylaw are maintained.

3) The variance is minor in nature

Variance Numbers 1 (Minimum Front Yard):

The variance is minor in nature as the change to the front yard setback regulation would slightly change the existing frontage. The change to the resulting street fabric would be negligible. The front yard setback for the Davidson Street side will be decreasing this setback by 0.2 metres (0.6 feet) (Exhibit J). This 0.2 metre (0.6 foot) change is negligible and will have a similar setback from the property line as a comparable building on the opposite corner of Livingston Avenue (62 Livingston Street).

Variance Number 2 (Aggregate Side Yard):

December 14, 2020

Page 12 of 16

The variance is minor in nature as the reduction in aggregate side yard would not create additional privacy concerns, the proposal already provides for a zone compliant parking space behind the front building wall and the proposed reconfiguration would still provide rear yard access. Privacy concerns are addressed by the design of the proposed addition, which will not have additional windows on the north side (the side abutting 63 Livingston Avenue), the existence of mature trees between the properties, and the goal of placing a privacy screen to reduce potential overlook from the roof top patio on the single storey addition of 61 Livingston Avenue (Exhibit H & I). The property should be able to maintain its functionality by leaving 1 metre (3.3 foot) of space for rear yard access, satisfies parking requirements and will maintain the existing privacy level.

Variance Numbers 3 & 4 (Maximum Percentage of Lot Coverage & Maximum Permitted Residential Building Depth):

The variances are minor in nature when compared with other corner lots in the immediate vicinity. The proposed changes would reflect a similar massing already present in the community while not further frustrating privacy concerns of nearby neighbours. As overdevelopment relates to the listed minimum/maximum regulations found within the "A" zone of zoning bylaw 8499, the surrounding communities' built form, and neighbourhood character, a determination of overdevelopment becomes a complex task. This is further complicated when considering a corner lot, which has increased prominence as it acts as an informal entrance to the block but can still affect the privacy of surrounding properties if not carefully considered.

61 Livingston Avenue's proposal does not constitute an overdevelopment of lands as its proposed depth (or width) and its lot coverage is, generally, reflected in other corner lots in the neighbourhood; specifically, 62 Livingston Avenue and 48 Ellerbeck Street (Exhibit B & H). Furthermore, when considering proposed height, the total building height will not change as the addition will be a single storey addition and only be 4 metres (13.1 feet) in height, which will not further frustrate the current skyline. FSI requirements are also fulfilled as the proposed changes would not result in a FSI that exceeds 1.0. Finally, the 30% landscaped open space minimum will continue to be fulfilled. These changes will not negatively affect the privacy concerns of the abutting northern neighbour (63 Livingston Avenue) as mature coniferous trees (which provide year round screening), a lack of northern facing windows on the addition, and the proposed privacy screen should maintain existing privacy levels (Exhibit H & I). In addition, as the patio is a seasonal use this potential for intrusive overlook will only exist during select times of the year. The eastern neighbour (3 Davidson Street) will be buffered by the existing mature trees so side yard privacy concerns should be controlled.

Variance Number 5: Driveway Width

The variance is minor in nature as the driveway is still wide enough to support a zone compliant parking space with 6 metres (19.7 feet) in length and 2.7 metres (8.9 feet) in width. The variance is sought to retain the existing fireplace bump out, and to recognize

December 14, 2020

Page 13 of 16

that the driveway entrance is only 2.8 metres (9.2 feet) and gets wider as it goes deeper into the property (Exhibit J). As a zone compliant parking space is provided, and the driveway is being moved from public to private property this change will improve an existing situation despite the reduction in width at select points of the driveway.

The variances are considered minor in nature.

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

Variance Numbers 1 (Minimum Front Yard):

The variance is desirable for the appropriate development or use of land, building or structure as the variance would make minor changes to the front yard setback along Davidson Street. The result would better complement the existing design present across the street at 62 Livingston Avenue, thus enforcing design decisions (i.e. a small front yard setback along Davidson Street) already present in the community.

Variance Number 2 (Aggregate Side Yard):

The variance is desirable for the appropriate development or use of land, building or structure as this variance would not frustrate privacy concerns between the abutting neighbour at 63 Livingston Street, while maintaining site functionality. Privacy concerns are addressed by the design of the proposed addition (i.e. no additional windows along the side abutting 63 Livingston Avenue), the existence of mature coniferous fir trees between the properties, and the use of a privacy screen to reduce potential overlook from the proposed roof top patio on the single storey addition (Exhibit I). The property will sustain its functionality by maintaining rear yard access, satisfying parking requirements and will maintain the existing privacy level.

Variance Numbers 3 & 4 (Maximum Percentage of Lot Coverage & Maximum Permitted Residential Building Depth):

The variances are desirable for the appropriate development or use of land, building or structure as these changes would reflect the built design present along other corner lots in the immediate vicinity, thus adding to the visual continuity for the neighbourhood. The proposed changes would reflect a similar massing already present in the community while not further frustrating privacy concerns of nearby neighbours. These changes are not considered an overdevelopment of land, in this context, as other regulations set to control overdevelopment, such as building height, FSI, and a minimum landscaped open space, are satisfied. Despite the fact that this corner lot is smaller than those at 48 Ellerbeck and 62 Livingston Avenue, its placement on a corner provides an opportunity to reflect the built form of a prominent building opposite 61 Livingston Avenue and create an informal entrance way to the Livingston Avenue block (Exhibit J).

Variance Number 5: Driveway Width

December 14, 2020

Page 14 of 16

The variance is desirable for the appropriate development or use of land, building or structure since a zone compliant parking space is provided behind the bump out, and the driveway is being moved from public to private property. This change will improve an existing situation despite the reduction in width at select points of the driveway.

The variances are a desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

- Building Services
- Finance
- Fire & Rescue
- Solid Waste
- Housing
- KEDCO
- CRCA
- Parks Canada
- Hydro One
- Kingston Airport
- Engineering Department
- Utilities Kingston
- Kingston Hydro
- Parks Development
- District Councillor
- Municipal Drainage
- KFL&A Health Unit
- Eastern Ontario Power
- Enbridge Pipelines
- Heritage (Planning Services)
- 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 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, November 13th, 2020, two letters of support listed under Exhibit K were 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 variances maintain 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.

December 14, 2020

Page 15 of 16

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 December 14, 2020. Pursuant to the requirements of the *Planning Act*, a notice of Statutory Public Meeting was provided by advertisement in the form of signs posted on the subject site 10 days in advance of the meeting. In addition, notices were sent by mail to a total number of 63 property owners (according to the latest Assessment Roll) within 60 metres of the subject property and a courtesy notice was 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

Phillip Prell, Planner, 613-546-4291 extension 3219

Other City of Kingston Staff Consulted:

None

December 14, 2020

Page 16 of 16

Exhibits Attached:

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Public Notification Map
- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Map
- Exhibit F Neighbourhood Context Map
- Exhibit G Site Plan
- Exhibit H Building Elevations
- Exhibit I Cover Letter and Applicant Calculations
- Exhibit J Site Photos
- Exhibit K Letters of Support

Recommended Conditions of Approval

Application for Minor Variance, File Number: D13-037-2020

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

1. Limitation

That the approved variances apply only to the existing building (as existing at the time of this approval), the proposed 40.5 square metre one-storey addition (approximately 4 metres in height), and the driveway relocation 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

To ensure the structure complies with both the current *Ontario Building Code* (OBC) requirements and the decision of the Committee of Adjustment, the owner/applicant shall provide to Building Services a copy of the decision of the Committee of Adjustment, together with a copy of the drawings approved by the Committee of Adjustment in the subject decision, and the Archaeological Assessment sign off.

If Planning Services deems that the drawings submitted for the building permit application do not conform to the general intent and description of the plans approved in the decision, the applicant will be required to resubmit the revised drawings to the Committee of Adjustment for approval. This will require a new application and fee to the Committee of Adjustment.

4. Engineering Permit Requirements

The owner/applicant shall apply for and receive an entrance permit for the proposed driveway.

The owner/applicant shall apply for and receive a cut permit prior to commencing work in the municipal road allowance.

5. Standard Archaeological Condition

Archaeological clearance of the subject property is required, beginning with a Stage One Archaeological Assessment and including any subsequent assessments as required by the Ministry of Heritage, Sport, Tourism, and Culture Industries' Standards and Guidelines for Consultant Archaeologists, as amended from time to time, prior to any soil disturbance.

One digital copy of the assessment report(s) and any acceptance letter(s) from the Ministry of Heritage, Sport, Tourism, and Culture Industries shall be provided to the Secretary-Treasurer of the Committee of Adjustment, prior to the issuance of the Certificate of Official.

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 Heritage, Sport, Tourism, and Culture Industries. 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.

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.

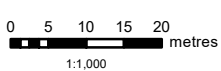


Disclaimer: This document is subject to copyright and may only be used for your personal, noncommercial use provided you do not contact the copyright notice. The City of Kingston assumes no responsibility for any errors, and is not liable for any damages of any kind resulting from use of or interpretation of the information contained in this document. The City of Kingston does not make any representation or warranty, express or implied, concerning the accuracy, quality, or reliability of the information contained in this document. ©2019 The Corporation of the City of Kingston.




COMMITTEE OF ADJUSTMENT
Key Map

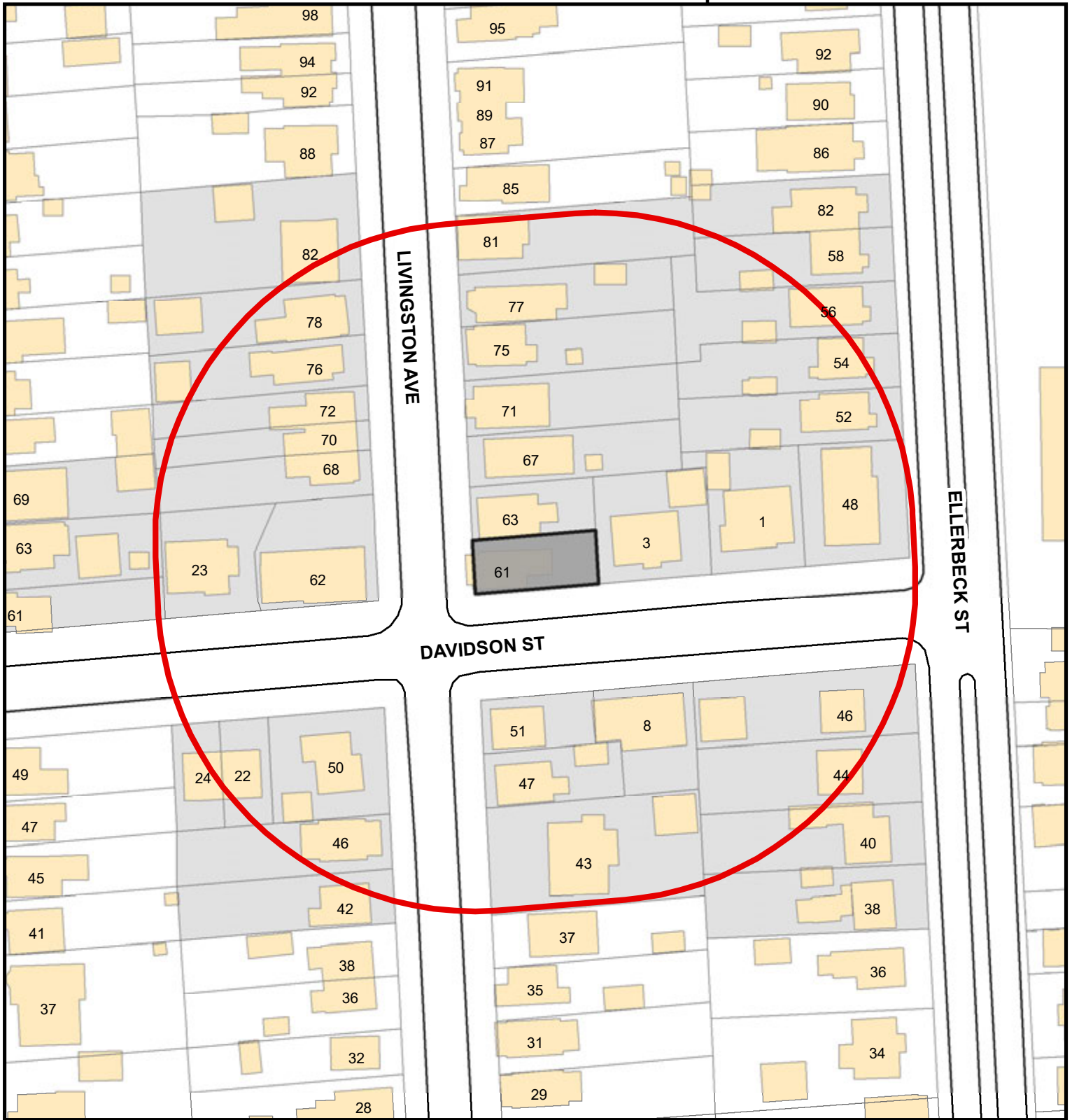
File Number: D13-037-2020
Address: 61 Livingston Avenue



DATE: 2020-10-20
PREPARED BY: rrochefort

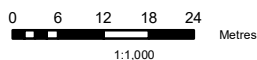


 Lands Subject to Minor Variance



COMMITTEE OF ADJUSTMENT
Public Notice Notification Map

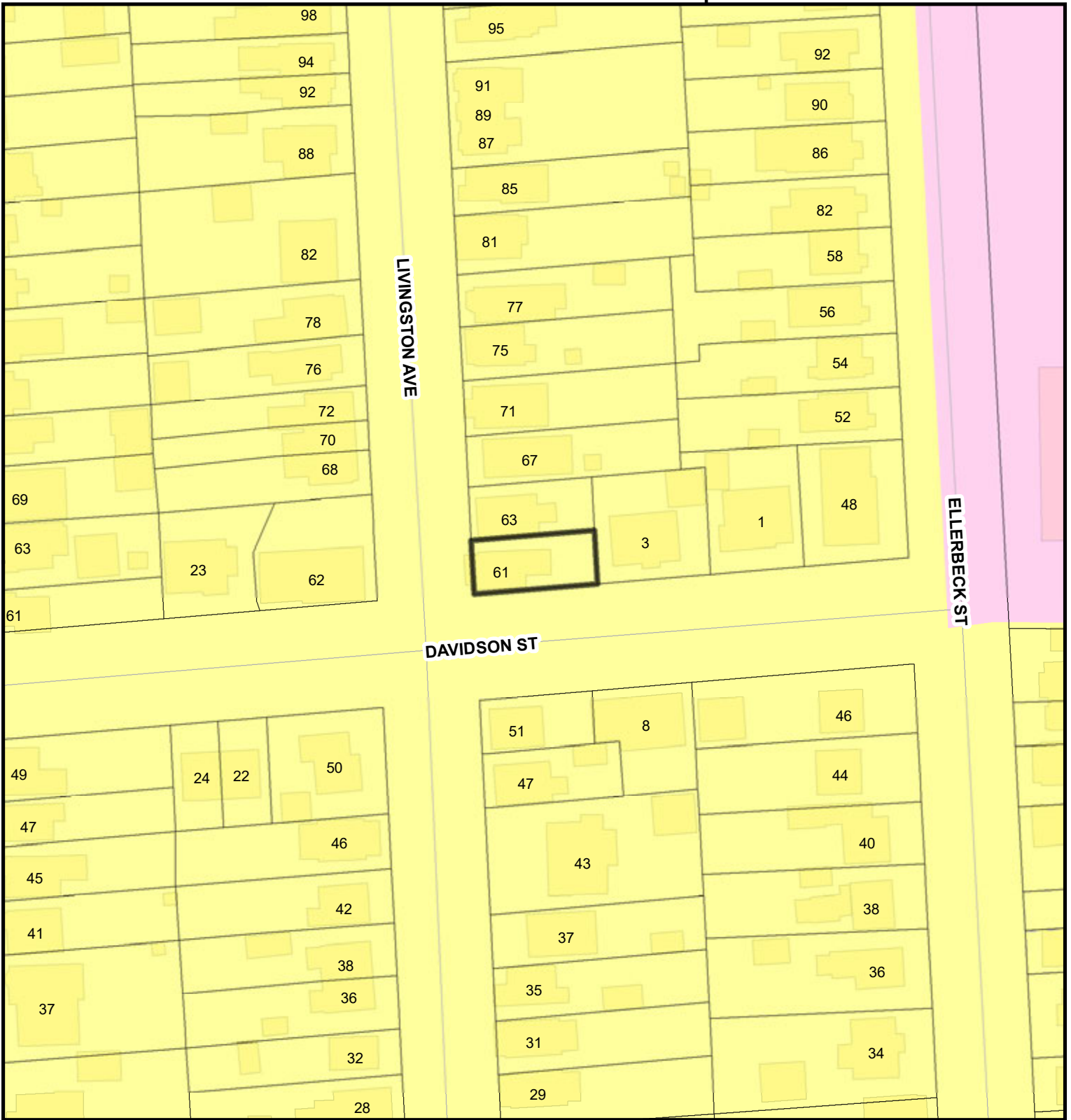
File Number: D13-037-2020
Address: 61 Livingston Avenue



Legend

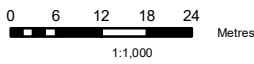
- 60m Public Notification Boundary
- Subject Lands
- Property Boundaries
- Proposed Parcels
- 38 Properties in Receipt of Notice (MPAC)





COMMITTEE OF ADJUSTMENT
Official Plan, Existing Land Use

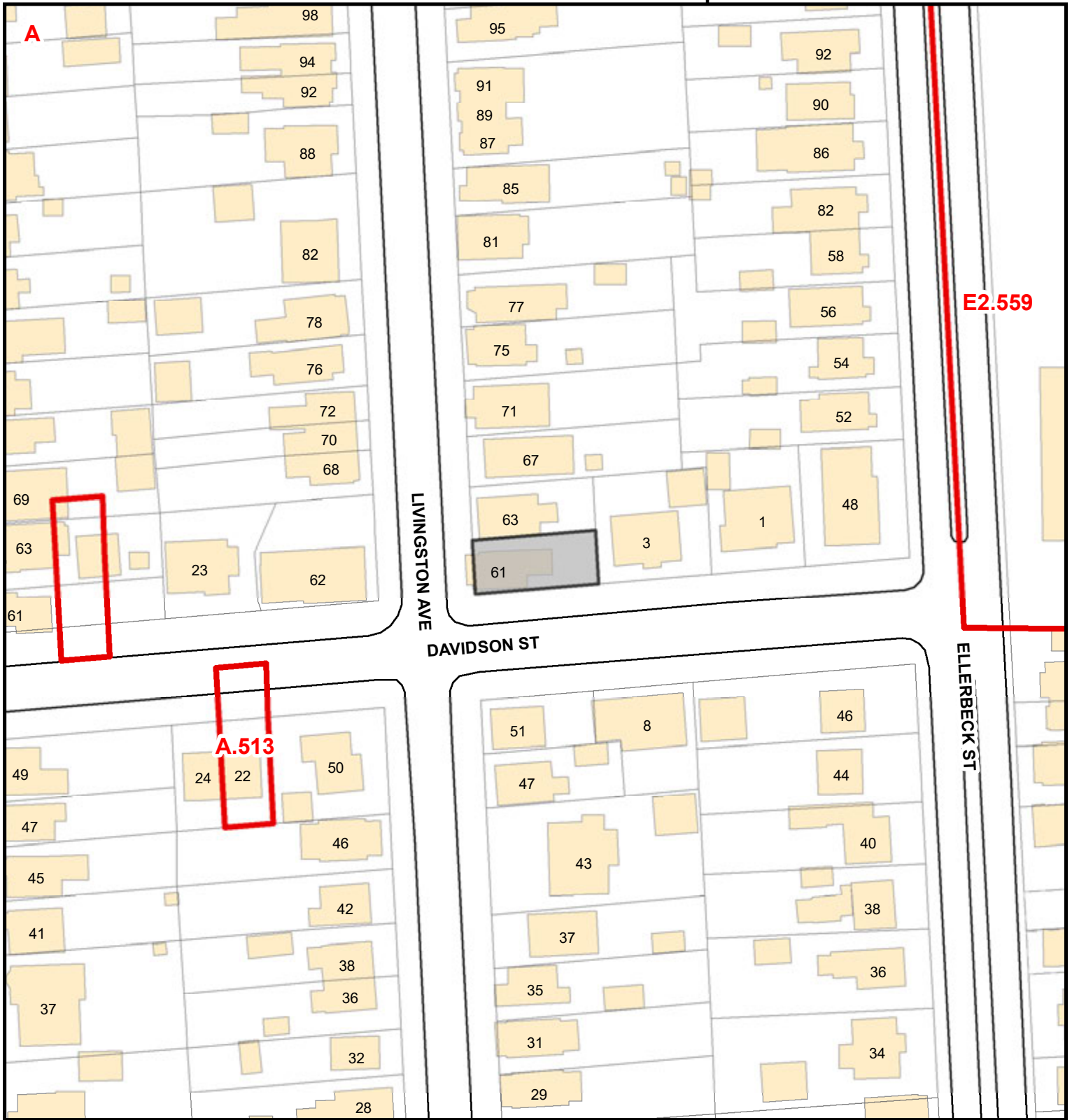
File Number: D13-037-2020
Address: 61 Livingston Avenue



Legend

- Subject Lands
- INSTITUTIONAL
- RESIDENTIAL







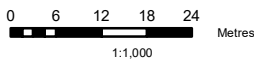
Planning Services
a department of
Community
Services

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

File Number: D13-037-2020
Address: 61 Livingston Avenue

Legend

-  Subject Lands
-  Consolidated Zoning





LIVINGSTON AVE

ELLERBECK ST

DAVIDSON ST

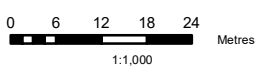
Corporation of the City of Kingston



Planning Services
a department of
Community
Services

COMMITTEE OF ADJUSTMENT
Neighbourhood Context (2020)

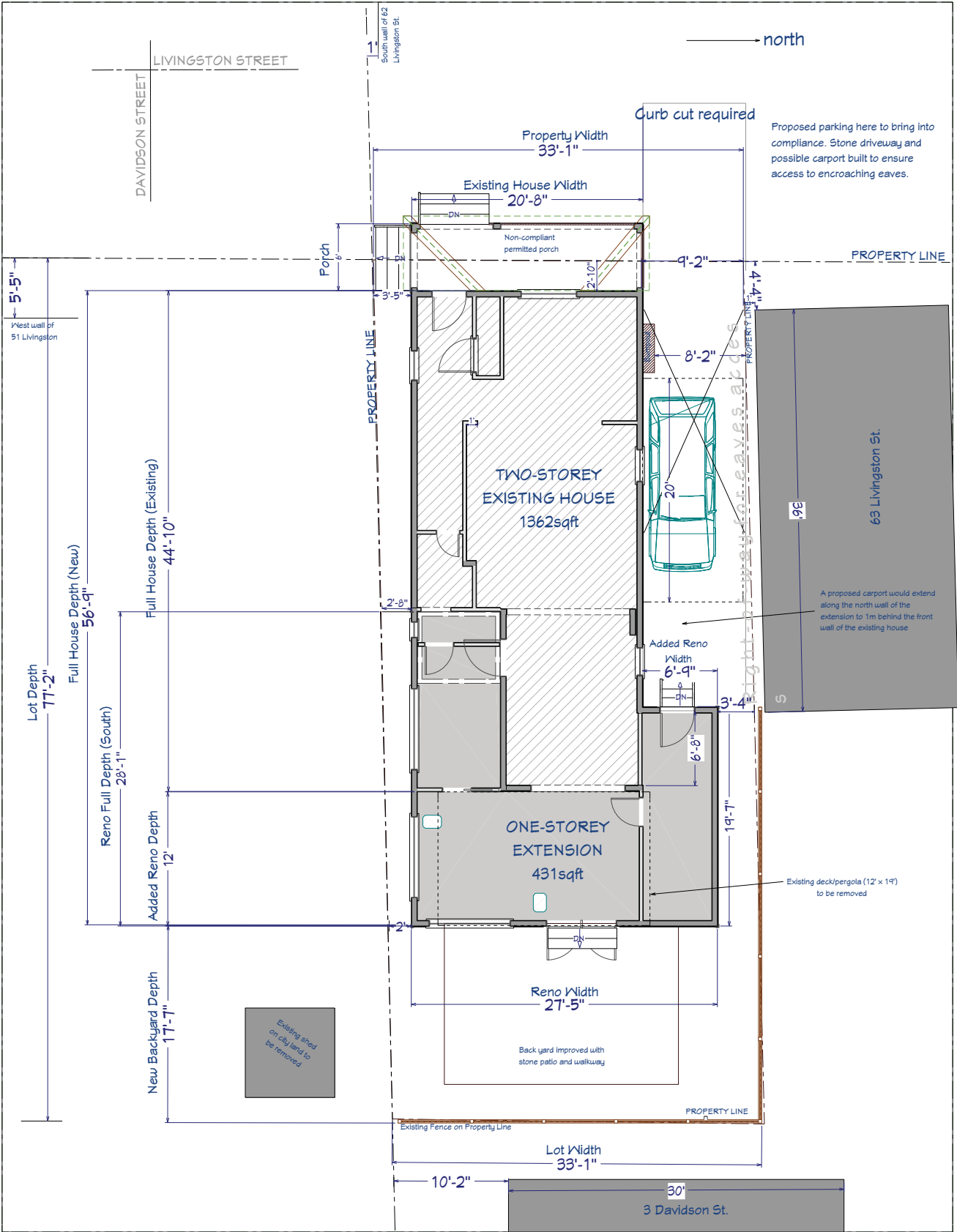
File Number: D13-037-2020
Address: 61 Livingston Avenue



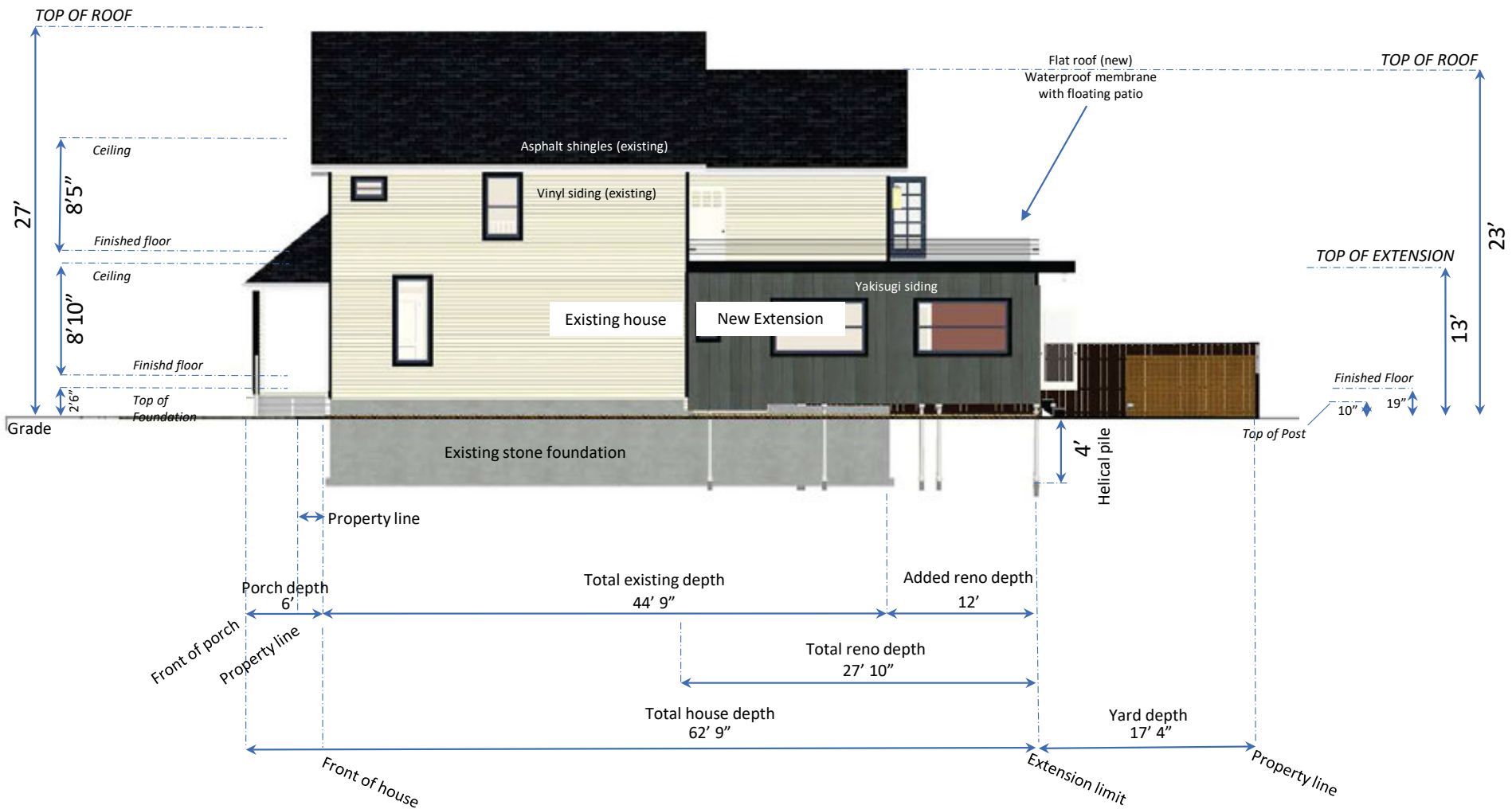
Legend

- Subject Lands
- Property Boundaries
- Proposed Parcels

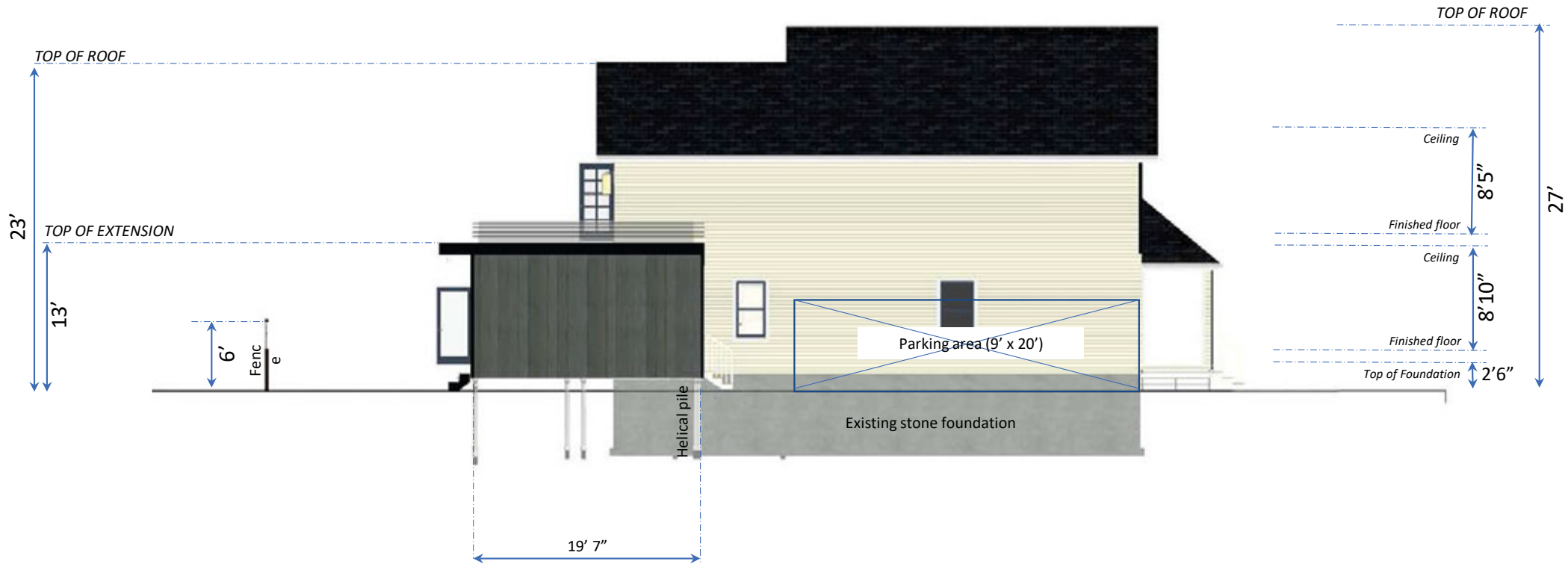




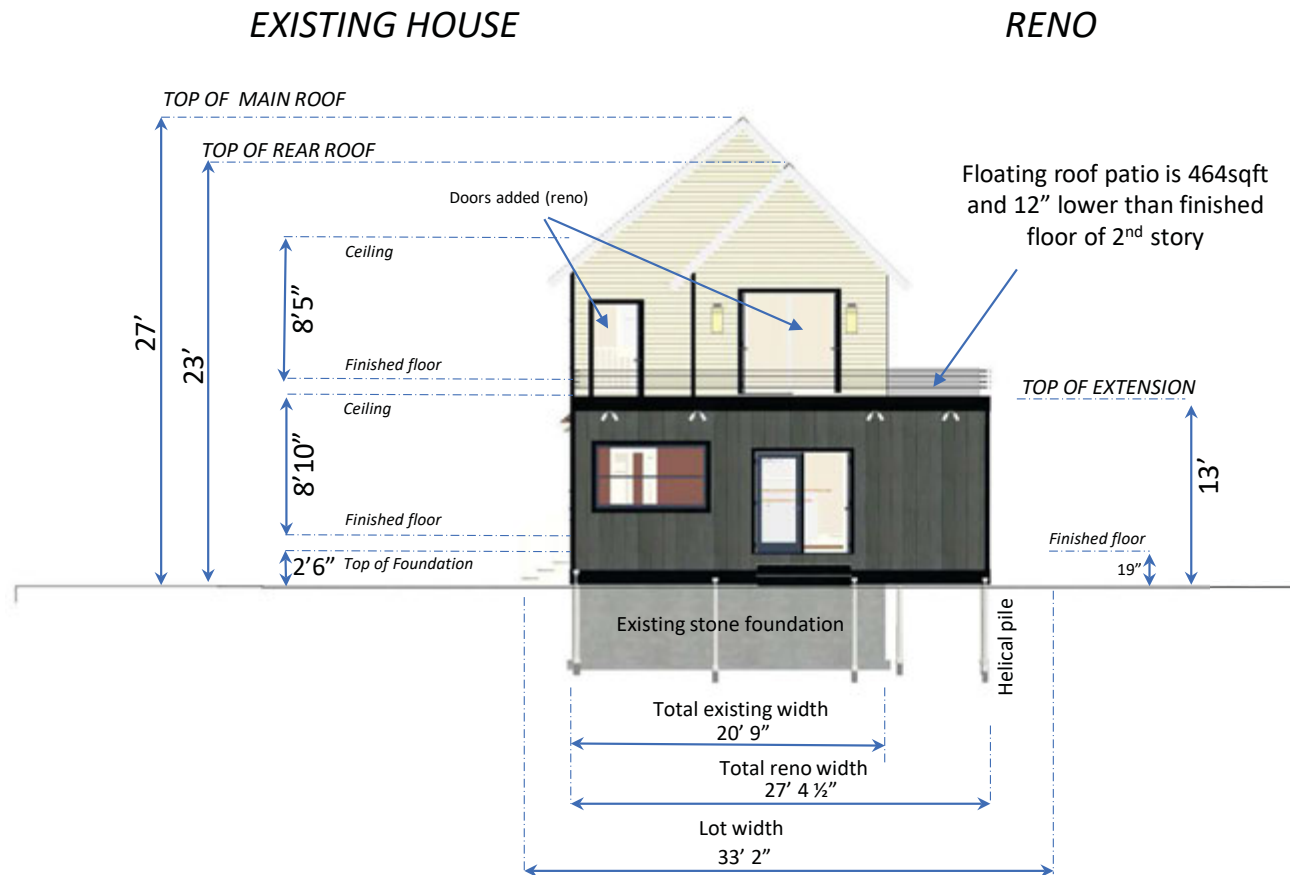
View from SOUTH (from Davidson St)



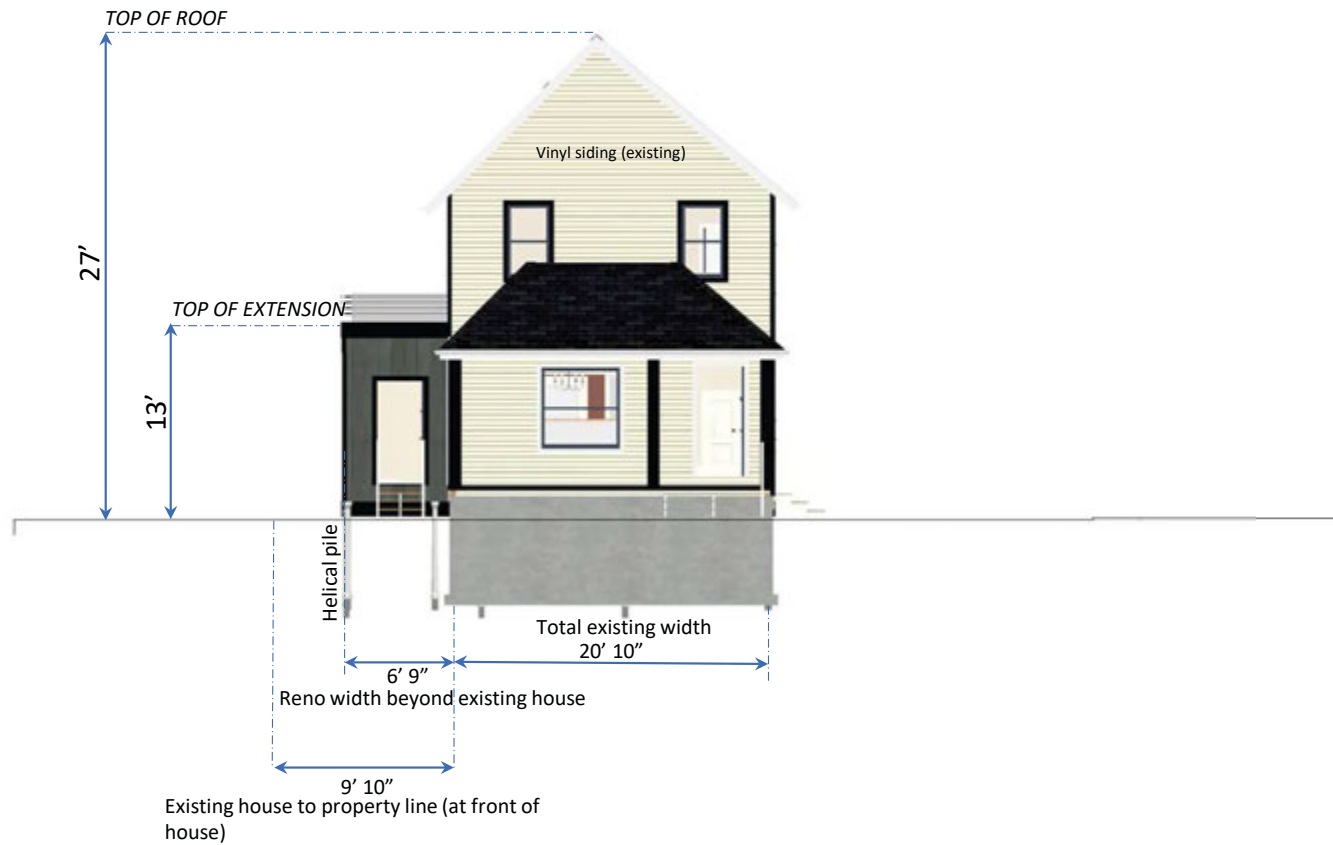
View from NORTH



View from EAST (back of house)



View from WEST (front of house)



% Phillip Prell and Lindsay Sthamann
Planning Team
Planning, Building & Licensing Services
121 John Counter Boulevard
City of Kingston, ON

By email

To Whom It May Concern:

Thank you for your ongoing support at the pre-application stage of my home extension project.

In the enclosed documents I provide updated information pertaining to application D13-037-2020 that covers, to the best of my ability, the additional information that you have requested during the pre-application stage regarding the Official Plan and the Zoning Bylaw regulations. The accompanying attached lot plan provides updated and minor adjustments to measurements that correspond to the information outlined below. All measurements in the lot plan are converted to metric in the calculations that follow.

Please let me know if there are any further changes or additions that you require.

Sincerely,



Jeff Masuda
61 Livingston Avenue

Official Plan Policy Considerations

You have outlined several design considerations to ensure that our proposed extension mitigates any adverse outcomes related to the official plan. Of particular note is our plan to preserve outdoor amenity space through the creation of a flat/green roof on the extension, as per the originally submitted conceptual plan. At the building design space, we will consider design options for a privacy wall along the north side of this rooftop area, which, in addition to the large fir trees that run across the north side of our yard, will minimize/eliminate any site lines between our property and adjacent properties.

Because our corner lot is an “anchor” for an important intersection that defines our neighbourhood (Livingston and Davidson), we believe that our proposed extension improves the overall aesthetic of the street. The single storey height ensures no adverse impacts in terms of building heights, coverage or massing. The building surfaces and improved landscaping will not only minimize adverse effects; they will improve the street facing areas of the property. Shifting the parking to the under-utilized and less visible north side of the property significantly improves the use value of the south side of the property while also increasing publicly visible greenspace.

Zoning Bylaw Regulations - Variance Measurements

1. Floor Space Index

You have asked for FSI measurements, which I did not include in the original application. The bylaw requires the FSI to be less than 1.0 The FSI change of my renovation plan is as follows:

	ORIGINAL	EXTENSION	TOTAL
INTERIOR DIMENSIONS	127m ² (measured with tape)	40m ² (as per plan)	167m ²
LOT	236m ² (surveyed)	-	236m ² (surveyed)
FSI	0.5	-	0.7

I conclude that my project conforms to the bylaw.

2. Landscaped Open Space

You have asked for FSI measurements, which I did not include in the original application. The bylaw requires LOS to be a minimum of 30% of the total area of the property. The LOS change of my renovation plan is as follows:

	ORIGINAL	+ EXTENSION	+EXTENSION + CARPORT**

Exterior dimensions	79m ² (measured with tape+survey)*	+39m ² (as per plan)	+23m ²
Property	236m ² (surveyed)	-	236m ² (surveyed)
LOS	66%	50%	40%

*the area of the front porch to the property line is calculated with the measured width of the porch to the property line indicated by the survey.

**A proposed carport measuring 2m x 11m that would fill the space on the north side of the house

I conclude that my project conforms to the bylaw.

3. Driveway Width

You have asked for the driveway measurements, which I did not include in the original application. The bylaw requires the driveway width to be a minimum of 3.0m at the narrowest part. The driveway width proposed in my renovation plan is **2.8m** as measured by the distance front property line of the house (estimated based on 1' setback of adjacent house to the property line indicated on the survey to the north side of the house (at the front porch). It is also measured as **2.5m** from the fireplace bump out indicated on the revised lot plan to the property line. I note that the driveway width increases from this point as the house is not square to the property line.

A variance is requested of 0.5m

A revised variance is requested of 0.2m if the above variance is not approved (requiring removal of bumpout in building plan)

4. Parking Space

A parking area in accordance with the required 2.7m x 6.0m is indicated in the revised lot plan.

5. Minimum Front Yard Setbacks

You have asked for front yard setbacks, which I herein provide revised measurements based on feedback you provided. The bylaw requires that setbacks be no less than the average of the two adjacent properties, which are defined, in accordance with your guidance, in the tables below:

Setbacks of WEST front property line:

Property	Setback
63 Livingston	1.3m (estimated from Kmaps)
51 Livingston	1.7m (estimated from Kmaps)
Average of 63 and 51 Livingston	1.5m
61 Livingston	0.9m (from survey)

Variance requested	0.6m
---------------------------	-------------

Setbacks of the SOUTH front property line:

Property	Setback
62 Livingston	0.3m (estimated from Kmaps)
3 Davidson	3.1m (estimated from Kmaps)
Average of 62 Livingston and 3 Davidson	1.7m
61 Livingston (existing)	0.8m (from survey)
61 Livingston (at southeast corner of extension)	0.6m (from lot plan)
Variance requested	1.1m

A variance is requested for both WEST and SOUTH front property lines of 0.6m and 1.1m respectively. However, in both instances, these variances are for the existing non-conforming setbacks, neither of which is being reduced by the proposed extension.

6. Minimum Side Yard Setbacks

You have asked for side yard setbacks, which I herein provide revised measurements based on feedback you provided. The bylaw requires that setbacks be no less than 0.6m. My setbacks are as follows:

Setbacks of the NORTH side yard:

Existing minimum setback (northwest corner of house)	3.3m (survey)
Extension (northwest corner of extension)	1.0m (site drawing)

Setbacks of the EAST side yard:

Existing minimum setback (northwest corner of house)	8.9m (survey)
Extension (northwest corner of extension)	5.6m (revised lot plan)

I conclude that my project conforms to the bylaw.

7. Maximum Percentage of Lot Coverage

You have requested lot coverage measurements. The bylaw requires total lot coverage to be no more than 33 $\frac{1}{3}$ %.

	ORIGINAL	EXTENSION	TOTAL
EXTERIOR DIMENSIONS	127m ² (measured with tape)	40m ² (as per plan)	167m ²
LOT	236m ² (surveyed)	-	236m ² (surveyed)
FSI	34%	-	48%

A variance is requested of 14 $\frac{2}{3}$ %

8. Maximum Permitted Building Depth

You have asked for building depth measurements, which the bylaw requires to be no less than the average of the two adjacent properties, which are defined, in accordance with your guidance, in the tables below:

Building depths relative to NORTH AND SOUTH properties:

Property	Building Depth
63 Livingston	11.0m (estimated from Kmaps)
51 Livingston	9.9m (estimated from Kmaps)
Average of 63 and 51 Livingston	10.4m
61 Livingston existing	13.7m (from survey)
61 Livingston with extension	17.3m
Variance requested	6.9m (an increase of 3.6m)

Building depths relative to WEST AND EAST properties:

Property	Setback
62 Livingston	10.3m (estimated from Kmaps)
3 Davidson	9.1m (estimated from Kmaps)
Average of 62 Livingston and 3 Davidson	9.7m
61 Livingston existing	6.3m (from survey)

61 Livingston with extension	8.4m
Variance requested	none

A variance is requested for the building depth relative to the NORTH and SOUTH properties of 6.9m.

Site Visit Photos:

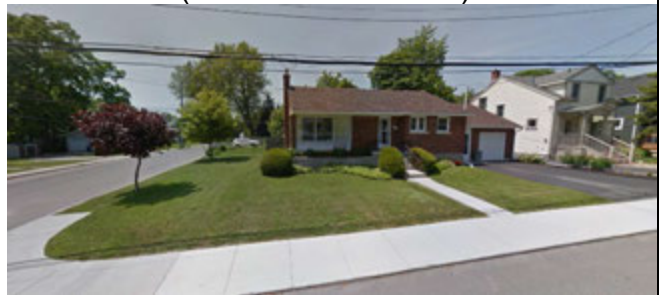
61 Livingston Avenue (Existing)

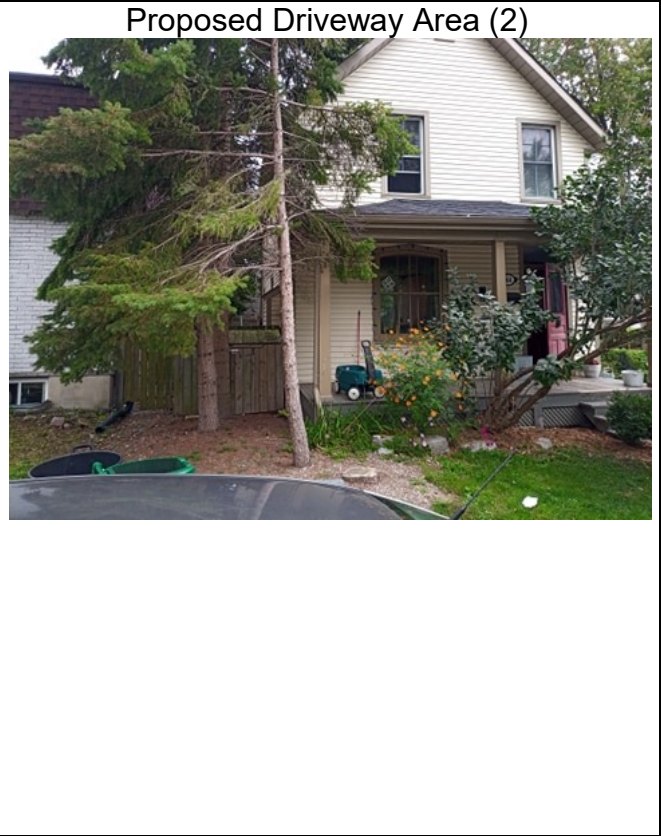


Generalizable Corner Lot
(62 Livingston Avenue)



Generalizable Corner Lot
(48 Ellerbeck Street)





Masuda home renovation, 61 Livingston Ave.

Jeff Masuda [REDACTED]

Nancy Scovil [REDACTED]
To: [REDACTED]

Fri, Oct 23, 2020 at 10:38 AM

Hi Jeff,
Please feel free to forward this note to appropriate officials.

[Masuda Home Renovation Application, 61 Livingston Ave., Kingston, Ontario](#)

As a home owner of 34 years at [51 Livingston Ave., Kingston](#), I applaud the concern expressed by Councillor Stroud that my neighbour's home renovation application be scrutinized to ensure that it is not a cover-up for a student rental housing project.

At the same time, the irony does not escape me. Jeff Masuda is the one whose recent defense of keeping our neighbourhood safe from reckless pandemic behavior by students in rental housing reached the Globe and Mail. Presumably Councillor Stroud did not have the name of the property owner at 61 Livingston.

Jeff and his family have been exemplary neighbours and have beautified their property. It's a family home. They wish to stay here, and expand their home to accommodate the growing needs of their family. They have my full endorsement of their renovation project.

While I'm at it, here's a project for Council: how about ensuring that the green space at the St. Mary's of the Lake site is preserved as a public open space for families in the neighbourhood. Good Queen's-Neighbourhood relations. Happy families.

Please feel free to contact me if you have any questions.
Nancy Scovil
[51 Livingston Ave.](#)
[Kingston K7L 4L1](#)

Planning Services
Community Services
216 Ontario Street
Kingston, ON
K7L 2Z3

October 22, 2020

To Whom It May Concern:

Subject: Letter of Support for Extension Project at 61 Livingston Avenue

I am submitting this letter of support for the proposed extension project submitted by Jeff and Jennie Masuda. The Masuda's have shared their plans with me, and my husband and we wholeheartedly support them in this endeavour. Their plan represents an overall improvement to their property and aligns with the streetscape – fitting in well with the four corner lots with older homes.

They have been our neighbours for six years and are a welcome and important part of our community. They have been very active in our long-time street Festival and have shown their ongoing commitment to this community in many ways. If we are to remain a strong and vibrant neighbourhood, we must attract young families that want to make these important contributions. Supporting their efforts to alter their homes to meet their needs is just one of the ways we can keep them here.

We have lived at 62 Livingston Avenue for more than twenty-three years. We have watched our neighbourhood change and not always for the better. Four of the five family homes that sold in the last two years have become student rentals. This turnover in housing with absentee owners has created challenges that too many city neighbourhoods must contend with.

The Livingston-Davidson community is a strong one. Knowing that young families want to be part of it and continue to build on this shared sense of community is very important.

I urge you to support their extension project.

Please feel free to contact me if you require further information.

Sincerely,

L. Jeanie Sawyer