

City of Kingston Report to Committee of Adjustment Report Number COA-21-008

To: Chair and Members of the Committee of Adjustment

From: Lindsay Sthamann, Planner

Date of Meeting: January 18, 2021

Application for: Minor Variance

File Number: D13-057-2020

Address: 35 Gibson Avenue

Owner: Kathleen McIlquham

Applicant: Fotenn Consultants Inc.

Council Strategic Plan Alignment:

Theme: Regulatory & compliance

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 35 Gibson Avenue. The applicant is proposing to construct an enclosed front porch and unenclosed stairs in the front yard of the existing single-family dwelling; this requires variances to the minimum front yard set-back and the projection into the front yard provisions.

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.

Variance Number 1: Minimum Front Yard

By-Law Number 8499: Section 8.3(b)

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Requirement: 7.5 metres Proposed: 3.8 metres

Variance Requested: 3.7 metres

Variance Number 2: Minimum Setback from Front Lot Line (unenclosed steps)

By-Law Number 8499: Section 5.8(c)

Requirement: May project 2.5 metres out from main building wall, but not closer than 3.5 metres

to the front lot line.

Proposed: May project 2.5 metres out from main building wall, but not closer than 1.4 metres to

the front lot line.

Variance Requested: 2.1 metres

Recommendation:

That minor variance application, File Number D13-057-2020, for the property located at 35 Gibson Avenue to construct an enclosed front porch and unenclosed stairs in the front yard of the existing single-family dwelling, be Approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-21-008.

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Lindsay Sthamann, Planner	

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

Paige Agnew, Commissioner, Community Services

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Options/Discussion:

On November 19, 2020, a minor variance application was submitted by 0TFotenn Consultants Inc., on behalf of the owner, Kathleen McIlquham, with respect to the property located at 35 Gibson Avenue. The variance is requested to construct an enclosed front porch and unenclosed stairs in the front yard of the existing single-family dwelling which requires variances to the minimum front yard set-back and the projection into the front yard provisions.

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

- Concept Plan (Exhibit H);
- Floor Plans & Elevations (Exhibit I); and
- Planning Letter (DASH).

All submission materials are available online through the Development and Services Hub (DASH) at the following link, <u>DASH</u>, using "Look-up a Specific Address". If there are multiple addresses, search one address at a time, or submission materials may also be found by searching the file number.

Site Characteristics

The subject property is located on the East side of Gibson Avenue, south of Johnson Street (Exhibit B – Key Map).

The subject property is designated 'Residential' in the Official Plan (Exhibit E – Official Plan Map) and zoned 'A2 – One Family Dwelling' in Zoning By-Law Number 8499 (Exhibit F – Zoning Map). The property abuts other residential uses in the A2 zone.

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.

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

The subject property is designated 'Residential' in the City of Kingston Official Plan.

In considering whether this proposed variance is desirable, the Committee of Adjustment will have regard to the nine requirements included in Section 9.5.19 of the Official Plan. The following provides these nine requirements and an assessment of how the proposal is consistent with each.

- 1. The proposed *development* meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of this Plan;
 - The proposal will not have any negative impacts on abutting properties or residential uses and/or structures. The proposal is compatible with the surrounding residential uses and will not result in significant impacts or changes to the surrounding area.
- 2. The proposed *development* will be *compatible* with surrounding uses, buildings or structures and *development* standards associated with adjacent properties, and if necessary, incorporate means of alleviating *adverse effects* on abutting land uses as recommended in Section 2.7 of this Plan;
 - The proposed addition will result in a development that is consistent with the existing built form of several residential buildings located along Gibson Avenue. 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;
 - Two parking spaces can be accommodated in the existing driveway; the proposed development will not impact the ability of this site to provide parking or accessibility concerns.
- 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 proposal generally conforms to applicable urban deign policies, as outlined in Section 8 of the Official Plan. The addition will result in a height and side yard setbacks that are permitted in the A2 zone.
- 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;

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The subject property is not designated under the Ontario Heritage Act nor is it adjacent to a designated property.

- 6. The resulting *development* has adequate *municipal water and sewage services* within the *Urban Boundary*, or is capable of providing *individual on-site water and sewage services* outside the *Urban Boundary*;
 - The subject property is located within the Urban Boundary with municipal water and sanitary services. The application was circulated to Utilities Kingston through technical review, who noted that there were no concerns with the application.
- 7. Whether the application and the cumulative impact of the proposed variances would be more appropriately addressed by a zoning amendment to the applicable zoning by-law;
 - The proposal meets the four tests of a Minor Variance as outlined in the *Planning Act* and described herein.
- 8. The Committee of Adjustment may attach such conditions as it deems appropriate to the approval of the application for a minor variance including any reasonable requirements, recommendations of City departments, or the submission of studies as listed in Section 9.12 of this Plan that may be required to properly evaluate the application;
 - Multiple conditions of approval are recommended in this report in Exhibit A.
- 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 front porch and stairs 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 'A2 – One Family Dwelling' 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 A2 zone permits a single-family dwelling.

The proposal requires a variance to Section 8.3(b) for a reduction to the minimum front yard and Section 5.8(c) for a reduction to the minimum setback for unenclosed steps.

Variance Number 1: Minimum Front Yard

By-Law Number 8499: Section 8.3(b)

Requirement: 7.5 metres Proposed: 3.8 metres

Variance Requested: 3.7 metres

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Variance Number 2: Minimum Setback from Front Lot Line (unenclosed steps)

By-Law Number 8499: Section 5.8(c)

Requirement: May project 2.5 metres out from main building wall, but not closer than 3.5 metres to the front lot line.

Proposed: May project 2.5 metres out from main building wall, but not closer than 1.4

metres to the front lot line.

Variance Requested: 2.1 metres

The proposed development does not meet the required minimum front yard setback or front yard projection. The proposal complies with all other requirements of the A2 zone.

The intent of the front yard setback is to ensure that adequate separation is achieved between buildings and roadways, that sufficient front yard space is incorporated into the design of neighbourhoods, and to ensure that a consistent character is maintained along streetscapes. The proposal will result in a front yard setback of 3.8 metres. Despite a reduced front yard setback, the dwelling will maintain an appropriate separation from the street, a sufficient front yard area will be maintained, and the character of the streetscape and neighbourhood will be maintained. The subject site will continue to provide landscaped open space and amenity area which exceeds the zoning requirement and will continue to provide a sufficient paved driveway, site access and parking which meet resident needs.

It should also be noted that the existing dwelling has a front yard setback of approximately 5.7 metres. Therefore, although the variance seeks to reduce the front yard setback from 7.5 metres to 3.8 metres, the actual reduction being proposed is from 5.7 metres to 3.8 metres. As a result, the overall impact of the reduced front yard setback is minimized.

The intent of the yard projections is to ensure that unenclosed building features do not adversely impact the streetscape consistency or unreasonably detract from yard areas. The proposal will result in a projection from the front lot line of 1.4 metres. Despite an increased projection, the proposed unenclosed front stairs add visual interest to the streetscape and respect the built form of the surrounding area. As well, the proposed stairs are limited in width which ensures that the majority of the front yard space is retained and remains functional.

3) The variance is minor in nature

The variance is considered minor as it would be limited to the subject site, limiting the scope of any impacts to the subject property. The subject property is located in an area characterized by residential development. The proposed front porch is not anticipated to impact the functionality of the front yard or the streetscape and will meet all other required property setbacks. The proposed development complies with all other zoning by-law requirements and impacts are not anticipated to result from the proposed variances.

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

The requested variances are necessary to allow the addition of a 16.4 square metre enclosed front porch and unenclosed front stairs. The variances would facilitate the reinvestment and minor development associated with the existing single-detached dwelling within a residential designated area of the City.

The variance is desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

\boxtimes	Building Services	\boxtimes	Engineering Department	\boxtimes	Heritage (Planning Services)
	Finance	\boxtimes	Utilities Kingston		Real Estate & Environmental Initiatives
\boxtimes	Fire & Rescue	\boxtimes	Kingston Hydro	\boxtimes	City's Environment Division
	Solid Waste	\boxtimes	Parks Development		Canadian National Railways
	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, no public comments 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 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 variance(s)

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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.

Approval of this application will permit the construction of an enclosed front porch and unenclosed stairs at the front of the existing single-family dwelling.

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 January 18, 2021. 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 58 property owners (according to the latest Assessment Roll) within 60 metres of the subject property (Exhibit D – Public Notification Map) 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*.

Accessibi	lity Cons	siderations:
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None

Financial Considerations:

None

Contacts:

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

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Lindsay Sthamann, Planner, 613-546-4291 extension 3287

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

Exhibit A Recommended Conditions

Exhibit B Key Map

Exhibit C Neighbourhood Context Map (2019)

Exhibit D Public Notice Notification Map

Exhibit E Official Plan Map

Exhibit F Zoning By-Law Number 8499 – Map 26

Exhibit G Site Photos

Exhibit H Concept Plan

Exhibit I Floor Plans and Elevations

Recommended Conditions

Application for minor variance, File Number D13-057-2020

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

1. Limitation

That the approved minor variance applies only to the enclosed front porch and stairs as shown on the approved drawings attached to the notice of decision.

2. No Adverse Impacts

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

3. Building Permit Application Requirements

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

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

4. Standard Archaeological Condition

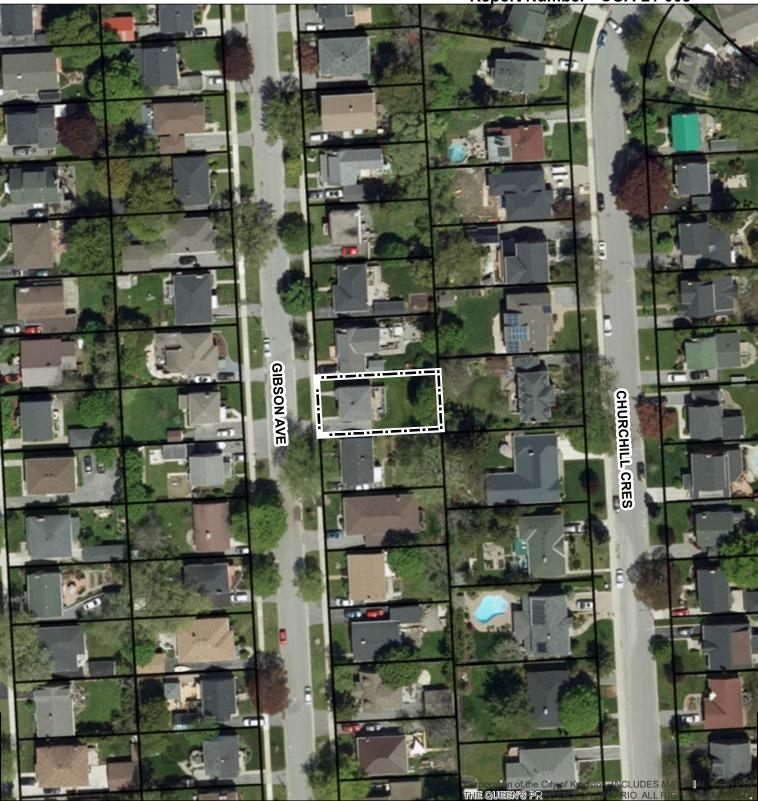
In the event that deeply buried or previously undiscovered archaeological deposits are discovered in the course of development or site alteration, all work must immediately cease and the site must be secured. The Program and Services Branch of the Ministry of Heritage, Sport, Tourism and Culture Industries (416-314-7132) and 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 at the Ministry of Government and Consumer Services (416-212-7499), the Program and Services Branch of the Ministry of Heritage, Sport, Tourism and Culture Industries (416-314-7132), and City of Kingston's Planning Services (613-546-4291, extension 3180) must be immediately contacted

5. Tree Permit

Prior to Building Permit issuance, the owner/applicant shall apply for and obtain a Tree Permit through the Planning Department to address tree preservation requirements for recently planted street tree in boulevard area in front of 35 Gibson Avenue.

Exhibit C Report Number - COA-21-008





Planning Services a department of Community Services

COMMITTEE OF ADJUSTMENT

Neighbourhood Context (2019)

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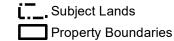
File Number: D13-057-2020 Address: 35 Gibson Ave



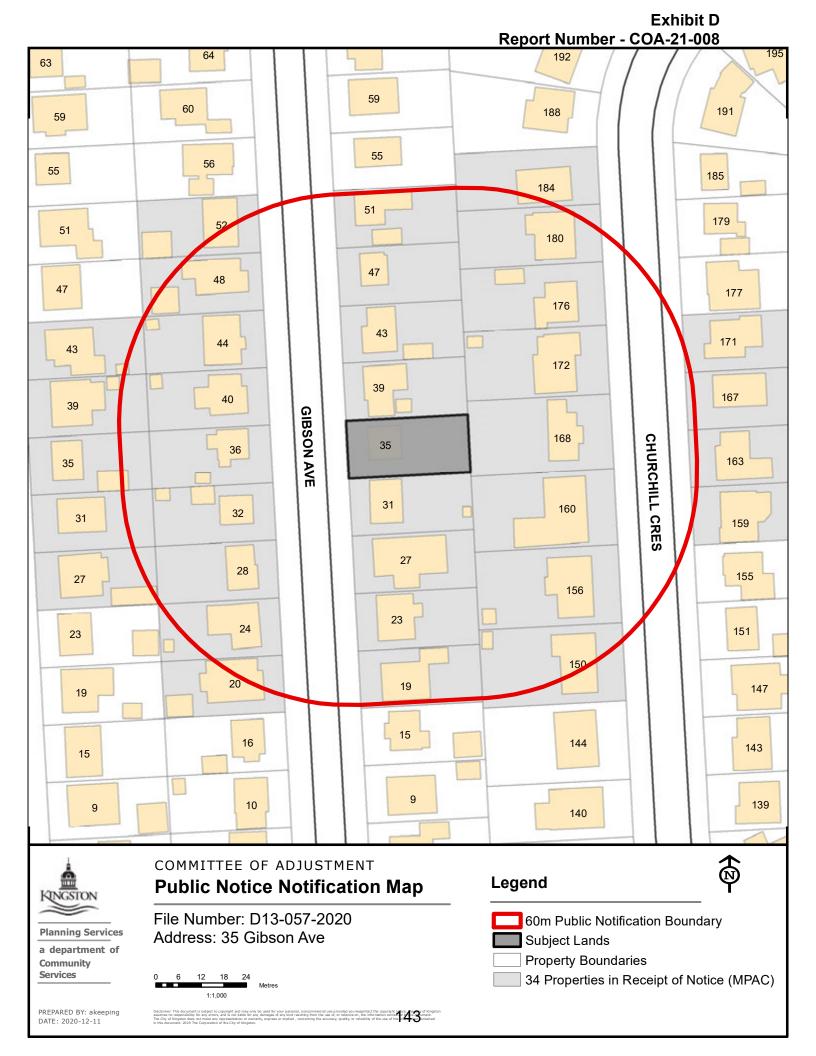
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Community Services

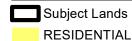
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Official Plan, Existing Land Use

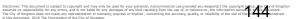
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Legend







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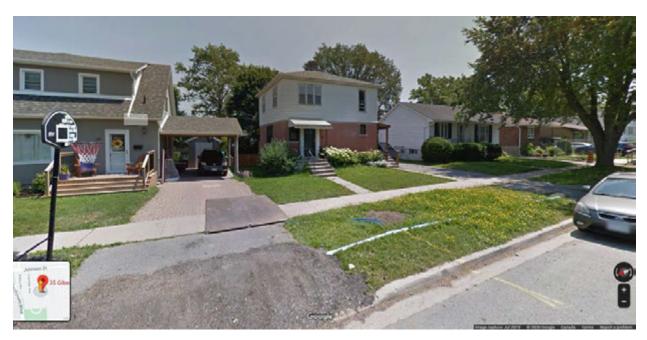
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DATE: 2020-12-11

Site Photos - 35 Gibson Avenue



Front Elevation (Provided by Applicant)



Neighbourhood Context (Google street view – July 2019)

Exhibit H Report Number COA-21-008

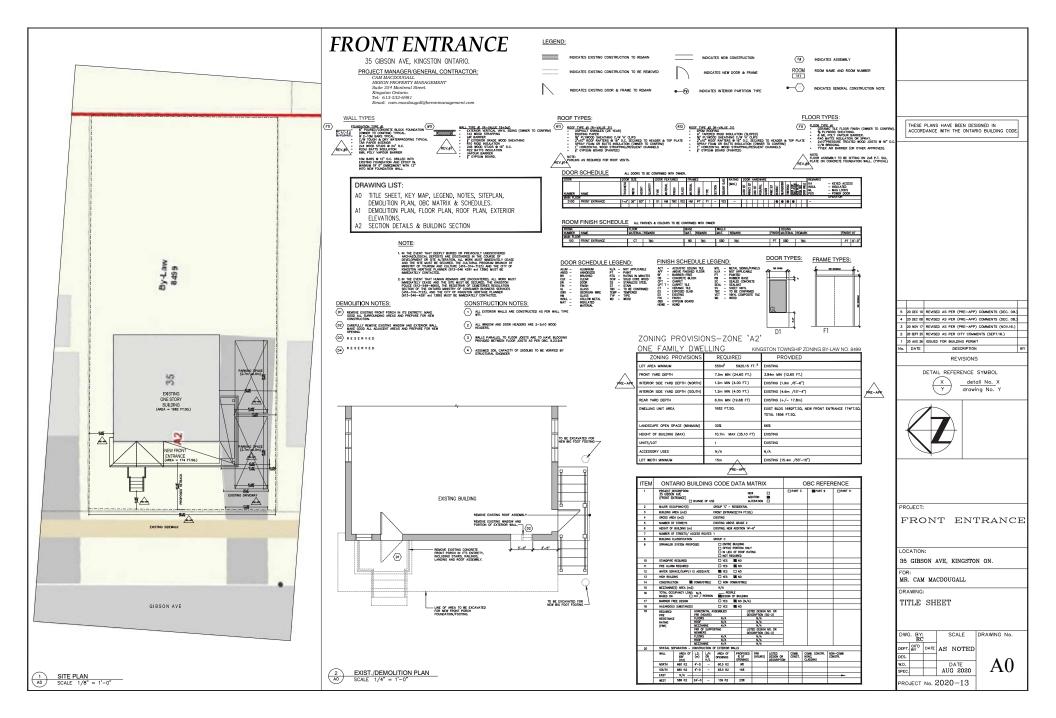


Exhibit I Report Number COA-21-008

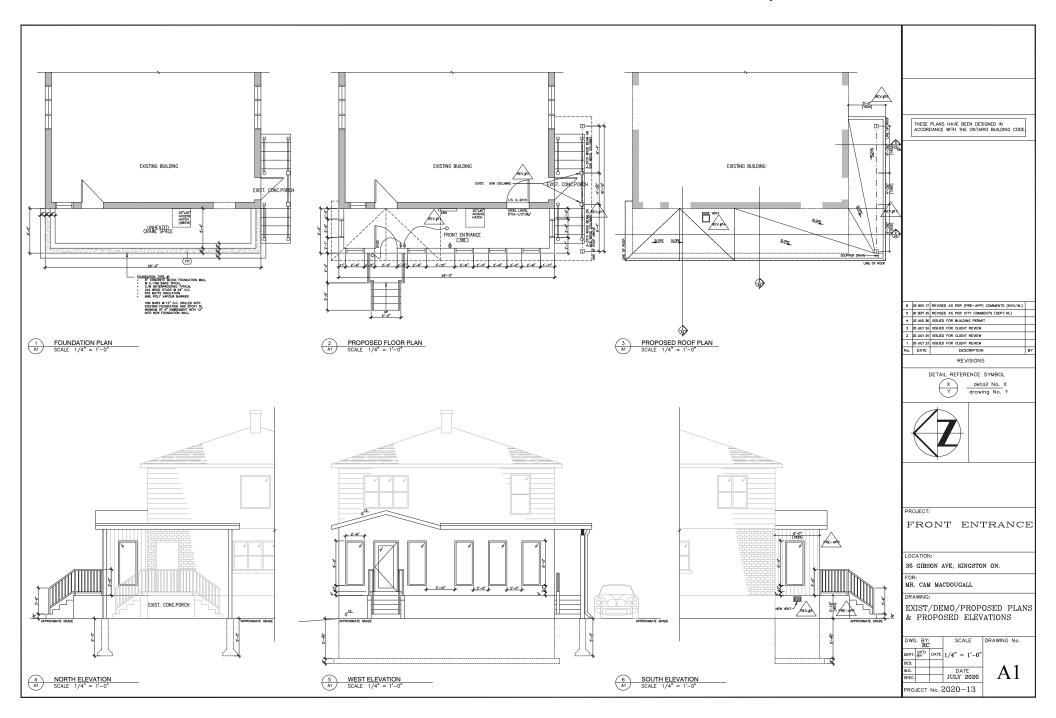


Exhibit I Report Number COA-21-008

