

City of Kingston Report to Committee of Adjustment Report Number COA-21-012

То:	Chair and Members of the Committee of Adjustment
From:	Tim Fisher, Planner
Date of Meeting:	January 18, 2021
Application for:	Minor Variance
File Number:	D13-061-2020
Address:	938 Hudson Drive
Owner:	Helen and Richard Gora
Applicant:	Heather Cirella

Council Strategic Plan Alignment:

Theme: 2. Increase housing affordability

Goal: See above

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variance for the property located at 938 Hudson Drive. The applicant is proposing to reduce the rear yard setback requirement in the 'R1-3' zone in Zoning By-Law Number 76-26. The variance is requested in order to construct a 42.5 square metre, one storey addition to the rear of the existing single detached dwelling.

The requested minor variance is consistent with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The requested minor variance is desirable for the appropriate development or use of the land, building or structure and is minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval.

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Variance Number 1:

By-Law Number 76-26:	Section 12(2)(f)
Requirement:	7.6 metres
Proposed:	6.5 metres
Variance Requested:	1.1 metres

Recommendation:

That minor variance application, File Number D13-061-2020, for the property located at 938 Hudson Drive to reduce the rear yard setback requirement in the 'R1-3' zone in Zoning By-Law Number 76-26 in order to construct a 42.5 square metre, one storey addition to the rear of the existing single detached dwelling, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-21-012.

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Authorizing Signatures:

 \checkmark

Tim Fisher, Planner

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

Paige Agnew, Commissioner, Community Services

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Options/Discussion:

On December 10, 2020, a minor variance application was submitted by 0THeather Cirella, on behalf of the owner, Helen and Richard Gora, with respect to the property located at 938 Hudson Drive. The variance is requested to reduce the rear yard setback requirement in the 'R1-3' zone in Zoning By-Law Number 76-26. The variance is requested in order to construct a 42.5 square metre, one storey addition to the rear of the existing single-detached dwelling.

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

- Site Plan/Elevations (Exhibit F); and
- Survey (Exhibit G)

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 site is located at 938 Hudson Drive (Exhibit B). The property is currently designated as Residential in the Official Plan and zoned Special Residential Type One (R1-3) Zone in Zoning By-Law Number 76-26. The property is developed with a single detached dwelling and is abutting similar single detached dwellings.

Application

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

Provincial Policy Statement

In addition to the four tests of a minor variance detailed 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 2020 (PPS). The PPS provides policy direction on matters of provincial interest related to land use planning and development which are complemented by local policies addressing local interests. The application being considered is site specific to accommodate a specific proposal and does not involve any major policy considerations and as such, the proposal conforms to and is consistent with the PPS.

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

The subject property is designated 'Residential' in the City of Kingston Official Plan (Exhibit D – Official Plan, Land Use). The residential uses within the 'Residential' designation

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

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 42.5 square metre one storey addition to the rear of the single detached dwelling will provide additional living space to the back split bungalow. The overall scale and massing of the dwelling is in keeping with the exiting one and two storey residential dwellings along Hudson Drive. The site will maintain its outdoor amenity space in the rear yard.

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 scale, massing and continued single family dwelling use will be compatible with the existing one and two storey dwellings in the neighbourhood. The reduced rear yard setback is required as a result of the angle of the rear lot line and the position of the dwelling on the lot. The southeast corner of the addition complies with the rear yard setback however the northern corner of the addition is 1.1 metres within the setback as a result of the rear lot line being on an angle. Therefore, there is a triangular piece of the addition within the required rear yard setback. A rear yard is maintained for outdoor amenity space.

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 site will function in an appropriate manner as parking will be maintained in the attached garage and the driveway and its road access will not be affected. The rear yard will be maintained and both side yards will not be impacted and maintain access to the rear yard.

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;

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The proposal generally conforms to applicable urban design policies, as outlined in Section 8 of the Official Plan. The proposed addition is located at the rear of the dwelling and is not visible from the street. The addition has been designed to be in keeping with the character of the existing dwelling on the subject property.

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 designated as a cultural heritage resource under the *Ontario Heritage Act*.

The property has also been identified as having "Limited Archaeological Potential" on the City's Archaeological Master Plan. No further studies are required at this time.

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;

Conditions of approval are recommended 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 addition will not result in any negative impacts to adjacent properties or to the neighbourhood.

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

The subject property is zoned Special Residential Type 3 (R1-3) Zone in the City of Kingston Zoning By-Law Number 76-26, entitled "Township of Kingston Restricted Area By-Law", as amended. The 'R1-3' zone permits a single detached dwelling subject to the provisions of Section 12 of the zoning by-law.

The owner proposes to construct a 42.5 square metre one-storey addition to the rear of an existing back split bungalow. The addition will provide additional living space to the dwelling. The basement of the dwelling consists of only the back half of the dwelling while the front portion is a crawl space. The additional living space in the basement will relocate a bedroom currently in the basement and create a living room and storage/ laundry room. The addition will create an additional bedroom on the upper floor and a study. The dwelling current 4 bedroom dwelling will increase to 5 bedrooms.

The proposal requires a variance to Section 12(2)(f) to reduce the required rear yard setback from 7.6 metres to 6.5 metres being a reduction to 1.1 metres. The southeast corner of the addition complies with the rear yard setback however the northern corner of the addition is 1.1 metres within the setback as a result of the rear lot line being on an angle. Therefore, there is a triangular piece of the addition within the required rear yard setback. A rear yard is maintained for outdoor amenity space.

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All other provisions of the 'R1-3' zone are complied with.

3) The variance is minor in nature

The variance is considered minor as the construction of the 42.5 square metre addition to the rear of the addition will not cause any adverse impacts on adjacent the adjacent residential properties and will not have any impacts on the existing streetscape. The variance will maintain the character of the house and the residential neighbourhood. The one storey addition will not result in any loss of privacy or overlook to the abutting residential properties. The proposal complies with all other required provisions of the 'R1-3' zone. Including lot coverage and landscape open space.

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

The variance is desirable and appropriate use of the land. The scale, massing and continued single-family dwelling use will be compatible with the existing one and two-storey

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dwellings in the neighbourhood. The reduced rear yard setback is required as a result of the angle of the rear lot line and the position of the dwelling on the lot. The southeast corner of the addition complies with the rear yard setback however the northern corner of the addition is 1.1 metres within the setback as a result of the rear lot line being on an angle. Therefore, there is a triangular piece of the addition within the required rear yard setback. A rear yard is maintained for outdoor amenity space.

Technical Review: Circulated Departments and Agencies

- ☑ Building Services
- Engineering DepartmentUtilities Kingston

⊠ Parks Development

□ District Councillor

□ Municipal Drainage

□ KFL&A Health Unit

□ Enbridge Pipelines

Eastern Ontario Power

⊠ Kingston Hydro

- FinanceFire & Rescue
- Solid Waste
- □ Housing
- □ KEDCO
- Parks Canada
- □ Hydro One
- □ Kingston Airport
- **Technical Comments**

This application was circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude this application from moving forward. Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda.

Public Comments

At the time this report was finalized, there were no written concerns or objections received by the public. 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 maintains the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The proposal is desirable for the appropriate development or use of the land, building or structure and the requested variance is 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.

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- ☑ 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

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Approval of this application will permit the construction of a 42.5 square metre addition to the rear of the single detached 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 76-26

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 25 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

Tim Fisher, Planner, 613-546-4291 extension 3215

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Other City of Kingston Staff Consulted:

None

Exhibits Attached:

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Public Notice Notification Map
- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Map
- Exhibit F Site Plan/Elevations
- Exhibit G Survey
- Exhibit H Photo

Recommended Conditions

Application for minor variance, File Number D13-061-2020

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

1. Limitation

That the approved minor variance applies only to the location of the single detached dwelling and its rear addition, 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 the Building Division 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 the Planning, Building and Licensing Division 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. Standard Archaeological Condition

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

In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Registrar of Cemeteries Regulation Section of the Ontario Ministry of Consumer Business Services (416-326-8404), the Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132), and the City of Kingston's Planning Division (613-546-4291 extension 3180) must be immediately contacted.























