



**City of Kingston
Committee of Adjustment
Meeting Number 03-2021
Addendum
Monday February 22, 2021 at 5:30 p.m.**

Correspondence

- a) Correspondence received from Joan Bowie, dated February 20, 2021, regarding 370 Brock Street.

Schedule Page 1

- b) Correspondence received from Vasant and Vijayashree Mharte, dated February 14 and February 17, 2021, regarding 662 Portsmouth Avenue.

Schedule Pages 2 - 9

From: [REDACTED]
To: [Fawcett,Elizabeth](#); [Robidoux,Meghan](#); [Neill,Jim](#)
Cc: [REDACTED]
Subject: Record D13-001-2021: Minor Variance / Permission. 370 Brock St.
Date: February 20, 2021 1:47:51 PM

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To the Members of the Committee of Adjustment,

RE: Record D13-001-2021: Minor Variance / Permission. 370 Brock St.

As a past member of the COA , I believe that applying conditions or limitations to an approval allows for fewer surprises for you, the committee members, and the members of the public. What is presented at the public meeting, is what must be built. As well, this additional information may be helpful to the City when it comes time for licensing.

I would also like to know if this redevelopment is to become a Primary Unit with a Secondary Suite or will it be a Legal Duplex? This too may be relevant in the City's future rezoning.

In either case, I am requesting that the approval of the minor variance attach a further condition to "limitation" found in Exhibit A

1. Limitation That the approved minor variance applies only to proposed one-storey rear addition as shown on the approved drawings attached to the notice of decision and **that the proposed two units be limited to a total of 8 bedrooms, two of which will be in the proposed one-storey addition.**

Thank you,

Joan Bowie

"The Committee of Adjustment may attach such conditions as it deems appropriate to the approval of the application for a minor variance including any reasonable requirements, recommendations of City departments, or the submission of studies as listed in Section 9.12 of this Plan that may be required to properly evaluate the application; As part of the recommendation, suggested conditions have been listed (Exhibit A – Recommended Conditions). The conditions may be added, altered or removed at the Committee's discretion."

Feb 14, 2021

Re: File D13-067-2020 for 662 Portsmouth Avenue

Dear Committee,

We are writing to oppose the application made for the property at 662 Portsmouth Avenue. In short, the Report to Committee of Adjustment (COA-21-018) overlooks the fact that the structure in question was not in continuous use, or even in continuous existence, and is in fact an entirely new structure that has been built in violation of the applicable zoning by-laws. As a result, the application is not in keeping with the intent of the zoning by-law and does not represent appropriate and desirable development of the lot.

The Report to the Committee of Adjustments classifies the secondary structure at 662 Portsmouth Avenue to be a legal non-confirming building. The section titled "Legal Non-confirming" states the following on page 4 of 10:

"Subsection 45(2)(a)(ii) of the Planning Act authorizes the Committee of Adjustment to permit the use of such land, building or structure for a purpose that, in the opinion of the Committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, if the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the Committee **continued until the date of the application to the Committee.**"

The premise of this argument is that the garage was an existing structure prior to the Zoning By-Law Number 8499 which was passed by council in 1975, and this garage can be converted to secondary residential unit. This assertion is re-iterated in the section titled "Zoning By-Law" on page 7 of 10 which states:

"The detached accessory structure is deemed a legal non-confirming use since the structure existed prior to the passing of Zoning By-Law Number 8499 in 1975."

A basic search on public applications such as Google Maps shows that the structure did not exist as recently as 2016: Figure 1 (a screen capture from Phillips Street in April 2012) and Figure 2 (a screen capture from Portsmouth Avenue in June 2016) both show that the only thing present during those years was what appears to be a concrete pad. These views demonstrate that no structure existed at all for at least a four-year period.

The first evidence of the structure appears in Google maps historical view from September 2017 as shown in Figure 3. Clearly, the structure was built at some point between June 2016 and September 2017.



Figure 1 – April 2012 Google Maps Street view of 662 Portsmouth Avenue as seen from Phillips Street



Figure 2 – June 2016 Google Maps Street view of 662 Portsmouth Avenue as seen from Portsmouth Avenue



Figure 3 – September 2017 Google Maps Street view of 662 Portsmouth Avenue as seen from Portsmouth Avenue

Given that the assertion that this structure was in place prior to 1975 is demonstrably false, we object to the application to “convert” the structure for use from a garage to a secondary residential unit. The new structure does not and never did have garage doors, which suggest the new structure was built with intent to be used as a secondary residential unit.

Although there would be no issue with a secondary structure in general, this particular structure appears to have been built without any permits and violates the required minimum side yard of 1.2 meters. These factors may increase the risk of fire to the neighbouring properties on both Portsmouth and Phillips Street.

The City of Kingston should recognize that approval of this application would set a new precedent to allow residents to build entirely new structures in locations that violate the city of Kingston by-laws, simply by accessing the city archives to determine if previous structures existed prior to 1975.

We are sure the committee of adjustment agrees that any new structures built on residential properties must first obtain the appropriate permits and all plans or designs must conform to existing by-laws prior to start of construction. We do not believe it is acceptable to build a new structure in violation of the by-laws, and then mislead city officials by claiming this is a conversion of an existing garage to a secondary residential structure.

Thank you for considering our objections in your ruling,

Regards,

Vasant and Vijayashree Mhatre

From: Kheir-Moghadam,Golsa <gkheir-moghadam@cityofkingston.ca>
Sent: February 22, 2021 12:43 PM
To: 'Vijayashree Mhatre' **Cc:** Park,Tim <tpark@cityofkingston.ca>; Sthamann,Lindsay <lsthmann@cityofkingston.ca>; Thompson,James <jcthompson@cityofkingston.ca>; Kiran Mhatre; Fawcett,Elizabeth <EFAWCETT@cityofkingston.ca>
Subject: RE: D13-067-2020 - 662 Portsmouth Avenue - Correspondence

Hi Vijayashree and Vasant,

Thank you for your follow up email!

City of Kingston does require a permit for the demolition of the structures. However, given the time period (2011-2013), it was not possible for me to locate a demolition permit on our system. But that does not necessarily mean that a demolition permit was not issued at that time.

The Building Permit that was issued in 2013 shows to us that the purpose of the work was to repair a non-complying accessory structure. It is uncertain if the previous structure was situated on compacted gravel or concrete that required replacement. Re-building of the non-complying accessory structure, would also have permitted the pouring of a new foundation.

An accessory structure can be used for storage of vehicles or other objects. The City of Kingston does not have any evidence that this structure is currently being used as a residential unit, and it is not within the scope of the Minor Variance application to confirm the existence or non-existence of human habitation within a building. You have the right to file a complaint through By-Law Enforcement, to request further investigation in this regard.

As a condition of the Minor Variance, the owner must 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. This will be confirmed prior to the issuance of the building permit.

The Building Permit application will also be reviewed and assessed by Fire Department as well as Utilities Kingston to ensure the fire safety and serviceability of the unit.

The subject accessory structure will not be permitted to be used for residential purposes, unless the Minor Variance and Building Permit application are approved.

Please feel free to attend tonight's virtual Committee of Adjustment meeting at 5:30. Information on how to attend the meeting can be found at <https://www.cityofkingston.ca/city-hall/committees-boards/committee-of-adjustment>.

Best Regards,



Golsa Kheir-Moghadam

Planner
Planning Services

City of Kingston
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216 Ontario Street, Kingston, ON K7L 2Z3
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gkheir-moghadam@cityofkingston.ca

From: Vijayashree Mhatre
Sent: February 17, 2021 5:33 PM
To: Kheir-Moghadam, Golsa <gkheir-moghadam@cityofkingston.ca>; Fawcett, Elizabeth <EFAWCETT@cityofkingston.ca>
Cc: Park, Tim <tpark@cityofkingston.ca>; Sthamann, Lindsay <lsthamann@cityofkingston.ca>; Thompson, James <jcthompson@cityofkingston.ca>; Kiran Mhatre
Subject: Re: D13-067-2020 - 662 Portsmouth Avenue - Correspondence

Hello Golsa,

Thank you for responding to our letter of objection. We are still confused by many of the details in your response. Hopefully you can help us to understand:

1. Below you state that the Building Permit to "permit the repair" was issued in 2013. However, the structure that was built in the 1950s did not exist in 2013. As we have shown in the original attached letter, Google maps historical view show it was not even present in 2012. Can you please clarify the how a structure that did not exist at the time of the permit could be repaired?
2. Does City of Kingston by-laws require a permit for the demolition of the structure prior to the actual demolition?
3. Given that the building was already demolished by 2012, why would an entirely new structure be permitted by the city in violation of the zoning by-laws of that time. We can understand if a permit was issued to build a new structure that follows the by-laws, but why would a permit be issued to pour a new concrete foundation and build an entirely new structure in violation of by-laws?
4. The most recent application is for conversion of the structure into a second residential unit. The entirely new structure that was built between 2016 and 2017 was built as a residential unit. In fact, a former listing for this property indicated "potential for 3 units". So what exactly is being converted by this application? The current structure has a deck and can in no way, shape or form be considered a garage.
5. Were the necessary permits approved for the water and sewer connections to the new structure?

As stated in our original letter, we don't have a specific objection with a secondary residential unit. It still appears that the application is misleading in the suggestion that a structure from the 1950s was "repaired". The structure we completely demolished, and what appears to be new concrete was laid, and an entirely new residential structure was built in the same spot.

Our personal concerns are related to the increased risk of fire, as well as drainage from this new structure due to the fact this structure isn't conforming to the current by-laws and its not clear if appropriate permits were in place for work that has already been completed.

The basic question is does the city permit the construction of entirely new structures that violate the current by-laws in effect.

We have CC'ed our son Kiran Mhatre, as we have asked him to join us for the upcoming Zoom meeting to help us ensure we understand everything that is discussed.

Regards,

Vijayashree and Vasant Mhatre

From: Kheir-Moghadam,Golsa <gkheir-moghadam@cityofkingston.ca>
Sent: February 16, 2021 3:38 PM
To: 'vijayashreemhatre@hotmail.com'; Fawcett,Elizabeth <EFAWCETT@cityofkingston.ca>
Cc: Park,Tim <tpark@cityofkingston.ca>; Sthamann,Lindsay <lsthamann@cityofkingston.ca>; Fawcett,Elizabeth <EFAWCETT@cityofkingston.ca>; Thompson,James <jcthompson@cityofkingston.ca>
Subject: D13-067-2020 - 662 Portsmouth Avenue - Correspondence

Hello Vijayashree and Vasant,

My name is Golsa. I am the planner responsible for the Minor Variance application for the property located at 662 Portsmouth Avenue. I have received your letter of objection with respect to this application and I would like to thank you for taking the time to share your opinion with us.

I would also like to provide some information that I hope would help with clarifying the situation.

The original detached accessory structure was built in 1950s. In 2013, a Building Permit was issued to permit the repair of the legal non-conforming structure, in the same foot print. Both Planning and Building Inspection recognized that this is a permitted non-conforming location as the original structure predated the Zoning By-Law. This was confirmed in 2013 when a Building Permit was issued to repair the building. Once the Building Permit was in place, the legal status of the building was reserved for the duration of the work.

A second building permit application concurrently with the Minor Variance application is being processed for the renovation and conversion of the structure into a second residential unit.

I hope this email is helpful.

Please let me know if you need any additional information or if you have any question.

Best Regards,



Golsa Kheir-Moghadam

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