

City of Kingston Report to Committee of Adjustment Report Number COA-21-029

To: Chair and Members of the Committee of Adjustment

From: Sarah Oldenburger, Planner

Date of Meeting: April 19, 2021

Application for: Minor Variance

File Number: D13-058-2020

Address: 226-228 King Street East

Owner: Thomas Mcgregor

Applicant: PC Custom Construction

Council Strategic Plan Alignment:

Theme: Business as usual

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 226-228 King Street East. The applicant is proposing to add an approximately 7.2 metre by 6.8 metre (23.5 by 22 foot) garage in the backyard of the subject property, which would be accessed by the driveway on the neighbouring property (municipally known as 232 King Street East) over which the owner of the subject property has an easement, in the form of a right of way, registered on title. The applicant is proposing to remove the existing shed (which covers approximately 3% of the subject property) and replace it with the proposed garage (which would cover approximately 16.5% of the subject property), which necessitates a minor variance of 1.5% for lot coverage of the proposed garage.

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 8499. The requested minor variance is desirable for the appropriate development or use of the land, building or structure and is minor

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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:

By-Law Number 8499: Section 5.17(e)(ii).

Requirement: Maximum Lot Coverage: 15 per cent of lot area.

Proposed: 16.5%

Variance Requested: 1.5%

Recommendation:

That minor variance application, File Number D13-058-2020, for the property located at 226-228 King Street East, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-21-029.

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Authorizing Signatures:

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Sarah Oldenburger, Planner

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

Tim Park, Acting Director, Planning Services

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Options/Discussion:

On November 20, 2020, a minor variance application was submitted by PC Custom Construction, with respect to the property located at 226-228 King Street East. The variance is requested to add an approximately 7.2 metre by 6.8 metre (23.5 by 22 foot) garage in the rear yard of the subject property, which would be accessed by the neighbour's driveway to the north (municipally known as 232 King Street East) over which the owner of the subject property has an easement, in the form of a right of way, registered on title. The applicant is proposing to remove the existing shed (which currently covers approximately 3% of the subject property) and replace it with the proposed garage (which would cover approximately 16.5% of the subject property).

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

- Site Plan (Exhibit G)
- Garage Design (Exhibit H)
- Stormwater Management Drawing
- Right of Way

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 within the urban boundary on an arterial road (according to Schedule 4 of the Official Plan) municipally known as King Street East, is a designated property (under Part IV of the *Ontario Heritage Act*), and is located within the Old Sydenham Conservation District (under Part V of the *Ontario Heritage Act*). The property is located midblock between William Street and Earl Street and is across the street from the edge of the Downtown and Harbour Zoning By-Law Area Number 96-259. 226-228 King Street East is designated "Residential" in the Official Plan and zoned "B" in Zoning By-Law Number 8499. The property abuts three residential uses in the "B" zone: 224 King Street East; 232 King Street East; and 49 Earl Street, all of which are designated properties (under Part IV of the *Ontario Heritage Act*).

Conditional Heritage Act approval, <u>File Number P18-099-2020</u>, was granted for the proposed detached garage and the removal of the existing shed on January 12, 2021. The existing shed, proposed to be removed, is not of heritage value.

Application

The review of an application for minor variance is not a simple mathematical calculation, but rather a detailed assessment of whether the variance(s) requested, both separately and

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together, meet the four tests of a minor variance outlined in Subsection 45(1) of the *Planning Act*. The following provides this review:

Provincial Policy Statement

In addition to the four tests of a minor variance detailed above, Subsection 3(5) of the *Planning Act* requires that a decision in respect of the exercise of any authority that affects a planning matter shall be consistent with the Provincial Policy Statement (the PPS). The PPS provides policy direction on matters of provincial interest related to land use planning and development which are complemented by local policies addressing local interests. The application being considered is site specific to accommodate a specific proposal and does not involve any major policy considerations and as such, the proposal conforms to and is consistent with the PPS.

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

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

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 subject property is designated Residential in Schedule 3-A and this proposal does not seek to change the current permitted use on the property.

The subject property is located within a Centre in Schedule 2 and this proposal does not seek a fundamental change that would impact the neighbourhood characteristics. The subject property is located in a stable area with well-established land use pattens in terms of density, types or use(s) and activity. The addition of the proposed garage would not negatively impact the neighbourhood.

The proposal is in compliance with the recommendations set out by Heritage Kingston (as per Official Plan policies in Section 7.3.C), provided that the applicant provides proof of archeological clearance prior to any ground disturbance and follows the recommendations provided in the heritage permit (File Number P18-099-2020).

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;

Section 2.7.3 discusses land use compatibility matters, such as how structures on one property can affect an abutting property. This application is to build a detached garage in the rear yard of the subject property, which would be accessed by the driveway on the neighbouring property (municipally known as 232 King Street East) over which the owner

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of the subject property has a right of way. In this case, there are no negative off-site impacts that would result from the proposed change to the property. Due to the fact that the proposed garage is suitably set back from the neighbouring properties and does not have any doors or windows facing the south or west lot lines, there are no shadow impacts, loss of privacy due to intrusive overlook, increased levels of light pollution, noise, or odour anticipated from the addition of the proposed garage. The applicant is responsible for ensuring that any changes to grading and/or drainage will not adversely affect the neighbouring or the subject lands as part of the building permit process. No increased level of traffic is anticipated. In addition, Heritage Kingston has conditionally approved the designs for the proposed garage given their architectural compatibility with the District. Mitigation measures are not required.

- 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;
 - Section 2.7.6. discusses functional needs and the City only supports development proposals which meet the long-term needs of the residents. The proposed garage is a suitable scale and will replace the existing shed while maintaining the required minimum landscaped open space requirements. The proposed garage would be accessed by the neighbour's driveway to the north (municipally known as 232 King Street East) over which the owner of the subject property has a right of way. The proposed garage would be accessed by two openings: one large garage door on the north elevation which would enable vehicular access, and one interior facing entranceway on the east elevation which would enable access by a pedestrian pathway from the rear of the primary dwelling. The proposed garage would create a secure parking area for vehicles and bicycles on the subject property, allowing for additional functional space for the residence. The proposal will not negatively impact the functional needs of the current or future residents.
- 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 located within the Old Sydenham Heritage Conservation District (under Part V of the *Ontario Heritage Act*) and is abutting three listed properties with cultural heritage value (under Part IV of the *Ontario Heritage Act*). As the proposed garage was subject to Heritage Permit P18-099-2020, this proposal is not subject to Site Plan Control. The property is located within an Archaeologically Sensitive Area. As such, archaeological clearance is required. The proposal is in compliance with the recommendations set out by Heritage Kingston, provided that the applicant provides proof of archaeological clearance prior to any ground disturbance (as per File Number P18-099-2020).
- 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

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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 designated under Part IV of the *Ontario Heritage Act*, is adjacent/abutting three listed or designed heritage properties (under Part IV of the *Ontario Heritage Act*), and is located within the Old Sydenham Heritage Conservation District (under Part V of the *Ontario Heritage Act*). The proposed changes to the subject property have been reviewed and conditionally approved by Heritage Kingston, provided that proof of archeological clearance is provided prior to ground disturbance (as per File Number P18-099-2020).

- 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 municipal water and sewage services. As this application focuses on adding a detached garage in the rear yard, no additional service usage is expected.
- 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 variance 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 garage 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 "B" 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 "B" zone permits residential uses (specifically, three to six family dwellings),

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and the subject property is an existing non-conforming residential use as it was built prior to the implementation of Zoning By-Law Number 8499.

The proposal requires a variance to Section 5.17: "Accessory Building".

Variance:

By-Law Number 8499: Section 5.17(e)(ii).

Requirement: Maximum Lot Coverage: 15 per cent of lot area.

Proposed: 16.5% Variance Requested: 1.5%

The purpose of the maximum lot coverage regulations for accessory buildings in Zoning By-Law Number 8499 is to control for: (1) the over-development of lots; (2) the potential increase in stormwater runoff and/or drainage issues due to the increase in non-permeable surfaces caused by the accessory building(s); (3) the addition of an excessive number of accessory buildings; and (4) the addition of accessory building(s) which are larger than the primary dwelling to maintain visual consistency and to maintain the principal dwelling's visual dominance on the lot.

The variance maintains the general intent and purpose of the Zoning By-Law since: (1) the landscaped open space requirements are met, signaling that the lot is not being over-developed; (2) the applicant is responsible for ensuring that any changes to the grading and/or drainage will not adversely affect the neighbouring or the subject lands as part of the Building Permit process; (3) the proposal seeks to replace the current shed with the proposed garage such that only one accessory building would remain; and (4) the proposed garage is smaller than the primary dwelling and requires a 1.5% variance for maximum lot coverage for an accessory building; and (5) the proposed garage fulfills all of the other "B" zone accessory building regulations in Section 5.17.

The general intent and purpose of the Zoning By-Law Number 8499 is maintained.

3) The variances are minor in nature

The requested variance to allow a 1.5% increase in lot coverage for an accessory building is considered minor since: (1) the proposed garage does not change the functional characteristics of the neighbourhood; (2) the proposed garage would be situated at the rear of the property such that it would maintain the character of the neighbourhood; (3) the owner of the subject property has a right of way over the driveway on the neighbour's property to the north (municipally known at 232 King Street East) which would enable legal access to the proposed garage; (4) the proposed garage fulfills all of the other "B" zone accessory building regulations in Section 5.17; (5) the proposed garage is not anticipated to have any adverse off-site impacts; and (6) Heritage Kingston has no concerns regarding the proposed garage, provided that proof of archeological clearance is provided prior to any work being done on the site that would result in ground disturbance (as per File Number P18-099-2020).

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The proposed variances are considered minor in nature.

4) The variances are desirable for the appropriate development or use of the land, building or structure

The variance requested is desirable and appropriate use of the land as: (1) the owner is seeking to replace the existing shed with a garage, which will increase the functionality of the site while not having an off-site impacts as the proposed garage is setback from lot lines and because the applicant is responsible for ensuring that any changes to grading and/or drainage will not adversely affect the neighbouring or the subject lands as part of the building permit process; (2) the required minimum landscaped open space requirements are met by the proposal, ensuring that there are sufficient permeable surfaces and outdoor amenity space on the subject property; and (3) the scale and design of the proposed garage are appropriate for the dwelling size and the design is characteristic of the neighbourhood and surrounding District, as Heritage Kingston has no concerns regarding the proposed garage, provided that proof of archeological clearance is provided prior to any ground disturbance (as per File Number P18-099-2020).

The proposed variance is desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

\boxtimes	Building Services		
	Finance	□ Utilities Kingston	☐ Real Estate & Environmental Initiatives
\boxtimes	Fire & Rescue		
\boxtimes	Solid Waste	□ Parks Development	□ Canadian National Railways
	Housing		☐ Ministry of Transportation
	KEDCO		□ 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 apart from archaeological clearance of the property being required prior to any ground disturbance (as per File Number P18-099-2020). Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

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Public Comments

At the time this report was finalized, March 19, 2021, no public comments have been 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 is a relevant Heritage permit for the subject property (File Number P18-099-2020) which conditionally approves the proposed garage, provided that proof of archeological clearance is provided prior to any ground disturbance.

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 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.

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 April 19, 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 52 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.

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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, Acting Director, Planning Services, 613-546-4291 extension 3223

Sarah Oldenburger, Planner, 613-546-4291 extension 3288

Other City of Kingston Staff Consulted:

None

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 Number 8499, Map 31

Exhibit F Neighbourhood Context Map (2020)

Exhibit G Site Plan

Exhibit H Garage Design

Recommended Conditions for Approval

Application for minor variance, File Number D13-059-2020

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

1. Limitation

That the approved minor variance applies only to garage at 226-228 King Street East as shown on the approved plans 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 drawings, 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. Demolition Permit

The owner/applicant shall obtain a Demolition Permit through the Building Division for the removal of the accessory building located on the subject property. The owner/applicant shall provide the Secretary-Treasurer, Committee of Adjustment, a copy of the Demolition Permit and confirmation that the accessory buildings have been removed prior to the issuance of the Certificate of Official.

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.

Exhibit B Report Number COA-21-029 W'II'am St & Committee of Adjustment Earl St **Key Map** KINGSTON Address: 226-228 King Street E Gore St File Number: D13-058-2020 **Planning** Lower Un on St **Services** Lands Subject to Minor Variance Wellington St. 1 W, am St ting sp Earl St Metres Prepared By: adowker Date: Feb-11-2021 1:750

Exhibit C Report Number COA-21-029

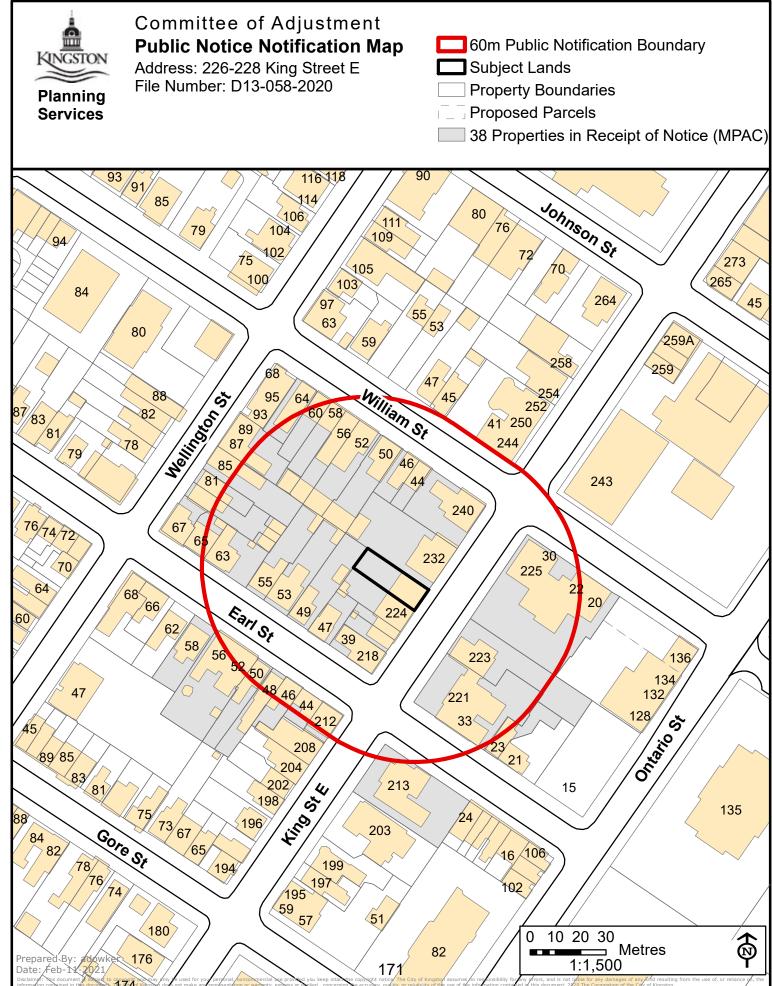
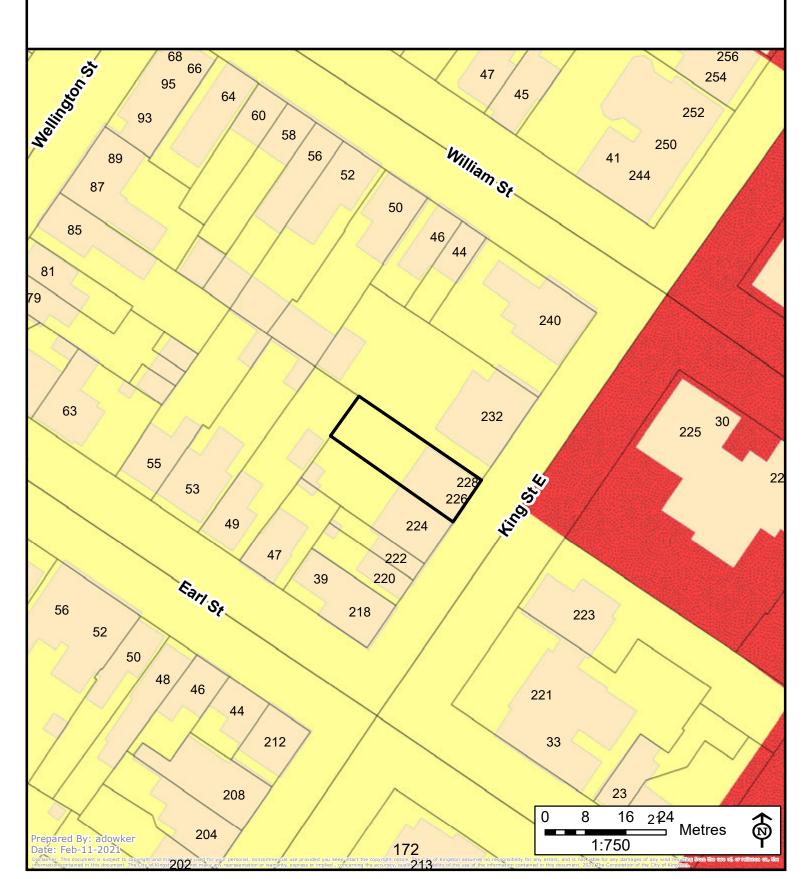


Exhibit D Report Number COA-21-029



Committee of Adjustment Official Plan, Existing Land Use

Address: 226-228 King Street E File Number: D13-058-2020 Subject Lands
CENTRAL BUSINESS DISTRICT
RESIDENTIAL







Committee of Adjustment Neighbourhood Context (2020)

Address: 226-228 King Street E File Number: D13-058-2020

L Subject Lands				
Property Boundaries				
Proposed Parcels				



Landscoping Plan Exhibit G **Report Number COA-21-029** Existing Propose d Existing tree Existing tree 2% Shed 2% Asphalt New Garage Drivens 3% Par king 290 Lut coverage: 16.5% Pal 5.5 mx 6m Shared Shared 1 1 Garden Laneway Lonenay Path 4% Gorden Lawn 35% 10% Gorden Lann area 27% 8% Pathnay 1 to Garage 1 House House Lot coverage 34% Lot coverage: 34% Approx Approx Front Garden 2% Front Gorden 2% Lanenay - 4mx 26m

Landscaped upon area currently -53% (159 m²)
Landscaped upon area proposed - 47% (141 m²)



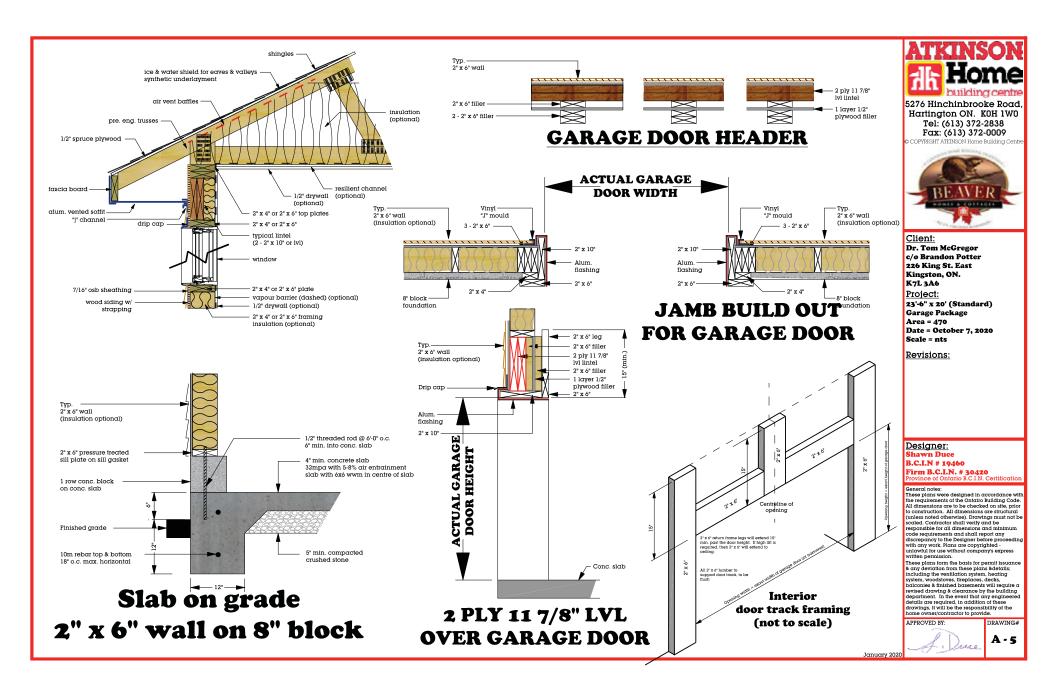
Proposed

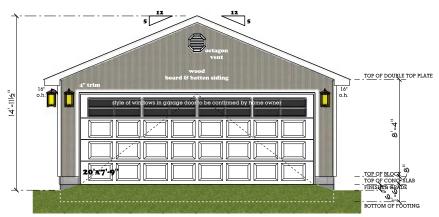
23'-6" x 20' Garage Dr. Tom McGregor

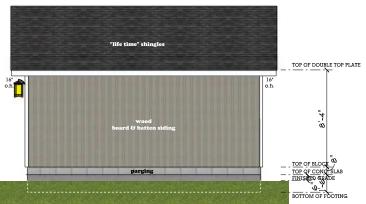
Dr. Tom McGregor c/o Brandon Potter 226 King St. East Kingston, ON. K7L 3A6











5276 Hinchinbrooke Road, Hartington ON. KOH 1WO Tel: (613) 372-2838 Fax: (613) 372-0009 Client: Dr. Tom McGregor

c/o Brandon Potter

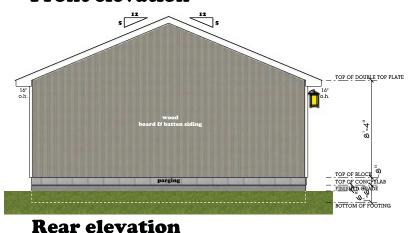
23'-6" x 20' (Standard) Garage Package Area = 470

Date = October 7, 2020 Scale = 3/16" = 1' - 0"

Revisions:

226 King St. East Kingston, ON. K7L 3A6 Project:

Front elevation



Right elevation



Left elevation

Designer:

B.C.I.N # 19460 Firm B.C.I.N. # 30420 Province of Ontario B.C.I.N. Cer

General noise:
These plans were designed in accordance with
the requirements of the Ontairo Building Code.
All dimensions are to be checked on site, prior
to construction. All dimensions are structured
to construction and the construction of the

written permission. These plans from the basis for permit issuance & any deviation from these plans &details; including the ventilation system, heading including the ventilation system, heading believes a state of the plant of the plant of the plant of the plant of the ventilation system of the ventilation of the ventilation of these drawings, it will be the responsibility of the home owner/contractor to previously of the home owner/contractor to previously of the

DRAWING#

A - 1

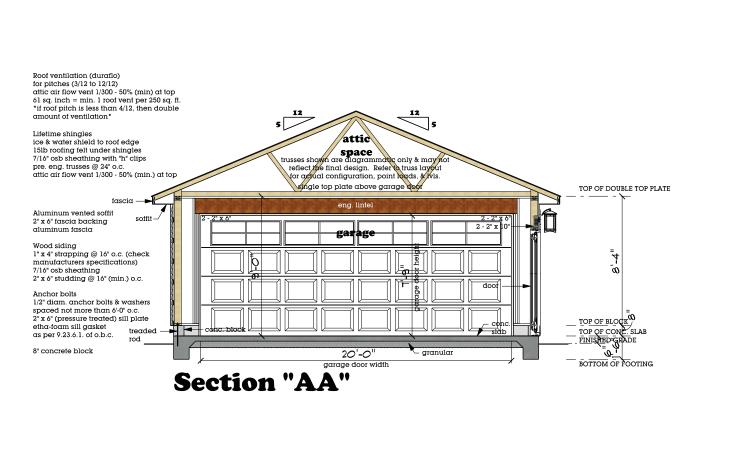
APPROVED BY:

Exterior window & door schedule

Туре	Dimension	Width	Height	Descripton		
A	37 1/2" x 82"	37 1/2"	82"	b-02 steel door		
*Openings are frame size, add (min.) 1/4" for r.s.o. **Refer to elevations for operations						

all windows to conform to the requirements of aama/wdma/csa 101/i.s.2/a440-08 "nais - north american fenestration standard/specification for windows, doors, & skylights". as per 9.7.4.1. of o.b.c.
windows located within (6' - 6 3/4') of adjacent ground level, shall conform to clause 5.3.5 of

the above standard. as per 9.7.5.3. of o.b.c.



Client:

Dr. Tom McGregor c/o Brandon Potter 226 King St. East Kingston, ON. K7L 3A6 Project:

23'-6" x 20' (Standard) Garage Package Area = 470

Date = October 7, 2020 Scale = 1/4" = 1' - 0"

Revisions:

Designer:
Shawn Duce
B.C.I.N # 19460
Firm B.C.I.N. # 30420
Province of Ontario B.C.I.N. Certification

General notes:

General notes:
These picus were designed in accordance with the requirements of the Ontario Building Code.
These picus were designed in a construction to construction. All dimensions are structural (unless noted otherwise) Drawings must not be scaled. Contractors shall verify and be responsible for all dimensions and minimum code requirements and shall report any discrepancy to the Designer before proceeding with any work. Finans are copyrighted - unlowful for use without company's express written permission.

These plans form the basis for permit issuance & any deviation from these plans &details; including the ventilation system, heating system, woodsloves, fireplaces, decks, balconies & finished basements will require a revised drawing & clearance by the building department. In the event that any engineered details are required, in addition of these drawings, it will be the responsibility of the home owner/contractor to provide.

APPROVED BY:

drawing# **A - 4**

A. Dune

