

# City of Kingston Report to Committee of Adjustment Report Number COA-22-012

To: Chair and Members of the Committee of Adjustment

From: Jason Partridge, Planner

Date of Meeting: December 13, 2021

Application for: Minor Variance

File Number: D13-066-2021

Address: 853 Development Drive

Owner: Anu & Frank Bresnai

Applicant: Shivani Khapare

#### **Council Strategic Plan Alignment:**

Theme: Policies & by-laws

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 853 Development Drive. The applicant is requesting relief from the requirements regarding the minimum setback from rear lot line to build a one story three season enclosed sunroom within the side yard of the property. The resulting new three season enclosed sunroom will be 13.94 square metres in size and complies with all minimum side yard, height and landscaped open space requirements.

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.

Page 2 of 11

Variance Number 1: Rear Yard Setback By-Law Number 76-26: Section 12 (2)(f)

Requirement: 7.62 Metres Proposed: 5.0 Metres

Variance Requested: 2.62 Metres

#### Recommendation:

**That** minor variance application, File Number D13-066-2021, for the property located at 853 Development Drive seeking relief from the minimum setback from rear lot line, in order to permit the construction of a 13.94 square metre, one storey, three season enclosed sunroom within the side yard be approved; and

**That** approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-022-012.

Page 3 of 11

#### **Authorizing Signatures:**

ORIGINAL SIGNED BY PLANNER

Jason Partridge, Planner

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

Tim Park, Director, Planning Services James Bar, Manager, Development Approvals

Page 4 of 11

#### **Options/Discussion:**

On October 15, 2021, a minor variance application was submitted by Shivani Khapare, on behalf of the owner, Anu & Frank Bresnai, with respect to the property located at 853 Development Drive.

The purpose of the application is to permit the construction of a one storey, three season enclosed sunroom within the side yard near the rear lot line of the property. The total area of the proposed new one storey three season enclosed sunroom is 13.94 square metres.

The lot is a corner lot. Due to this configuration, the frontage in the zoning by-law is considered to be Boxwood Street as it is the short frontage, making Development Drive the exterior side yard, the lot line shared with the Jehovah's Witness Kingdom Hall the rear yard, and the lot line shared with 307 Boxwood Crescent the interior side yard. The building is non-conforming with the rear yard setback as it is only 4.7 metres back when the by-law requires 7.62 metres. Due to the proposed location of the sunroom, it is compliant with the interior side yard setback, but at 5 metres from the rear yard, it is not in conformance with the rear yard setback, necessitating this minor variance application.

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

• Site Plan (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 subject property is located on Development Drive and is situated within an established residential area in Bayridge East (Exhibit B – Key Map and Exhibit F – Neighbourhood Context). The site is currently developed with a single-family dwelling on a municipal services. The surrounding area includes single family dwellings and municipal owned roads.

The subject property is designated Residential in the Official Plan and zoned R1-3 in Zoning By-Law Number 76-26.

The subject property is in proximity to various community and open space uses, local schools and commercial uses. Kingston Transit operates in proximity to the site, with Transit Route15 operating along Development Drive north of the site.

#### **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

Page 5 of 11

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 proposed side yard three season enclosed sunroom will not have any negative impacts on abutting properties or residential and/or uses or structures. The proposal is compatible with the surrounding residential uses and will not result in significant impacts or changes to the surrounding area.

The proposed sunroom is for a permitted residential use. Section 2.2.5 (Housing Districts) states that these areas are:

"...planned to remain stable in accordance with Section 2.6 of this Plan but will continue to mature and adapt as the City evolves. Reinvestment and upgrading will be encouraged through minor in-filling and minor development (i.e. that which can integrate compatibility within the prevailing built form standards of height, density and amenity that are generally found in the neighbourhood."

The sunroom represents a reinvestment to the property that will result in a minor development on the subject property. No additional dwelling units are proposed. There is no increase in density or intensity of uses. The proposed side yard sunroom is consistent with the intent of this policy.

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;

#### Page 6 of 11

The proposed three season enclosed sunroom will result in a development that is consistent with the existing rear yard built-form of several residential buildings located west and south of the subject property along Development Drive and Boxwood Street. 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;

The proposal involves the construction of a one-storey, three season enclosed sunroom within the side yard of the subject property. There will be no concerns with respect to the parking of vehicles and bicycles or issues relating to accessibility. One parking spot is required and provided.

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 subject property is not located within a heritage district or adjacent to any designated properties under the *Ontario Heritage Act*. The design and materials proposed complement the built form and materials of the existing dwelling and neighbouring properties.

The proposal does not involve a significant alteration to the existing built form on the site and will not cause any adverse impacts on adjacent properties.

- 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 on the City's Heritage Register and as such a Heritage Impact Statement is not required.
- 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 site is located inside of the Urban Boundary and is developed with sufficient municipal water and sewage services.
- 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;

#### Page 7 of 11

The proposed variance is considered minor and the development is consistent with the existing built form along Development Drive. Therefore, a zoning by-law amendment is not required.

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;

As part of the recommendation, suggested conditions have been listed. The 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 surrounding residential uses include single family dwellings. The approval of the requested variance is considered minor and will not set a precedent for the immediate area.

The proposal meets the intent of the Official Plan, as the proposed 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 R1-3 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 converted dwelling house, a single-family dwelling house and a home occupation. The proposed side yard 1 storey three season sunroom is a permitted use within the 'R1-3' Zone (Exhibit E)

The proposal requires a variance to Section 76-26: Section 12 (2)(f)

#### Variance Number 1: Rear yard setback

By-Law Number: 76-26 Section 12 (2)(f)

Requirement: 7.62 Metres Proposed: 5.0 Metres

Variance Requested: 2.62 Metres

A variance is required from Section 12 (2) (f) of Zoning By-Law Number 76-26 to seek relief from the minimum setback from the rear lot line. Within Section 12 (2) (f) the minimum setback from the rear lot line is 7.62 metres. The proposed sunroom will be setback 5.0 metres, which does not comply with the minimum rear yard setback. As such, the applicant is seeking a variance of 2.62 metres to construct the side yard sunroom.

The intent of the minimum setback from rear lot line is to reduce concerns about overlook into peoples yards and prevent overdevelopment of a side/rear yard space with excessive amounts of building area. The proposed sunroom maintains a 5.0 metres setback to reduce impact on the neighbouring property. It also proposed a pass-through design which

Page 8 of 11

will maintain access to the side/rear of the property and exceed the interior lot line setbacks. The general intent and purpose of the by-law is maintained.

#### 3) The variance is minor in nature

The proposed one storey, three season sunroom will result in a development that is consistent with the existing built form of residential development along Development Drive. The proposed sunroom will be located within the side yard and will not result in intrusive overlook with respect to adjacent residential properties. The minimum interior yard setbacks will be exceeded between the southern adjacent property and the proposed sunroom backs onto an Institutional land use area towards the rear yard of the property. The variances will not alter the character of the neighbourhood or the existing streetscape. The total area of the proposed sunroom is 13.94 square metres.

The variances are considered minor as there will be no negative impacts on abutting properties or residential and/or uses or structures.

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

The proposed development will provide the functional needs for the existing residential use. The form of residential development is long established. Thus, the overall density, type of use and scale of activity as proposed is consistent with the existing built form of residential buildings along Development Drive and Boxwood Street.

The resulting built form satisfies all applicable provisions of the zoning by-law, except for the rear lot line setback. The proposal does not involve a significant alteration to the existing built form on the site and will not cause any adverse impacts on adjacent properties.

The proposal is appropriate and compatible with the surrounding residential uses and will not result in significant impacts or changes to the surrounding area.

The variance is desirable and appropriate use of the land.

Page 9 of 11

#### **Technical Review: Circulated Departments and Agencies**

X	Building Services		
	Finance	□ Utilities Kingston	☐ Real Estate & Environmental Initiatives
$\boxtimes$	Fire & Rescue	☐ Kingston Hydro	□ City's Environment Division
	Solid Waste	□ Parks Development	□ Canadian National Railways
	Housing		☐ 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 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 76-26. The proposal is desirable for the appropriate development or use of the land, building or structure and the requested variance(s) 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 a new 13.94 square metres 1 storey three season sunroom within the side yard of the subject property. The proposed side yard sunroom will improve the function of the existing residential use on the site and represents good land use planning.

Page 10 of 11

#### **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 December 13, 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 19 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:

James Bar, Manager, Development Approvals, 613-546-4291 extension 3213

Jason Partridge, Planner, 613-546-4291 extension 3216

#### Other City of Kingston Staff Consulted:

None

Page 11 of 11

#### **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 76-26, Map 5

Exhibit F Neighbourhood Context Map (2021)

Exhibit G Site Plan

Exhibit H Elevations

#### **Recommended Conditions**

#### Application for minor variance, File Number D13-066-2021

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

#### 1. Limitation

That the approved minor variance applies only to the subject lands located at 853 Development Drivefor the proposed side yard 1 storey three season sunroom 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.

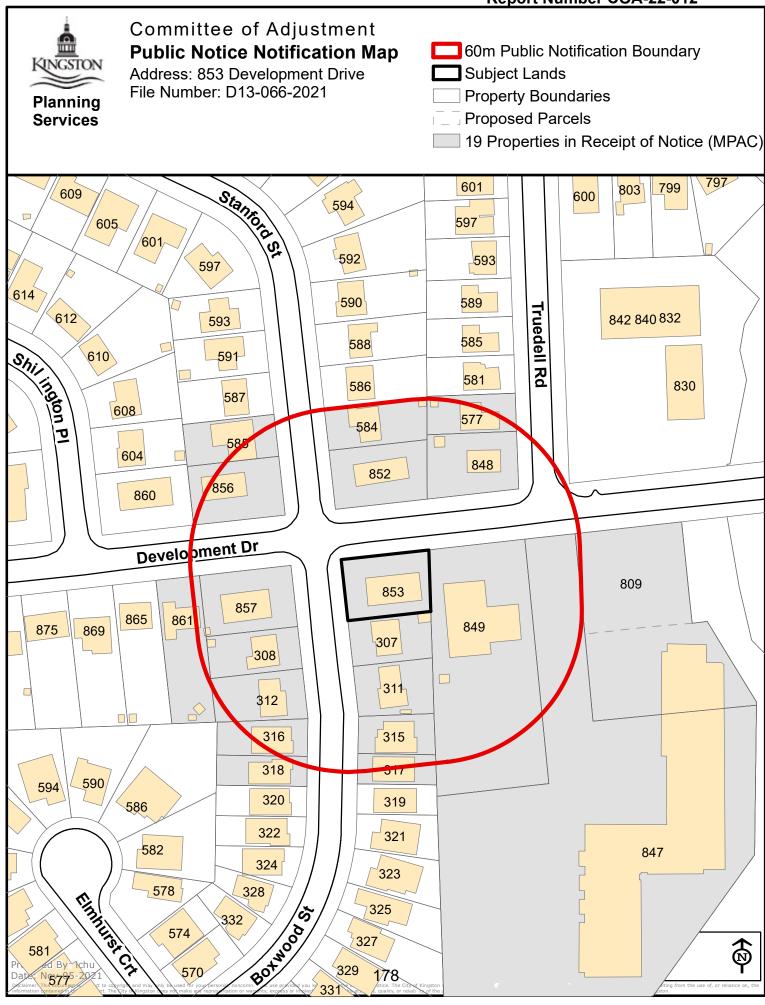
#### 4. Standard Archaeological Condition

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 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.

**Exhibit B Report Number COA-22-012** Stanford St Committee of Adjustment **Key Map** KINGSTON Address: 853 Development Drive D velopment Dr File Number: D13-066-2021 **Planning** Services Boxwood St Lands Subject to Minor Variance 586 587 577 584 Truedel Rd Stanford St 585 848 852 856 **Development Dr** 853 857 849 307 Boxwood St 308 311 312 316 315 0 14 21 317 318 Metres Prepared By Ichu Date: Nov-05-2021 1:750 177

Exhibit C Report Number COA-22-012

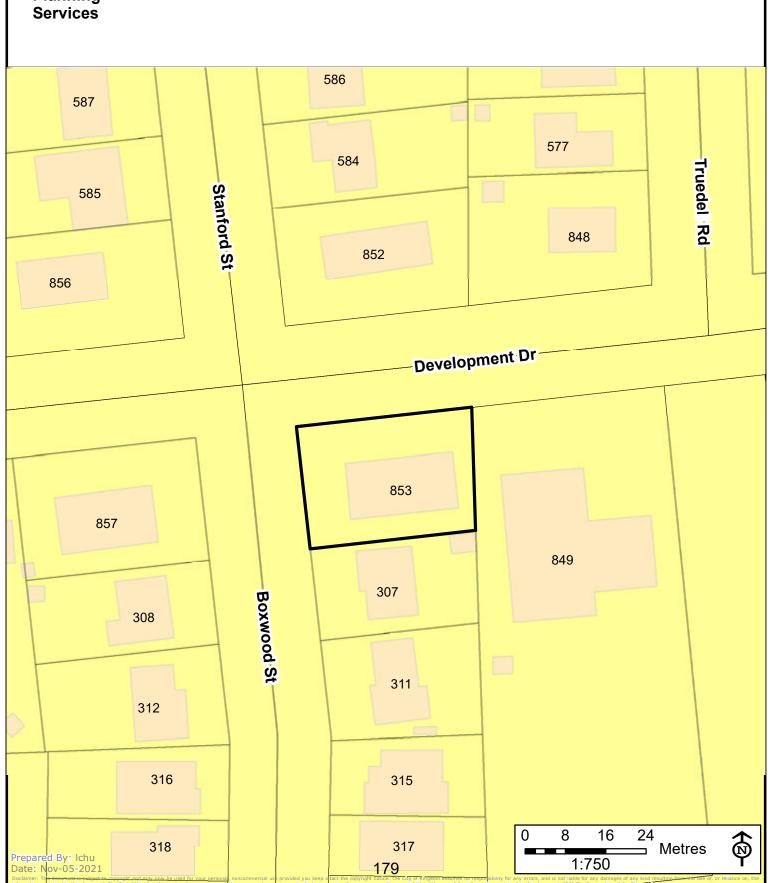


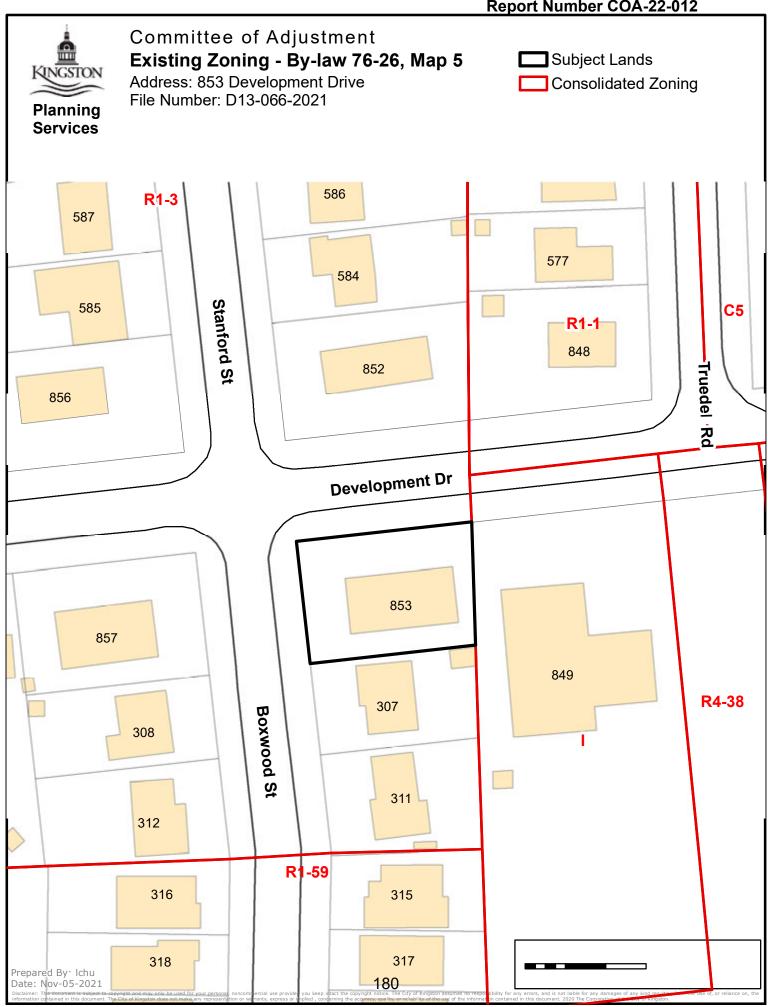


## Committee of Adjustment Official Plan, Existing Land Use

Address: 853 Development Drive File Number: D13-066-2021

Subject Lands
RESIDENTIAL







### Committee of Adjustment Neighbourhood Context (2021)

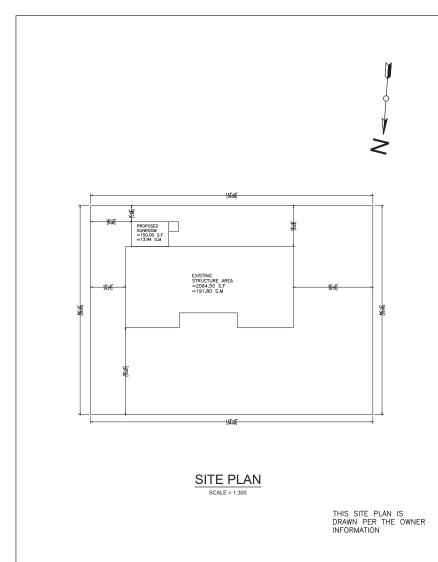
Address: 853 Development Drive File Number: D13-066-2021

<b>L</b> Subject Lands
Property Boundaries
Proposed Parcels



#### PRODUCED BY AN AUTODESK STUDENT VERSION

NOTES:



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PRODUCED BY AN AUTODESK

1. THE WALLS AND ROOF STRUCTURAL PANELS OF THE SUNROOM WILL BE PREFABRICATED BY LIFESTYLE SUNROOMS INC. AND WILL BE INSTALLED BY ITS TRAINED SKILLED INSTALLERS. 2. A PROFESSIONAL ENGINEER UNDERTAKES THE GENERAL REVIEW OF THE INSTALLATION. 3. A FINAL PROJECT REVIEW LETTER WILL BE SUBMITTED TO THE BUILDING DEPARTMENT AFTER THE

4. (1). STAIRS RISER DIMENSIONS SHALL CONFIRM TO ARTICLES 9.8.4.2 AND 9.8.4.3 OF THE 2012 OBC WHICH STIPULATES THAT RISERS DESIGNED FOR PRIVATE USE MUST HAVE A MAXIMUM RISE OF NO MORE THAN 200 mm OR A MINIMUM RISE OF NO LESS THAN 125 mm AND A MAXIMUM RUN OF NO MORE THAN 355 mm OR A MINIMUM RUN OF NO MORE THAN 210 mm AND A MAXIMUM TREAD DEPTH OF 355 mm OR A MINIMUM TREAD DEPTH OF NO LESS THAN 235 mm.

4. (2). REQUIRED EXIT STAIRS SHALL HAVE A WIDTH, MEASURED BETWEEN WALL FACES OR GUARDS, OF NOT LESS THAN 900 mm AS PER ARTICLE 9.8.2.1 OF THE 2012 OBC.

5. THE WIDTH OF THE LANDING IF REQUIRED SHALL BE NOT LESS THAN THE GREATER REQUIRED STAIR WIDTH WHERE ONE OR MORE OF THE STAIR WIDTHS DO NOT EXCEED THEIR RESPECTIVE REQUIRED WIDTHS, OR NOT LESS THAN THE LESSER ACTUAL STAIR WIDTH WHERE ALL OF THE WIDTHS OF THE STAIRS EXCEED THEIR RESPECTIVE REQUIRED WIDTHS AS PER ARTICLES 9.8.6.2 AND 9.8.6.3 OF THE 2012 OBC

6. ALL HAND RAILS AND GUARDS SHALL BE BUILT AS PER OBC 2012 AND SUPPLEMENTARY STANDARD SB-7. EXTERIOR HANDRAIL AND GUARDS TO BE AT LEAST 900 mm OR 36" MEASURED VERTICALLY ABOVE THE NOSING OF ANY TREAD AND/OR PLATFORM NOT MORE THAN 1800 mm OR 5'-11" ABOVE THE FINISHED GROUND AS PER SUBSECTIONS 9.8.7 AND 9.8.8 OF 2012 OBC; ALL PICKET AND/OR GUARD SPACING MUST BE NO MORE THAN 100 mm OR 4" APART AS PER ARTICLE 9.8.8.5 OF THE 2012 OBC; ALL BALUSTERS TO BE SPACED NO MORE THAN 1200 mm OR 48" APART

7.TO CARRY RAINWATER AWAY FROM THE SUNROOM, DOWNSPOUTS WILL BE INSTALLED AT THE OUTSIDE CORNERS OF ROOM IN ACCORDANCE TO ARTICLES 9.26.18.2. 7.3.3.7. AND 5.6.2.2 OF THE 2012 OBC

8. ALL ADDITIONAL ASPECTS OF THE PROJECT WILL BE INSTALLED ACCORDING TO TACBOC DETAILS AND COMPLY WITH THE REQUIREMENTS STIPULATED BY THE 2012 OBC, INCLUDING DOORS (TO SECTION 9.6.); WINDOWS (TO SECTION 9.7.); SKYLIGHTS(TO SUBSECTION 9.7.7.); GLASSES(TO SUBSECTION 9.7.3.); WOOD FRAME CONNECTIONS, DECK FARMING ,STICK BUILT WALLS AND SUBFLOORING (TO SUBSECTION 9.23.14); BUILT-UP BEAMS (TO ARTICLE 9.23.8.3); BUILT-UP COLUMNS (TO ARTICLE 9.17.4.2); ROOFING (TO SECTION 9.26.); ROOF DRAINS AND DOWNSPOUTS (TO SUBSECTION 9.26.18.); FLASHING (TO SUBSECTIONS 9.20.13 &9.26.3 &9.26.4); CLADDING(TO SECTION 9.27.); CAULKING (TO SUBSECTION 9.27.4.); INTERIOR FINISHING (TO SUBSECTION 9.29.); FLOORING (TO SECTION 9.30.); STAIRS, RAMPS, HANDRAILS AND GUARDS (TO SECTION 9.8.); LIGHTING OUTLETS (TO SECTION 9.34.).

LOT AREA	887.50	m²	9,552.92 ft²
TOTAL EXISTING FLOOR AREA	191.80	m²	2064.50 ft²
PROPOSED SUNROOM AREA	13.94	m²	150.00 ft²
TOTAL EXISTING AND PROPOSED FLOOR AREA	205.74	m²	2214.50 ft <sup>2</sup>
TOTAL LOT COVERAGE	~23.18	%	



944 Crawford Dr. Peterborough, Ontario K9J 3X2

www.lifestylesunrooms.com Tel: 800-465-0593

> Fax: 800-934-0822 PROJECT

#### LIFESTYLE UNHEATED SUNROOM ADDITION

PROJECT ADDRESS

853 DEVELOPMENT DR ONTARIO K7M 4W6 KINGSTON

DRAWING TITLE

SITE PLAN

DRAWING NUMBER

01 REVISION PROJECT# DESIGN#

	244	002				
	MODEL TYPE					
	225 STUDIO (ALUM. TOP ROOF)  CLIENT  FRANK & ANU BRESNAI					
	DATE	SCALE				
	JUN 29 2021					
	DRAWN BY:	CHECKED BY:				

