

City of Kingston Report to Committee of Adjustment Report Number COA-22-032

То:	Chair and Members of the Committee of Adjustment
From:	Meghan Robidoux, Intermediate Planner
Date of Meeting:	March 21, 2022
Application for:	Permission and Minor Variance
File Number:	D13-006-2022
Address:	275 Helen Street
Owner:	318275YH INC
Applicant:	The Boulevard Group

Council Strategic Plan Alignment:

Theme: 2. Increase housing affordability

Goal: 2.2 Build a significant number of new residential units with a range of affordability.

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for permission and minor variance for the property located at 275 Helen Street. The applicant is proposing to add a ninth dwelling unit to the existing eight-unit dwelling. This new bachelor dwelling unit is proposed to be created using underutilized space within the existing building. No new floor area is proposed, and no external changes are proposed to the existing building. A total of nine secure bicycle parking spaces will be provided within a new shed in the rear yard. The existing front yard parking area on the south side of the property will be extended into the property to resolve existing encroachment into the municipal road allowance.

The existing eight-unit dwelling on the subject property was established prior to Zoning By-Law Number 8499 coming into force and effect, and as a result is legal non-complying with respect to several provisions of the 'B3' Zone, including off-street vehicle parking. Five vehicle parking spaces are currently provided on the subject property, three within the north side yard and two within the front yard. A permission is required to facilitate the expansion of the existing non-

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complying front yard parking area. The existing front yard parking area encroaches into the municipal road allowance. The proposed expansion will provide for two off-street vehicle parking spaces entirely on private property.

In addition, to facilitate the addition of a ninth dwelling unit within the existing building, the applicant is requesting a minor variance from Section 5.3.A(a)(ii)(2) of Zoning By-Law Number 8499 to reduce the number of required parking spaces for the proposed bachelor dwelling unit from 1.4 parking spaces to zero parking spaces.

Variance Number 1: Off-Street Vehicle Parking

By-Law Number 8499:	Section 5.3.A(a)(ii)(2)
Requirement:	1.4 spaces per dwelling unit
Proposed:	0 spaces per dwelling unit
Variance Requested:	1.4 spaces

The subject property is situated on the east side of Helen Street. The property is designated as Residential in the Official Plan and is zoned Multiple Family Dwelling 'B3' Zone of Zoning By-Law Number 8499, as amended. The subject property is located adjacent to a variety of residential uses, ranging from single detached dwellings to low-rise apartment buildings.

The application for permission is desirable for the appropriate development of the land and will not result in adverse impacts on the surrounding area. 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 are minor in nature. Therefore, it is recommended that this application for minor variance under Subsection 45(1) of the *Planning Act*, and for permission under Section 45(2)(a)(i) of the *Planning Act*, be approved.

Recommendation:

That permission application, File Number D13-006-2022, for the property located at 275 Helen Street to facilitate the expansion of the front yard parking area, be approved; and

That minor variance application, File Number D13-006-2022, to reduce the parking ratio for the new unit located at 275 Helen Street, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-032.

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Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

Meghan Robidoux, Intermediate Planner

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

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

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Options/Discussion:

On January 25, 2022, a permission and minor variance application was submitted by The Boulevard Group, on behalf of the owner, 318275YH INC, with respect to the property located at 275 Helen Street. The applicant is proposing to add a ninth dwelling unit to the existing eight-unit dwelling. This new bachelor dwelling unit is proposed to be created using underutilized space within the existing building. No new floor area is proposed, and no external changes are proposed, with the exception of adding bicycle parking spaces. A total of nine secure bicycle parking spaces will be provided within a new shed in the rear yard. The existing front yard parking area on the south side of the property will be extended into the property to resolve existing encroachment into the municipal road allowance (Exhibit F – Site Plan, Floor Plans, and Elevations).

The existing eight-unit dwelling on the subject property was established prior to Zoning By-Law Number 8499 coming into force and effect, and as a result is legal non-complying with respect to several provisions of the 'B3' Zone, including off-street vehicle parking. Five vehicle parking spaces are currently provided on the subject property, three within the north side yard and two within the front yard. Permission is required to facilitate the expansion of the existing non-complying front yard parking area. The existing front yard parking area encroaches into the municipal road allowance. The proposed expansion will provide for two off-street vehicle parking spaces entirely on private property. In addition, to facilitate the addition of a ninth dwelling unit within the existing building, the applicant is requesting a minor variance from Section 5.3.A(a)(ii)(2) of Zoning By-Law Number 8499 to reduce the number of required parking spaces for the proposed bachelor dwelling unit from 1.4 parking spaces to zero parking spaces.

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

- Site Plan (Exhibit F);
- Floor Plans and Elevations (Exhibit F); and,
- Planning Justification Letter and Addendum.

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 Helen Street in the Sunnyside neighbourhood (Exhibit B – Key Map). The subject property currently contains a 2.5-storey, eight-unit dwelling. Three vehicle parking spaces are provided in a tandem configuration in the north side yard and two vehicle parking spaces are fronted in the front yard. The property is surrounded by a variety of residential uses, including single detached dwellings, two family dwellings, and apartment buildings ranging from one to three stories in height. The adjacent property to the west at 276 Helen Street recently received approvals for the development of an eight-unit dwelling.

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The subject property is designated Residential in the Official Plan (Exhibit D – Official Plan Map) and zoned Multiple Family Dwelling 'B3' Zone in Zoning By-Law Number 8499 (Exhibit E – Zoning By-Law Map).

Permission Application

Pursuant to Subsection 45(2)(a)(i) of the *Planning Act*, the Committee of Adjustment may permit the enlargement or extension of a legal non-conforming building or structure, but no permission may be given to enlarge or extend the building or structure beyond the original limits of the land where the legal non-conforming building or structure is situated. In considering whether to grant a permission pursuant to Subsection 45(2)(a)(i), the relevant tests are as follows:

1) Whether the application is desirable for appropriate development of the subject property.

The requested permission to facilitate the expansion of the front yard parking area will allow five off-street vehicle parking spaces to be located entirely on the subject property and will correct the existing encroachment of the parking area into the municipal road allowance, thereby bringing the property into greater compliance with the requirements of the zoning by-law. Therefore, the application for permission is desirable for the appropriate development of the subject property.

The desirability of the proposed development as it relates to the requested minor variance is discussed further below.

2) Whether the application will result in undue adverse impacts on the surrounding properties and neighbourhood.

The proposal has been reviewed against Section 2.7 of the Official Plan which outlines land use compatibility matters. Adverse impacts that may be associated with increases in parking area are increased level of traffic and visual intrusion that disrupts the streetscape.

No new vehicle parking spaces will be created as a result of the proposal. The two existing vehicle parking spaces in the front yard will be extended, to bring them entirely onto the subject property and off the municipal road allowance, thereby decreasing their impact on the streetscape. Therefore, it is not anticipated that the requested permission will result in undue adverse impacts on the surrounding properties or neighbourhood.

Minor Variance 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:

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Provincial Policy Statement

In addition to the four tests of a minor variance detailed below, 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. The goal of the Residential designation is to respond to the housing needs of the City's citizens by retaining and augmenting a broad range of housing at all levels of affordability within a safe, convenient, and stable setting, organized primarily into neighbourhoods. Residential uses include detached, semi-detached, or duplex dwellings, townhouses, and apartments of various types, tenures, and density.

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 located within a Housing District, as defined on Schedule 2 of the Official Plan. Re-investment and upgrading are encouraged in Housing Districts through minor infilling that can integrate compatibly with the prevailing built form standards of height, density, and amenity that are generally found in the neighbourhood. The proposed development will make use of underutilized space within an existing low-rise apartment building to establish a new dwelling unit within the City's Urban Boundary. Outdoor amenity space is provided in the rear yard to meet the needs of the future tenant and complies with the provisions of the B3 Zone.

The proposed increase from eight to nine dwelling units on the subject property will result in a density of approximately 99.9 units per hectare, which complies with the maximum density permitted in the B3 Zone. Section 3.3.C.1 of the Official Plan defines high density residential land uses are those with a density of 75 units per net hectare or more. Proposals for new high density residential use which require a zoning by-law amendment or minor variance in support of factors that affect built form must generally satisfy the location criteria specified in Section 3.3.C.3.

The subject property is located within an up-zoned area designed to transition the built form near Princess Street and Bath Road, which is on the periphery of a low to medium density residential neighbourhood. The property is located within walking distance of

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commercial uses along Princess Street and Bath Road to the north and Compton Park to the south. As such, the proposed high-density residential use meets the locational criteria of Section 3.3.C.3.

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 subject property is located in an up-zoned area and is surrounded by other multiresidential buildings. The requested variance will facilitate an internal conversion to create a new bachelor dwelling unit within the existing apartment building. No exterior alterations are proposed, with the exception of a new shed to accommodate a bicycle parking area to meet the requirements of the zoning by-law.

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 proposed additional dwelling unit is not anticipated to create significant new parking demands on the subject property. The site is currently supported by five vehicle parking spaces. The requested permission to facilitate the expansion of the front yard parking area will allow five off-street vehicle parking spaces to be located entirely on the subject property and will correct the existing encroachment of the parking area into the municipal road allowance, therefore bringing the property into greater compliance with the requirements of the zoning by-law.

The residential dwelling unit proposed through this application is a bachelor dwelling unit, therefore the numbers of persons anticipated to reside on-site will not significantly increase. Through this proposal, the applicant is proposing to increase the total number of sheltered and secured bicycle parking spaces on the subject property from zero to nine spaces. Further, the subject property is within walking distance (600 metres) of the Kingston Centre transit terminal, which supports the use of existing public transit routes. Commercial, employment, and open space uses are also located within walking distance of the subject property.

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;

No exterior alterations are proposed to the existing building. The subject property is not located within a Heritage District and the proposal will not impact any built heritage resources.

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 subject property is not on the City's Heritage Register and as such a Heritage Impact Statement is not required. The site is not located in proximity to any designated built heritage resources or cultural significant landscapes.

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 site is located within the urban boundary and is developed with sufficient municipal water and sewage services to support the addition of a ninth dwelling unit on the subject property.

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 proposed multiple residential use and density comply with the provisions of the B3 zone. No exterior alterations are proposed to the existing building. The application and the 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 attach such conditions as it deems appropriate to the approval of the application. Suggestions conditions are listed in the recommendations in Exhibit A. 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 an undesirable precedent for the immediate area.

The proposal meets the intent of the Official Plan, as the proposed establishment of a ninth dwelling unit within the existing apartment building 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 Multiple Family Dwelling 'B3' Zone 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 B3 zone permits a range of residential uses, including multiple family dwellings, to a maximum density of 123 dwelling units per net hectare. As such, the proposed nine-unit dwelling use with a density of 99.9 units per net hectare is permitted as-of-right.

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The proposal seeks relief from Section 5.3.A(a)(ii)(2) of Zoning By-Law Number 8499 as follows:

Variance Number 1: Off-Street Vehicle Parking

By-Law Number: 8499	Section 5.3.A(a)(ii)(2)
Requirement:	1.4 spaces per dwelling unit
Proposed:	0 spaces per dwelling unit
Variance Requested:	1.4 spaces

The proposed addition of a ninth dwelling unit requires an additional 1.4 parking spaces to be provided on site. The proposed additional dwelling unit is not anticipated to create significant new parking demands on the subject property. The site is currently supported by five vehicle parking spaces. The residential dwelling unit proposed through this application is a bachelor dwelling unit, therefore the numbers of persons anticipated to reside on-site will not significantly increase. Through this proposal, the applicant is proposing to increase the total number of sheltered and secured bicycle parking spaces on the subject property from zero to nine spaces. Further, the subject property is within walking distance (600 metres) of the Kingston Centre transit terminal, which supports the use of existing public transit routes. Commercial, employment, and open space uses are also located within walking distance of the subject property.

No other variances are required to facilitate the proposed addition of a bachelor dwelling unit within the existing eight-unit dwelling.

3) The variance is minor in nature

The proposed variance will provide for a compatible development that offers a wider range of unit types, in a location that supports higher density residential uses as the lands are already zoned B3 which allows multi-unit residential development. This application applies only to the subject lands and is a reflection of the constraints of the sites existing layout. The variances are considered minor as there are no anticipated negative off-site impacts.

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

The proposed internal conversion will establish a new dwelling unit within the City's Urban Boundary on lands that are zoned for multi-unit residential development. The requested variance for off-street vehicle parking is appropriate as the site is located in close proximity to existing transit routes and within walking distance of commercial, employment, and open spaces uses. The proposal will meet the functional needs of future tenants, including bicycle parking, outdoor amenity area, and garage storage.

The variance is desirable and appropriate use of the land.

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Technical Review: Circulated Departments and Agencies

- ⊠ Building Services □ Finance
- ⊠ Engineering Department
- - ⊠ Kingston Hydro
 - ⊠ Parks Development
- ⊠ Solid Waste □ Housing

Fire & Rescue

- □ KEDCO
- □ Parks Canada
- □ Hydro One
- □ Kingston Airport
- **Technical Comments**

- ☑ Utilities Kingston

- ⊠ District Councillor
- □ Municipal Drainage
- □ KFL&A Health Unit
- Eastern Ontario Power
- □ Enbridge Pipelines

- ☑ Heritage (Planning Services)
- Real Estate & Environmental Initiatives
- ⊠ Citv's Environment Division
- □ Canadian National Railways
- □ Ministry of Transportation
- Parks of the St. Lawrence
- □ Trans Northern Pipelines
- □ CFB Kingston
- □ TransCanada Pipelines

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 have been received in regard to the application. 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

In April 2019, a minor variance was approved to decrease the minimum rear yard from 8.5 metres to 1 metre for accessory buildings, to facilitate the location of two sheds in the rear yard of the subject property (File Number D13-001-2019).

Conclusion

The requested application for permission is consistent with 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 of the land and is not anticipated to result in adverse impacts to the surrounding properties or neighbourhood.

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) 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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Approval of this application will facilitate the development of a new dwelling unit within an existing building is an area that is zoned to allow multi-residential development and that will add density into a neighbourhood supported by transit and active transportation facilities, near employment and commercial uses, and that is compatible with the surrounding neighbourhood.

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 March 21, 2022. 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 32 property owners (according to the latest Assessment Roll) within 60 metres of the subject property (Exhibit C – 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*.

Accessibility Considerations:

None

Financial Considerations:

None

Contacts:

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

Meghan Robidoux, Intermediate Planner, 613-546-4291 extension 1256

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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 8499, Map 20
- Exhibit F Site Plan, Floor Plans, and Elevations
- Exhibit G Site Photographs
- Exhibit H Neighbourhood Context Map (2021)

Recommended Conditions

Application for minor variance and permission, File Number D13-006-2022

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

1. Limitation

That the approved minor variance applies only to the establishment of a ninth dwelling unit as shown on the approved drawings attached to the notice of decision.

That the approved permission applies only to the expansion of the existing parking area on the south side of the subject property as shown on the approved drawings attached to the noise 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.

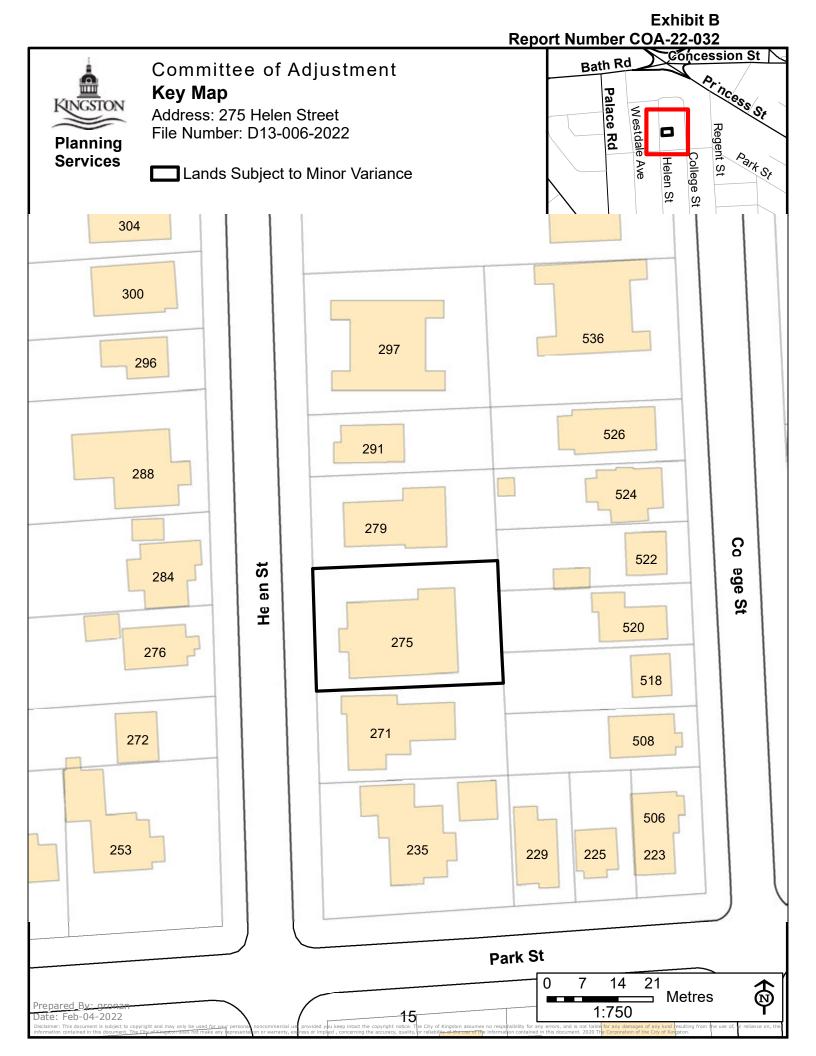
In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Registrar of Cemeteries at the Ministry of Government and Consumer Services (416-212-7499), the Program and Services Branch of the Ministry of Heritage, Sport, Tourism and Culture Industries (416-314-7132), and City of Kingston's Planning Services (613-546-4291, extension 3180) must be immediately contacted.

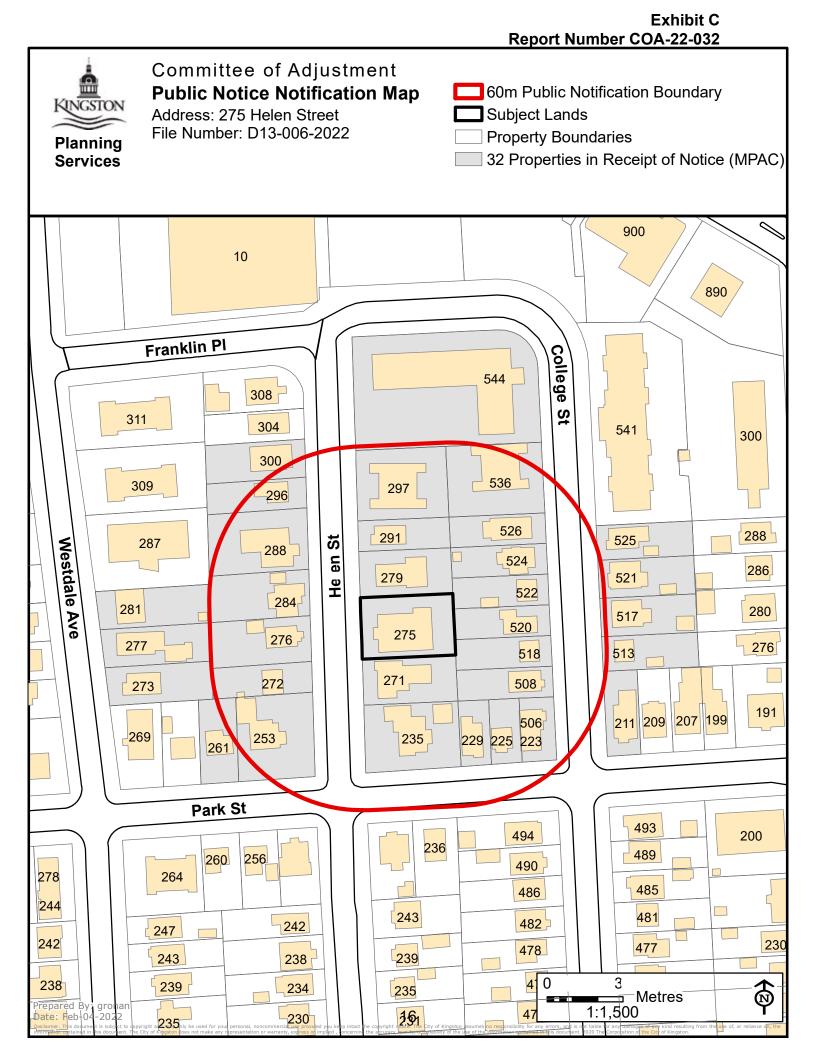
5. Bicycle Parking Spaces

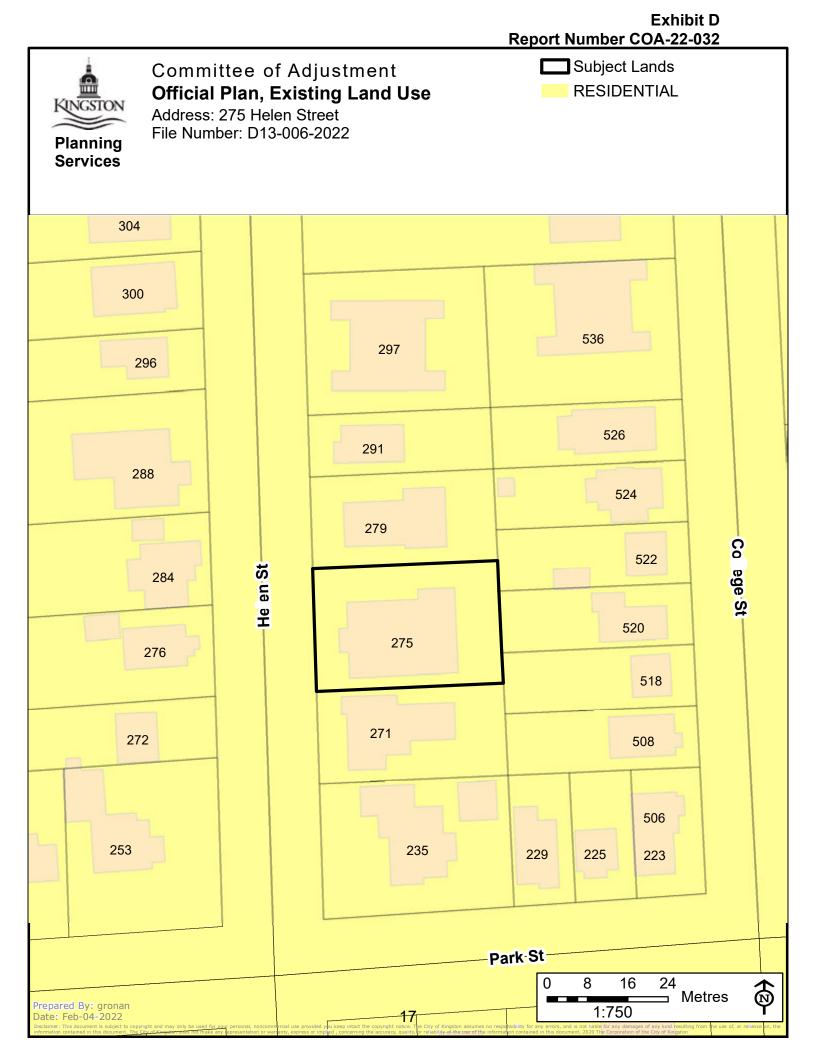
That prior to the issuance of building permits to establish the ninth dwelling unit, a residential bicycle parking area containing nine bicycle parking spaces will be established on the subject property.

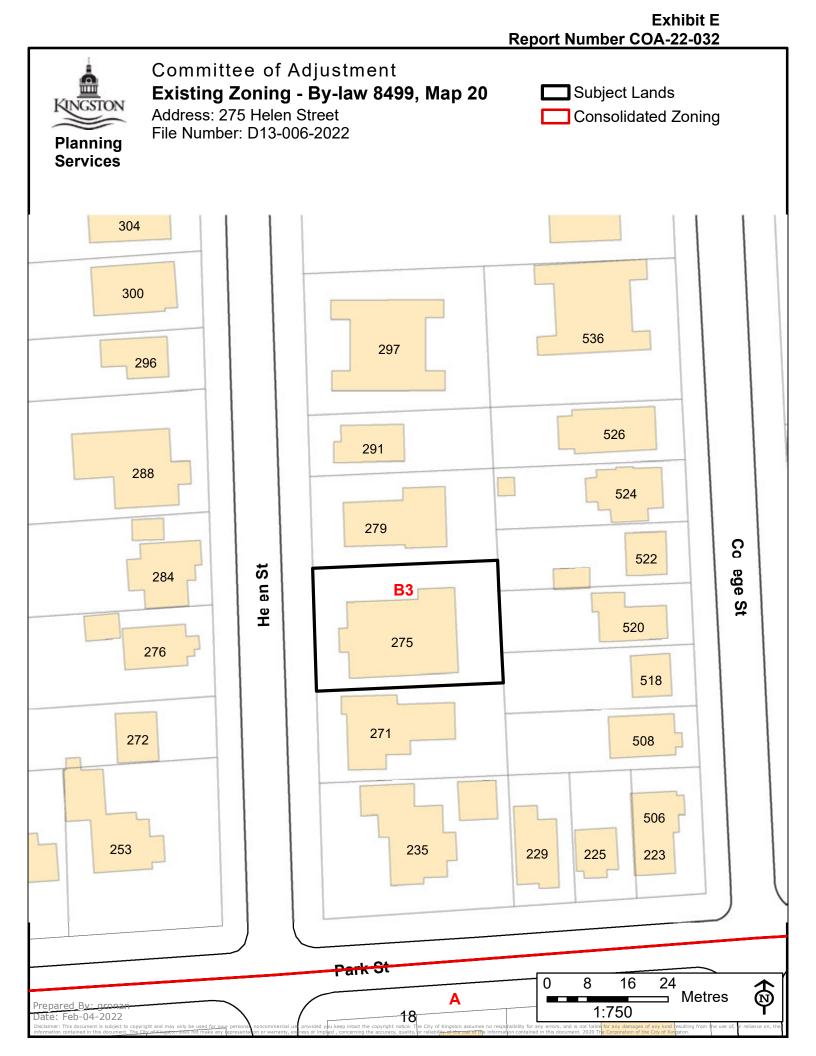
6. Parking Area Expansion

That prior to the issuance of building permits, the south parking area will be expanded to the east to accommodate two vehicle parking spaces entirely on private property, as shown on the approved drawings attached to the notice of decision.









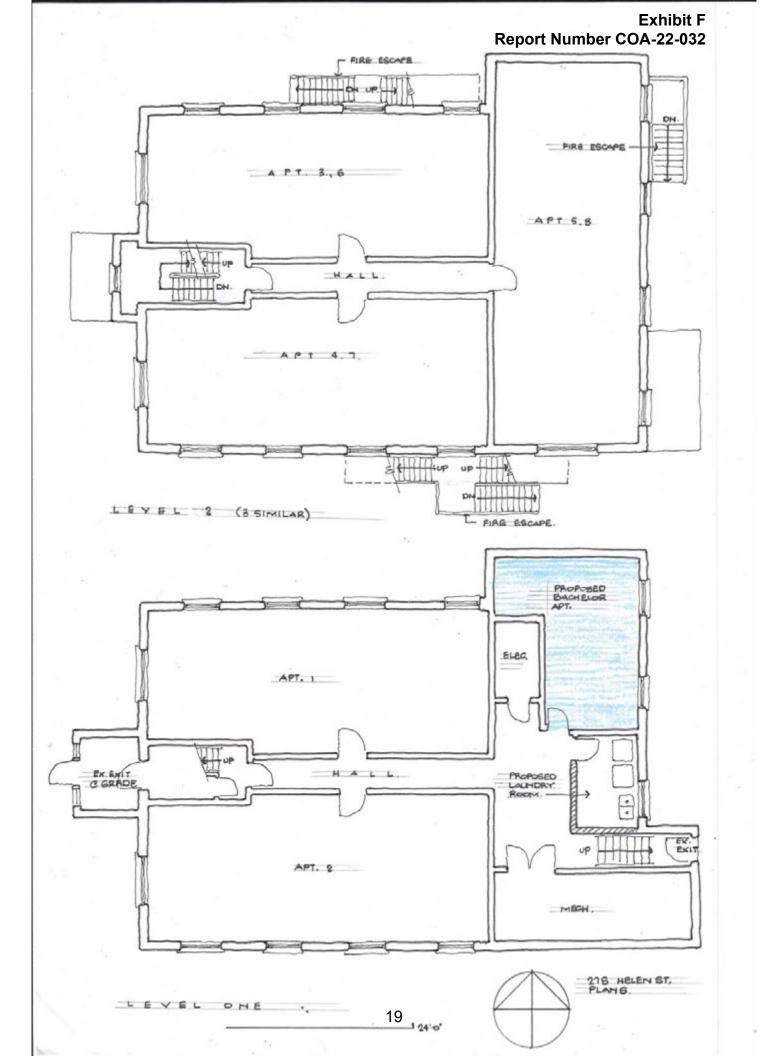
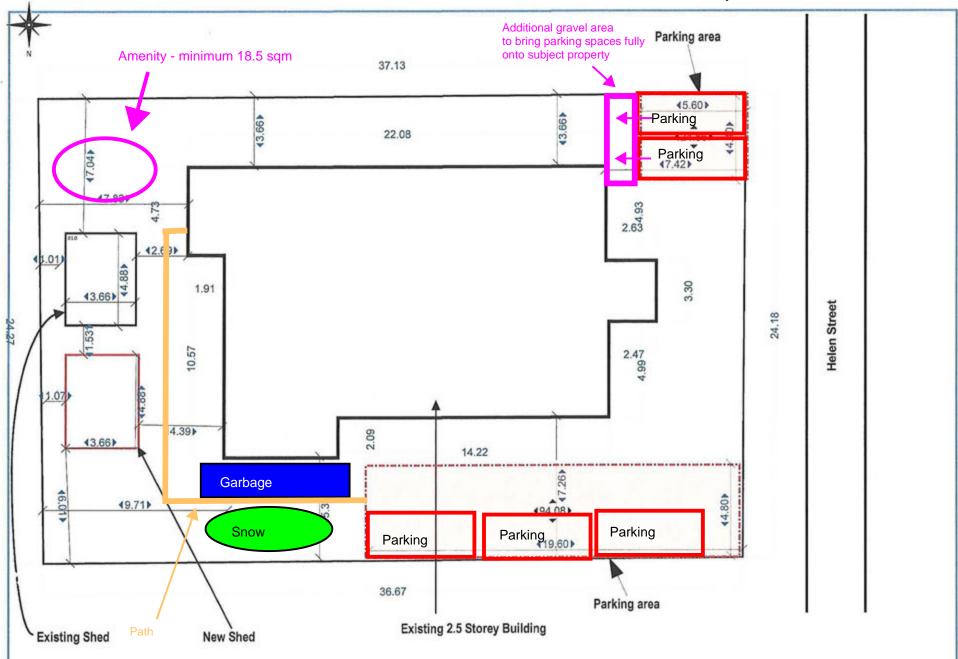


Exhibit F Report Number COA-22-032





275 Helen Street – February 16th, 2022

Figure 1: Existing 2.5-storey apartment building on the subject property.



Figure 2: Existing front yard parking spaces.

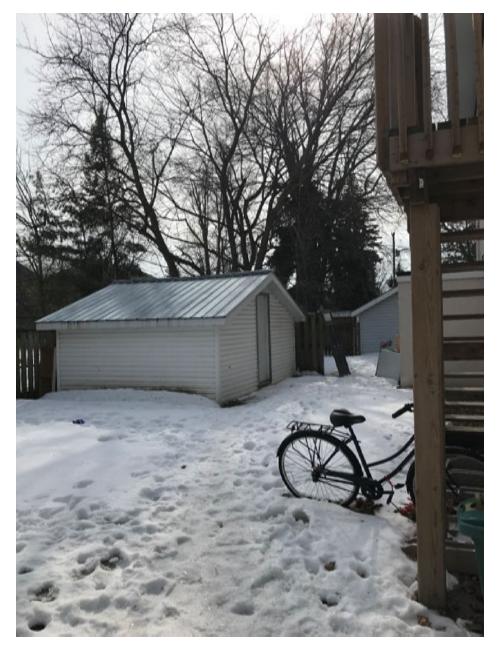


Figure 3: Existing rear yard and proposed location of bicycle parking shed.



Figure 4: Existing rear yard amenity area.

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Committee of Adjustment Neighbourhood Context (2021)

Planning Services Address: 275 Helen Street File Number: D13-006-2022 Subject Lands
Property Boundaries
Proposed Parcels

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