

City of Kingston Report to Committee of Adjustment Report Number COA-22-033

Council Strategic Plan Alignment:

Theme: 2. Increase housing affordability

Goal: See above

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variance for the property located at 7 Colborne Street. The applicant is proposing to reduce the minimum aggregate side yard for a deck 1.2 metres above finished grade to construct a new 1.2-metre-wide fire escape along the western wall of the multiple family dwelling. No new units or bedrooms will result from this application.

Section 5.8 Projection into Yard provides setbacks for unenclosed porches, decks, balconies, steps and verandahs, covered or uncovered in any Residential Zone. The proposed fire escape will be located greater than 1.2 metres above finished grade and therefore is required to comply with the requirements of the individual zone. The subject property is zoned One- and Two-Family Dwelling "A" Zone which requires a side yard of 0.6 metres and an aggregate side yard (sum of both side yards) of 3.32 metres.

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The existing 0.9-metre-wide fire escape is located along the western elevation which is setback approximately 1.9 metres from the northern side lot line. The applicant proposes to remove the existing fire escape and replace it with a 1.2 metre wide, non-combustible fire escape to provide safe means of egress from each of the dwelling units. The new fire escape will be located 1.4 metres from the western side lot line which will result in a 2.18 metre aggregate side yard setback from the closest point of the fire escape to the western lot line. Relief is therefore requested to reduce the minimum aggregate side yard requirement from 3.32 metres to 2.18 metres being a reduction of 1.14 metres.

Variance Number 1: Minimum Aggregate Side Yard for Deck 1.2 metres above finished grade

By-Law Number 8499:	Section 5.8(c)
Requirement:	3.32 metres
Proposed:	2.18 metres
Variance Requested:	1.14 metres

The proposed fire escape will be located within an existing shared easement which provides access from Colborne Street over a shared driveway to the rear yard parking on subject properties and to 9 and 11 Colborne Street. The existing and proposed fire escape is approximately 2.39 metres from finished grade to the bottom of the structure with access stairs at grade at the rear of the building. The location and design of the existing and proposed fire escape will not impede continued access or vehicle movement along the shared driveway to access rear yard parking as the 2.39 metre height from finished grade to the fire escape will allow for access of most standard vehicles. As a condition of approval, the applicant shall install signage informing tenants of the maximum height of vehicles permitted to enter the shared driveway.

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 in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval.

Recommendation:

That minor variance application, File Number D13-002-2022, for the property located at 7 Colborne Street to reduce the minimum aggregate side yard setback for a deck 1.2 metres above finished grade in order to construct a new 1.2-metre-wide fire escape along the western wall of the multiple family dwelling at a height of 2.39 metres from finished grade to the bottom of the structure, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-33.

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Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER Tim Fisher, 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 February 10, 2022, a minor variance application was submitted by Brad Vanderhaar, BPE Development Inc., on behalf of the owner, BPE Development Inc., with respect to the property located at 7 Colborne Street. The variance is requested to reduce the minimum aggregate side yard for a deck 1.2 metres above finished grade in Zoning By-Law Number 8499, to construct a new 1.2-metre-wide fire escape along the western wall of the existing eight-unit, multiple family dwelling with a minimum height of 2.39 metres from finished grade to the bottom of the structure. The existing and proposed fire escape project into the shared driveway however the height of the fire escape does not interfere with standard vehicles accessing the lane. No new units or bedrooms will result from this application.

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

- Site Plan (Exhibit G);
- Survey (Exhibit H);
- Cross Section (Exhibit I); and
- Floor Plan (Exhibit J).

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 at 7 Colborne Street (see Exhibit B, Key Map). The 562 square metre parcel of land has 11 metres of road frontage on Colborne Street and is developed with a multiple family dwelling which was established through a building permit prior to Zoning By-Law Number 8499. The subject property has a shared easement with 9 Colborne Street to provide access from Colborne Street over a shared driveway to access rear yard parking on each site.

The subject property is designated Residential in the Official Plan and zoned One- and Two-Family Dwelling in Zoning By-Law Number 8499. The property is located in a residential neighbourhood and abuts multiple family dwellings to the north, east and west and single-family dwellings to the south.

Application

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

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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 application meets the intent of Section 2 of the Official Plan, as the proposal will allow for the ongoing use of this existing residential building which is located within the urban boundary on full municipal services. The new fire escape will provide safe means of egress to each of the existing eight residential units. The continued residential use will not adversely affect this stable neighbourhood.

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 developed with an eight-unit multiple family dwelling containing a total of 11 bedrooms within a residential neighbourhood with a mixture of dwelling types and heights. The proposed 1.2-metre-wide fire escape along the western wall of the dwelling will provide safe means of egress to each residential unit while maintaining the current shared easement over the shared driveway to access rear yard parking on the subject property and at 9 and 11 Colborne Street.

The existing and proposed fire escape is located above the ground floor and projects into the shared easement. The projection over the shared driveway does not interfere with vehicle movement and maintains the 2.7-metre-wide driveway access along the western wall and the western lot line. The stairs to grade are located near the rear portion of the western elevation and is not located within the shared easement, driveway or the location of parking.

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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 new fire escape will provide safe egress to each dwelling unit along the western wall of the existing multiple family dwelling. The non-combustible material and design will bring the fire escape into compliance with Ontario Building Code requirements and provide safe means of a secondary egress. The construction of the fire escape is not anticipated to have any negative impacts on the continued function of the residential use. Parking will be maintained at the rear of the lot and shared access over the existing driveway will be maintained. No additional units or bedrooms will result from the construction of the fire escape.

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.

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 "Listed" under the *Ontario Heritage Act*. A "Listed" property does not require a heritage application for property alterations. The demolition of building elements and the building itself will require Heritage Services review.

If the fire escape is anchored into the limestone masonry, the City's Masonry Policy provides a lot of advice on how to maintain the integrity of the limestone. While this is not required, it can better preserve the building's exterior for the long term.

The Archaeological Master Plan indicates that the subject property has composite archaeological potential. The fire escape will result in no excavation. As no soil disturbance (excavation) is proposed, an Archaeological Assessment is not required.

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 existing eight-unit, multiple family dwelling is serviced with full municipal water and sewage services and proposes to maintain the current services. No concerns or comments were raised regarding servicing during technical review process.

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7. Whether the application and the cumulative impact of the proposed variances would be more appropriately addressed by a zoning amendment to the applicable zoning by-law;

The proposal meets the four tests of a Minor Variance as outlined in the *Planning Act*, and described herein and therefore does not require 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;

Recommended conditions are included in Exhibit A to this report.

9. The degree to which such approval may set an undesirable precedent for the immediate area.

The proposal is in keeping and compatible with the existing development in the surrounding area and will not set an undesirable precedent.

The proposal meets the intent of the Official Plan, as the proposed fire escape along the western wall of the dwelling will not result in any negative impacts to adjacent properties and their continued shared access to rear yard parking or to the neighbourhood.

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

The subject property is zoned One- and Two-Family Dwelling 'A' 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 'A' zone permits a one- or two-family dwelling as per Section 6.2. An existing multiple family dwelling is permitted as per Section 6.3 J, which states:

"Notwithstanding anything to the contrary contained in this by-law, any multiple family dwelling within Zone A constructed, or for the construction of which a Building Permit has been issued by the Chief Building Official or designate, before the date of the passage of this by-law by the City, which was constructed in accordance with all by-laws of the City in force at that date shall be deemed to be a use of land conforming with the provisions of this by-law. Extension, expansion or structural alteration which has the effect of adding new floor area or dwelling units to the said multiple family dwelling shall be prohibited."

The applicant is proposing to renovate the interior of the multiple family dwelling. No new floor area, dwelling units or bedrooms will result of the construction of the new fire escape along the western wall of the dwelling. The new fire escape will be constructed with non-combustible material and will provide safe access from each unit to grade.

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Section 5.8 Projection into Yard provides setbacks for unenclosed porches, decks, balconies, steps and verandahs, covered or uncovered in any Residential Zone. The proposed fire escape will be located greater than 1.2 metres from final grade and therefore a variance is requested from the minimum aggregate side yard for a deck 1.2 metres above finished grade.

Variance Number 1: Minimum Aggregate Side Yard for deck 1.2 metres above finished grade

By-Law Number 8499:	Section 5.8(c)
Requirement:	3.32 metres
Proposed:	2.18 metres
Variance Requested:	1.14 metres

The existing multiple family dwelling complies with the minimum side yard requirement of 0.6 metres however minimum aggregate side yard requirement (sum of both side yards) of 3.32 metres is required. The proposed 1.2 metre wide, non-combustible fire escape will result in a 2.18 metre aggregate side yard from the closest point of the fire escape to the western lot line.

The proposal complies with all other performance standards of the One- and Two-Family Dwelling 'A' Zone in Zoning By-Law Number 8499.

3) The variance is minor in nature

The variance is considered minor as the proposal is in keeping with the scape and design of the existing residential development in the neighbourhood and will provide safe access to each dwelling unit. The proposal is not anticipated to have any negative impacts on the abutting residential uses or the continued use of the shared driveway and access to rear yard parking on the subject property or 9 and 11 Colborne Street. The fire escape will not have any impacts on the streetscape or the character of the neighbourhood.

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

The applicant proposes to remove the existing fire escape and replace it with a 1.2 metre wide, non-combustible fire escape which will provide safe means of egress constructed to current Ontario Building Code regulations. The fire escape will not impede vehicle access from Coleborn Street to access rear yard parking. The location and design of the fire escape is not anticipated to have negative impacts on the streetscape or the character of the neigbourhood. The new fire escape will maintain the multiple family dwelling use and will service the long term needs and safety for tenants. The variance is therefore desirable and appropriate use of the land.

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Technical Review: Circulated Departments and Agencies

- **Building Services** \ge
- ⊠ Engineering Department
- ⊠ Finance \boxtimes
 - Fire & Rescue
- Solid Waste \times
- \boxtimes Housing
- □ KEDCO
- □ Parks Canada
- □ Hydro One
- □ Kingston Airport
- **Technical Comments**

- ☑ Utilities Kingston
- ⊠ Kingston Hydro
- ⊠ Parks Development
- ⊠ 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, there was no written public correspondence 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 are no concurrent or relevant historic planning applications on the subject property.

Conclusion

The requested variance maintains the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 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.

Approval of this application will result in the construction of a new 1.2 metre wide, noncombustible fire escape which will provide means of egress to each of the eight dwelling units within the existing multiple family dwelling, while maintaining the existing shared driveway and vehicle access to access rear yard parking on the subject property and 9 and 11 Colborne Street.

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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 57 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

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

Other City of Kingston Staff Consulted:

None

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Exhibits Attached:

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Public Notification Map
- Exhibit D Neighbourhood Context Map (2021)
- Exhibit E Official Plan Map
- Exhibit F Zoning By-Law Number 8499, Map 18
- Exhibit G Site Plan
- Exhibit H Survey
- Exhibit I Cross Section
- Exhibit J Floor Plans
- Exhibit K Photo

Recommended Conditions

Application for minor variance, File Number D13-002-2022

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

1. Limitation

That the approved minor variance applies only to the location of the new fire escape located along the western wall from the western side lot line 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. Easement

The fire escape shall not impede vehicle access over the existing shared driveway to access rear yard parking on the subject property and to 7 and 9 Colborne Street.

4. 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.

5. Driveway Height Signage

Prior to the issuance of a building permit, the applicant/owner shall install signage informing tenants of the maximum height of vehicles permitted to enter the shared driveway.

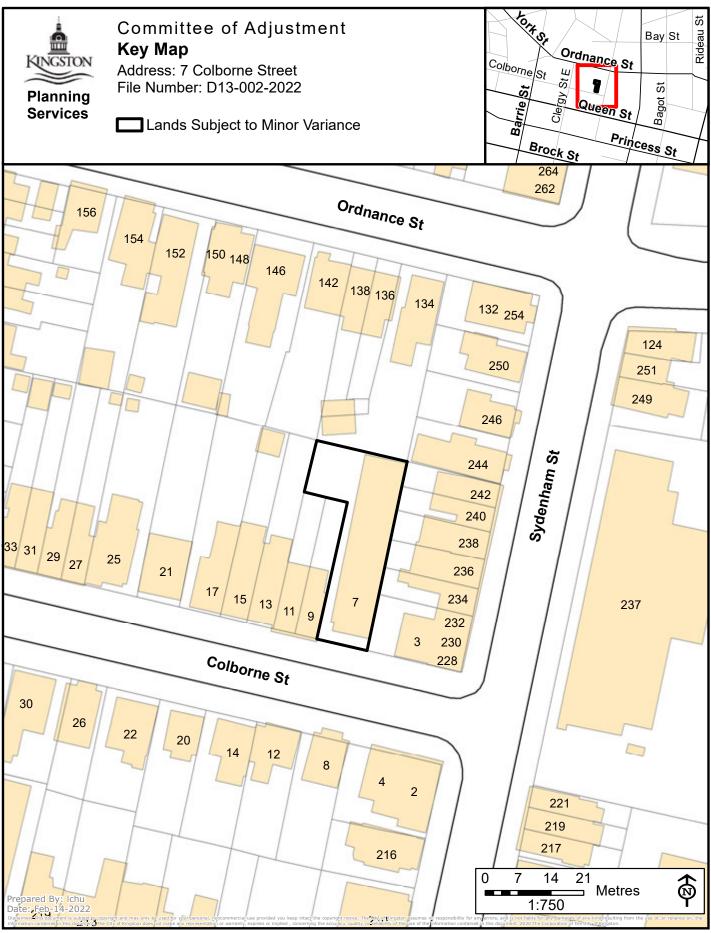
6. Service Locates

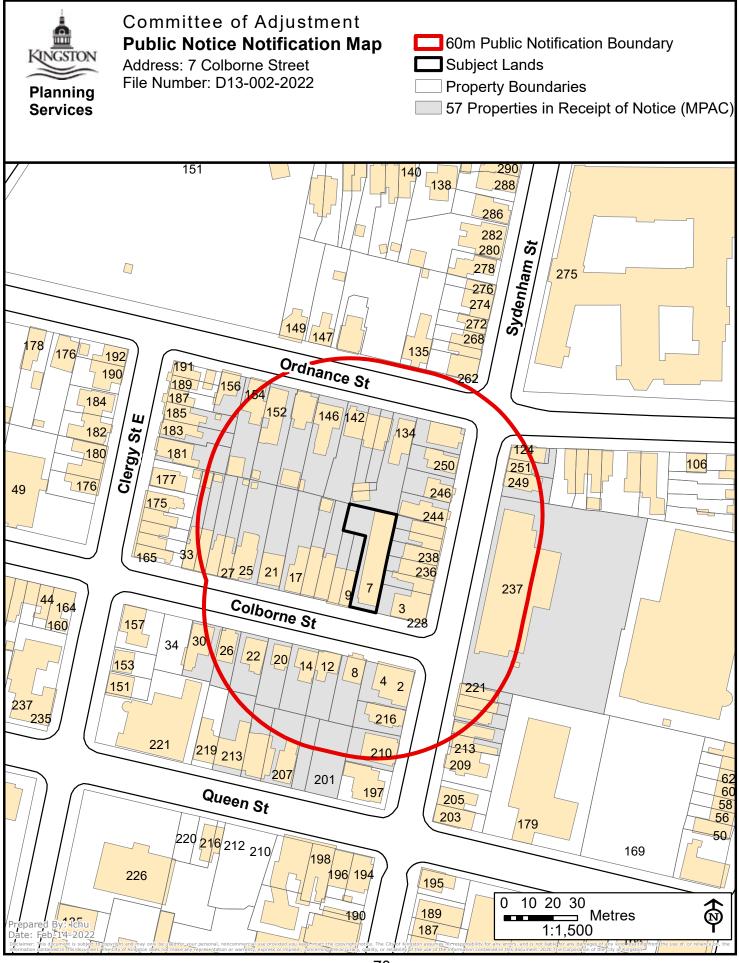
Prior to any ground disturbance, the owner/applicant shall contact Ontario One Call to obtain servicing locates.

7. 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.

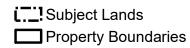




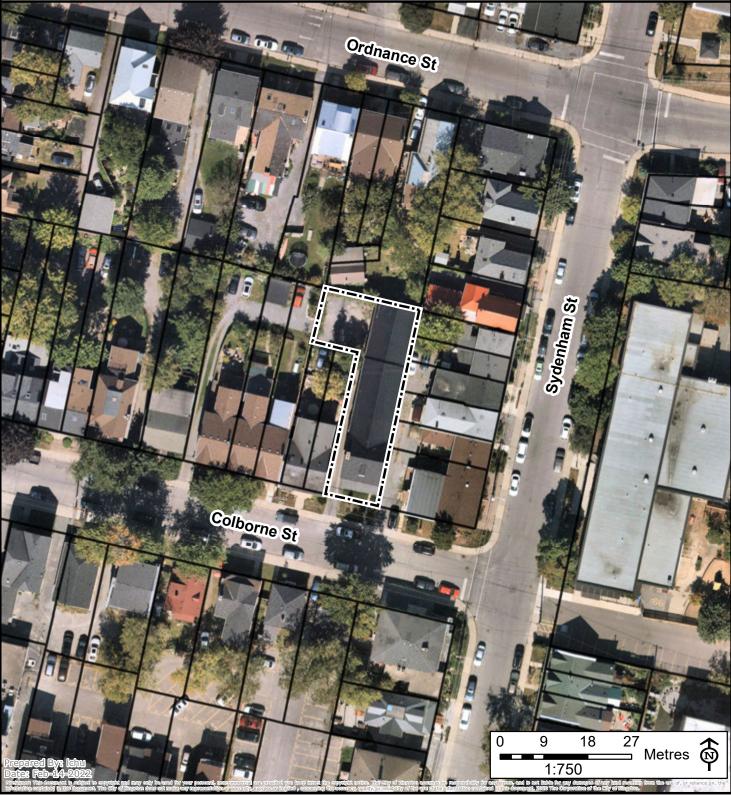


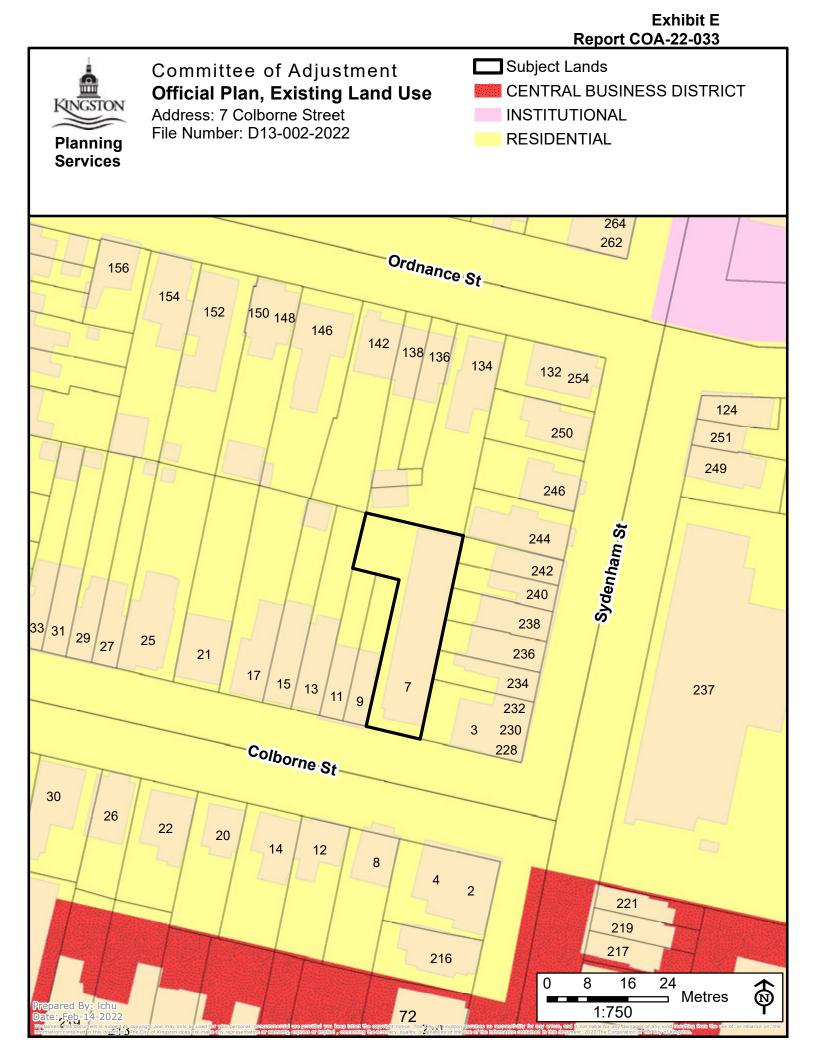
Committee of Adjustment Neighbourhood Context (2021)

Planning Services Address: 7 Colborne Street File Number: D13-002-2022



Proposed Parcels





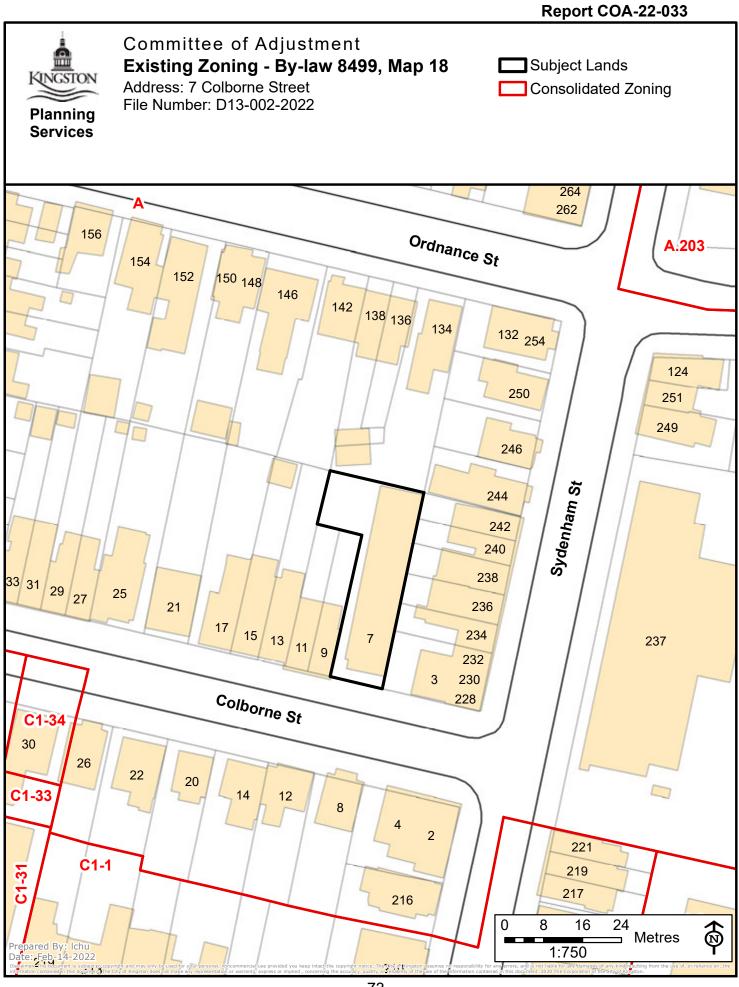
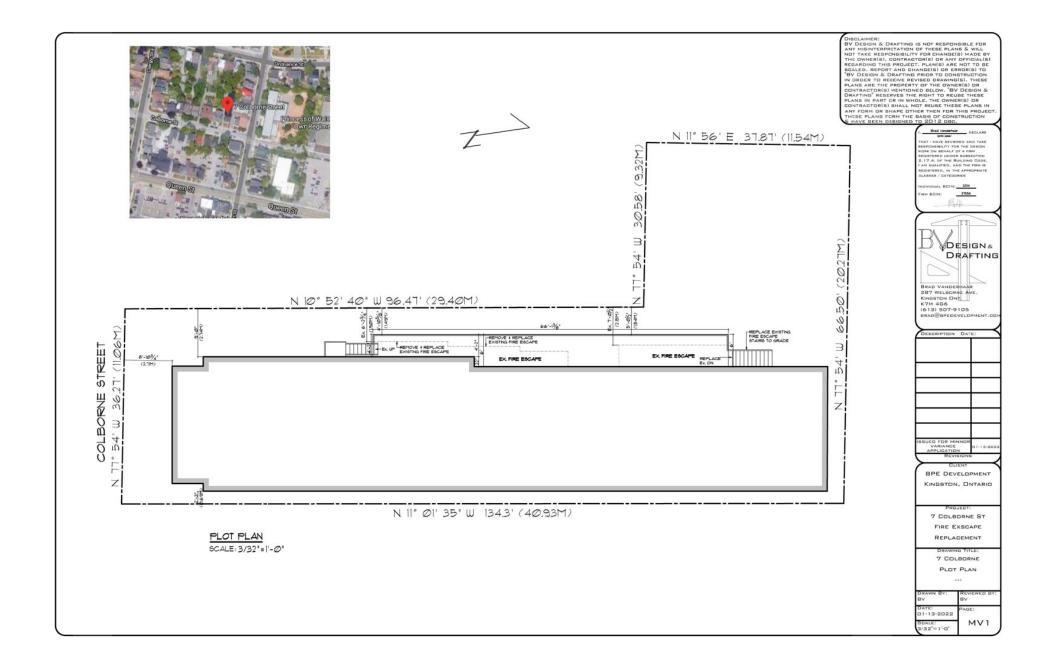
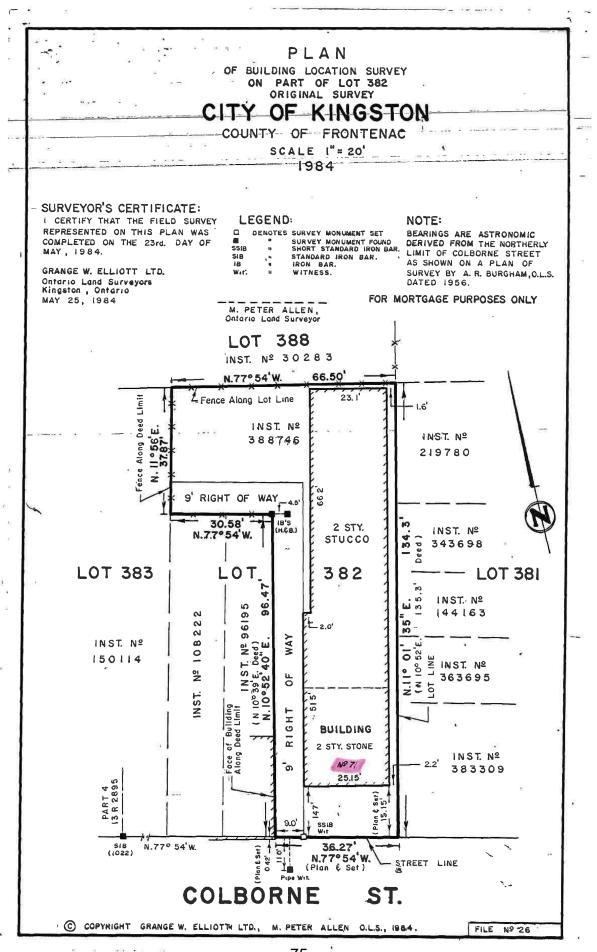
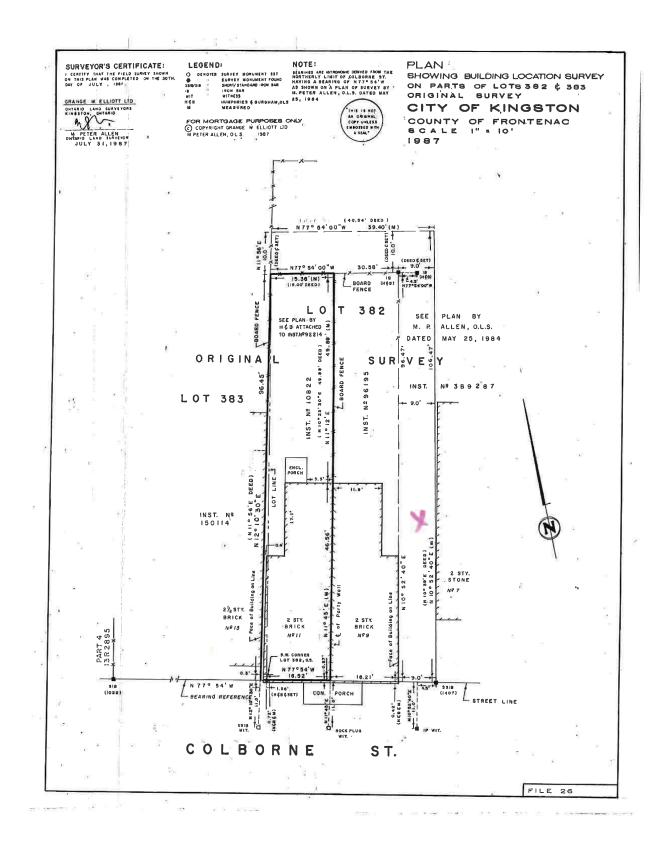


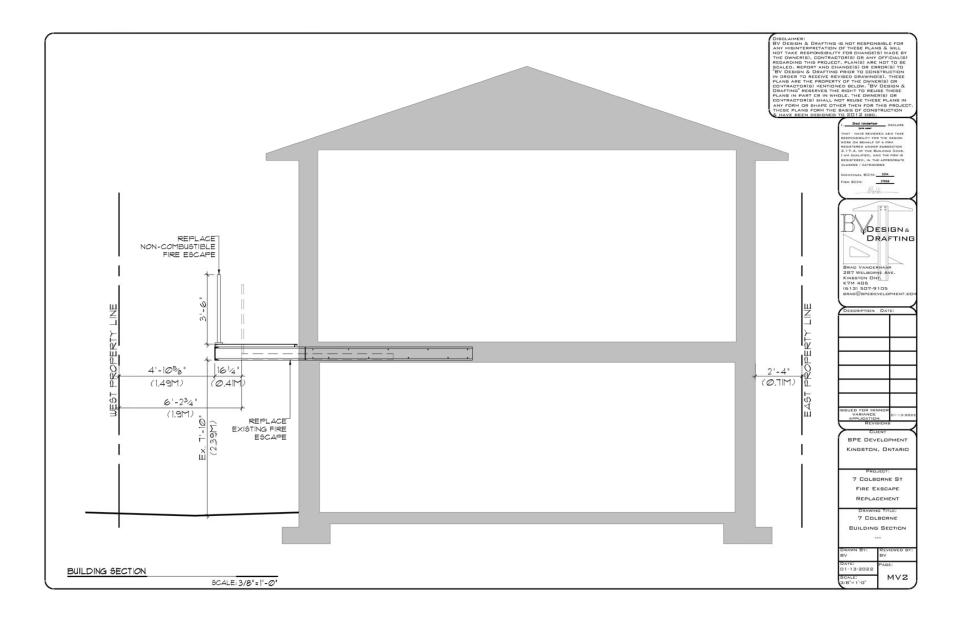
Exhibit F





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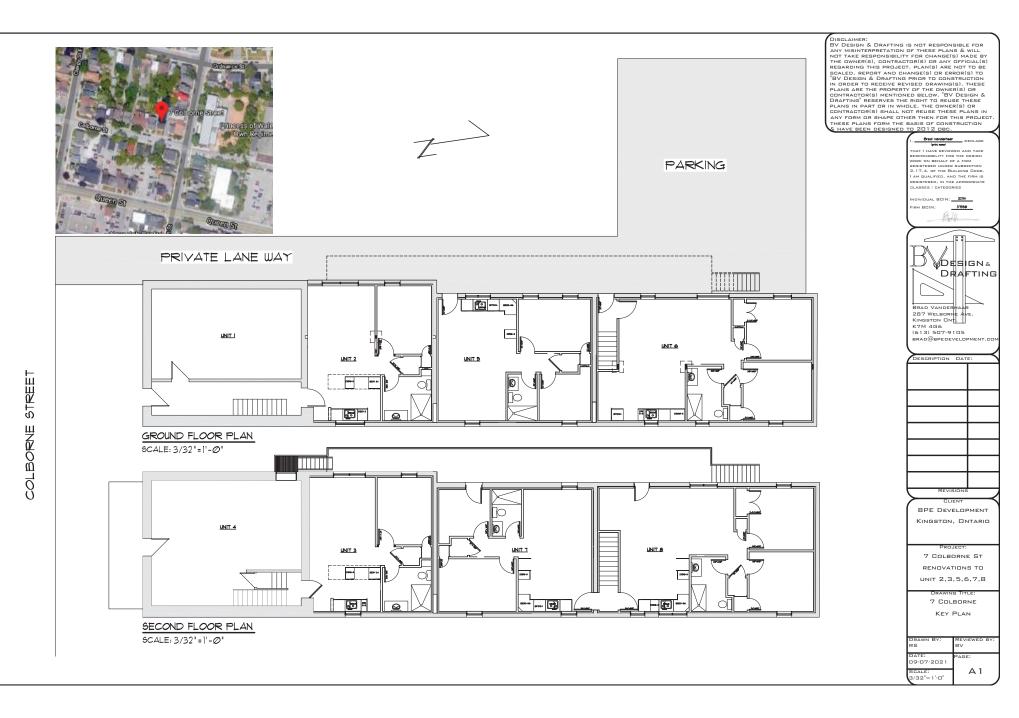


Exhibit J Report COA-22-033

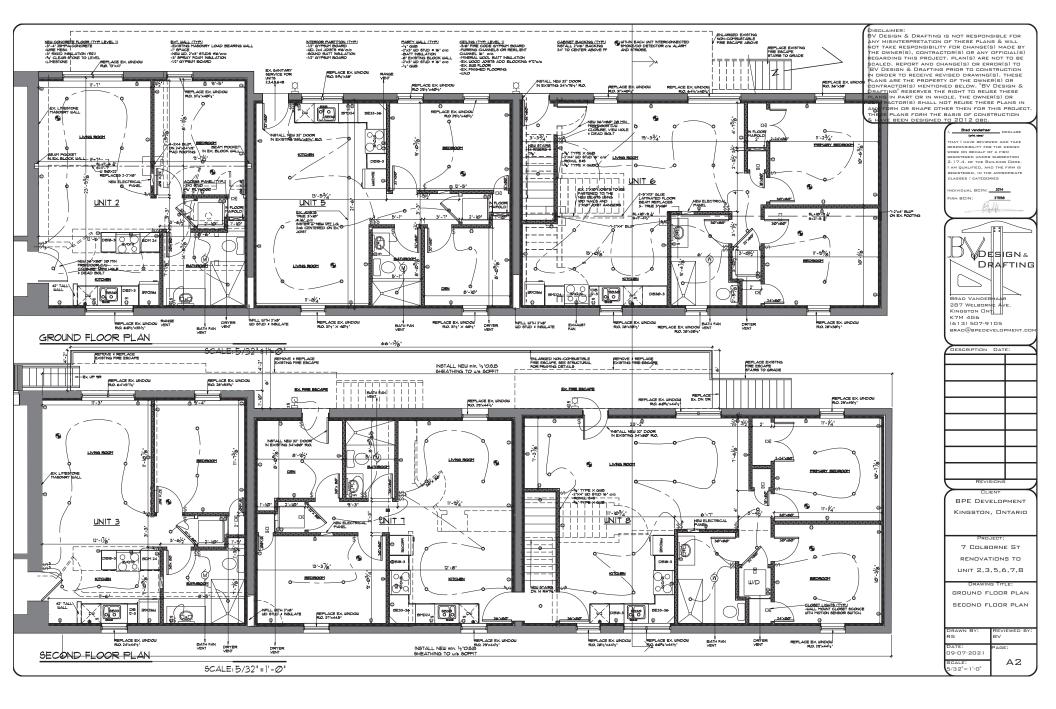


Exhibit J Report COA-22-033

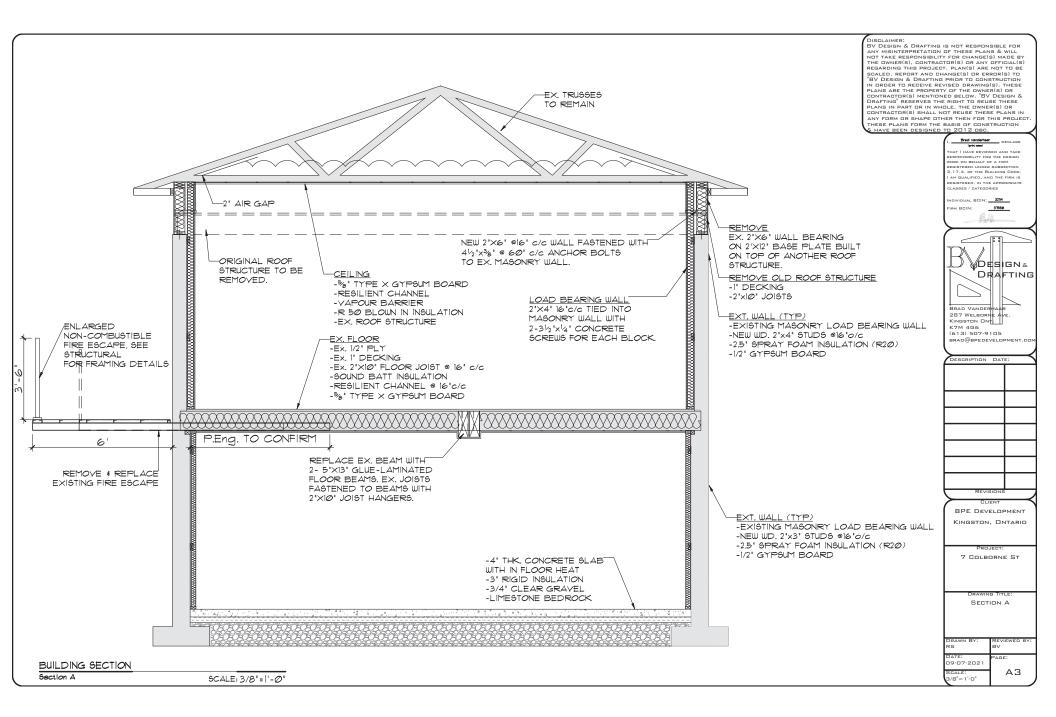


Exhibit K Report COA-22-033



Exhibit K Report COA-22-033

