

City of Kingston Report to Committee of Adjustment Report Number COA-22-074

To: Chair and Members of the Committee of Adjustment

From: Tim Fisher, Planner

Date of Meeting: October 17, 2022

Application for: Minor Variance

File Number: D13-053-2022

Address: 886 Rowantree Crescent

Owner: Ronika and Sohail Umar-Khitab

Applicant: Sohail Umar-Khitab

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 886 Rowantree Crescent. The applicant is proposing to increase the maximum area for a deck which is greater than 1.2 metres in height from finished grade in Zoning By-Law Number 2022-62. The variance is requested to construct a 44.6 square metre deck at the rear of the dwelling and a 9.3 square metre deck pan above the basement entrance for a total deck area of 53.9 square metres. The applicant is also proposing a 1-storey addition to the rear of the existing residential dwelling which does not require any variances from Zoning By-Law 2022-62.

The subject property is located at 886 Rowantree Crescent (Exhibit B) and is developed with a partial two storey, single detached dwelling. The triangular shaped property backs onto Bayridge Drive and is located within a residential neighbourhood developed with single family dwellings.

Page 2 of 10

The property is designated Residential in the Official Plan and zoned Urban Residential 1 'UR1.A' in the Kingston Zoning By-Law Number 2022-62.

The proposal under Zoning By-Law Number 2022-62 requires a variance to increase the maximum area of a deck more than 1.2 metres in height above finished grade level.

The requested minor variance is consistent with the general intent and purpose of both the City of Kingston Official Plan and the Kingston Zoning By-Law Number 2022-62. 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 D13-053-2022, for the property located at 886 Rowantree Crescent to increase the maximum area for a deck which is greater than 1.2 metres in height from finished grade in the Kingston Zoning By-Law Number 2022-62, to construct The applicant proposes to construct a 44.6 square metre deck at the rear of the dwelling and a 9.3 square metre deck pan above the basement entrance for a total deck area of 53.9 square metres, be approved, as described below:

Variance 1: Maximum Area of a Deck more than 1.2 metres in Height Above Finished Grade Level

By-Law Number 2022-62: Section 4.20.4.1
Requirement: 30 square metres
Proposed: 53.9 square metres
Variance Requested: 23.9 square metres

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-074.

Page 3 of 10

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

Page 4 of 10

Options/Discussion:

On September 9, 2022, a minor variance application was submitted by Sohail Umar-Khitab, on behalf of the owners Ronika and Sohail Umar-Khitab, with respect to the property located at 886 Rowantree Crescent. The variance is requested to increase the maximum area for a deck which is greater than 1.2 metres in height from finished grade. The variance is requested to construct a 44.6 square metre deck at the rear of the dwelling and a 9.3 square metre deck pan above the basement entrance for a total deck area of 53.9 square metres.

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

- Site Plan (Exhibit G); and
- Drawing Package (Exhibit H).

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 at 886 Rowantree Crescent (Exhibit B – Key Map). The property is located in an existing residential neighbourhood and is developed with a two storey, single detached dwelling. The subject property is a triangular shaped lot with a wider rear yard and backs onto Bayridge Drive (Exhibit G).

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:

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.

Page 5 of 10

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 (Exhibit D).

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 site is located within the Urban Boundary, in a Housing District, and is on full municipal services. Development within the Urban Boundary and on a site with municipal services is meant to be the focus of growth/development within the City. Housing Districts can be compatible with minor development activities so long as the prevailing built form standards are generally found in the neighbourhood. The proposed rear yard deck is in keeping with the nature of surrounding residential development, where several properties have attached decks. The proposed variance will create minimal land use compatibility impacts on the neighbouring properties.

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 surrounded by low density residential dwellings, most of which contain attached decks in the rear yard. The construction and location of the new decks are compatible with the surrounding development. The location and proposed deck area is not anticipated to create any negative impacts on the adjacent land uses.

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 site layout provides for adequate amenity and landscaped area. The development will meet all requirements of the Ontario Building Code. The proposed deck will not result in changes to the existing parking and access to the dwelling.

 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.

Page 6 of 10

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 protected under the *Ontario Heritage Act*. The Archaeological Master Plan indicated that the subject property has limited archaeological potential therefore an Archaeological Assessment is not required.

It is recommended that the standard archaeological warning clause be provided in the notice of decision to inform the owner/applicant of their obligation if artifacts or remains are found during excavation.

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 single detached 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

- 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 irregular shaped lot provides a greater interior side yard resulting in the proposed deck to be located further from adjacent residential uses.

The proposal meets the intent of the Official Plan, as the proposed elevated rear deck and will not result in any negative impacts to adjacent properties or to the neighbourhood.

Page 7 of 10

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

The subject property is zoned Urban Residential 1 'UR1.A' Zone (Exhibit E – Kingston Zoning By-Law Number 2022-62). The 'UR1.A' zone permits a single detached dwelling subject to the performance standards of the 'UR1.A' zone.

The existing single detached dwelling is developed with a 22.3 square metre deck at the rear of the dwelling. The owner proposes remove the existing deck and construct a 44.6 square metre deck at the rear of the dwelling and a 9.3 square metre deck pan above the basement entrance for a total deck area of 53.9 square metres.

Proposal under new Zoning By-Law Number 2022-62:

Variance 1: Maximum Area of a Deck more than 1.2 metres in Height Above Finished Grade Level

By-Law Number 2022-62: Section 4.20.4.1
Requirement: 30 square metres
Proposed: 53.9 square meres
Variance Requested: 23.9 square metres

Section 4.20.4 in Zoning By-Law Number 2022-62 requires a deck more than 1.2 metres in height above finished grade have a minimum area of 10 percent of the lot area of which a maximum of 30 square metres. The proposed deck will exceed the maximum size of a deck, greater than 1.2 metre above finished grade. A variance is therefore requested to increase the maximum area of the elevated deck and stairway from 30 square metres to 53.9 square metres.

All other provisions in the UR1.A zone are complied with.

3) The variance is minor in nature

The variance to increase the maximum area of a deck, greater than 1.2 metres in height from finished grade in Zoning By-Law Number 2022-62 will recognize the location of the proposed deck to the rear of the single detached dwelling. The proposed variance will only apply to the subject property and is not anticipated to have any negative impacts on the abutting residential uses. The deck will be setback approximately 4.99 metres from the southern lot line and 6.86 metres from the northern lot line which is greater than the minimum 1.2 metre setback requirement. The requested variance is considered minor as there are no anticipated negative off-site impacts and the and the residential use and proposed deck are permitted within the 'UR1.A' zones.

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

The existing dwelling has a 22.3 square metre deck which is accessed from the main level with stairs to the rear yard. The removal of the existing deck will allow for the construction

Page 8 of 10

of a 44.6 square metre deck at the rear of the dwelling and provide a new stairway to access the basement under the deck. A 9.3 square metre landing (deck pan) is proposed along the southern wall of the dwelling which will be accessed by a patio door.

The decks are setback approximately 4.99 metres from the southern lot line and 6.86 metres from the northern lot line which is a greater setback than the minimum 1.2 metre requirement in the zoning by-laws. The location of the deck is not anticipated to have any intrusive overlook or negative impacts on the abutting residential uses.

The proposal maintains the existing single detached dwelling use and will not result in an increase in units or bedroom counts. The subject property will continue to function appropriately as the driveway will be maintained from Rowantree Street and a rear yard will be maintained. The existing means of egress and ingress from the dwelling are maintained. The deck will provide safe outdoor amenity space to be accessed from the main level with safe access to the rear yard.

The variance is desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

\boxtimes	Building Services		\boxtimes	Heritage (Planning Services)
\boxtimes	Finance	□ Utilities Kingston	\boxtimes	Real Estate & Environmental Initiatives
\boxtimes	Fire & Rescue	☐ Kingston Hydro		City's Environment Division
\boxtimes	Solid Waste	□ Parks Development		Canadian National Railways
\boxtimes	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, there were no written public comments received. Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

Page 9 of 10

Previous or Concurrent Applications

There are no concurrent or relevant historic planning applications on the subject property.

Conclusion

The requested variances maintain the general intent and purpose of both the City of Kingston Official Plan and the Kingston Zoning By-Law Number 2022-62. The proposal is desirable for the appropriate development or use of the land, building or structure and the requested variances 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 rear deck to an existing single detached dwelling.

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 2022-62

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on October 17, 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 25 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

Page 10 of 10

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

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 2022-62

Exhibit F Neighbourhood Context Map (2021)

Exhibit G Site Plan

Exhibit H Drawing Package

Recommended Conditions

Application for minor variance, File Number D13-053-2022

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

1. Limitation

That the approved minor variance applies only to the three-season unheated room 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 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.

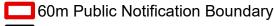
In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Registrar of Cemeteries at the Ministry of Government and Consumer Services (416-212-7499), the Program and Services Branch of the Ministry of Heritage,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

Exhibit B Report Number COA-22-074 Committee of Adjustment **Key Map** KINGSTON Address: 886 Rowantree Cres Old Colony Rd File Number: D13-053-2022 **Planning** Services Lands Subject to Minor Variance 906 1033 Old Colony Rd 902 1029 1025 898 Rowannice Cres 894 1021 Bayridge Dr 890 885 886 882 878 950 874 947 870 866 943 0 14 21 862 Metres Prepared By: rejones Date: Sep-12-2022 1:750 12



Committee of Adjustment Public Notice Notification Map

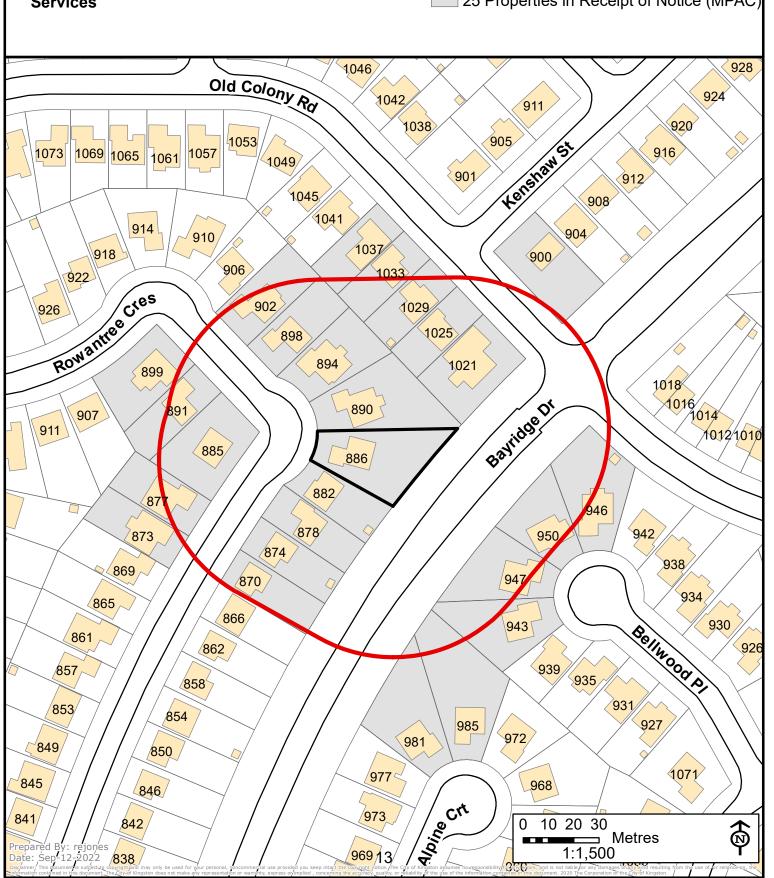
Address: 886 Rowantree Cres File Number: D13-053-2022



Subject Lands

Property Boundaries

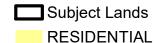
25 Properties in Receipt of Notice (MPAC)

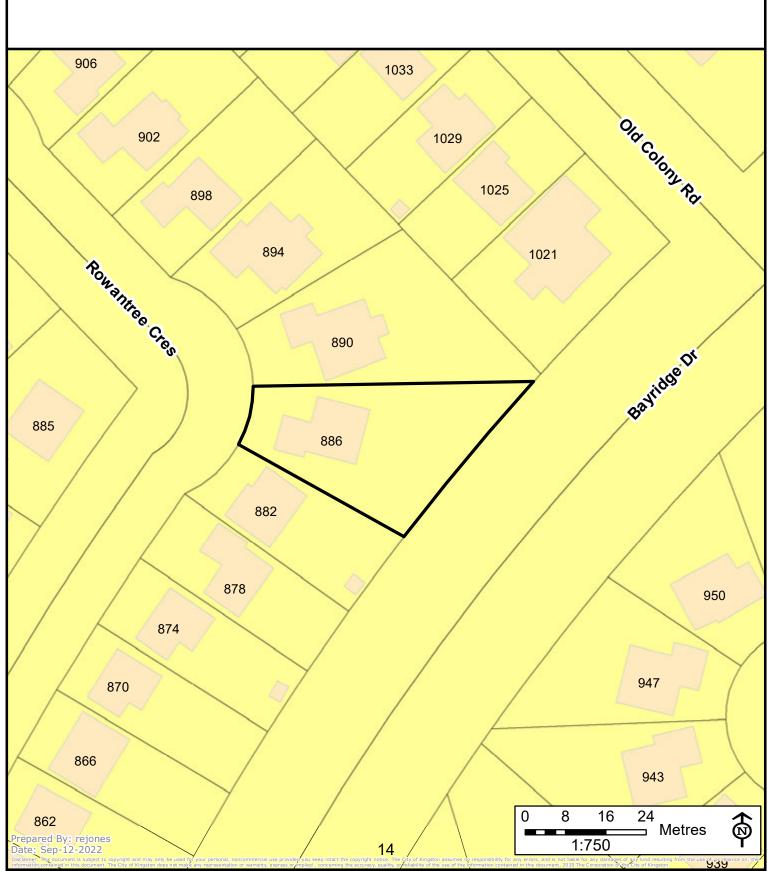




Committee of Adjustment Official Plan, Existing Land Use

Address: 886 Rowantree Cres File Number: D13-053-2022







Planning Committee Reference Kingston Zoning Bylaw

Address: 886 Rowantree Cres File Number: D13-053-2022

Subject Lands
Schedule 1 Zoning Map
Zone

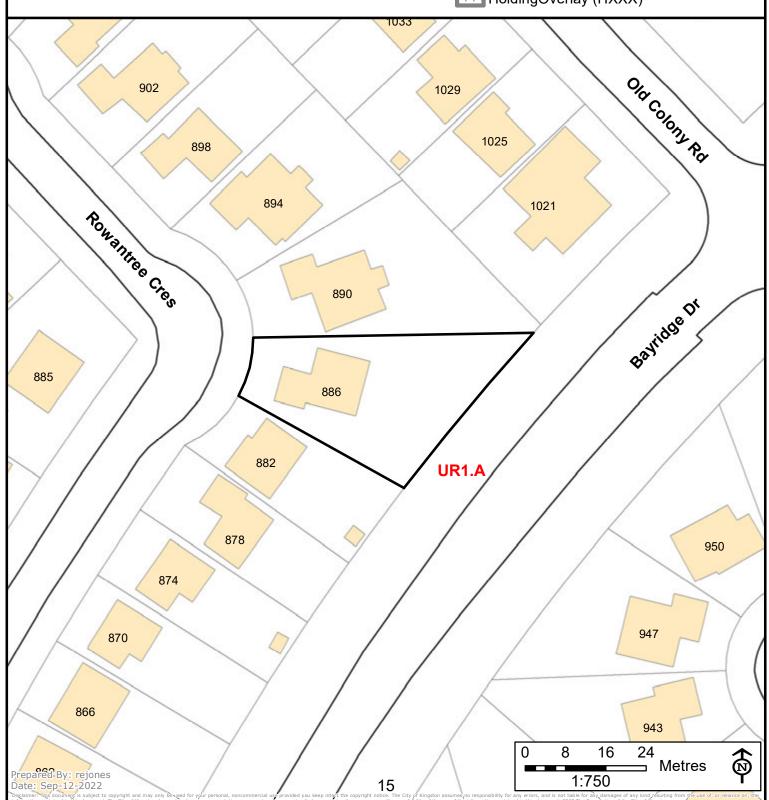
Schedule E - Exception Overlay

Legacy Exceptions (LXXX)

Exceptions (EXXX)

Schedule F - Holding Overlay

HoldingOverlay (HXXX)





Committee of Adjustment Neighbourhood Context (2021)

Address: 886 Rowantree Cres File Number: D13-053-2022

<u>(</u>	Subject Lands
	☐ Property Boundaries
	Proposed Parcels



