

# City of Kingston Report to Committee of Adjustment Report Number COA-22-075

To: Chair and Members of the Committee of Adjustment

From: Tim Fisher, Planner

Date of Meeting: November 21, 2022

Application for: Minor Variance

File Number: D13-057-2022

Address: 1445 Kendal Avenue

Owner: Anthony, Cliara and Milton Tingle

Applicant: Milton Tingle

#### **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 1445 Kendal Avenue. The applicant is proposing to reduce the minimum rear setback to construct a 11.7 square metre three-season sunroom on an existing 19 square metre rear deck.

The subject property is developed with a bungalow and attached single car garage fronting on Kendal Avenue (Exhibit B – Key Map). The property is located in a residential neighbourhood developed with single detached dwellings.

The property is designated Residential in the Official Plan and is zoned Urban Residential 3 'UR3.B' Zone in Kingston Zoning By-Law Number 2022-62. A variance is requested to reduce the minimum rear setback for a primary structure.

Page 2 of 10

Kingston Zoning By-Law Number 2022-62 requires the three-season sunroom to be subject to the same provisions as the principal structure and therefore requires a variance to the minimum rear yard setback requirement in the UR3.B zone.

The requested minor variance is consistent with the general intent and purpose of both the City of Kingston Official Plan and 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 D13-057-2022, for the property located at 1445 Kendal Avenue to reduce the rear yard to construct a 11.7 square metre three-season sunroom, be Approved, as described below:

#### **Variance Number 1: Minimum Rear Setback**

By-Law Number 2022-62: Table 11.4.3, UR3.B

Requirement: 6.0 metres
Proposed: 4.36 metres
Variance Requested: 1.64 metres

**That** approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-075.

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 Meghan Robidoux, Supervisor, Development Approvals

Page 4 of 10

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

On September 22, 2022, a minor variance application was submitted by Milton Tingle with respect to the property located at 1445 Kendal Avenue. The variance is requested to reduce the rear yard setback to construct a 11.7 square metre three-season sunroom on an existing 19 square metre rear deck.

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

- Plot 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 is located at 1445 Kendal Avenue (Exhibit B – Key Map) and is developed with a bungalow with a single car garage fronting on Kendal Avenue. The property is located in a residential neighbourhood developed with single detached dwellings.

The property is designated Residential in the Official Plan and zoned Urban Residential 3 'UR3.B' Zone in the Kingston Zoning By-Law Number 2022-62.

### **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.

#### 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.

Page 5 of 10

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 existing residential use and zoning is consistent with the Residential designation. The proposed three-season sunroom is an addition to the permitted single-detached dwelling on the property. The proposal will provide for reinvestment into the property and will result in minor development that is compatible with surrounding residential uses. The proposal is similar to the prevailing built form standards of height, density and amenity that are generally found on surrounding properties along Kendal Avenue and will not result in any significant impacts or changes to the local neighbourhood character.

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 proposed three-season, sunroom provides new opportunity for growth and investment within Kingston in a manner that would ensure compatible development and land use. The three-season room will result in development that is consistent with the built form of existing rear yards found on residential properties in the neighbourhood.

The 11.7 square metre three season room will be placed on the existing 19 square metre deck at the rear of the dwelling. The floor height of the three-season room will maintain the existing height of the deck. The location, size and height of the three-season sunroom is not anticipated to result in any new negative effects such as overlook and shadowing on abutting properties, as a result of its placement in the same location as the existing deck.

The proposed development will be compatible with the surrounding uses, buildings and structures, in accordance with Section 2.7 of the Official Plan.

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;

#### Page 6 of 10

The application is not proposing any changes to the existing driveway and parking space. There will be no concerns with respect to the function of the site in terms of access routes, parking or universal accessibility.

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 proposal conforms to the Design Guidelines for Residential Lots which have been approved by Council, and in particular, the guidelines applicable to renovations and additions. The proposed sunroom will add modest additional indoor floor area to the existing single-detached home with exterior cladding and design that is consistent with the existing building.

The subject site is not designated under Part IV or Part V of the *Ontario Heritage Act*, nor is it adjacent to any designated properties. The property is not located within a Heritage Character Area and was identified as being cleared of archaeology under the City of Kingston's Archaeology Master Plan which would exempt the applicant from the requirement of an archaeological assessment.

- 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 lands are not designated under the *Ontario Heritage Act*, nor are the adjacent lands 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 subject lands are located within the Urban Boundary and 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;
  - 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.

Page 7 of 10

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 three-season sunroom 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 Urban Residential 3 'UR3.B' Zone (Exhibit F – Zoning By-Law Number 2022-62). The 'UR3.B' zone permits a single detached dwelling subject to the performance standards of the zone. The proposed three-season sunroom will be enclosed and is therefore subject to the performance standards of the principal structure. A variance is requested to reduce the minimum rear yard to construct a 11.7 square metre sunroom at the rear of the existing single detached dwelling as follows:

#### Variance Number 1: Minimum Rear Yard

By-Law Number 2022-62: Table 11.43, UR3.B

Requirement: 6.0 metres
Proposed: 4.36 metres
Variance Requested: 1.64 metres

The intent of the minimum rear yard provision of the zoning by-law is to ensure that adequate rear yard amenity area is provided and to maintain consistent built form within residential neighbourhoods. The proposal will maintain sufficient rear yard amenity space and landscaped open space, in accordance with the requirements of the zoning by-law. The requested reduction in rear yard will only be applied to the proposed structure. All other provisions in the 'UR3.B' zone are complied with.

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

The variance is considered minor as the development is in keeping with the scale and design of the existing residential development in the neighbourhood. The proposal is not anticipated to have any negative impacts on the abutting residential uses. The sunroom is located in the rear yard and will not be visible from the street therefore, it will not have any impacts on the streetscape or character of the neighbourhood. The proposed sunroom will be provided in place of an existing 11.7 square metre deck at the rear of the dwelling and will allow for increased ability to enjoy the property. As such, the requested variance is minor in nature.

Page 8 of 10

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

The subject property is developed with a one-storey single detached dwelling. The proposed 11.7 square metre, sunroom at the rear of the dwelling will provide additional living space to the residential use. The proposal will not result in any new units or bedrooms.

The sunroom is located at the rear of the dwelling and will not be seen from the street and will not result in any new impacts on the abutting residential uses or their enjoyment of their property. A rear yard will be maintained for outdoor amenity space. The variance to reduce the minimum rear yard setback is only applied to the proposed sunroom at the rear of the dwelling. Any future development on the subject property is to comply with the performance standards of the zoning by-law.

The variance is desirable and appropriate use of the land.

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

$\boxtimes$	Building Services		
$\boxtimes$	Finance	□ Utilities Kingston	⊠ Real Estate & Environmental Initiatives
$\boxtimes$	Fire & Rescue	☐ Kingston Hydro	
$\boxtimes$	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 are no written objections or concerns submitted by the public. 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 variance maintains the general intent and purpose of both the City of Kingston Official Plan and 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 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 permit the construction of a sunroom in place of an existing 11.7 square metre deck at the rear of the dwelling and allow for increased ability to enjoy the property and improvements to the resident's quality of life.

#### **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

Kingston Zoning By-Law Number 2022-62

#### **Notice Provisions:**

A Committee of Adjustment Meeting is going to be held respecting this application on November 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 50 property owners (according to the latest Assessment Roll) within 60 metres of the subject property (Exhibit C) 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*.

Page 10 of 10

#### **Accessibility Considerations:**

None

#### **Financial Considerations:**

None

#### **Contacts:**

Meghan Rubidoux, Supervisor, Development Approvals, 613-546-4291 extension 1256

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 Neighbourhood Context Map (2021)

Exhibit E Official Plan Map

Exhibit F Zoning By-Law Number 2002-62

Exhibit G Survey

Exhibit H Plan Drawing Package

Exhibit I Site Photos

#### **Recommended Conditions**

#### **Application for minor variance, File Number D13-057-2022**

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

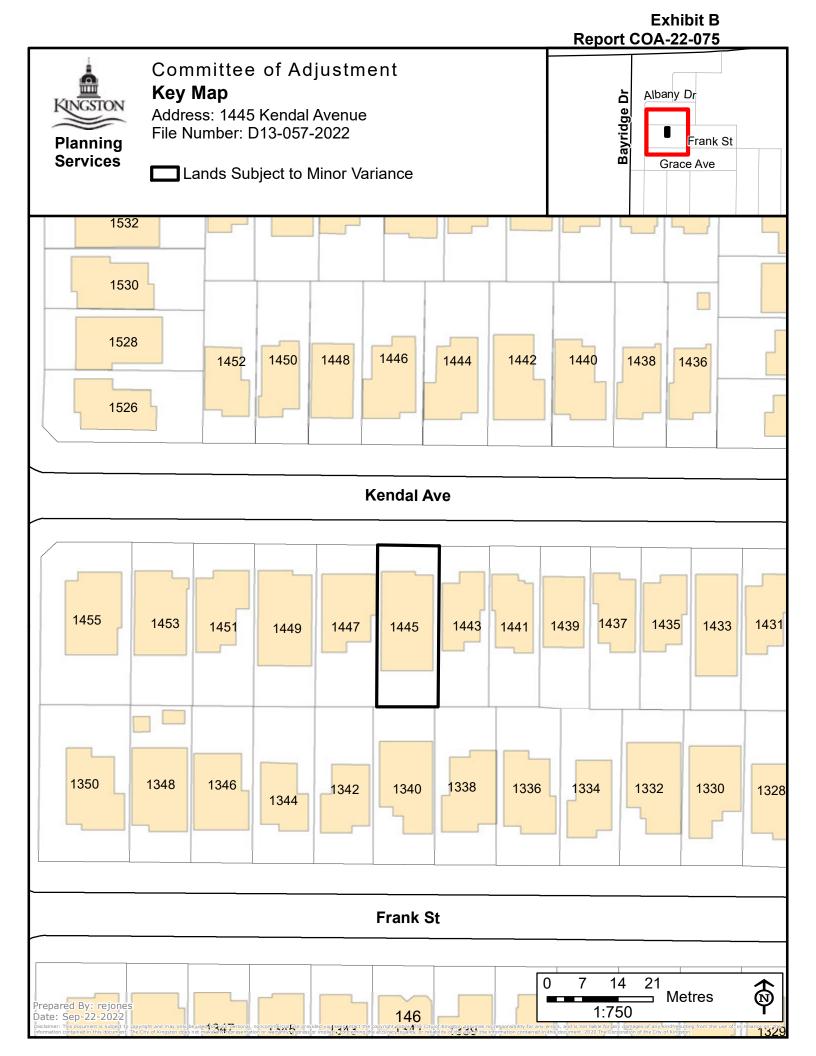
The owner/applicant shall provide to the Building Services a copy of the decision of the Committee of Adjustment, together with a copy of the approved drawings, when they make application for a Building Permit.

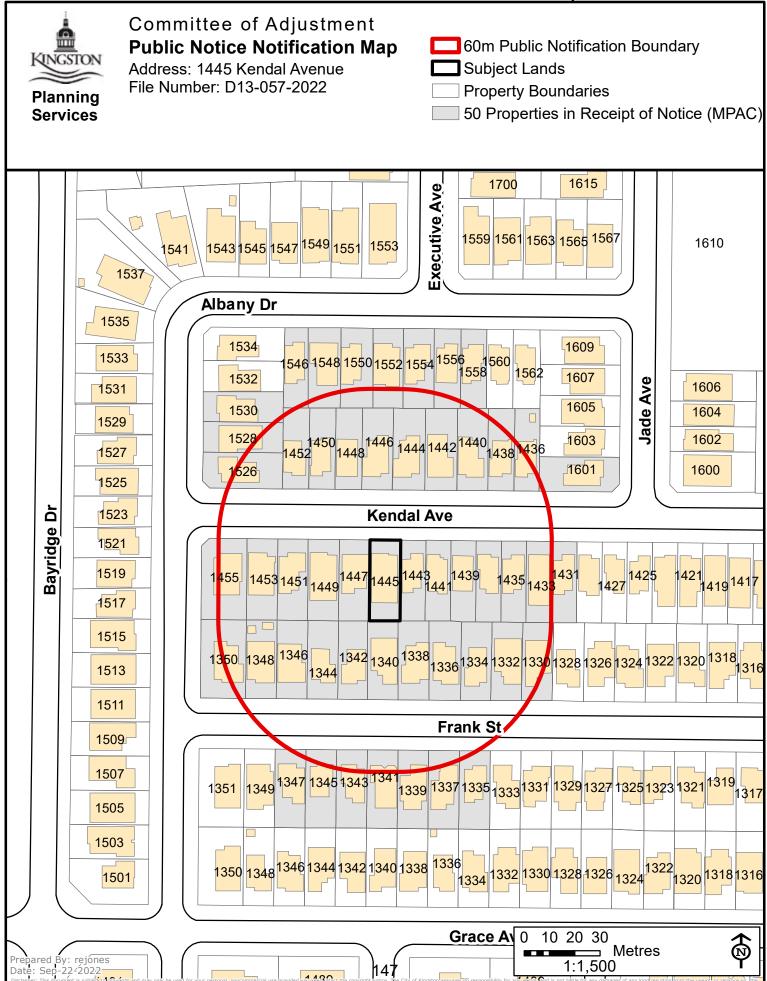
The drawings submitted with the Building Permit application must, in the opinion of the City, conform to the general intent and description of the approved drawing(s), including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. It must be noted that additional 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.





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# Committee of Adjustment Neighbourhood Context (2021)

Address: 1445 Kendal Avenue File Number: D13-057-2022

Subject Lands
Property Boundaries
Proposed Parcels

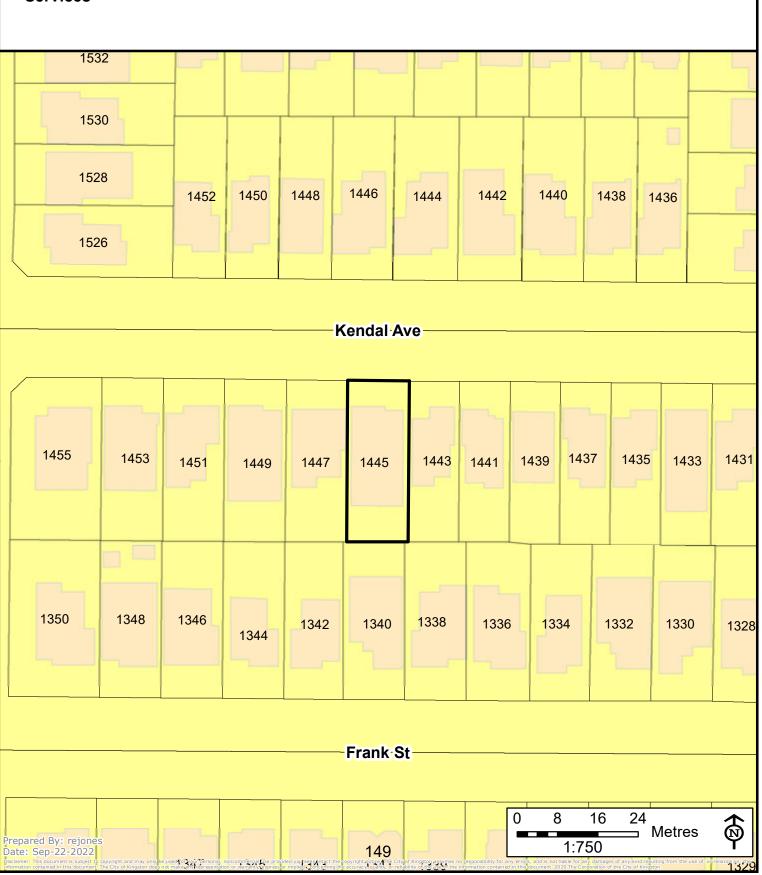




# Committee of Adjustment Official Plan, Existing Land Use

Subject Lands
RESIDENTIAL

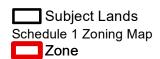
Address: 1445 Kendal Avenue File Number: D13-057-2022





# Committee of Adjustment Reference Kingston Zoning Bylaw

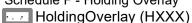
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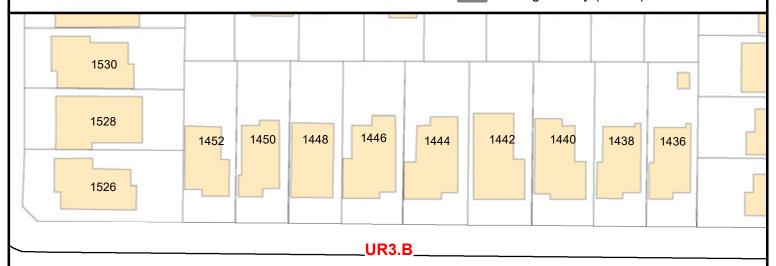


Schedule E - Exception Overlay

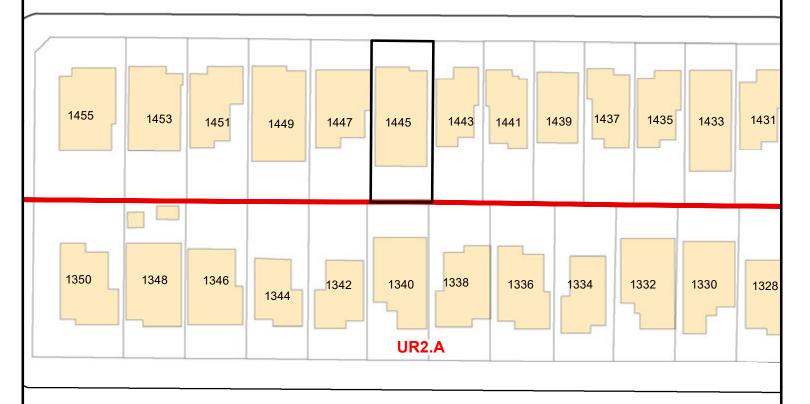
Legacy Exceptions (LXXX)

Exceptions (EXXX)
Schedule F - Holding Overlay

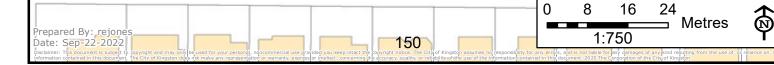




#### **Kendal Ave**

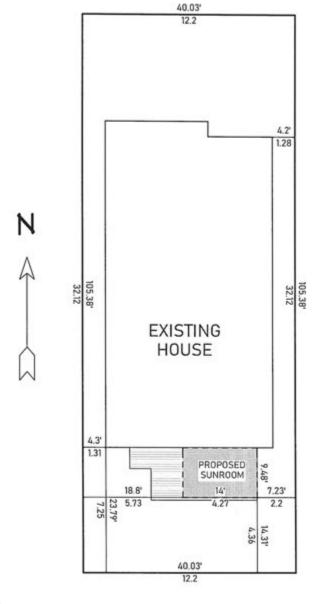


#### Frank St



D30-1489-2022

# KENDAL AVENUE



REP

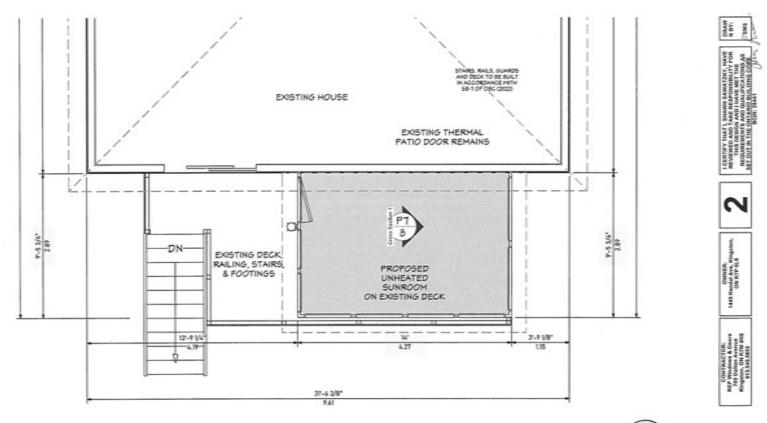
CONTRACTOR: REP Windows & Doors 700 Dalton Avenue Kingston, ON K7M 8N8 613.549.5855

445 Kendal Ave, Kingston, ON K7P 0L6 1

I CERTIFY THAT I, SHAWN SAWATZKY, HAVE REVIEWED AND TAKE RESPONSIBILITY FOR THIS DESIGN AND INAVE MET THE REQUIREMENTS AND QUALIFICATIONS AS SET OUT IN THE ONTAINS BUILDING CODE.

BGIN: 28441

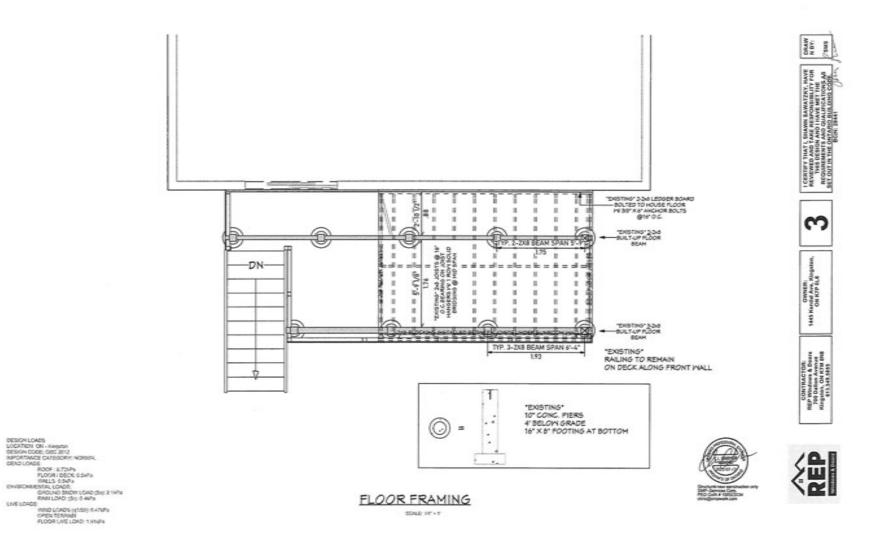
DRAW N BY:



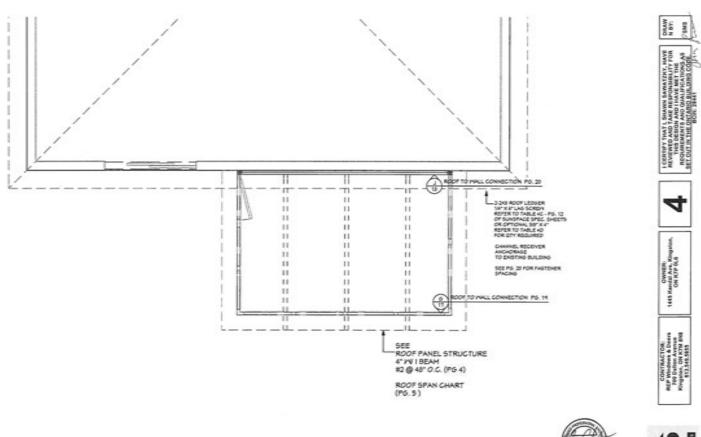




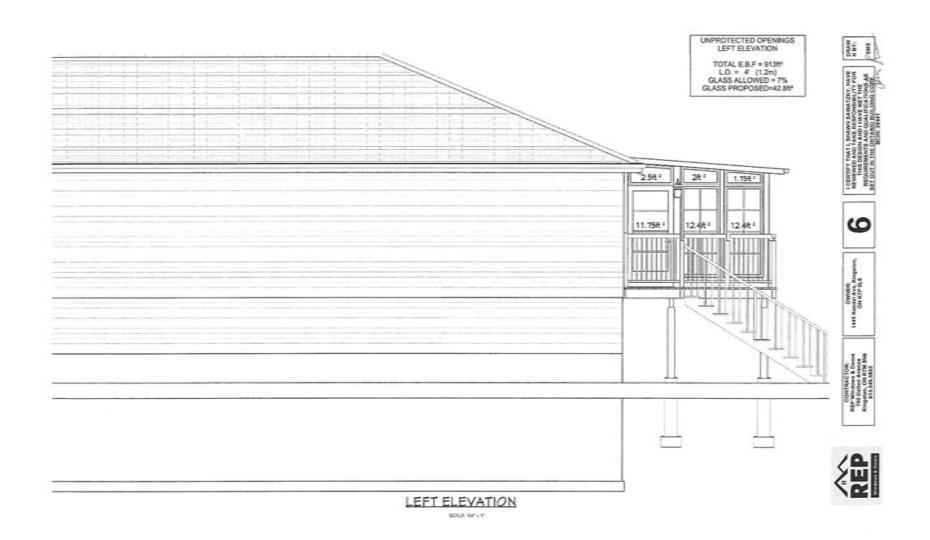
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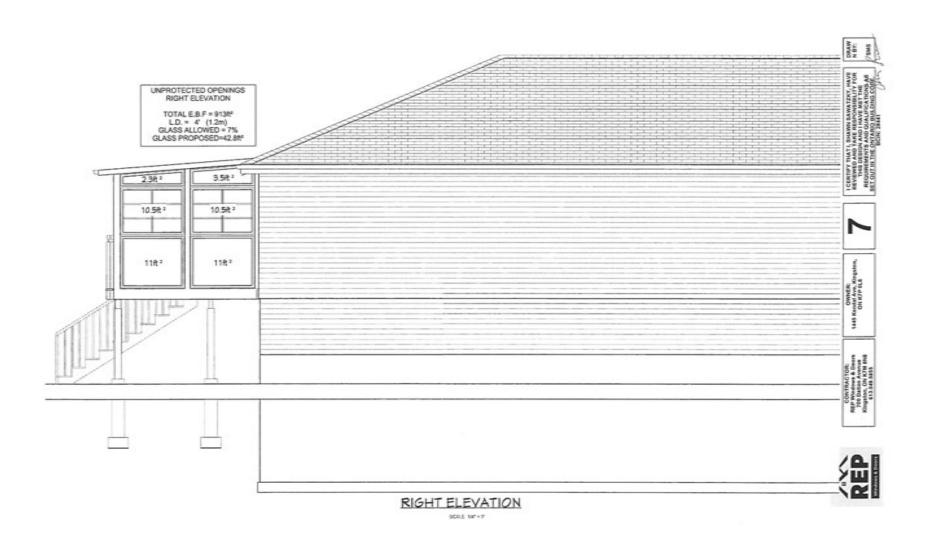


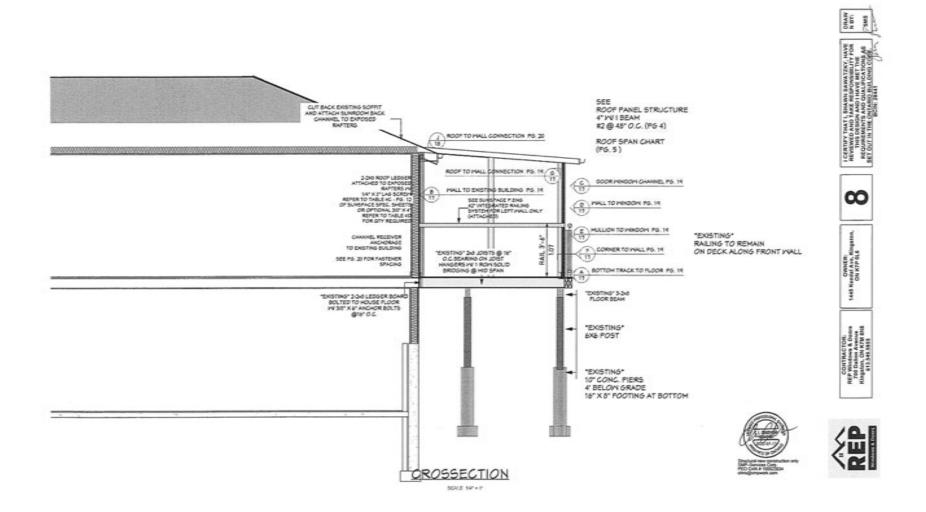
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## SUNSPACE SPECIFICATION SHEET

D30-1489-2022

Customer: Sunspace by R E P Windows & Doors

Tag Name: 2022

Page 2 of 2

Order Date: May 12, 2022

#### **Wall Specifications**

#### Left Wall

S1 Starter

F2 2" Solid Wall

BH3 Box Header

D4 Vinyl 4 Track Entry Door

Bronze Vinyl Trapezoid Transom

W5 31-1/8" x 72" Vertical 4 Track Bronze Vinyl Trapezoid

W6 31-1/8" x 72" Vertical 4 Track Bronze Vinyl Trapezoid

F7 2" Solid Wall

C8 90° Corner

#### Front Wall

C8 90° Corner

F9 2-1/8" Solid Wall

W10 37-3/8" x 72" Vertical 4 Track Bronze Vinyl Transom

W11 37-3/8" x 72" Vertical 4 Track Bronze Vinyl Transom

W12 37-3/8" x 72" Vertical 4 Track Bronze Vinyl Transom

W13 37-3/8" x 72" Vertical 4 Track Bronze Vinyl Transom

F14 2-1/8" Solid Wall

C15 90° Corner

#### Right Wall

C15 90° Corner

F16 2" Solid Wall

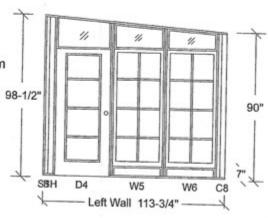
W17 50-3/4" x 37" Vertical 4 Track 3 Vents

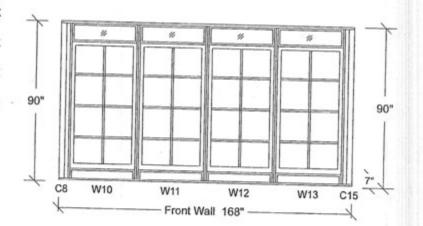
Bronze Vinyl Trapezoid

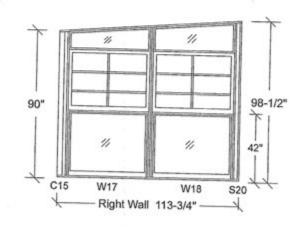
W18 50-3/4" x 37" Vertical 4 Track 3 Vents Bronze Vinyl Trapezoid

F19 2-1/8" Solid Wall

S20 Starter







# SUNSPACE SPECIFICATION SHEET

Customer: Sunspace by R E P Windows & Doors

Tag Name: 2022

Page 1 of 2

Order Date: May 12, 2022

#### Room Specifications

9' 5-3/4" Projection x 14' 0" Width

Room Style: Wall Type:

Studio Model 200

Backwall Height:

102-1/2" Incl. Roof

Frontwall Height: 94" Incl. Roof

Framing Colour:

Bronze

Ext. Panel Skin: Int. Panel Skin:

Bronze Alum. Stucco Bronze Alum. Stucco

Kneewall:

6-3/4" Solid Panel

Transom Style: Cut Pitch:

Bronze Vinyl Yes

## Floor Specifications

Use Existing Floor

#### Roof Specifications

10' 6" Projection x 16' Width

Roof Type:

Pressure Cap FP

Roof Pitch

4" x 48" O.C. x 1 lb 0.9 / 12 (4.27°)

Int. Panel Color:

White

Ext. Panel Color: White Gutter Color:

Bronze

Downspout Kits: 1

Downspout Color: Bronze

### Windows and Doors

Window Type:

Vertical 4 Track

Window Color:

Bronze

Vinyl Tint:

Bronze

Screen Type:

Better Vue Insect Screen

Left Wall:

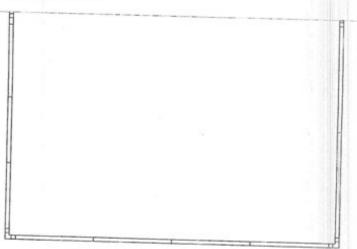
V4T Entry Door

34" x 79-1/8", LHH, Inswing, 6-7/8" Kneewall, Bronze, Oil Rubbed Bronze

Hardware, Bronze Vinyl Trapezoid Transom

This Room is to be installed on a House

### Room Layout



#### Roof Layout

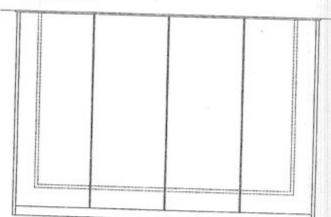


Exhibit I Report COA-22-075

