



**City of Kingston
Report to Committee of Adjustment
Report Number COA-24-001**

To: Chair and Members of the Committee of Adjustment
From: Jacob Slevin, Planner
Date of Meeting: December 11, 2023
Application for: Minor Variance
File Number: D13-059-2023
Address: 5 York Street
District: District 11- King's Town
Owner: Neil Glenn
Applicant: Neil Glenn

Council Strategic Plan Alignment:

Theme: 1. Support Housing Affordability

Goal: 1.1 Promote increased supply and affordability of housing.

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variance for the property located at 5 York Street. The applicant is proposing to construct a covered front porch in the front yard of the subject property. The front wall of the existing house is located approximately 1.76 metres from the front lot line, and therefore the proposed porch is unable to comply with the required 3.5 metre front yard setback for porches. As such, a minor variance is requested to permit the construction of the front porch 0.25 metres from the front lot line.

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

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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 D13-059-2023, for the property located at 5 York Street to permit the construction of a front porch, be approved, as described below:

Variance Number 1:

By-Law Number 2022-62: Table 4.20.4.2

Requirement: 3.5 metres

Proposed: 0.25 metres

Variance Requested: 3.25 metres

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-24-001.

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Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

Jacob Slevin, Planner

In Consultation with the following Management of the Growth & Development Services Group:

Tim Park, Director, Planning Services

Meghan Robidoux, Supervisor, Development Approvals

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Options/Discussion:

On September 25, 2023, a minor variance application was submitted by Neil Glenn, owner of the property located at 5 York Street. The applicant is seeking to construct a covered porch within the front yard of the subject property.

Table 4.20.4 of the Kingston Zoning By-Law establishes setback requirements for decks and porches. As per Table 4.20.4.2, the required front setback for a porch is 3.5 metres from the front lot line. A property survey provided by the applicant (Exhibit F) indicates that the existing house on the subject property is setback only 1.76 metres from the front lot line.

Given the location of the existing house, it is impossible for a front porch to be constructed in compliance with the front setback provisions of Table 4.20.4 of the Kingston Zoning By-Law. As such, the variance is requested to permit the construction of a covered front porch 0.25 metres from the front lot line.

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

- Survey (Exhibit F)
- Building Plans (Exhibit G)

All submission materials are available online through the Development and Services Hub (DASH) at the following link, [DASH](#), 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 5 York Street, within the North King’s Town area of Kingston (Exhibit B – Key Map). The subject property is developed as a rowhouse, with an area of 170.79 square metres and approximately 7.3 metres of frontage onto York Street. The property is located within an established residential neighbourhood, adjacent residential uses to the north, east, south, and west. 5 York Street is located in close proximity to public green space and a neighbourhood commercial use. The subject property is approximately 26 metres from McBurney Park and approximately 51 metres from The Store Famous, a local grocery and convenience store (Exhibit C – Neighbourhood Context Map).

The subject property is designated Residential in the Official Plan (Exhibit D – Official Plan Map) and zoned Urban Residential 5 (UR5) in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map).

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

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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.

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:

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 – Official Plan Map).

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 subject property is located in a Housing District within the Urban Boundary as per Schedule 2 of the Official Plan. Housing Districts are planned to remain stable in accordance with Section 2.6 of the Official Plan. As the requested variance is proposed solely to enable the development of a covered front porch, approval of this application will have no effect on the stability of the surrounding residential neighbourhood.

The proposed development is anticipated to be compatible with all surrounding uses and buildings in the surrounding neighbourhood, in accordance with Section 2.7 of the Official Plan. Many properties in the immediate area are also developed with front porches close to the front lot line, including 3 York Street and 1 York Street, and therefore the construction of the proposed porch at 5 York Street would conform with the existing streetscape. Additionally, the applicant has agreed to construct a privacy fence on the side of the porch closest to 3 York Street in order to mitigate potential privacy concerns.

Nothing in this proposal will inhibit the site in terms of vehicular access, available parking, or accessibility. The subject property is not designated under the *Ontario Heritage Act*, and furthermore, Heritage Planning staff have advised that an archeological assessment is not warranted for this development.

Given that the proposed front porch only requires a variance to reduce the required front setback and complies with all other applicable provisions of the Kingston Zoning By-Law, a minor variance application is considered to be a more appropriate means of addressing this proposal than a zoning by-law amendment application.

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As many properties in the existing residential neighbourhood are currently developed with reduced front setbacks, approval of this variance is not anticipated to set any undesirable precedents.

Therefore, the proposal meets the intent of the Official Plan, as the proposed covered front porch 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 UR5 in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map). The UR5 Zone permits a number of residential and non-residential uses. Among residential uses, single-detached houses and residential duplexes are permitted uses.

The subject property is a rowhouse, which is not a permitted use in the UR5 Zone. However, clause 11.6.2(1) of the Kingston Zoning By-Law states a townhouse that existed as of the passing of this By-Law is deemed to be a permitted use in the UR5 Zone. MPAC data indicates that the building was constructed prior to establishment of any Zoning By-Laws in the City of Kingston. As such, the existing rowhouse is a permitted use.

The proposal requires a variance to Table 4.20.4.3, which requires porches to be set back 3.5 metres from the front lot line.

Variance Number 1:

By-Law Number 2022-62: Table 4.20.4.3

Requirement: 3.5 metres

Proposed: 0.25 metres

Variance Requested: 3.25 metres

The intent of Table 4.20.4.3 is to regulate the development of decks and porches in order to ensure that decks and porches are adequately separated from one another and compatible with the character and built form of the surrounding neighbourhood. For the residential area surrounding 5 York Street, many residential properties were developed prior to the enactment of the current Kingston Zoning By-Law. As such, many surrounding residential properties are legal non-complying with respect to required front setbacks.

For instance, 3 York Street and 1 York Street are developed with a front porch with a 0 metre setback from the front lot line. Other nearby properties, such as 400 Barrie Street, 402 Barrie Street, and 406 Barrie Street, are developed with a 0 metre setback from the front lot line. Given that many nearby properties are developed with minimal front setbacks, approval of the requested variance to reduce the required front setback is not anticipated to cause compatibility issues with the surrounding neighbourhood. Engineering staff have reviewed the proposal and no concerns are anticipated in regards to encroachment into the municipal right-of-way. As such, the requested variance maintains the general intent and purpose of the zoning by-law.

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3) The variance is minor in nature

The variance is considered minor as the proposed porch is anticipated to be compatible with the built form of the surrounding residential neighbourhood. Approval of this variance will not facilitate any additional residential density on the subject property, nor will it substantially increase the floor area of the subject property. A privacy fence is proposed on the deck along the east interior lot line, in compliance with the requirements of the zoning by-law. The requested reduction in the required front yard setback is the only variance needed to facilitate construction of the porch, as the proposal complies with all other relevant provisions of the Kingston Zoning By-Law.

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

The variance is considered to be desirable as it will increase the usable floor area of the subject property. This will allow for a more efficient use of available land without causing disruption or adverse impacts to the surrounding neighbourhood.

As such, the variance is considered a desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

- | | | |
|-------------------------------------------------------|--------------------------------------------------------|----------------------------------------------------------|
| <input checked="" type="checkbox"/> Building Services | <input checked="" type="checkbox"/> Engineering | <input checked="" type="checkbox"/> Heritage Services |
| <input type="checkbox"/> Finance | <input checked="" type="checkbox"/> Utilities Kingston | <input checked="" type="checkbox"/> Real Estate |
| <input checked="" type="checkbox"/> Fire & Rescue | <input checked="" type="checkbox"/> Kingston Hydro | <input checked="" type="checkbox"/> Environment Division |
| <input checked="" type="checkbox"/> Solid Waste | <input checked="" type="checkbox"/> Parks Development | <input type="checkbox"/> Canadian National Railways |
| <input type="checkbox"/> Housing | <input type="checkbox"/> District Councillor | <input type="checkbox"/> Ministry of Transportation |
| <input type="checkbox"/> KEDCO | <input type="checkbox"/> Municipal Drainage | <input type="checkbox"/> Parks of the St. Lawrence |
| <input type="checkbox"/> CRCA | <input type="checkbox"/> KFL&A Health Unit | <input type="checkbox"/> Trans Northern Pipelines |
| <input type="checkbox"/> Parks Canada | <input type="checkbox"/> Eastern Ontario Power | <input type="checkbox"/> CFB Kingston |
| <input type="checkbox"/> Hydro One | <input type="checkbox"/> Enbridge Pipelines | <input type="checkbox"/> TransCanada Pipelines |
| <input type="checkbox"/> Kingston Airport | | |

Technical Comments

This application was circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude this application from moving forward. Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

Public Comments

At the time this report was finalized, no public comments have been received. Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

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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 enable the construction of a covered front porch 0.25 metres from the front lot line.

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 December 11, 2023 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 (Exhibit H – Public Notification Map).

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*.

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Accessibility Considerations:

None

Financial Considerations:

None

Contacts:

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

Jacob Slevin, Planner, 613-546-4291 extension 2176

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Neighbourhood Context Map (2023)
- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Map
- Exhibit F Survey
- Exhibit G Building Plans
- Exhibit H Site Photos
- Exhibit I Public Notification Map
- Exhibit J Plot Plan

Recommended Conditions

The approval of minor variance application, File Number D13-059-2023, to reduce the required front setback for a front porch, shall be subject to the following recommended conditions:

1. Limitation

That the approved minor variance applies only to front porch 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 Archaeology Program Unit of the Ministry of Citizenship and Multiculturalism (archaeology@ontario.ca) and City of Kingston's Planning Services (613-546-4291, extension 3180) must be immediately contacted.

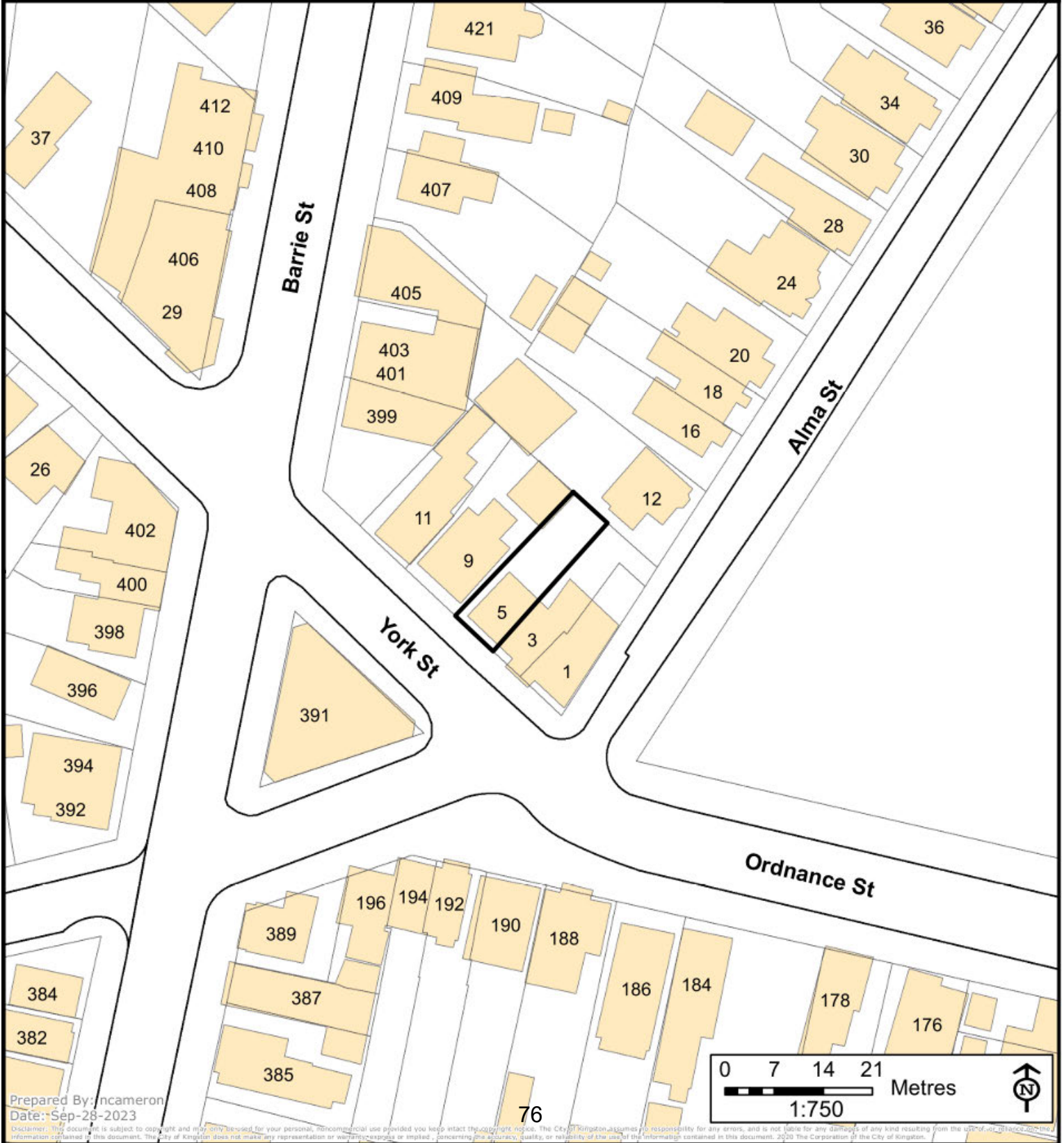
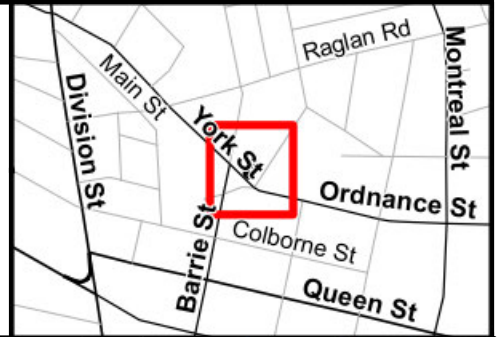
In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Office of the Chief Coroner as a part of the Ontario Ministry of the Solicitor General (1-877-991-9959), the Archaeology Program Unit of the Ministry of Citizenship and Multiculturalism (archaeology@ontario.ca), and City of Kingston's Planning Services (613-546-4291, extension 3180) must be immediately contacted.



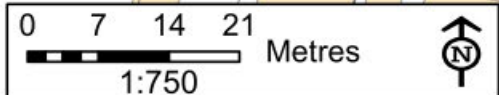
Committee of Adjustment Key Map

Address: 5 York St.
File Number: D13-059-2023

 Lands Subject to Minor Variance



Prepared By: incameron
Date: Sep-28-2023



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Committee of Adjustment Neighbourhood Context (2023)

Address: 5 York St.
File Number: D13-059-2023

- Subject Lands
- Property Boundaries
- Proposed Parcels



Prepared By: ncameron
Date: Sep-28-2023

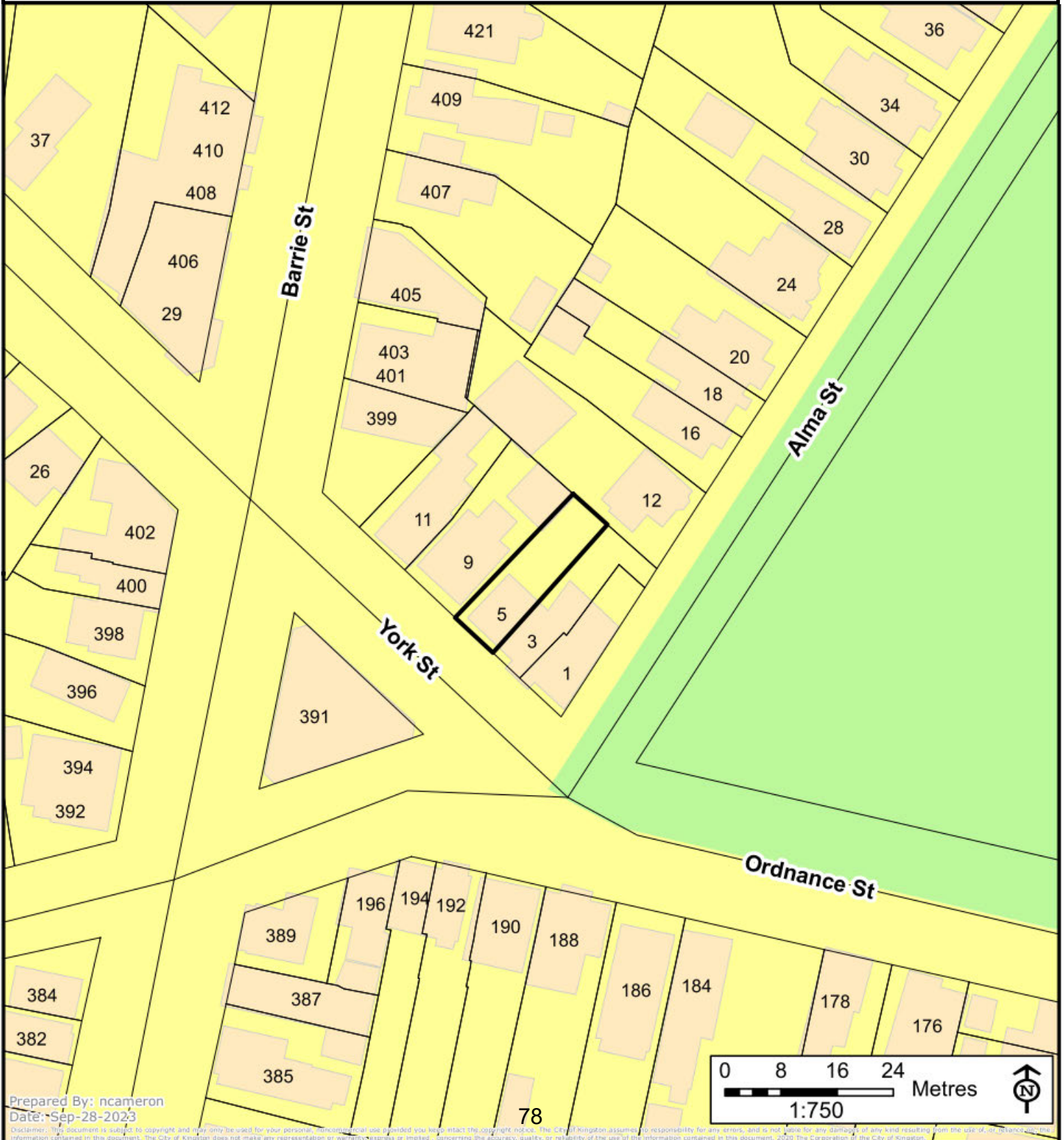
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Committee of Adjustment Official Plan, Existing Land Use

Address: 5 York St.
File Number: D13-059-2023

- Subject Lands
- OPEN SPACE
- RESIDENTIAL



Prepared By: ncameron
Date: Sep-28-2023

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Planning Committee
Existing Zoning
Kingston Zoning By-Law 2022-62

Planning Services

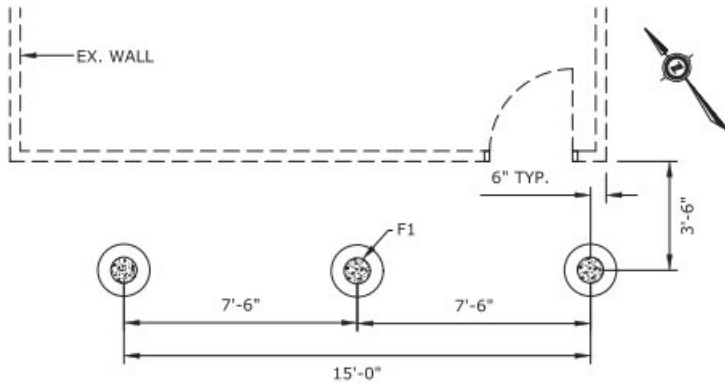
Address: 5 York St.
File Number: D13-059-2023

- Subject Lands
- Schedule 1 Zoning Map
- Zone
- Not Subject to the Kingston Zoning By-law
- Schedule E - Exception Overlay
- Legacy Exceptions (LXXX)
- Exceptions (EXXX)
- Schedule F - Holding Overlay
- Holding Overlay (HXXX)

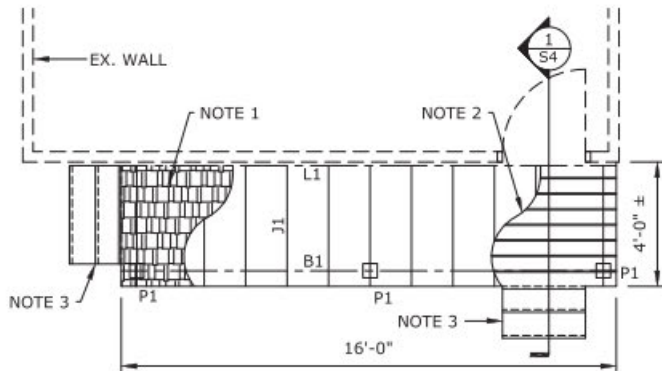


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Date: Sep-28-2023

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PORCH FOOTING PLAN
SCALE: 1/4" = 1'-0"



PORCH FRAMING PLAN
SCALE: 1/4" = 1'-0"

- NOTE 1:** ROOF FRAMING OVER.
1/2" PLYWOOD SHEATHING. ASPHALT SHINGLES OR STEEL ROOFING TO SUIT OWNERS SPECIFICATIONS.
- NOTE 2:** DECK FRAMING BELOW.
2x6 P.T. JOISTS @ 16" O/C. 5/4 P.T. DECK BOARDS OR COMPOSITE DECKING.
- NOTE 3:** MIN. 36" WIDE x 2 RISER STAIRS. REFER TO TYPICAL DETAIL.

GENERAL NOTES

1. COMPLY WITH ALL REQUIREMENTS OF THE OCCUPATIONAL HEALTH AND SAFETY ACT DURING CONSTRUCTION, INCLUDING ANY TEMPORARY WORKS.
2. DO NOT SCALE DRAWINGS.
3. THE CONTRACTOR IS TO FIELD VERIFY ALL DIMENSIONS & SITE CONDITIONS BEFORE STARTING CONSTRUCTION. IF DISCREPANCIES ARE FOUND, NOTIFY THE ENGINEER BEFORE CONTINUING WITH THE WORK.
4. THE OWNER IS RESPONSIBLE FOR OBTAINING BUILDING PERMITS PRIOR TO START OF CONSTRUCTION.

EXCAVATION AND BACKFILL NOTES

1. EXCAVATE ALL ORGANIC FILL, DEBRIS OR FOREIGN MATERIAL TO UNDISTURBED SUB-GRADE.
2. REMOVE ANY DELETERIOUS MATERIAL FROM SUB-GRADE.
3. FINISHED SITE GRADING TO PROVIDE POSITIVE DRAINAGE AWAY FROM THE BUILDING. DIRECT ALL DOWNSPOUTS AND OVERLAND FLOW AWAY FROM BUILDING.

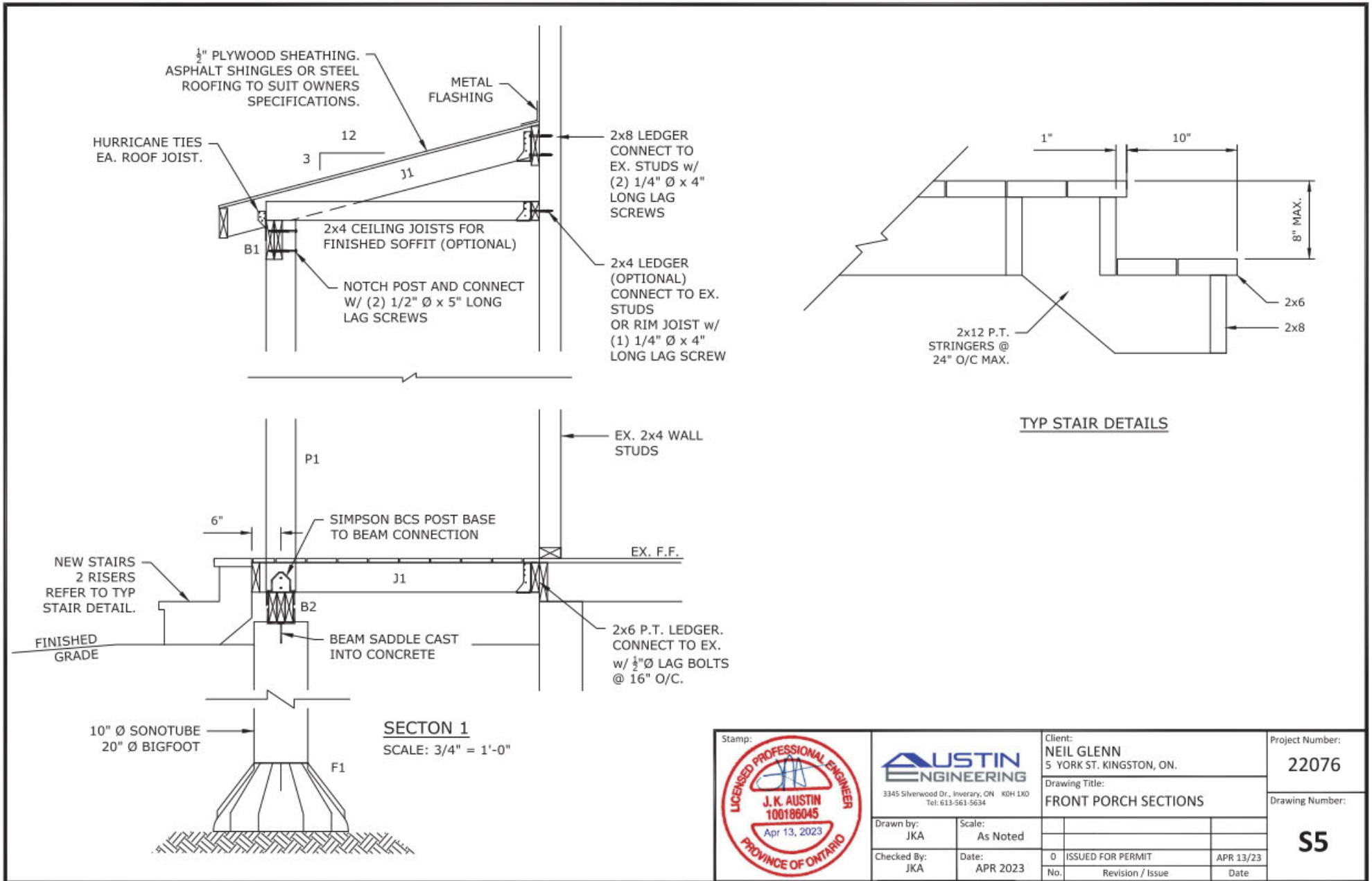
CONCRETE & REINFORCING NOTES

1. PROTECT CONCRETE FROM HOT, COLD AND WET WEATHER DURING CONSTRUCTION.
2. CONCRETE FOR FOOTINGS TO BE MINIMUM 20 MPA. CONCRETE EXPOSED TO FREEZING AND THAWING SHALL HAVE 4% TO 7% AIR ENTRAINMENT.
3. ALL REINFORCING SHALL HAVE A MINIMUM YIELD STRENGTH OF 400 MPa.
4. ALL CONTINUOUS REINFORCING TO BE LAPPED A MINIMUM OF 24" AT SPLICES.
5. UNLESS NOTED OTHERWISE, ALL REINFORCING TO HAVE 2" CONCRETE COVER WHERE CAST AGAINST FORMWORK AND 3" COVER WHERE CAST AGAINST SUBGRADE.

WOOD & FRAMING NOTES

1. LUMBER FOR JOISTS, RAFTERS, TRUSSES, BEAMS, STUD WALL FRAMING SHALL BE SPF NO.2 OR BETTER.
2. WOOD-BASED PANELS FOR ROOF SHEATHING TO CSA O437.0, "OSB AND WAFERBOARD" 0-1 GRADE.
3. MOISTURE CONTENT OF LUMBER SHALL BE NOT MORE THAN 19% AT THE TIME OF INSTALLATION.
4. NAILS SHALL BE COMMON STEEL WIRE NAILS OR COMMON SPIRAL NAILS, CONFORMING TO CSA B111, "WIRE NAILS, SPIKES AND STAPLES". ALL NAILS SHALL BE LONG ENOUGH SO THAT NOT LESS THAN HALF THEIR REQUIRED LENGTH PENETRATES INTO THE SECOND MEMBER.
5. ALL WOOD FRAME NAILING TO COMPLY TO ONTARIO BUILDING CODE TABLE 9.23.3.4
6. NAIL SHALL BE ZINC COATED CONFORMING TO CSA B111.
7. ALL NAILS AND FASTENERS IN CONTACT WITH PRESSURE TREATED WOOD SHALL BE GALVANIZED OR OTHER SUITABLE MEANS OF CORROSION PROTECTION SUITABLE FOR CONTACT WITH PRESSURE TREATED WOOD.
8. DELIVER, STORE AND HANDLE MATERIALS IN ACCORDANCE WITH MANUFACTURER'S WRITTEN INSTRUCTIONS.
9. ALL WOOD MEMBERS EXPOSED TO EXTERIOR CONDITIONS OR IN CONTACT WITH CONCRETE TO BE PRESSURE-TREATED LUMBER OR EQUIVALENT MEANS OF PROTECTION FROM THE EXTERIOR CONDITIONS.
10. ALL BUILT UP BEAMS TO CONFORM TO 9.23.8.3. OF THE OBC.
11. ALL BUILT UP BEAMS TO BE NAILED WITH A MINIMUM OF 2 ROWS OF 10D COMMON NAILS @ 6" O/C SPACING. 3 PLY BEAMS SHALL BE NAILED FROM BOTH SIDES.
12. FLUSH BEAMS: ALL JOISTS AND BEAMS FRAMING INTO FLUSH BEAMS SHALL BE CONNECTED WITH APPROPRIATE FACE MOUNTED HANGERS.

			Client: NEIL GLENN 5 YORK ST. KINGSTON, ON.		Project Number: 22076
	3345 Silverwood Dr., Inverary, ON K0H 1X0 Tel: 613-961-5634		Drawing Title: FRONT PORCH PLAN		Drawing Number: S4
Drawn by: JKA	Scale: As Noted	Checked By: JKA	Date: APR 2023	0 ISSUED FOR PERMIT No. Revision / Issue	APR 13/23 Date



	<p>3345 Silverwood Dr., Inverary, ON K0H 1X0 Tel: 613-561-5634</p>	Client: NEIL GLENN 5 YORK ST. KINGSTON, ON.	Project Number: 22076
		Drawing Title: FRONT PORCH SECTIONS	Drawing Number: S5
Drawn by: JKA	Scale: As Noted	0 ISSUED FOR PERMIT	APR 13/23
Checked By: JKA	Date: APR 2023	No. Revision / Issue	Date



Figure 1: North-west facing view of the rowhouse at 5 York Street. A covered porch is proposed to extend outwards from the existing front wall.



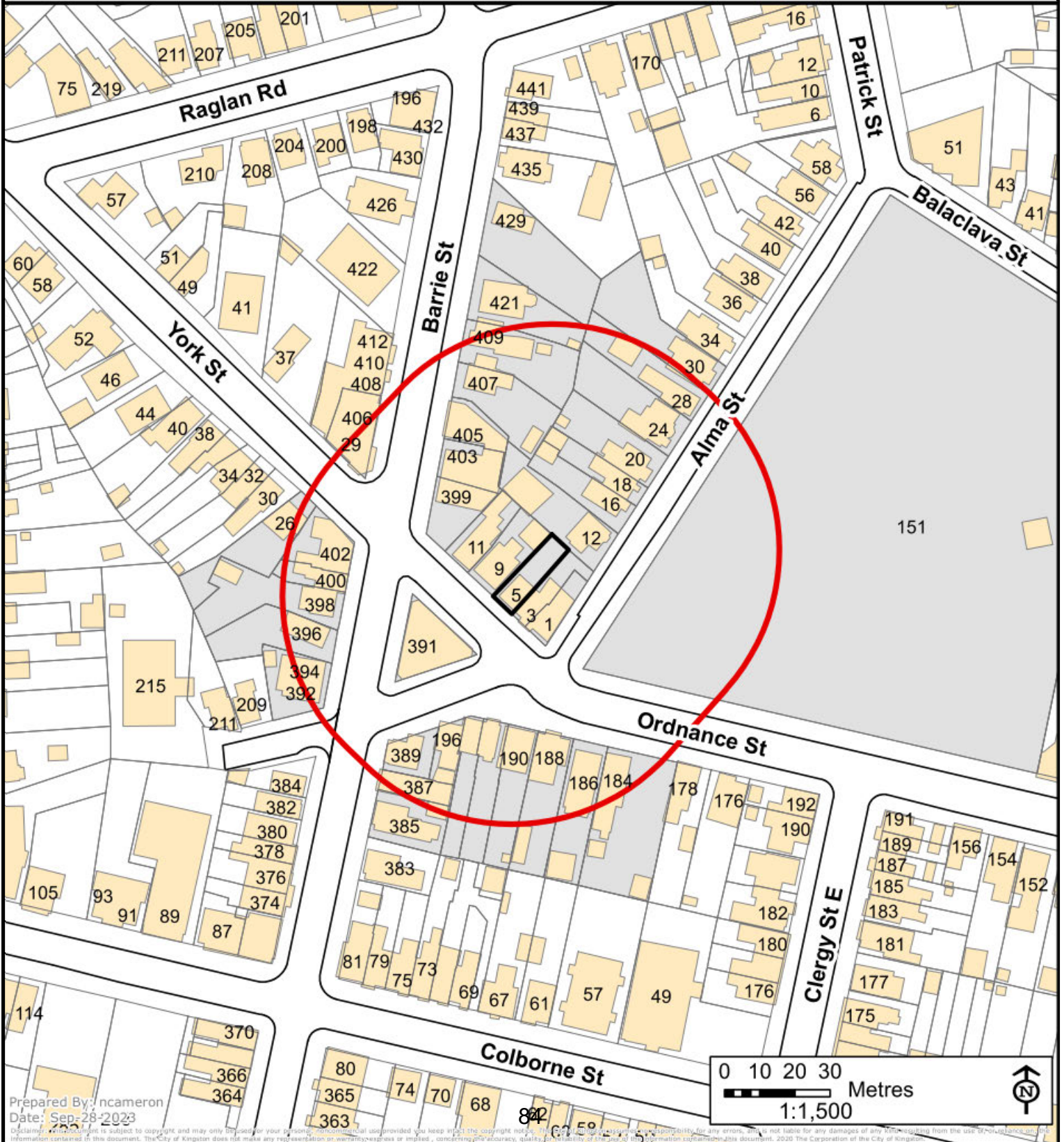
Figure 2: North-east facing view of the front entrance. The proposed porch at 5 York Street would project outwards a similar distance to the existing porch in front of the adjacent rowhouses 3 York Street and 1 York Street.



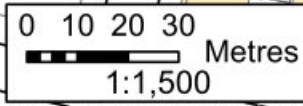
Committee of Adjustment Public Notice Notification Map

Address: 5 York St.
File Number: D13-059-2023

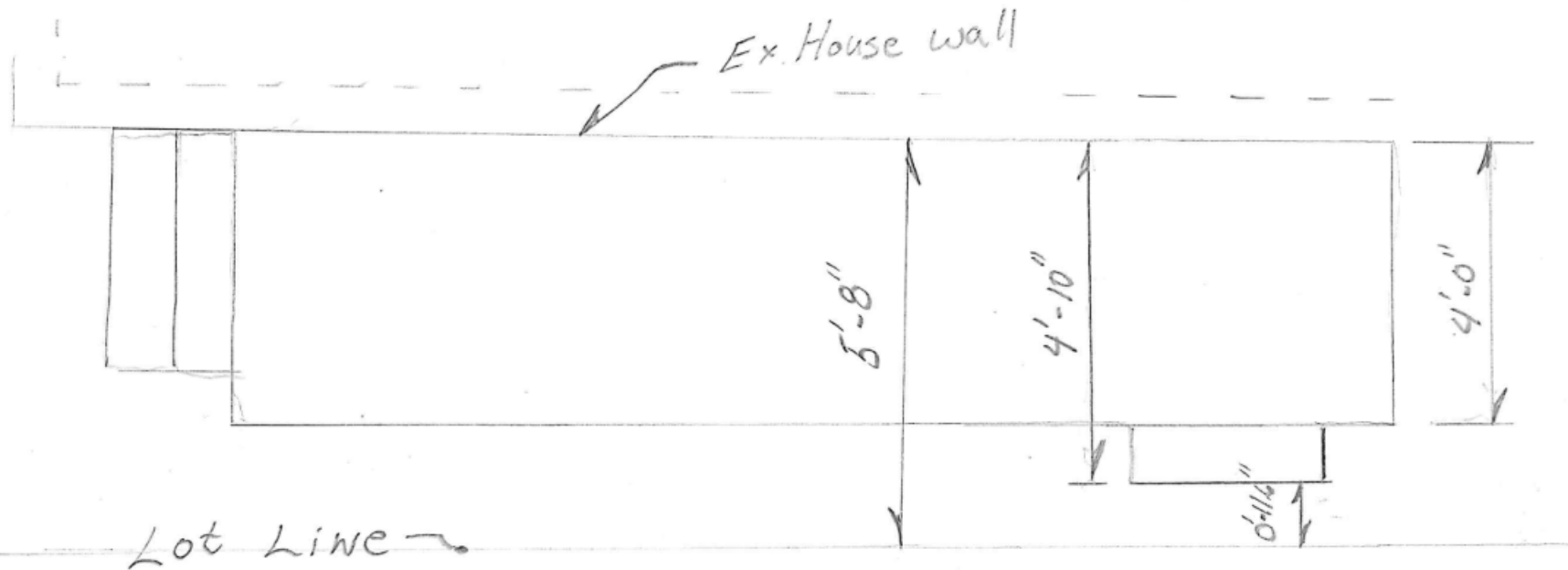
- 60m Public Notification Boundary
- Subject Lands
- Property Boundaries
- 38 Properties in Receipt of Notice (MPAC)



Prepared By: ncameron
Date: Sep-28-2023



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5 York St.
Neil Glenn