



**City of Kingston
Report to Committee of Adjustment
Report Number COA-24-018**

To: Chair and Members of the Committee of Adjustment
From: Jacob Slevin, Planner
Date of Meeting: January 22, 2024
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: Policies & by-laws

Goal: See above

Executive Summary:

This Supplemental Report provides a recommendation for a Minor Variance to facilitate the construction of a front porch at 5 York Street. The applicant is proposing to establish a covered front porch in front of the existing rowhouse at 5 York Street. Previously, the applicant applied for a variance to reduce the required front setback for a porch which is described in [Report Number COA-24-001](#) (Exhibit A) and included on the agenda for the December 11th, 2023 Committee of Adjustment meeting.

This Supplemental Report provides a recommendation for an additional minor variance to permit the porch to be built 0 metres from the shared lot line with 3 York Street without providing a 1.5 metre tall common privacy fence.

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For residential dwellings which share a common party wall with the neighbouring dwelling, the Kingston Zoning By-law permits a porch or deck to be developed with a 0 metre interior setback, on the condition that a 1.5 metre tall privacy fence is established between the porch and the adjacent dwelling. However, following public notice being issued for the December 11th, 2023 meeting, the applicant and City staff received public feedback from a neighbouring property indicating that the required privacy fence is neither necessary nor desirable in this specific neighbourhood context.

Upon review of this public feedback, the applicant has revised their building plans and now intends to construct a front porch without the privacy fence component. In order to facilitate the development of the porch without the privacy fence, a minor variance to reduce the interior setback is required.

As such, staff have prepared this Supplemental Report which recommends approval for both the initially requested variance to reduce the required front setback, and the recently requested variance to permit the construction of the front porch 0 metres from the interior lot line without requiring a privacy fence.

The requested minor variances are 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 variances are 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 D13-059-2023, for the property located at 5 York Street to facilitate 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

Variance Number 2:

By-Law Number 2022-62: Table 4.20.4.3(a)

Requirement: 0.6 metres, except along a common party wall where it may be 0.0 metres if there is a common privacy fence a minimum of 1.5 metres tall

Proposed: 0.0 metres without a 1.5 metre tall common privacy fence

Variance Requested: 1.5 metre tall common privacy fence; and

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. Initially, the applicant requested a minor variance to enable the development of a covered front porch by reducing the required front setback. The details of this variance have been previously outlined in [Report Number COA-24-001](#) (Exhibit A) and included on the agenda for the December 11th, 2023 Committee of Adjustment meeting.

The covered porch proposed by the applicant contemplates a 0 metre interior setback from the shared property line with 3 York Street, the adjacent rowhouse. For residential dwellings which share a common party wall with the neighbouring dwelling, the Kingston Zoning By-law permits a porch or deck to be developed with a 0 metre interior setback, on the condition that a 1.5 metre tall privacy fence is established between the porch and the adjacent dwelling. In order to maximize compliance with the Kingston Zoning By-law and to minimize privacy concerns for the adjacent dwelling, the applicant initially planned to develop the privacy fence in accordance with the zoning requirements.

Following public notice being issued for the December 11th, 2023 meeting, the applicant and City staff received feedback from the resident of 3 York Street stating that the required privacy fence is neither necessary nor desirable in this specific neighbourhood context. The neighbouring dwelling at 3 York Street shares a common party wall with 5 York Street, and the initially proposed privacy fence would have the effect of providing screening between those two properties.

Upon review of this public feedback, the applicant has revised their building plans and now intends to construct a front porch without the privacy fence component. In order to facilitate the development of the porch without the privacy fence, a minor variance to reduce the interior setback is required.

As such, staff have prepared this Supplemental Report which recommends approval for both the initially requested variance to reduce the required front setback, and the recently requested variance to permit the construction of the front porch 0 metres from the interior lot line without requiring a privacy fence.

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

- Site Plan (Exhibit J of [Report Number COA-24-001](#))

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.

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Site Characteristics

No changes are proposed through this report that impact the previously described site characteristics. Please refer to Exhibit A – [Report Number COA-24-001](#) for details.

Provincial Policy Statement

No changes are proposed through this report that impact the Provincial Policy Statement. Please refer to Exhibit A – [Report Number COA-24-001](#) for details.

Minor Variance 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:

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 subject property is located in a Housing District within the Urban Boundary as per Schedule 2 of the Official Plan. Nothing in this proposal shall facilitate any residential development or increase residential density in any way. This application will have no effect on the stability of the surrounding neighbourhood.

The built form of the proposed front porch will be in keeping with the character of the surrounding residential properties. Numerous adjacent properties, including 1 York Street, 3 York Street, 9 York Street, and 11 York Street, are developed with front porches. None of these porches developed on nearby properties have a privacy fence component in the front yard. As none of these porches on nearby properties have privacy fences, the proposal to remove the privacy fence requirement from the proposed porch at 5 York Street will increase the porch's compatibility with the built form of the surrounding area.

Nothing in this proposal will inhibit the site in terms of vehicular access, available parking, or accessibility. No impacts to built heritage or archeological resources are anticipated.

Given the small scale of the development proposed and the adherence to the intent 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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Recommended conditions are listed in “Exhibit A - Recommended Conditions”, attached to [Report Number COA-24-001 \(Exhibit A\)](#). Conditions may be added, altered or removed at the Committee’s discretion.

Considering that many porches in the surrounding area already lack privacy fences, approval of this variance will not set an undesirable precedent.

The proposal meets the intent of the Official Plan, as the proposed construction of a front porch without a privacy fence 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

The proposal requires a variance to Table 4.20.4.3(a), as follows:

Variance Number 2:

By-Law Number 2022-62: Table 4.20.4.3(a)

Requirement:	0.6 metres, except along a common party wall where it may be 0.0 metres if there is a common privacy fence a minimum of 1.5 metres tall
Proposed:	0.0 metres without a 1.5 metre tall common privacy fence
Variance Requested:	1.5 metre tall common privacy fence;

The intent of Table 4.20.4.3(a) is to ensure a consistent pattern of development for porches, while also ensuring that porches are adequately separated from each other. Where a property is developed as a semi-detached house or a townhouse, the Kingston Zoning By-law permits a 0 metre interior setback if a 1.5 metre tall privacy fence is provided. If this privacy fence is not provided, the minimum interior setback is 0.6 metres.

By permitting a 0 metre setback for dwellings which share a common party wall, the Kingston Zoning By-law acknowledges that a setback greater than 0 metres may not be possible for dwellings such as townhouses. The intention of the privacy fence provision is to mitigate potential privacy concerns that may arise from the construction of a porch 0 metres from the interior lot line. The privacy fence provision ensures that where a porch is built with a 0 metre interior setback, any residents of the adjacent property will be adequately screened from the neighbouring porch.

In the specific case of 5 York Street, the resident of 3 York Street has advised staff that they are opposed to the requirement for a privacy fence. Considering that the intent of the privacy fence provision in the By-law is to respect the concerns of neighbouring residents, and that the neighbouring resident at 3 York Street has explicitly confirmed that they would prefer the porch without a privacy fence, the requested variance meets the intent of the By-law in the sense that it respects the concerns of the neighbouring resident.

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In terms of encouraging a consistent pattern of development, the proposal to remove the privacy fence component of the porch will enhance the porch's visual compatibility with the built form of the surrounding area. 1 York Street, 3 York Street, 9 York Street, and 11 York Street are each developed with front porches that do not include privacy fences. The removal of the requirement for a privacy fence will make the proposed porch at 5 York Street more consistent with the neighbouring properties than it would have been otherwise.

As the requested variance is mindful of the perspective of the residents in the adjacent rowhouse and will ensure greater compatibility with the built form of the surrounding area, the requested variance maintains the general intent and purpose of the zoning by-law.

3) The variance is minor in nature

The variance is considered minor as no changes to the proposed covered porch are contemplated other than the removal of the privacy fence component. The Kingston Zoning By-law already contemplates interior setbacks of 0 metres for dwellings with common party walls. The sole purpose of the proposed variance is to enable this same 0 metre setback without a privacy fence, which is consistent with the design of front porches on adjacent properties.

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

The proposed variance is desirable for the subject property as it will enable the porch to be built in a manner that is more consistent with the surrounding built form of the established residential neighbourhood. As the resident of the adjacent rowhouse has advised that the privacy fence is not desirable in this neighbourhood context, no adverse impacts to adjacent properties are anticipated. As such, the variance is a desirable and appropriate use of the land.

Public Comments

In advance of the Committee of Adjustment meeting of December 11th, 2023, two pieces of correspondence were received from members of the public (Exhibit C – Public Comments).

The first piece of correspondence requested clarification on several issues, including the design of the porch, compatibility of the porch with other neighbouring properties, snow storage, sightlines to York Street, and green space. In response to this inquiry, Planning staff clarified that the porch will be in keeping with the design of other porches in the area, that there will be available space on the property for snow storage, that sightlines will not be obstructed, and that 5 York will continue to meet zoning requirements for landscaped open space.

The second piece of correspondence objected to the inclusion of a privacy fence as part of the proposed front porch. Based on this feedback and further discussion with the applicant, an additional minor variance was requested by the applicant to permit the construction of the proposed porch without a privacy fence, as detailed in this Supplemental Report.

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Any additional 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 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 allow the construction of the front porch at 5 York Street to be set 0 metres from the shared lot line with 3 York Street without providing a privacy fence.

Existing Policy/By-Law:

Please refer to Report Number COA-24-001

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on January 22, 2024 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 B – 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*.

Accessibility Considerations:

None

Financial Considerations:

None

Contacts:

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

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

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

Exhibit A [Report Number COA-24-001](#)

Exhibit B Public Notification Map

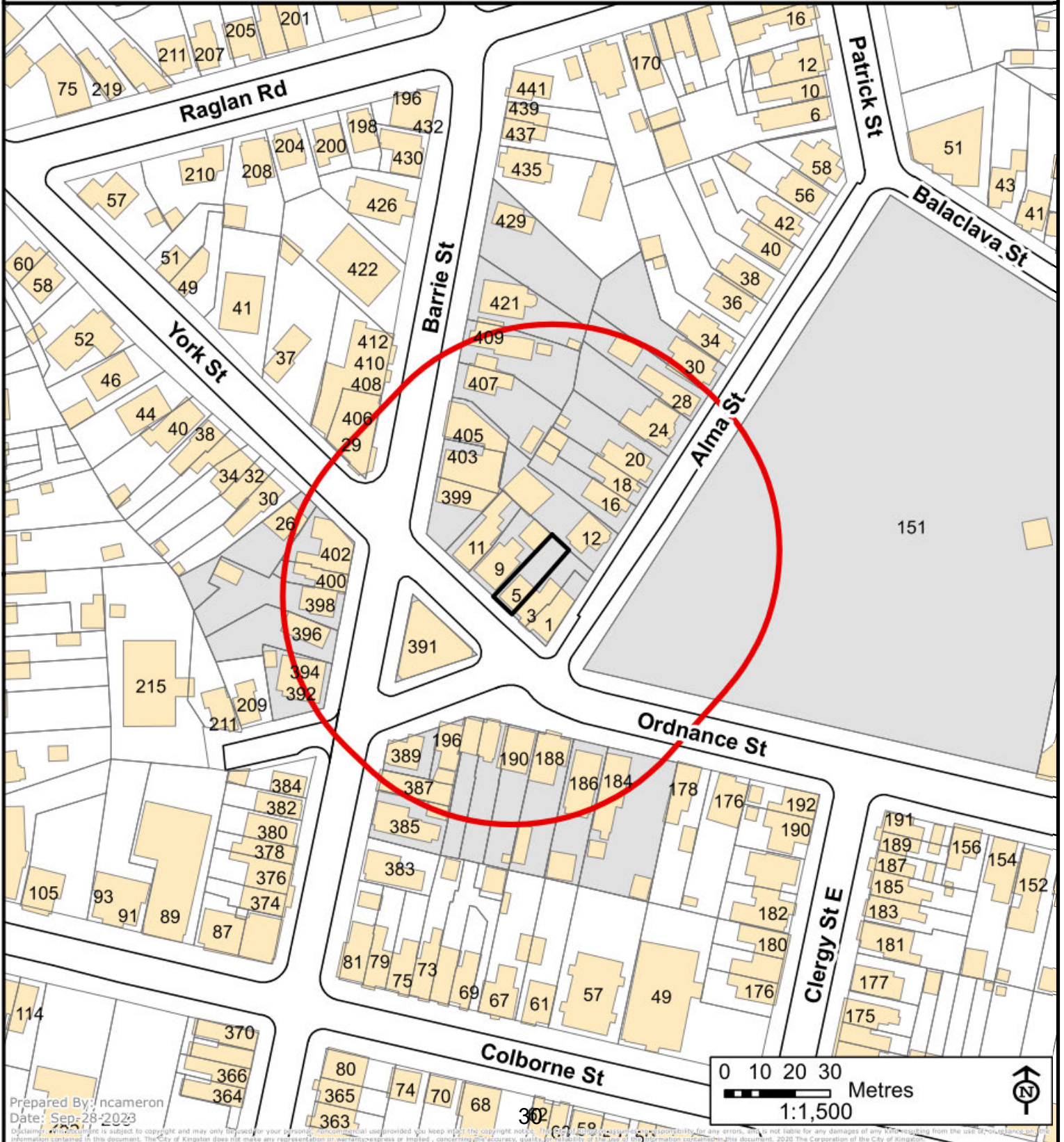
Exhibit C Public Comments



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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Slevin, Jacob

From: Slevin, Jacob <jslevin@cityofkingston.ca>
Sent: December 11, 2023 11:07 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: Re: Minor Variance, File No. D13-059-2023

Good Morning Jill,

Thank you for reaching out regarding the Minor Variance application for 5 York Street. As the Planner assigned to this application, I will do my best to answer each of your questions.

You are welcome to attend tonight's Committee of Adjustment meeting in person or virtually if you have concerns or would like to pose any questions to City staff or the applicant.

Please note that our correspondence will be sent to the Committee of Adjustment and added to the public record. Your personal contact information will be redacted.

I've provided my answers below:

1. The proposed porch will be covered with a roof. It will not be enclosed with walls or windows. There will be a privacy fence on the shared property line with 3 York Street to add visual screening for privacy purposes.
2. The existing porches for 3 York Street and 1 York Street appear to extend approximately 1.3 metres from the front wall of the building and occupy approximately 6 square metres of area. The proposed porch for 5 York Street will extend 1.2 metres from the front wall and occupy approximately 6 square metres of area. As such, the proposed porch for 5 York Street will be aligned with the existing porches at 3 York Street and 1 York Street in terms of area and projection outwards from the front wall.

Based on the applicant's building plans, the porch will not be as wide as the house itself and will be consistent with the size of other existing front porches in the surrounding area, including the porches at 3 York Street and 1 York Street.

3. The area in front of the proposed porch at 5 York Street and portions of the rear yard of 5 York Street appear to be suitable for snow storage during the winter.

4. The proposed covered porch ends approximately 1.2 metres before the beginning of the shared driveway with 9 York Street. This provides an open sightline to York Street. Through the Minor Variance process, Planning staff have worked with the applicant to ensure that the porch will not encroach onto City property, which would have the effect of obscuring sightlines from the driveway to York Street. Staff have confirmed that no encroachment will occur as a result of this application.

5. As per Section 3.12.3 of the Kingston Zoning By-law, porches without a perimeter foundation are considered to be landscaped open space for zoning purposes. The proposed porch for 5 York Street would not have a perimeter foundation.

As such, the addition of this front porch would not affect the zoning requirements for the required amount of landscaped open space for 5 York Street. The section of green space in front of 5 York Street which is City property cannot be encroached upon and will remain in its current state.

I hope this helps to answer your questions about this application. If you would like any additional context or have any other questions, please let me know.

Best,

Jacob Slevin (he/him/his)

Planner, Development Approvals
Planning Services
Growth and Development Services
City of Kingston

Located at 1211 John Counter Boulevard,
216 Ontario Street Kingston, ON K7L 2Z3
613-546-4291 ext. 2176
jslevin@cityofkingston.ca

From: Myers, Cheryl <[REDACTED]>
Sent: Monday, December 11, 2023 8:00 AM
To: Slevin, Jacob <jslevin@cityofkingston.ca>; Sthamann, Lindsay <lsthmann@cityofkingston.ca>
Cc: Planning Outside Email <Planning@cityofkingston.ca>
Subject: FW: Minor Variance, File No. D13-059-2023

Hi Jacob,

I believe this is your file.

Thank you,
Cheryl

From: Jill Bryant <[REDACTED]>
Sent: Friday, December 8, 2023 4:41 PM
To: Planning Outside Email <Planning@cityofkingston.ca>
Cc: daryn <[REDACTED]>
Subject: Minor Variance, File No. D13-059-2023

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Re: Minor Variance, File No. D13-059-2023

Date of Meeting: Dec. 11, 2023

Dear Honorable Chair and Committee of Adjustment personnel,

At a glance, I don't think I have any objection to the construction of a front porch at 5 York St. and it's lovely to see many improvements happening there. Still, as a neighbour, I will try to attend the meeting virtually because I do have some questions and/or points to raise in order to learn more about the proposed construction:

1. Does "covered" mean a roof, or does this mean it will be "enclosed" with walls and windows as well?
2. The proposed porch is to extend 1.2 metres (about 4 feet) from the front wall of the house. At 1.2 metres, it will stick out from the house about the same as the two other terraced houses' porches (to the east, toward the park), and relative to the front of these other houses. So, the porch will be *aligned with the other two porches*, and roughly the *same size*. Is this correct? (If so, that sounds fine.) Or, will this particular porch be much wider and larger (e.g., as wide as the house itself), taking up more space than the other porches?
3. I have some concerns about having even less space for piling snow in winter after shovelling the driveway.
4. Will the proposed porch obstruct the sightlines making it more challenging to back a vehicle out of the shared driveway? Probably it won't, but I wonder about this.
5. I have some concerns that there will be less green space. Already many neighbours have paved front garden areas—unfortunate, but I know this is their personal choice.

Thank you very kindly,

Jill Bryant

--

Jill Bryant (she/her)

Kingston, Ontario

tel: [REDACTED]

email: [REDACTED]

From:
To: [Sullivan,Iain](#); [Slevin,Jacob](#)
Cc:
Subject: COA-24-001 Application for Minor Variance 5 York Street
Date: December 11, 2023 12:08:01 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hello City of Kingston,

Regarding the "Report to Committee of Adjustment" from planner Jacob Slevin.

Report Number COA-24-001

File Number: D13-059-2023

[City of Kingston - Committee of Adjustment Agenda - Meeting 01-2024 - Report COA-24-001](#)

I live in the house at 3 York Street (attached to number 5 York Street). I am in favor of the covered porch. I know it would look lovely when completed.

I am 100% opposed to the suggestion by the City of Kingston that a privacy fence is required as part of this construction endeavour.

A privacy fence will obstruct the view up the street and take away from the aesthetic of the new front porch design.

There are five houses on this block of York Street. All the houses have porches (exception is 5 York). All porches are completely open without any privacy fences.

Mary and Neil have invested so much time and material into making the wee house a home.

It would be a shame to blunt those major expenses and efforts with an unwanted privacy fence on the new front porch.

Kind Regards,
Kate Jackson

**3 York Street, Kingston ON,
C:**