



**City of Kingston
Report to Committee of Adjustment
Report Number COA-24-004**

To: Chair and Members of the Committee of Adjustment
From: Jason Partridge, Planner
Date of Meeting: February 26, 2024
Application for: Permission
File Number: D13-054-2023
Address: 1584 St. Lawrence Avenue
District: Countryside
Owner: Ana Trajkovic and Zvonko Trajkovic
Applicant: Zvonko Trajkovic

Council Strategic Plan Alignment:

Theme: Policies & by-laws

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 permission for the property located at 1584 St. Lawrence Avenue. The applicant is proposing to increase the height of a non-complying accessory building within the front yard of the property.

The requested application for permission under Section 45(2)(a)(i) of the *Planning Act* is consistent with the general purpose and general intent of both the City of Kingston Official Plan and Kingston Zoning By-Law Number 2022-62 . The proposed detached accessory building is desirable for appropriate development of the subject property and will not result in undue adverse impacts on the surrounding properties and neighbourhood. Therefore, it is recommended that this application for permission under Section 45(2)(a)(i) of the *Planning Act* be approved.

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Recommendation:

That the application for permission, File Number D13-054-2023, for the property located at 1584 St. Lawrence Avenue to increase the height of a non-complying accessory building, be **Approved**; and,

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-24-004.

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Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

Jason Partridge, Planner

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 14, 2023, an application for permission was submitted by Zvonko Trajkovic, on behalf of the owners, Ana Trajkovic and Zvonko Trajkovic, with respect to the property located at 1584 St. Lawrence Avenue. The application for permission is requested to increase the height of an existing front yard accessory building from 4.0 metres to 5.4 metres in height. The existing accessory building will continue to be situated 1.83 metres from the west interior side yard and 3.51 metres from the north front lot line. The accessory building would measure 44.60 square metres in size and will maintain the existing accessory building's footprint. The increase in height is proposed to accommodate a storage loft over the garage.

Given the increase in height within a yard that is not permitted to have an accessory building, a permission application is requested to allow for the construction of a new front yard accessory building.

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

- Site Plan (Exhibit F)
- Elevations (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 1584 St. Lawrence Avenue which is located along the shores of the St. Lawrence River and roughly 850 metres south of Highway 2 (Exhibit B – Key Map). The property abuts similarly shaped residential properties to the east, west and north along St. Lawrence Avenue (Exhibit C – Neighbourhood Context Map).

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

Permission Application

Pursuant to Subsection 45(2)(a)(i) of the *Planning Act*, the Committee of Adjustment may permit the enlargement or extension of a legal non-complying building or structure, but no permission may be given to enlarge or extend the building or structure beyond the original limits of the land where the legal non-complying building or structure is situated. In considering whether to grant a permission pursuant to Subsection 45(2)(a)(i), the relevant test is:

- 1) Whether the application is desirable for appropriate development of the subject property; and,**

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2) Whether the application will result in undue adverse impacts on the surrounding properties and neighbourhood.

The proposed front yard accessory building, which is intended to provide additional personal storage space for the owners, represents an appropriate development on the subject property in part because an accessory building is a permitted accessory use to the established single-detached house use on the property.

The new proposed accessory building, though slightly taller, is to occupy the original building footprint as that of the existing accessory building located within the front yard. The prevalence of similar front yard accessory buildings along St. Lawrence Avenue is a result of the former Zoning By-law 32-74 permitting waterfront lots to be able to have a front yard accessory building. The purpose of the increased height for the proposed accessory building will be to accommodate a storage loft that will increase the functionality of the associated single detached house on the property. The presence of surrounding vegetation and the separation of the building relative to surrounding single detached houses will minimize any potential adverse impacts to the surrounding properties.

Accordingly, there are not anticipated to be any undue adverse impacts as a result of the new proposed accessory building, and the development is appropriate at this location.

Provincial Policy Statement

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.

Official Plan

The subject property is designated Estate Residential (Exhibit D – Official Plan Map).

In certain circumstances, it may be desirable to grant the extension, enlargement or relocation of a non-conforming use as provided by the *Planning Act*. When reviewing an application for such extension, enlargement or relocation, the Committee of Adjustment must be satisfied that the legal non-conforming use continued to the date of the application to the Committee, and that the application would not extend such use beyond the area and site owned or used on the day of passage of the implementing zoning by-law. In addition, the Committee of Adjustment may have regard to the eight criteria included in Section 9.5.13 of the Official Plan.

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The proposed accessory building with an increased height is compatible with the surrounding uses and is not anticipated to cause any negative impacts. The proposed accessory building will be associated with the single detached house, which exists as a permitted use on the property and would not interfere with the future planned uses proposed in the Official Plan. The location of the proposed accessory building replaces the long-established former front yard accessory building and will maintain the current building footprint. The presence of surrounding vegetation and the separation of the building relative to surrounding single detached houses will minimize any potential adverse impacts to the surrounding properties.

There is no expectation that the proposed accessory building will result in any impacts with respect to traffic or noise given that there is no change in use and the operating characteristics will remain that of an accessory building located within the front yard. The proposed accessory building is also not anticipated to change the configuration of parking for vehicles and bicycles, open space or amenity areas on the property as the new proposed accessory building will be using the same building footprint of the existing accessory building.

The subject property is not designated or listed on the City of Kingston's Heritage Property Register, or adjacent to a property which is designated or listed.

Heritage Services has reviewed the proposed accessory building permission application and have noted that the property contains some areas of composite archaeological potential, the proposed ground disturbance is occurring outside of this area. As a result, an archaeological assessment is not required.

The requested permission to construct a front yard accessory building meets the general intent and purpose of the City of Kingston Official Plan.

Zoning By-Law

The subject property is zoned RUR in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map).

The RUR zone permits residential uses and associated accessory buildings. While the existing accessory building is a legal non-complying building, it does not comply with the accessory building yard location that was introduced in Kingston Zoning By-law Number 2022-62. Section 4.1.2.1 requires a requires an accessory building to be located in the rear yard, exterior yard or interior yard.

The detached accessory building was developed and used in accordance with Zoning By-law 32-74, in force at the time, and was continuously used in this fashion to the current date which now prohibits an accessory building within the front yard of the property.

The proposed deck and stairs to the rear of the proposed accessory building complies with the deck and porches section 4.20.1 of Kingston Zoning By-law Number 2022-62.

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Provisions related to the location of an accessory building on a property are intended to ensure no adverse impacts from loss of privacy and change to the character of the neighbourhood associated with abutting properties. The proposed accessory building is not permitted to be used as any type of sleeping accommodation.

The proposed development will not change the fundamental characteristics of the neighbourhood, as the current configuration has existed on the property as a legal non-complying building and St. Lawrence Avenue contains other similar sized accessory buildings located with front yards.

Technical Review: Circulated Departments and Agencies

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

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 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 application for permission under Section 45(2)(a)(i) of the Planning Act is consistent with the general purpose and general intent of both the City of Kingston Official Plan and Kingston Zoning By-Law Number 2022-62. The proposed accessory building is desirable for

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appropriate development of the subject property and will not result in undue adverse impacts on the surrounding properties and neighbourhood. Therefore, it is recommended that this application for permission under Section 45(2)(a)(i) of the Planning Act be approved.

Approval of this application will facilitate the orderly development of this property with a new detached garage building.

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 9 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*.

Accessibility Considerations:

None

Financial Considerations:

None

Contacts:

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

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Jason Partridge, Planner, 613-546-4291 extension 3216

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Neighbourhood Context Map (2022)
- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Map
- Exhibit F Site Plan
- Exhibit G Elevations
- Exhibit H Public Notification Map
- Exhibit I Site Photos

Recommended Conditions

The approval of permission application, File Number D13-054-2023, to permit the reconstruction of a non-complying storage garage, shall be subject to the following recommended conditions:

1. Limitation

That the approved permission applies only to the construction of a detached accessory storage garage 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.

5. Development Engineering

Prior to the issuance of the building permit for the front yard detached accessory building the owner(s) of 1584 St. Lawrence Avenue must provide City of Kingston staff with a survey to confirm if the existing accessory building is located on city property or on private property. If the existing and or proposed accessory building is located on city property, then an encroachment permit must be applied for and approved to the satisfaction of City of Kingston staff.


6. Storage Building

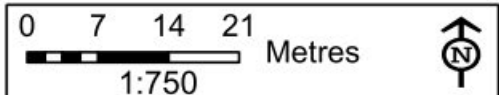
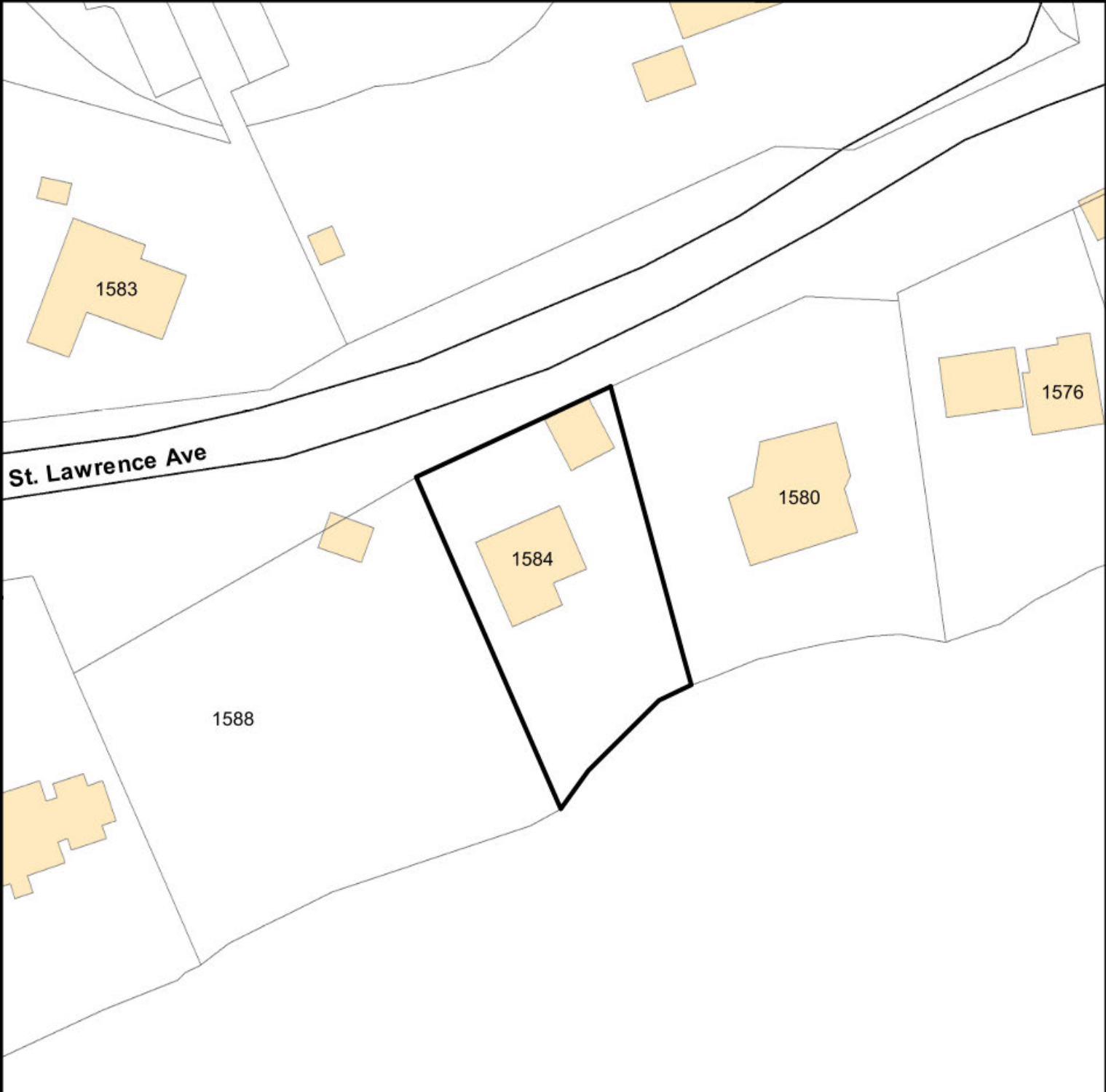
The front yard detached accessory building will only be used for parking of vehicles/storage space associated to the single detached house on the property.



Committee of Adjustment Key Map

Address: 1584 St. Lawrence Ave
File Number: D13-054-2023

 Lands Subject to Minor Variance



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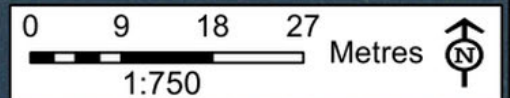
Committee of Adjustment
Neighbourhood Context (2023)

Address: 1584 St. Lawrence Ave
File Number: D13-054-2023

- Subject Lands
- Property Boundaries
- Proposed Parcels



St. Lawrence Ave



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Planning Services

Committee of Adjustment Official Plan, Existing Land Use

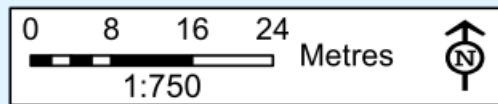
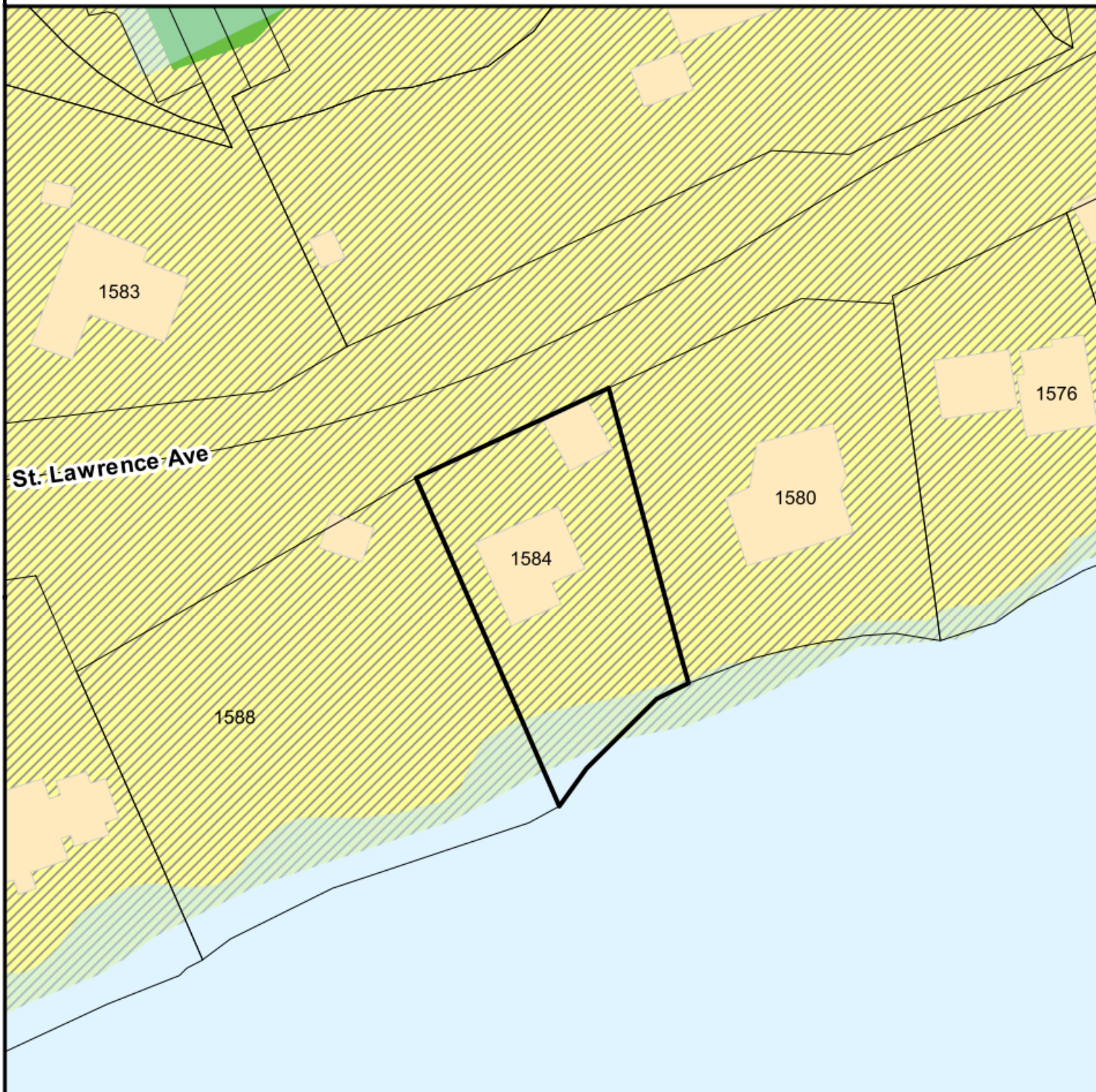
Address: 1584 St. Lawrence Ave

File Number: D13-054-2023

Subject Lands

ENVIRONMENTAL PROTECTION AREA

ESTATE RESIDENTIAL





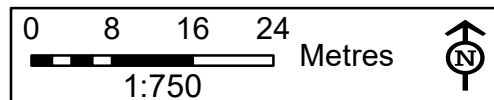
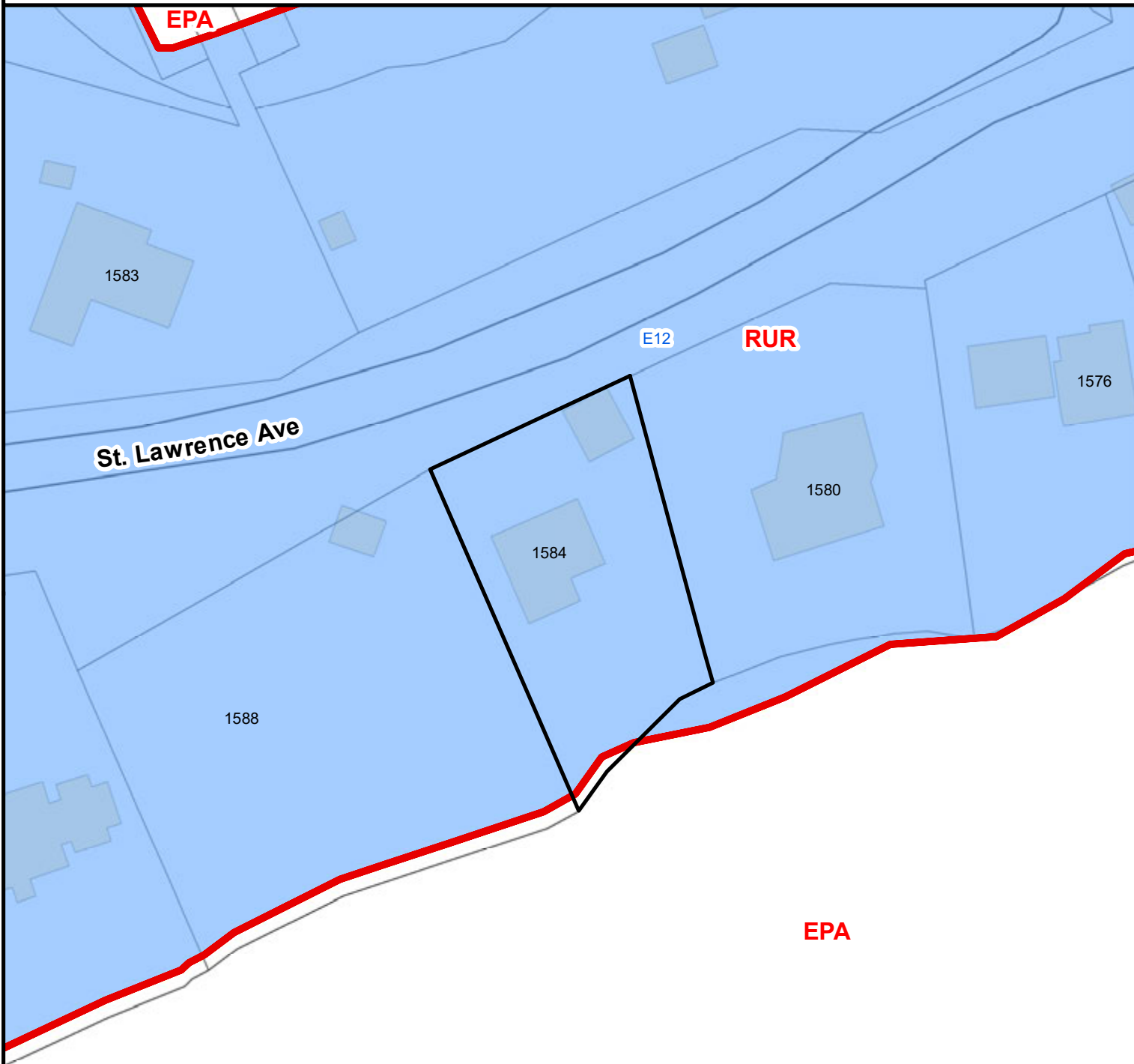
Planning Committee
Existing Zoning
Kingston Zoning By-Law 2022-62

Planning Services

Address: 1584 St. Lawrence Ave
File Number: D13-054-2023

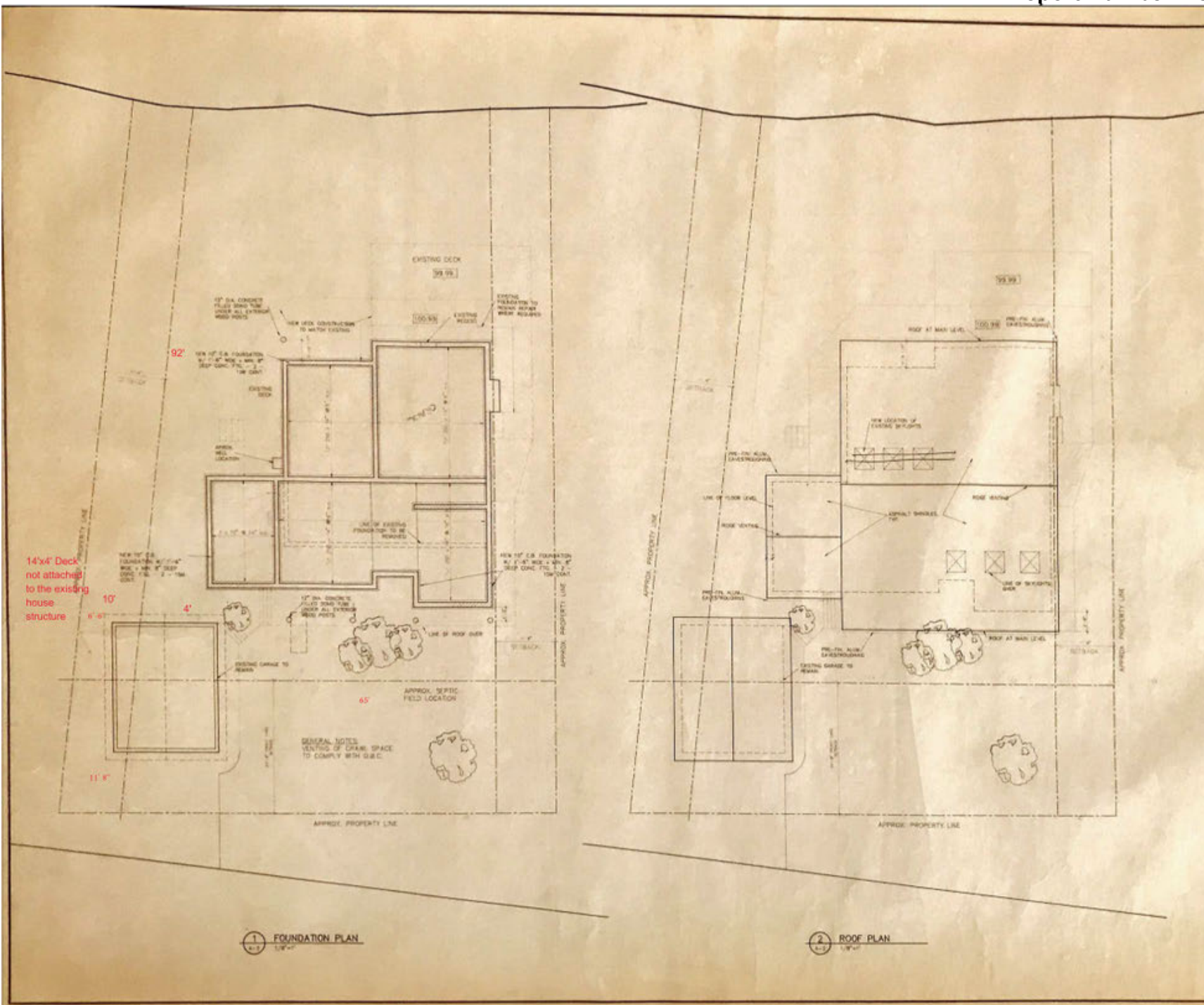
- Subject Lands
- Zone

- Schedule E - Exception Overlay
- Legacy Exceptions (LXXX)
- Exceptions (EXXX)
- Schedule F - Holding Overlay
- Holding Overlay (HXXX)



ernest a. cromarty
 architect
 kingston
 26
 1999

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 ANY FORM OR BY ANY MEANS, ELECTRONIC OR
 MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING,
 OR BY ANY INFORMATION STORAGE AND RETRIEVAL
 SYSTEM, WITHOUT THE EXPRESS WRITTEN CONSENT OF THE ARCHITECT.



14'x4' Deck
 not attached
 to the existing
 house
 structure

1 FOUNDATION PLAN
 1/8" = 1'-0"

2 ROOF PLAN
 1/8" = 1'-0"

2	REVISION	ISSUED FOR BUILDING PERMIT
1	REVISION	ISSUED FOR CLIENT APPROVAL
NO. DATE	DESCRIPTION	

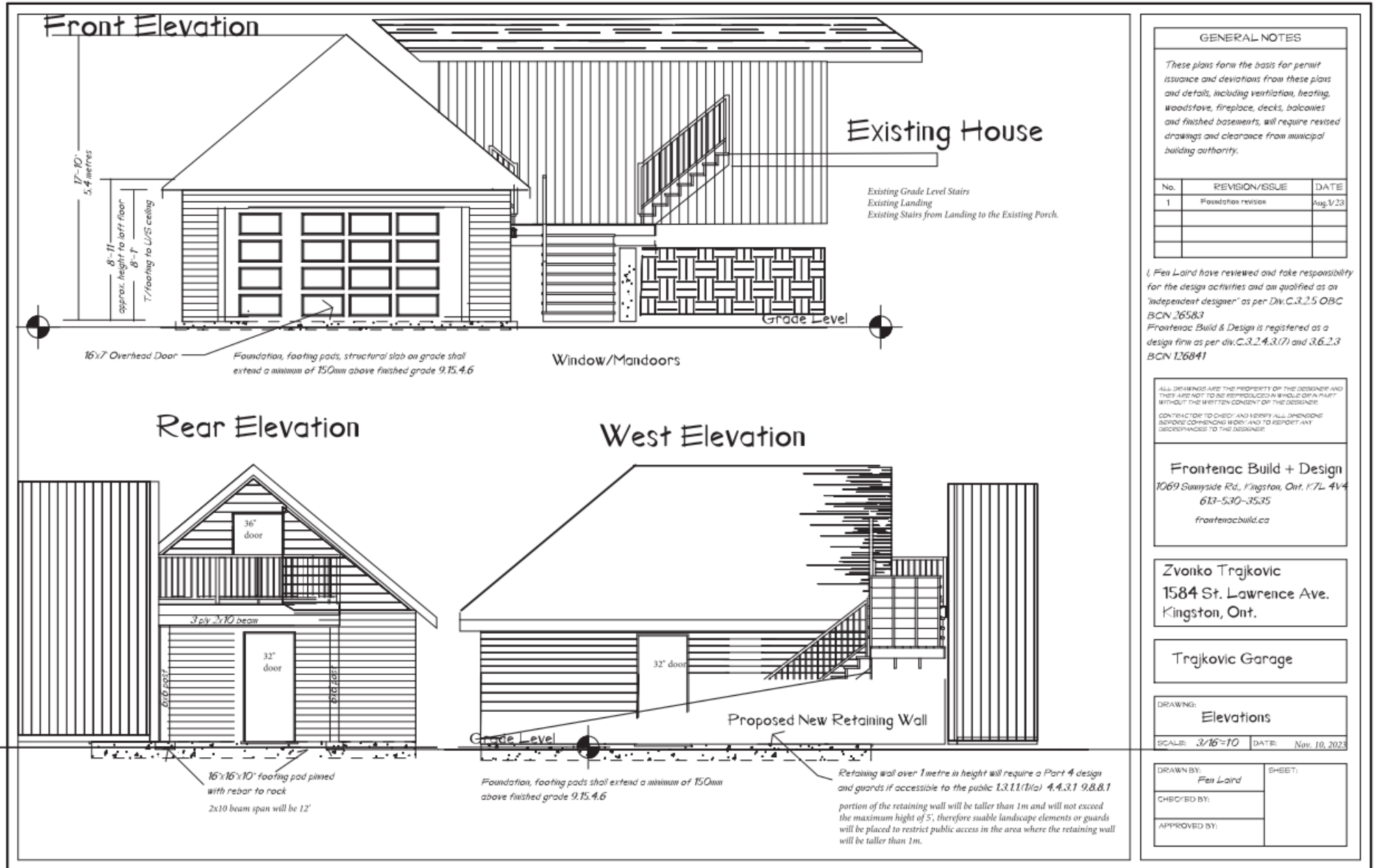
DETAIL REFERENCE SYMBOL

1	SECTION 9
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LAND ASSOCIATION
 OF
 KINGSTON
 ARCHITECTS & ENGINEERS
 100-100

DRAWINGS MUST NOT BE SCALED
 CONTRACTOR SHALL VERIFY AND BE RESPONSIBLE
 FOR ALL DIMENSIONS AND SHALL REPORT ANY DIS-
 CREPANCY TO THE ARCHITECT BEFORE PROCEEDING
 WITH ANY WORK

PROJECT: RESIDENCE			
LOCATION: TREASURE ISLAND, KINGSTON			
FOR: MR. AND MRS. R. AYLESWORTH			
DRAWING: ROOF AND FOUNDATION PLAN			
DRG. BY:	DS	SCALE:	1/8" = 1'-0"
DATE:	AUG 1999	DATE:	AUG 1999
PROJECT NO.:	99019		



GENERAL NOTES

These plans form the basis for permit issuance and deviations from these plans and details, including ventilation, heating, woodstove, fireplace, decks, balconies and finished basements, will require revised drawings and clearance from municipal building authority.

No.	REVISION/ISSUE	DATE
1	Foundation revise	Aug. 3, 23

I, Fen Laird have reviewed and take responsibility for the design activities and am qualified as an "independent designer" as per Div. C.3.2.5 OBC BCN 26583
Frontenac Build & Design is registered as a design firm as per div. C.3.2.4.3.(7) and 3.6.2.3 BCN 126841

ALL DRAWINGS ARE THE PROPERTY OF THE DESIGNER AND THEY ARE NOT TO BE REPRODUCED IN WHOLE OR IN PART WITHOUT THE WRITTEN CONSENT OF THE DESIGNER.
CONTRACTOR TO CHECK AND VERIFY ALL DIMENSIONS BEFORE COMMENCING WORK AND TO REPORT ANY DISCREPANCIES TO THE DESIGNER.

Frontenac Build + Design
1069 Sunnyside Rd., Kingston, Ont. K7L 4V4
613-530-3535
frontenacbuild.ca

Zvonko Trajkovic
1584 St. Lawrence Ave.
Kingston, Ont.

Trajkovic Garage

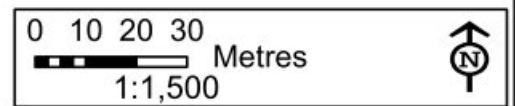
DRAWING: **Elevations**
SCALE: 3/16"=10' DATE: Nov. 10, 2023

DRAWN BY: **Fen Laird** SHEET:
CHECKED BY:
APPROVED BY:



Committee of Adjustment
Public Notice Notification Map
Address: 1584 St. Lawrence Ave
File Number: D13-054-2023

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



1584 St. Lawrence Avenue– November 10, 2023



(South facing view of the proposed location of the accessory building)