

City of Kingston Report to Committee of Adjustment Report Number COA-24-021

To: Chair and Members of the Committee of Adjustment

From: Penelope Horn, Planner

Date of Meeting: February 26, 2024

Application for: Minor Variance

File Number: D13-001-2024

Address: 62 Hatter Street

Owner: Vince Baker

Applicant: Vince Baker

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 62 Hatter Street. The applicant is proposing to replace the existing attached garage with a new attached garage with an additional residential unit on the second storey. A variance to reduce the setback from the rear wall of the principal building to the rear lot line is required to facilitate the proposed addition.

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.

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Recommendation:

That minor variance application, File Number D13-001-2024, for the property located at 62 Hatter Street to construct a two-storey addition to a one-storey residential building, be approved, as described below:

Variance Number 1:

By-Law Number: 2022-62 Table 11.8.1.12:

Requirement: The rear wall of the principal building must not be closer than 7.5 metres to the

rear lot line.

Proposed: 4.0 metres

Variance Requested: 3.5 metres

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-24-021.

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Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

Penelope Horn, Planner

In Consultation with the following Management of the Community Services Group:

Tim Park, Director, Planning Services Meghan Robidoux, Supervisor, Development Approvals

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Options/Discussion:

On January 8, 2024, a minor variance application was submitted by Vince Baker, with respect to the property located at 62 Hatter Street. The applicant is proposing to replace the existing attached garage with a new attached garage with an additional residential unit on the second storey. A variance to reduce the setback from the rear wall of the principal building to the rear lot line is required to facilitate the proposed addition.

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

- Concept Plan (Exhibit F)
- Floor Plan (Exhibit G)

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 62 Hatter Street, with an area of approximately 465.35 square metres and approximately 23 metres of lot frontage (Exhibit B – Key Map). The property contains a single-detached dwelling and is located in the Portsmouth neighbourhood. The area immediately surrounding the subject property consists primarily of low-rise residential forms. However, there are a variety of institutional uses located several blocks in each direction from the subject property, including St. Lawrence College to the west, Kingston Penitentiary to the south, Queen's West Campus to the east, and Ongwanada Resource centre to the North-East (Exhibit C – Neighbourhood Context Map).

The subject property is designated Residential in the Official Plan (Exhibit D – Official Plan Map) and zoned Urban Residential 7 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 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.

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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 within a Housing District in Schedule 2 of the Official Plan. This proposal does not seek a significant change that would impact the surrounding properties or neighbourhood characteristics. The site is located in a stable area, surrounded by low-rise residential uses. The proposal to add an attached garage with a second storey is compatible with nearby developments, which are primarily one and two storey buildings.

Section 2.7 of the Official Plan outlines the principles of land use compatibility to ensure that new development respects the qualities of existing areas and provides suitable transitions between areas of differing uses, intensity, sensitivity and urban design treatment and intensity to avoid or mitigate adverse effects. The proposed addition will result in minor shadowing impacts considering that there is a considerable number of trees and a tall shrub along the rear lot line, which already casts some shadows on the property behind 62 Hatter Street. The shrubs and trees also mitigate overlook and preserves privacy for the rear neighbours. Overlook is also limited by adhering to a two-storey addition, rather than the three-storeys that are permitted as-of-right within the UR7 zone.

The proposed addition will have no negative impact to the site functioning in terms of access, parking for vehicles or bicycles, or universal accessibility. The existing driveway off of Hatter Street will be maintained, with one parking space in the garage and one in the driveway. The subject property is not designated under the *Ontario Heritage Act* and the applicant has submitted a Stage 1 Archeological Assessment with their application.

Given that the use will remain the same and that all but one of the other performance standards of the Kingston Zoning By-Law are maintained, a minor variance is the appropriate path forward to request zoning relief for the rear yard.

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

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2) The general intent and purpose of the Zoning By-Law are maintained

The subject property is zoned Urban Residential 7 Zone (UR7) in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map). The UR7 zone permits low-rise residential forms, including single-detached houses and the proposed addition will maintain the single-detached house on the property. Aside from the rear setback, the proposed addition conforms with the other performance standards set out in the zone.

The proposal requires a variance to Section 11.8 of the Zoning By-Law as follows:

Variance Number 1:

By-Law Number: 2022-62: Table 11.8.1.12

Requirement: The rear wall of the principal building can be no closer than 7.5

metres from the rear lot line.

Proposed: 4.0 metres from the rear lot line.

Variance Requested: 3.5 metres

The provisions of the UR7 zone are defined in Table 11.8.1, while provisions for additional residential units are defined in Section 5.4.6. The proposed addition adheres to all but one of the zone requirements, being the distance from the rear wall of the principal building to the rear lot line. For clarity, the variance is referred to as the rear setback elsewhere in this report.

The purpose and intent of the separation between the rear wall of the principal building is to provide privacy for neighbours to the rear of the property, provide adequate landscaped open space, and ensure sufficient rear amenity space. The proposal meets the 30 percent landscaped open space requirement. Furthermore, by replacing the existing garage, which currently has a 0 metre setback from the rear lot line, the proposed addition will increase the existing rear setback by 4.04 metres.

The subject property has a distinct shape compared to many of the surrounding properties. The subject property has a lot depth of 18 metres, while nearby properties, such as 66 Hatter Street, have lot depths of over 40 metres. Although the same zoning provisions apply, the conditions on the subject property make adhering to the rear setback more difficult. Despite the constraints on the lot, the applicant is proposing a 4.04 metre rear setback, which reflects the setback of the current single-detached dwelling.

The additional residential unit, which is proposed above the attached garage, will comply with the applicable provisions of Section 5.4.6 of the Kingston Zoning By-Law, which contains the performance standards for additional residential units. Section 5.4.6 ensures that properties with additional residential units are accessible to pedestrians and can provide adequate parking for vehicles and bikes. As the proposed additional residential unit adheres to the performance standards of Section 5.4.6, there are no concerns in regard to the functionality of the use.

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 addition is compatible with the built form of the surrounding low-rise residential neighbourhood. Approval of this variance will only result in one new residential unit. The requested reduction to the rear setback responds to the current conditions on the site and will not interfere with the functionality of the site. The proposed addition aligns with the footprint of the current detached dwelling, which mitigates the effect of the reduced rear setback. The property behind the subject property has a generous rear setback of approximately 24 metres, while mature trees and shrubs provide further screening between the properties. Given these factors, the impact of a 4.04 metre setback compared to the 7.5 metre rear setback required is minor. Furthermore, the proposed addition will not change the fundamental design characteristics of the neighbourhood.

The proposed variance is considered minor in nature.

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

The variance will increase the usable floor area of the subject property and will provide another residential unit. By replacing the existing garage, which has no rear setback, the proposed garage will improve conditions on the site. The addition of a residential unit 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 desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

| \boxtimes | Building Services | □ Engineering | | Heritage Services |
|-------------|-------------------|-------------------------|-------------|-----------------------------|
| | Finance | □ Utilities Kingston | \boxtimes | Real Estate |
| \boxtimes | Fire & Rescue | ☐ Kingston Hydro | | Environment Division |
| | Solid Waste | □ Parks Development | | Canadian National Railways |
| | Housing | ☐ District Councillor | | 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

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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.

Previous or Concurrent Applications

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

Conclusion

The requested variance(s) maintain(s) 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 two-storey addition and allow a rear setback of 4.04 metres.

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 February 26, 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 26 property

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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

Penelope Horn, Planner, 613-546-4291 extension 3237

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 Concept Plan

Exhibit G Floor Plan

Exhibit H Site Photos

Exhibit I Public Notification Map

Recommended Conditions

The approval of minor variance application, File Number D13-001-2024, to construct a 2-storey addition containing an attached garage and an additional residential unit, shall be subject to the following recommended conditions:

1. Limitation

That the approved minor variance applies only to 62 Hatter Street 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

The City is in receipt of an Archaeological Assessment for the property located at 62 Hatter Street prepared by Abacus Archaeological Services dated June 20th, 2023. An acceptance letter(s) from the Ministry of Citizenship and Multiculturalism shall be provided to the Secretary-Treasurer of the Committee of Adjustment, prior to the issuance of a building permit.

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. Utilities Kingston Requirements

The owner must have a qualified engineer determine if the existing services are of adequate size to serve the proposed additional unit. If the development requires upsizing of the services, all cost is to be borne by the owner and will also require an updated servicing drawing for review and approval by Utilities Kingston prior to the issuance of a building permit.

If increasing the gas load, a Gas Load summary should be filled out and submitted to a Utilities Kingston Service Advisor prior to the building permit application.

6. Development Engineering Requirements

A grading plan will be required prior to the issuance of a building permit. The grading plan must demonstrate how overland flows will be diverted around the existing and proposed structure. The plan is to be prepared by a qualified individual and provide sufficient information so that existing and proposed drainage patterns can be reviewed.

7. Driveway Entrance Permit

A driveway entrance permit application must be submitted and obtained prior to the issuance of a building permit.

Exhibit B Report Number: COA-24-021 Committee of Adjustment **Key Map** KINGSTON Calderwood Dr Yonge St Address: 62 Hatter St. File Number: D13-001-2024 **Planning** Prepared On: Jan-19-2024 Mowat Ave **Services** Lands Subject to Minor Variance **Hatter St Herbert St** Prepared By: ncameron Date: Jan-19-2024 Metres 1:750



Committee of Adjustment **Neighbourhood Context**

Address: 62 Hatter St. File Number: D13-001-2024 Prepared On: Jan-19-2024

| Subject Lands |
|----------------------------|
| Property Boundaries |



KINGSTON

Committee of Adjustment Official Plan, Existing Land Use

Address: 62 Hatter St. File Number: D13-001-2024 Prepared On: Jan-19-2024 Subject Lands
RESIDENTIAL

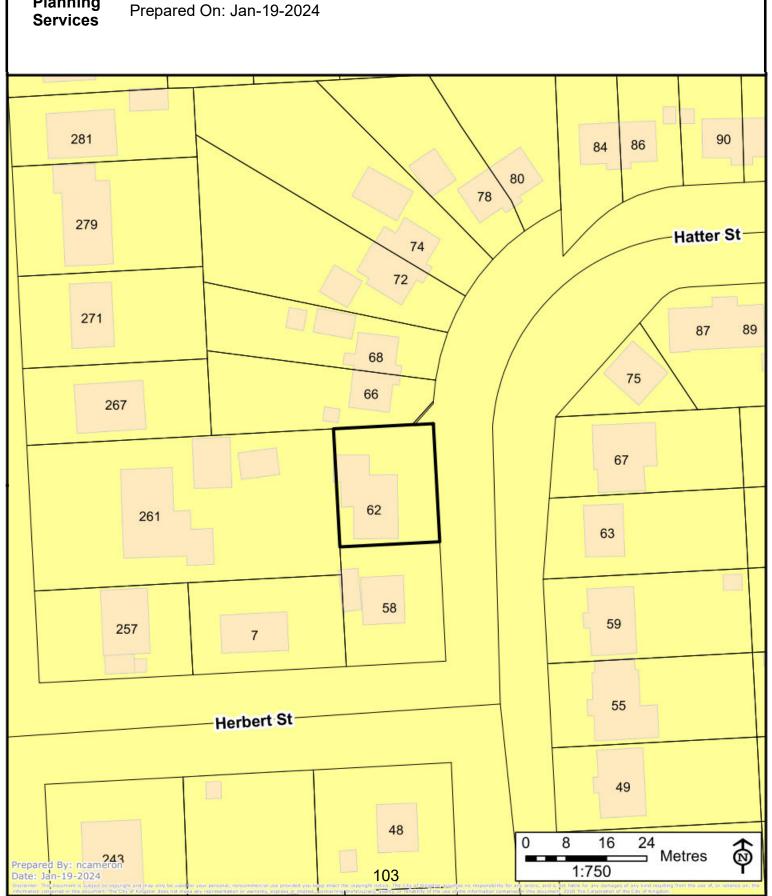
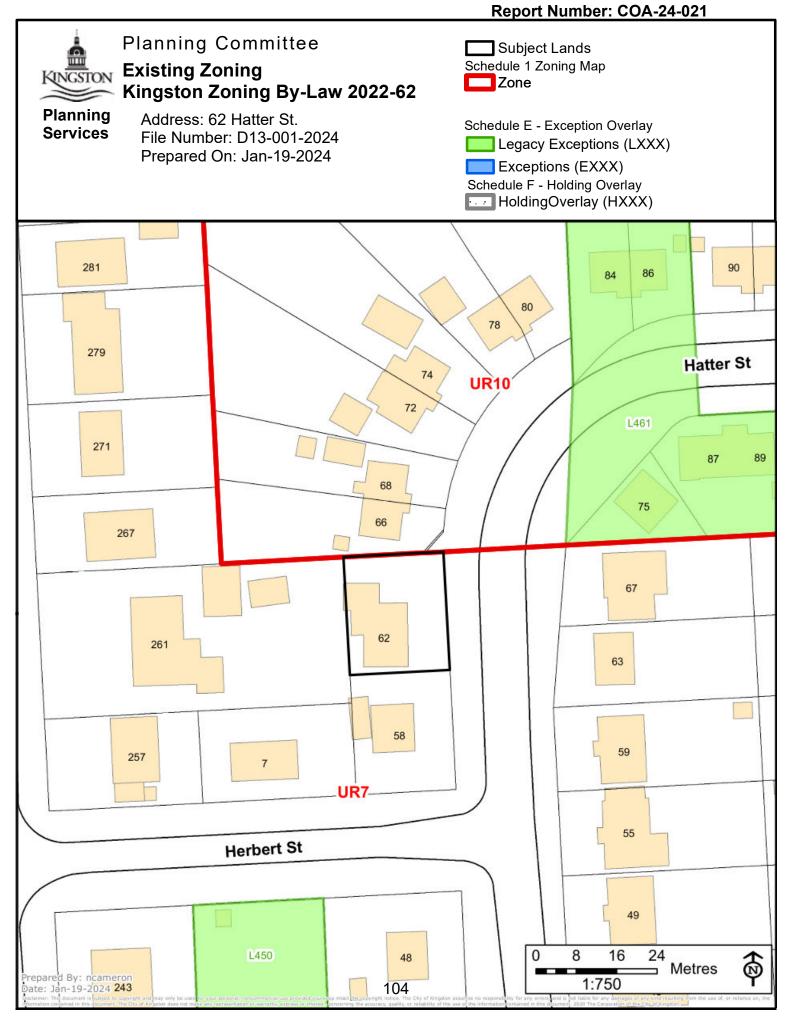
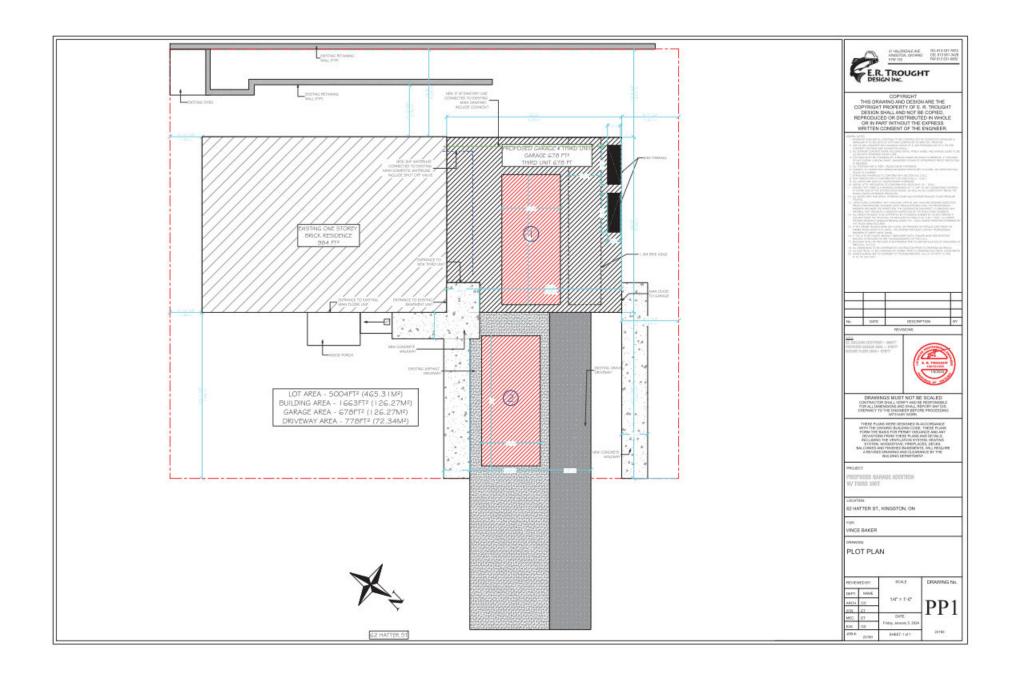


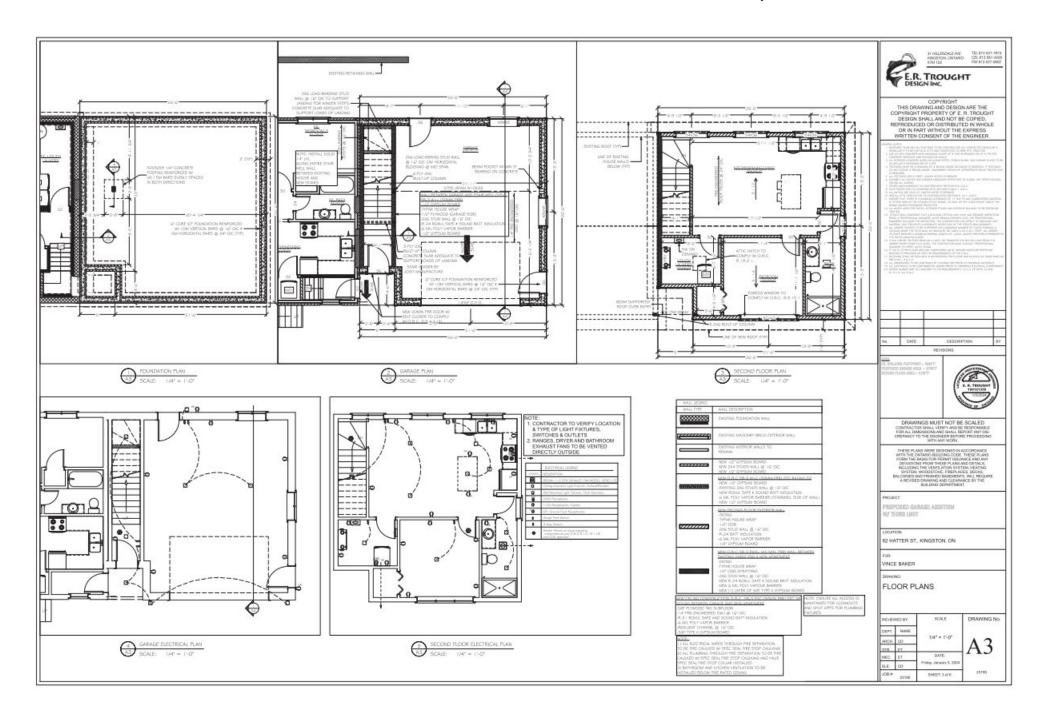
Exhibit E

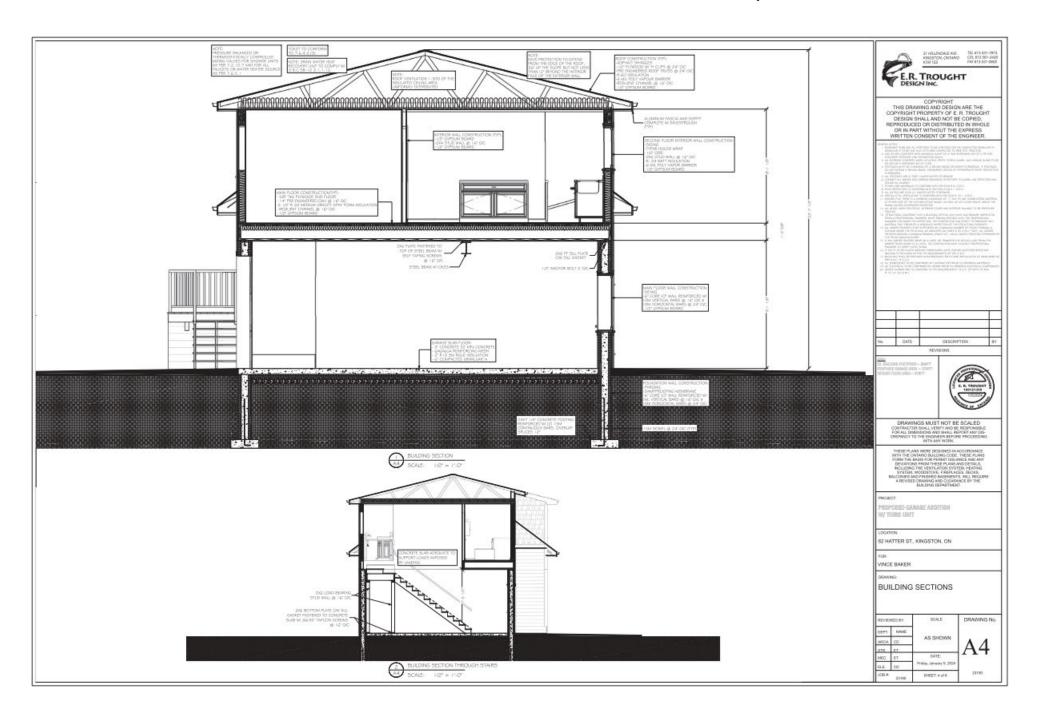


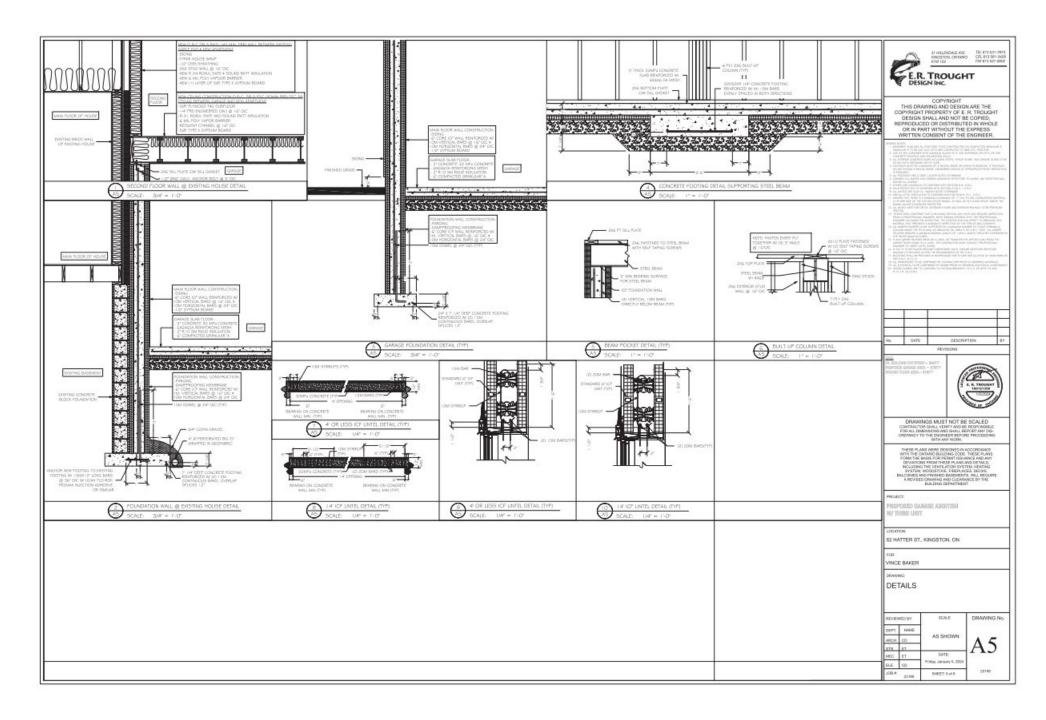


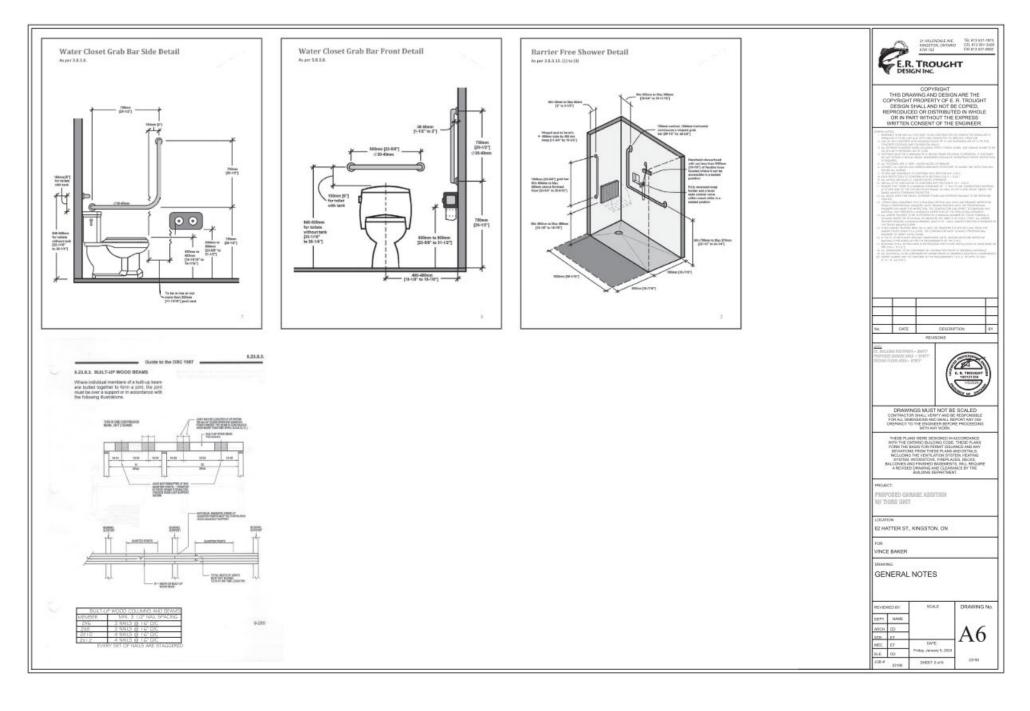












62 Hatter Street - Site Visit January 30th



View from the front of the property, the proposed addition will extend 8.1 metres from the current northern wall and replace the existing garage.



Rear yard of the subject site with the retaining wall to the left. The current garage will be removed.



The retaining wall, shrub and trees behind the subject property will provide screening to the rear neighbours. Due to a grade change, the subject property sits lower than the property to the west.

