

City of Kingston Report to Committee of Adjustment Report Number COA-24-052

To: Chair and Members of the Committee of Adjustment

From: Chris Wicke, Senior Planner

Date of Meeting: June 17, 2024

Application for: Minor Variance

File Number: D13-036-2024

Address: 158 Earl Street

District: District 10 - Sydenham

Owners: Haley Skinner and Thomas Skinner

Applicant: Mac Gervan & Associates Ltd.

Council Strategic Plan Alignment:

Theme: Regulatory & compliance

Goal: See above

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variances for the property located at 158 Earl Street. The applicants are proposing to expand the third floor of a residential dwelling and to replace the existing two gable dormers with an expanded shed dormer.

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 are 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 D13-036-2024, for the property located at 158 Earl Street to expand the third floor of a residential dwelling to replace the existing two gable dormers with an expanded shed dormer, be approved, as described below:

Variance Number 1:

By-Law Number 2022-62: Section 13.4.2.1 (a)

Requirement: Front wall of the dormer is setback a minimum of 0.4 metres from the

main wall.

Proposed: 0.0 Variance Requested: 0.4

Variance Number 2:

By-Law Number 2022-62: Section 13.4.2.1 (b)

Requirement: The side wall of a dormer is setback a minimum of 1.0 metres from the

edge of the roof on which it is located.

Proposed: 0.1 metres
Variance Requested: 0.9 metres; and

Variance Number 3:

By-Law Number 2022-62: Section 13.4.2.1 (c)

Requirement: The maximum cumulative length of all dormers on the same portion of a

sloped roof is the lesser of 4.6 metres or 50% of the length of the roof

on which it is located (3.95 metres).

Proposed: 6.55 metres Variance Requested: 2.6 metres; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-24-052.

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Authorizing Signatures:

Chris Wicke, Senior Planner

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

Tim Park, Director, Planning Services James Bar, Manager, Development Approvals

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Options/Discussion:

On May 8, 2024, a minor variance application was submitted by Mac Gervan & Associates Ltd., on behalf of the owners, Haley Skinner and Thomas Skinner, with respect to the property located at 158 Earl Street. The variance is requested to expand the third floor of a residential dwelling to replace the two existing gable dormers with a rear shed dormer with three metal-clad wooden sash windows, clad in a pre-finished wood siding with a flat roof. The request for relief is being made to gain extra living space from the very low and sloped ceilings on the third floor which the owners would like to make into a principal bedroom with ensuite bathroom, which is not currently possible given the space constraints.

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

- Site Plan (Exhibit F)
- Floor Plans (Exhibit I)
- Architectural Elevations (Exhibit I)
- Conceptual Rendering (Exhibit I)
- Kingston Heritage Properties Committee Report Number HP-24-020
- Old Sydenham Heritage Area Conservation District Property Inventory Evaluation 158, 160, 162 Earl Street

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 on the south side of Earl Street, east of West Street and west of Sydenham Street (Exhibit B – Key Map). The property is the easternmost home in a three-unit set of two and a half storey brick townhouses known as the 'Mozart Terrace'. The home abuts an attached townhouse to the west, and it is adjacent to a single detached dwelling to the east. To the south is a single detached dwelling and its associated garage, as well as the garage of the Hochelaga Inn (Exhibit C – Neighbourhood Context Map).

The subject property is designated Residential in the Official Plan (Exhibit D – Official Plan Map) and is zoned Heritage District 3 (Old Sydenham) (HCD3) Zone 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:

The general intent and purpose of the Official Plan are maintained

The subject property is designated Residential on Schedule 3A - Land Use of 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 on Schedule 2 – City Structure of the Official Plan. This proposal does not seek a significant change that would impact the surrounding properties or neighbourhood characteristics. The subject property is located in a stable area with well-established land use pattens in terms of density, types of use and activity. The proposal to construct a shed dormer for the replacement of two existing gable dormers and the expansion of the third floor of a residential home is compatible with the surrounding area. The modification is not anticipated to have any negative impacts on the neighbourhood. The change is proposed at the rear of the house where there are two existing gable dormers and where there will be no visual impacts on the streetscape. No expansion of the existing building footprint is proposed.

This proposal to add a shed dormer to the third floor meets all compatibility criteria and will not result in any negative off-site impacts to abutting properties. As the third level of the dwelling already exists and currently incorporates two gable dormers, there is no threat of loss of privacy due to intrusive overlook, and increased levels of light pollution, noise, or odour are not anticipated. Adverse effects due to shadowing are also not anticipated as the proposed changes are on the south (rear) side of the house, below the ridge line of the roof, and as such, no significant shadows will be created by the shed dormer. There is limited visibility from the surrounding area to the part of the home that is proposed to be modified, and no changes to the streetscape along Earl Street are proposed. Further mitigation measures are not required.

The proposed structure is of a suitable scale and will provide a larger and more functional living space to the existing residence. The proposal will not negatively impact the functional needs of the current or future residents. The applicants are proposing to modify the third floor of the dwelling by removing two existing dormers and adding a larger shed dormer to increase the living area and to have additional space for a principal bedroom and ensuite bathroom. No increase to the footprint of the building is proposed.

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The proposed addition will have no negative impact to the site functioning in terms of access, parking for vehicles or bicycles, or universal accessibility. This proposal is not subject to Site Plan Control.

The proposal has been reviewed from an urban design perspective and with consideration for applicable urban design policies endorsed by Council. There are no concerns from a design perspective with the proposal.

The property is designated under both Parts IV and V of the *Ontario Heritage Act*, and it is part of the Old Sydenham Heritage Conservation District. It is located adjacent to similarly designated properties. The proposed development also includes the replacement of a series of windows on the front and rear elevations, as well as recladding of the front dormers in cedar shingles and a new 'coach light' adjacent to the front door.

This work was subject to a heritage permit (P18-634) which was approved on April 17, 2024 (Report Number HP-24-020). Consideration was given to how the Old Sydenham Heritage Conservation District includes a wide variety of roof types, and that the roof profiles vary in terms of cultural importance to both the building and to the district. While a change in the roof profile visible to the street would not be desirable, the proposed alteration is at the rear of the dwelling. It was also noted that the subject building is not a prominent landmark, but a simple, working class vernacular row house from the 1860s. The low-pitch roof limits the interior ceiling height and thus the usable space on the third floor. This, coupled with the small size of the property and the owners' desire to minimize the impact to the heritage character of the building, limits their ability to adaptively reuse the third floor space, thus requiring the alteration.

The property is within an area of composite archaeological potential; however, no expansion of the building footprint is proposed. As there is no ground disturbance anticipated, an archaeological assessment is not required. The property uses municipal water and sewage services. As this application proposes to construct an addition to an existing dwelling, no additional service usage is expected.

The cumulative impact of the variance requested for this proposal does not warrant a zoning by-law amendment. The Committee of Adjustment may require additional conditions as it deems appropriate to the approval of the application. Recommended conditions are listed in "Exhibit A – Recommended Conditions", attached to this report. Conditions may be added, altered, or removed at the Committee's discretion.

The proposal meets the intent of the Official Plan, as the proposed to third floor shed dormer addition will not result in any negative impacts to adjacent properties or to the neighbourhood. The approval of the requested variance will not set an undesirable precedent for the immediate area, as it provides consideration for the existing configuration of the subject property and will apply only to the proposal to construct an addition at the third floor and to the rear of the existing home.

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

The subject property is zoned Heritage District 3 (Old Sydenham) (HCD3) Zone in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map). The HCD3 zone permits a range of dwelling types, including townhouses, according to Table 13.1.2.

The proposal requires the following variances to Section 13.4.2.1, including setback from the main wall of the dwelling, setback of the side wall from the edge of the roof, and the maximum cumulative length of all dormers on the same portion of a sloped roof.

Variance Number 1:

By-Law Number 2022-62: Section 13.4.2.1 (a)

Requirement: Front wall of the dormer is setback a minimum of 0.4 metres from the

main wall.

Proposed: 0.0 Variance Requested: 0.4

Variance Number 2:

By-Law Number 2022-62: Section 13.4.2.1 (b)

Requirement: The side wall of a dormer is setback a minimum of 1.0 metres from the

edge of the roof on which it is located.

Proposed: 0.1 metres
Variance Requested: 0.9 metres; and

Variance Number 3:

By-Law Number 2022-62: Section 13.4.2.1 (c)

Requirement: The maximum cumulative length of all dormers on the same portion of a

sloped roof is the lesser of 4.6 metres or 50% of the length of the roof

on which it is located. (3.95 metres)

Proposed: 6.55 metres Variance Requested: 2.6 metres;

The provisions of the HCD3 zone are defined in Table 13.4.1. with additional provisions in Section 13.4.2 which are used to determine whether a proposal is compliant with the applicable zoning.

The variance requested maintains the general purpose and intent of the dormer provisions of the by-law which is to prevent large shed dormers which are generally uncharacteristic of the Old Sydenham Heritage Conservation District. The requirements of the Zoning By-Law do not distinguish between front and rear dormers, as rear dormers can be a heritage attribute of a designated property and can have heritage value, despite their low potential for visibility from the street and public realm.

The Part IV heritage designation by-law applicable to the subject property (By-Law 93-24) does not specify the rear dormers of this three-storey dwelling as heritage attributes. The proposed variances maintain the intent of the dormer provisions of the Zoning By-Law, as they will permit

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an alteration that will be sympathetic to the heritage character of the property and the Heritage Conservation District, while allowing for the expansion of the living space within the home. The proposed design of the shed dormer, below the ridgeline, set in from the sides of the roof, and retaining an inset (reveal) along the eaves edge and side overhang to retain evidence of the original roof profile. Further analysis in this regard can be found in Report Number HP-24-020, pertaining to the heritage permit application.

The requested variance maintains the general intent and purpose of the zoning by-law.

The variance is minor in nature

The requested variance to permit a rear-facing dormer for the townhouse is considered minor as the design of the expanded dormer will be compatible with the existing dwelling and is proposed to be located where visibility from the street is limited. The attached dwelling to the west also has a shed dormer on the adjacent roof; and the additional shed dormer at the rear of this building is not anticipated to result in any adverse effects to the surrounding Heritage Conservation District.

The proposed addition complies with all other zone provisions for the dwelling, including maximum height, front, rear and interior setbacks, building depth and landscaped open space. The proposal will not change the fundamental design characteristics of the neighbourhood.

The proposed variance is considered minor in nature.

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

The requested variance is desirable and appropriate use of the land as the owner is seeking to construct an expanded shed dormer on the third floor in place of an existing pair of gable dormers at the rear of the home to provide more functional space for a principal bedroom and ensuite bathroom. The scale and design of the proposed addition is appropriate for the dwelling size. The proposed addition is compatible with the characteristics of the surrounding neighbourhood in terms of use and scale. Homes in the neighbourhood have many varying roof profiles, and the proposed changes to this structure will be in the rear yard where there is limited visibility to the affected area. No overlook or shadow impacts are anticipated, and the existing footprint is not changing. No relief is required for the proposed height. No adverse impacts are expected.

The variance is desirable and appropriate use of the land.

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June 17, 2024

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Technical Review: Circulated Departments and Agencies

| | △ Heritage (Planning Services) |
|-------------------------|--|
| □ Utilities Kingston | ⊠ Real Estate |
| | |
| □ Parks Development | ☐ Canadian National Railways |
| □ District Councillor | ☐ Ministry of Transportation |
| | ☐ Parks of the St. Lawrence |
| ☐ KFL&A Health Unit | ☐ Trans Northern Pipelines |
| ☐ Eastern Ontario Power | ☐ CFB Kingston |
| ☐ Enbridge Pipelines | ☐ TransCanada Pipelines |
| ☐ Other: | |
| | ☑ Utilities Kingston ☑ Kingston Hydro ☑ Parks Development ☑ District Councillor ☑ Municipal Drainage ☐ KFL&A Health Unit ☐ Eastern Ontario Power ☐ Enbridge 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 were received regarding this application. 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 variances maintain 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 variances are 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.

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Approval of this application will permit the modification of the third floor of an existing attached dwelling through the construction of a shed dormer at the rear of the home to provide increased living space for the residents.

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 June 17, 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 23 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:

James Bar, Manager, Development Approvals, 613-546-4291 extension 3213

Chris Wicke, Senior Planner, 613-546-4291 extension 3242

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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 Site Photos

Exhibit H Public Notification Map

Exhibit I Floor Plans, Elevations and Architectural Renderings

Recommended Conditions

The approval of minor variance application, File Number D13-036-2024, to expand the third floor by adding a shed dormer to an existing three-storey residential dwelling, shall be subject to the following recommended conditions:

1. Limitation

That the approved minor variance applies only to the rear shed dormer at 158 Earl Street as shown on the 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.

Report Number COA-24-052 Brock St Committee of Adjustment Johnson St Division St **Key Map** KINGSTON William St Address: 158 Earl Street File Number: D13-036-2024 **Planning** Prepared On: May-10-2024 Union St Services Lands Subject to Minor Variance 184 150 179 170 169 161 155 46 151 149 Earl St 170 162 160 158 154 148 36 165 West St 34 32 Sydenham St 30 24 21 14 0 Metres Prepared By: cbarratt Prepared On: May-10-2024 1:750

Exhibit B



Committee of Adjustment **Neighbourhood Context**

Address: 158 Earl Street File Number: D13-036-2024 Prepared On: May-10-2024

| Subject Lands |
|---------------------|
| Property Boundaries |
| Proposed Parcels |

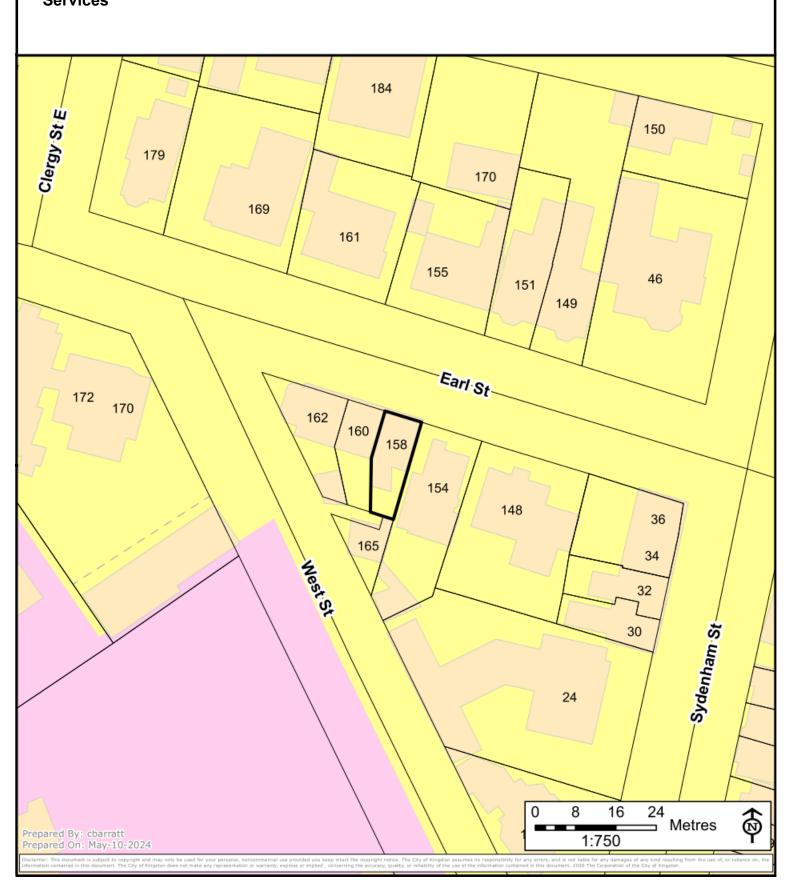




Committee of Adjustment Official Plan, Existing Land Use

Address: 158 Earl Street File Number: D13-036-2024 Prepared On: May-10-2024 Subject Lands
INSTITUTIONAL

RESIDENTIAL





Planning Committee

KINGSTON Existing Zoning **Kingston Zoning By-Law 2022-62**

Planning Services

Address: 158 Earl Street File Number: D13-036-2024 Prepared On: May-10-2024

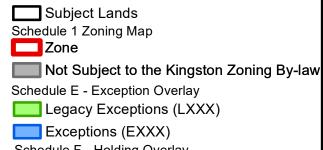
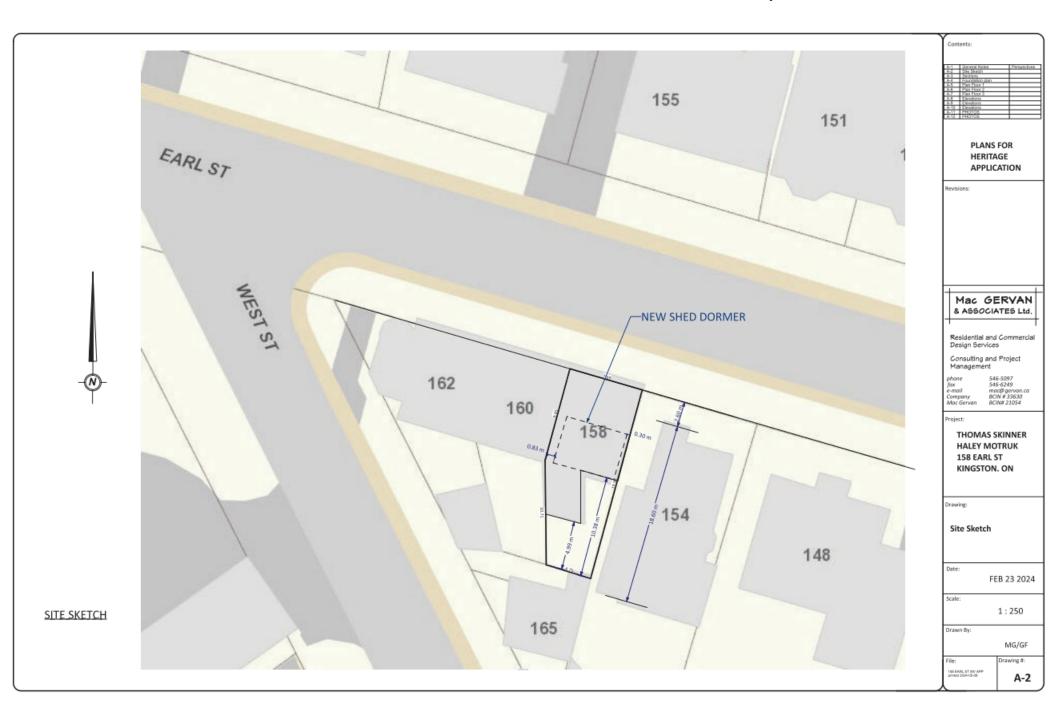




Exhibit F Report Number COA-24-052





Subject property at 158 Earl Street.



Looking north across Earl Street opposite the subject property.



Looking southeast along Earl Street past the subject property.



Looking northwest along Earl Street past the subject property.



Looking northeast along West Street at the rear of Looking northeast along West Street at the rear of the subject property.



the subject property.



Committee of Adjustment

Public Notice Notification Map

Address: 158 Earl Street File Number: D13-036-2024 Prepared On: May-10-2024

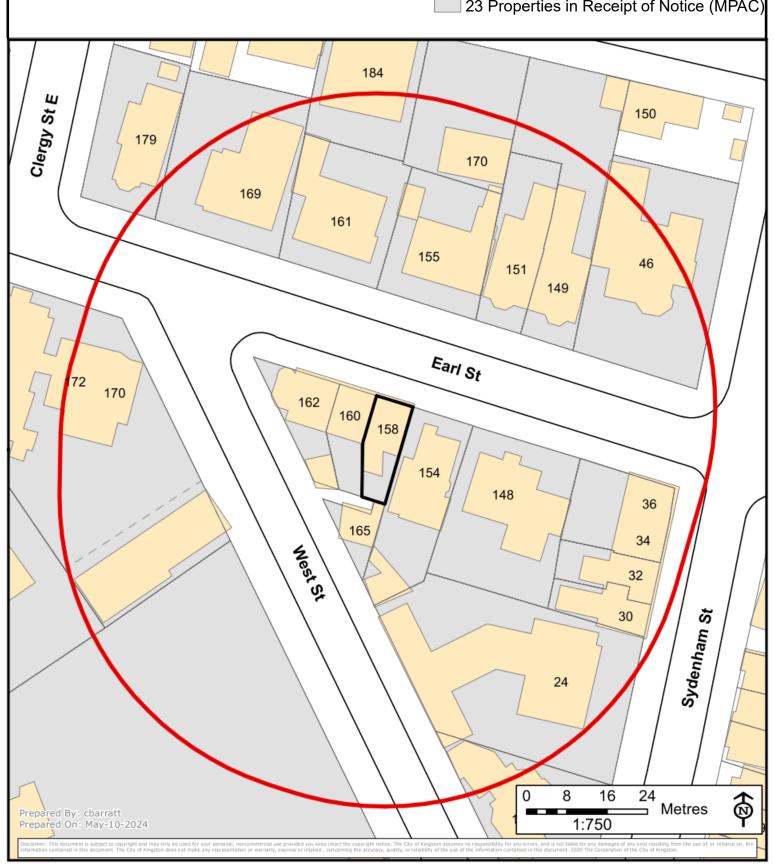
60m Public Notification Boundary

Subject Lands

Property Boundaries

__ Proposed Parcels

23 Properties in Receipt of Notice (MPAC)



REQUESTED VARIANCE

BY-LAW 2022-62 ZONE HCD3

13.4.2.

1. DORMERS

REQUIRED VARIANCE REQUESTED

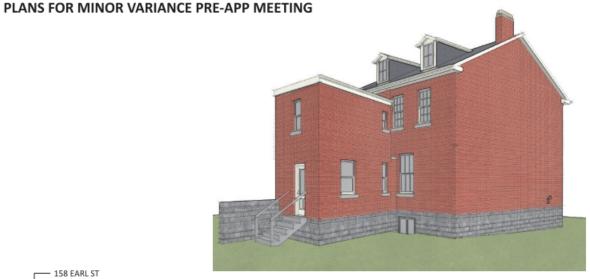
(a) 0.4m SETBACK 0.4m

(b) 1.0m from ROOF EDGE WEST SIDE 0.17

EAST SIDE 0.47

(c) 50% of LENGTH = 3.95 2.6m (6.55 - 3.95)

DORMER ROOF = 6.55 RELIEF OF 2.6M REQUESTED



EXISTING SOUTH DORMERS



NEW SOUTH SHED DORMER

PLANS FOR PRE-APP

evisions:

Contents:

Mac GERVAN & ASSOCIATES Ltd.

Residential and Commercial Design Services

Consulting and Project Management

fax e-mail Company Mac Gervan

546-5097 546-6249 mac@gervon.ca BCIN # 33630 an BCIN# 21054

Project

THOMAS SKINNER HALEY MOTRUK 158 EARL ST KINGSTON. ON

Drawing:

General Notes Perspectives

Date:

FEB 7 2024

Drawn By

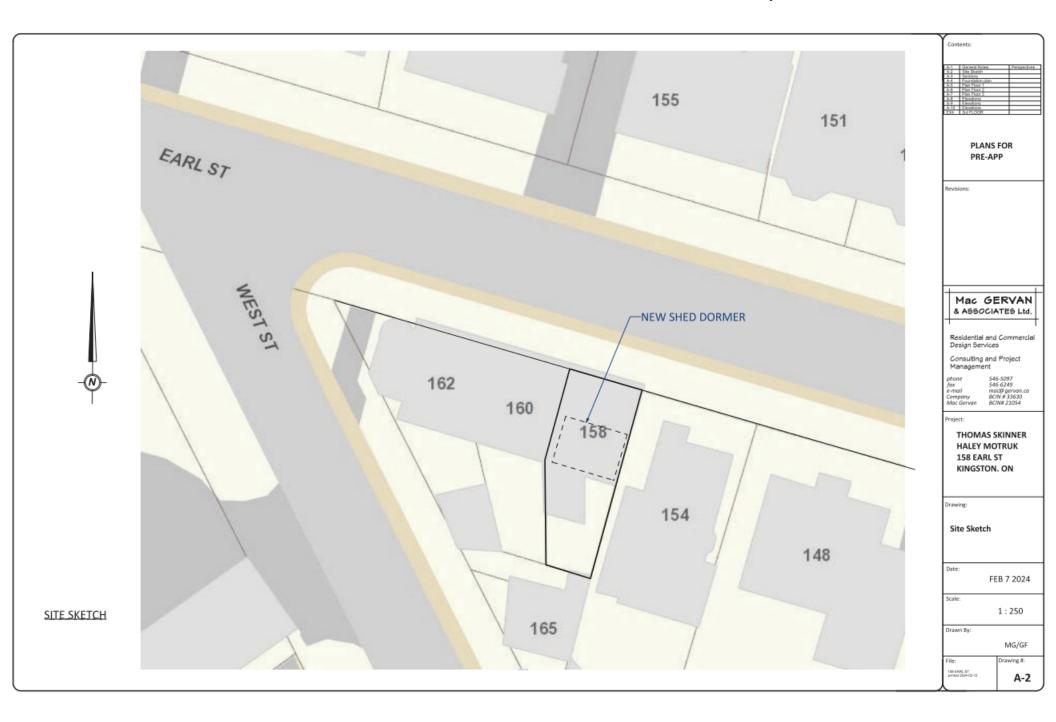
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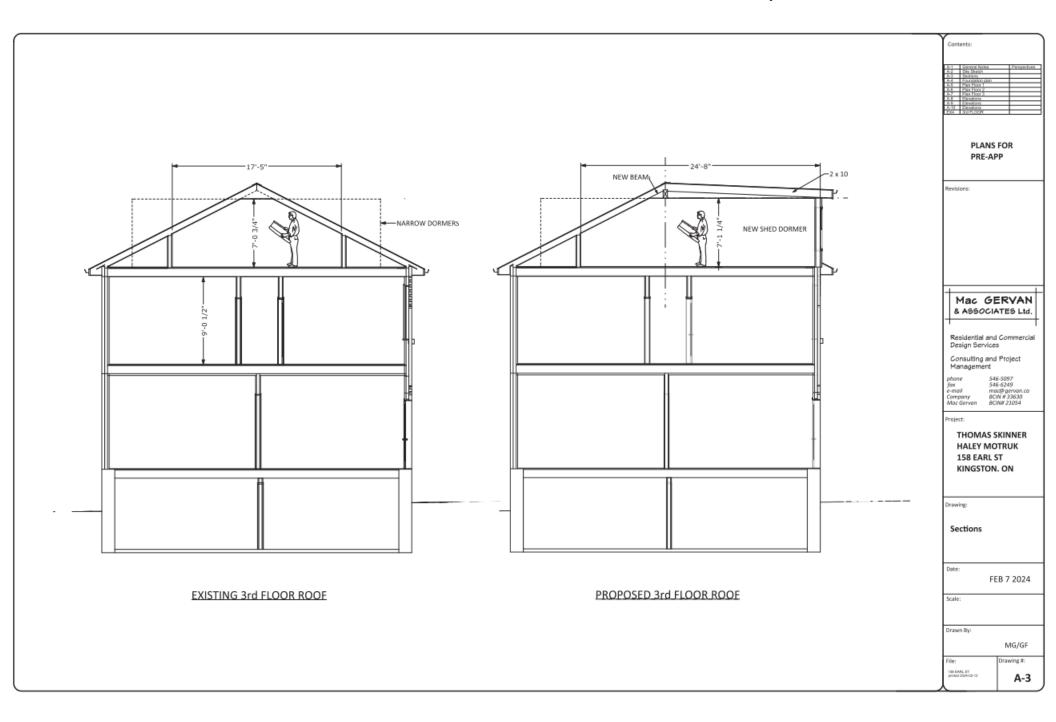
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SOUTH VIEW





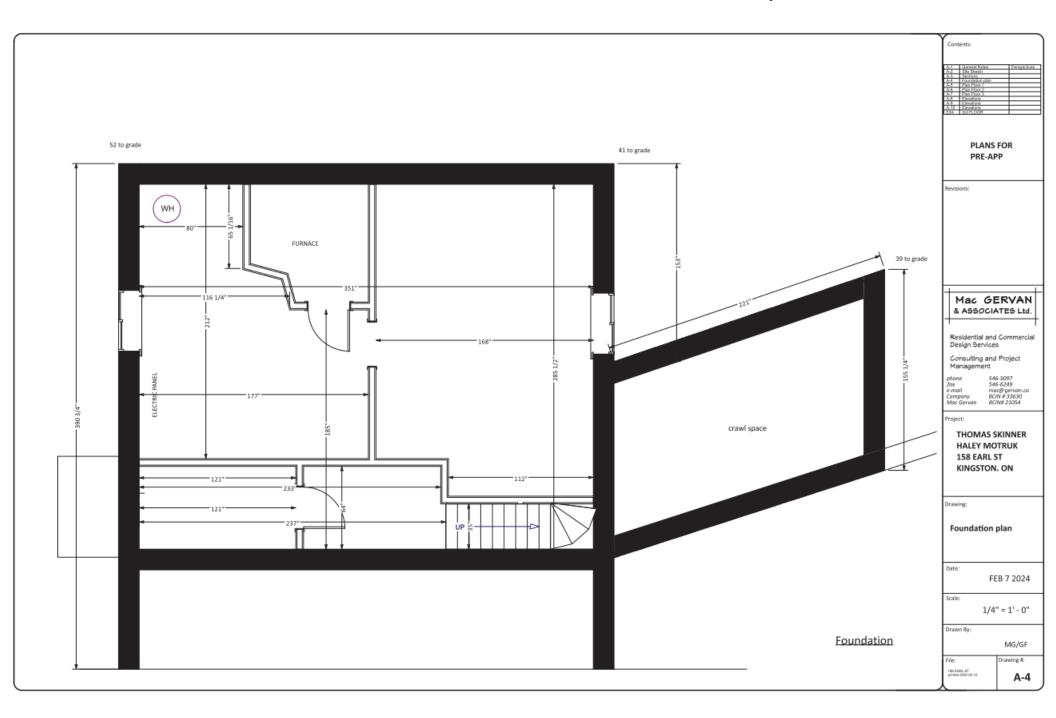


Exhibit I Report Number COA-24-052

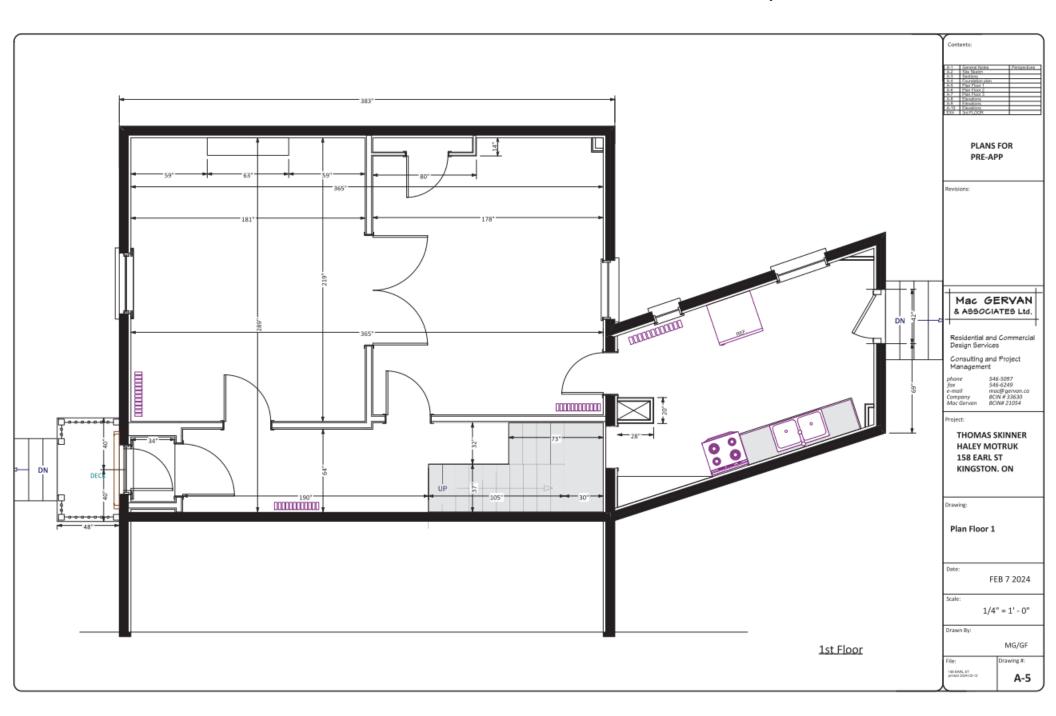




Exhibit I Report Number COA-24-052

