



**City of Kingston
Report to Committee of Adjustment
Report Number COA-24-063**

To: Chair and Members of the Committee of Adjustment
From: Chris Wicke, Senior Planner
Date of Meeting: July 15, 2024
Application for: Minor Variance
File Number: D13-045-2024
Address: 28 Maitland Street
District: District 10 - Sydenham
Owner: Anne Mathers and James Mathers
Applicant: Fotenn Planning + Design

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 variance for the property located at 28 Maitland Street. The applicants are proposing to permit two accessory structures that have been constructed in the front yard of the semi-detached house.

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 D13-045-2024, for the property located at 28 Maitland Street to permit accessory structures in the front yard of the semi-detached house, be approved, as described below:

Variance Number 1:

By-Law Number 2022-62: 4.1.2.1 – Additional Accessory Provisions for Residential Uses and Buildings

Requirement: The accessory building must be located in a rear yard, exterior yard or interior yard

Proposed: Front yard

Variance Requested: Front yard

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-24-063.

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Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

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 27, 2024, a minor variance application was submitted by Fotenn Planning + Design, on behalf of the owners, Anne Mathers and James Mathers, with respect to the property located at 28 Maitland Street. The variance is requested to permit accessory structures in the front yard of the semi-detached house. Following a misunderstanding, the owners have constructed a 2.7 metre by 3.9 metre (10.1 square metre) detached storage building (shed) and small attached garbage enclosure on the property without prior approval. As the accessory structures are less than 15 square metres, no building permit is required for their construction, though they are still required to be compliant with the applicable zoning and are subject to heritage approval. Due to the positioning of the semi-detached dwelling towards the rear of the property, there is little room in the rear or side yards. The request for relief is being made to permit accessory structures for exterior storage space for outdoor maintenance tools and equipment and garbage and recycling storage, which is not currently possible given the building placement and lot configuration.

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

- Plot Plan (Exhibit F)
- Landscape Plan (Exhibit G)
- Planning Report
- Minor Variance Addendum
- Survey

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 on the west side of Maitland Street, south of King Street East, east of Emily Street, and west of Simcoe Street (Exhibit B – Key Map). The principal dwelling at 28 Maitland abuts the structures on the adjacent properties on both sides. There is a limited rear yard and a large front yard in front of the dwelling. There is an existing shed and garbage enclosure in the front yard of the home (Exhibit C – Neighbourhood Context Map).

The shed is approximately 4 metres tall and 10.1 square metres in area, clad in painted fibre cement clapboard in a green tone with a gable roof to be covered in dark coloured standing seam metal roofing. A salvaged wooden casement window is installed on the east elevation and a pair of glazed wooden French doors, salvaged from the main building in 2020, are installed on the west elevation. A small wooden garbage enclosure, clad in matching clapboard siding, is located just to the south of the shed.

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As part of the Old Sydenham Heritage Conservation District, the subject property is designated and is also surrounded by Part V heritage designated properties.

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

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 block of the City whereby the land use is residential in a varied built form and consisting of a well-preserved heritage block of homes. The proposal to permit accessory structures in the front yard of the home is compatible with the surrounding area. The modification is not anticipated to have any negative impacts on the neighbourhood. The change is proposed in the front yard of the property but set back 9.5 metres from the lot line where there will be little possibility of visual impacts on the streetscape. No change to the primary use of the property is proposed as a result of the minor variance, and no expansion of the existing building footprint is proposed.

This proposal to permit accessory structures in the front yard meets all compatibility criteria and will not result in any negative off-site impacts to abutting properties. As the accessory structures are proposed to be used as a shed for storage and as a garbage enclosure, they will not be living space, and their use will be regular but brief. They are positioned in the yard such that the

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windows of the accessory structure at the rear of the adjacent property at 53 King Street East are not obscured, and there is no threat of loss of privacy due to intrusive overlook due to the enclosed nature of the yard and the placement of the window in the shed, which is directed east towards the street. Increased levels of light pollution, noise, or odour are not anticipated. Adverse effects due to shadowing are also not anticipated as the shed is approximately 4 metres in height and located 2.9 metres from the property line and the accessory structure to the north, and the garbage enclosure is less than 2 metres high. No significant shadows will be created by the shed and garbage enclosure. Due to the courtyard form of the yard created by the surrounding buildings and the landscaping along the front lot line, there is limited visibility from the street and surrounding area to the front yard, and no adverse impacts to the streetscape along Maitland Street are anticipated. Other than finishing the roof of the structure, no additional exterior changes are proposed to 28 Maitland as a result of this application. Further mitigation measures are not required.

The structures are of a suitable scale and will provide room for the storage of tools and equipment for outdoor maintenance, as well as serving as a garbage enclosure. The placement of the shed also provides additional privacy for the residents, screening the view of part of the front yard from the street and improving the quality of the outdoor amenity space. The proposal will not negatively impact the functional needs of the current or future residents. No increase to the footprint of the principal building is proposed.

The proposed structures will have no negative impact to the site functioning in terms of access, parking for vehicles or bicycles, or universal accessibility. The existing parking spaces will remain unchanged. 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 Part V of the *Ontario Heritage Act*, and it is part of the Old Sydenham Heritage Conservation District (HCD) through By-Law Number 2015-67. It is located adjacent to similarly designated properties. This work was subject to a heritage permit ([P18-018-2024](#)) which was approved on April 17, 2024 (Report Number HP-24-021). Consideration was given to how the property plays a role in the Old Sydenham Heritage Conservation District. The Old Sydenham Heritage Area HCD Plan Property Inventory Evaluation identifies the property (including both 26 and 28 Maitland Street) as 'contributing' to the Old Sydenham HCD by way of its' low massing, mansard roof, rectangular openings and its 2-tiered façade. While 28 Maitland Street is not rated as a "significant" building by the Old Sydenham HCD Property Inventory Evaluation, it is still considered a "contributing" building to the heritage character of the HCD and thereby considered a "heritage building" for the purposes of the District Plan's policies and guidelines. The new shed and garbage enclosure are located in the front yard, which conflicts with the HCD Plan's guidelines for new additions to heritage buildings. However, Maitland Street is somewhat unusual in design as it evolved more organically than most in the District, and it was not strictly planned as a residential streetscape.

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The new shed is shorter than the main building; however at approximately 4 metres wide it will obstruct the view of a portion of the main building at 28 Maitland Street. The heritage report acknowledges that the main building’s location on the lot limits the owners’ ability to construct a shed in either the rear or side yards, and it recognizes that the new shed is set back approximately 10 metres from the street, about halfway between the street and the main building, thereby allowing the owners to retain their required parking spaces and creating a small, semi-private amenity area in their front yard.

The property is within an area cleared of archaeological potential; an archaeological assessment is not required. The property uses municipal water and sewage services. As this application proposes to permit an accessory structure with no new services and 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 accessory structures in the front yard 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 permit accessory structures in the front yard of the existing home.

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

The subject property is zoned Heritage Zone 3 – Old Sydenham (HCD3) in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map). The HCD3 zone permits a range of residential uses including semi-detached houses.

The proposal requires a variance to Section 4.1.2 regarding locating an accessory structure in the front yard:

Variance Number 1:

By-Law Number 2022-62: 4.1.2.1 – Additional Accessory Provisions for Residential Uses and Buildings

Requirement: The accessory building must be located in a rear yard, exterior yard or interior yard

Proposed: Front yard

Variance Requested: Front yard

No relief is required to the provisions of the HCD3 zone and there are no proposed changes to the principal dwelling.

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The variance requested maintains the general purpose and intent of the applicable provisions of the by-law which is to locate accessory structures in areas where they are functional but not prominently located. Due to the positioning of the principal semi-detached house towards the rear of the site, 28 Maitland has no side yards and the rear yard is minimized. The front yard presents the only realistic option for accessory structures.

The accessory structures are set back substantially from the street line, are made less visible from the street by the placement of adjacent existing buildings, and are partially screened with landscaping and parking from both the subject property and adjacent properties.

The proposed design of the shed has been deemed compatible with the heritage characteristics of the HCD. Further analysis in this regard can be found in Report Number HP-24-021, 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 accessory structures in the front yard is considered minor as it will be limited to the site and limited in the potential for any impacts. The structures are compatible with the principal dwelling, the surrounding properties and the existing neighbourhood, and they will support the residential use of the property. The property is in an area characterised as a heritage residential neighbourhood and designated as a Heritage Conservation District. The shed and garbage enclosure are constructed with an attention to detail and quality of construction that is in keeping with the adjacent structures and the surrounding neighbourhood. The accessory structure in the front yard has received a heritage permit and is not anticipated to result in any adverse effects to the surrounding Heritage Conservation District.

The shed and garbage enclosure comply with all other applicable zone provisions, including lot coverage, maximum height, and setbacks. The proposal will not change the fundamental design characteristics of the neighbourhood. No impact on the surrounding land uses is anticipated.

The 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 scale and design of the shed and garbage enclosure are appropriate for the dwelling size, and the structures have been carefully detailed to be compatible with the heritage characteristics of the home and surrounding properties within the Old Sydenham Heritage Conservation District.

As there are no side yards and a limited rear yard for the property, the only feasible placement option for the shed and garbage enclosure is in the front yard. They have been positioned such that they do not obstruct the windows of the neighbouring accessory structure, and in addition to

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its function for storage, the shed also creates an improved amenity space for the residents, providing greater privacy for the amenity area near the home while retaining the parking spaces closer to the street. The accessory structures will continue to support the residential use on the site without impact.

The variance is desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

- Building Services
- Finance
- Fire & Rescue
- Solid Waste
- Housing
- KEDCO
- CRCA
- Parks Canada
- Hydro One
- Kingston Airport
- Engineering Department
- Utilities Kingston
- Kingston Hydro
- Parks Development
- District Councillor
- Municipal Drainage
- KFL&A Health Unit
- Eastern Ontario Power
- Enbridge Pipelines
- Other:
- Heritage (Planning Services)
- Real Estate
- Environmental Services
- 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 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. There is a minor variance application also being considered for the adjacent property at 26 Maitland Street (D13-044-2024) for similar zoning relief for an accessory structure – a small garbage enclosure that is proposed in the front yard.

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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 permit accessory structures in the front yard of the semi-detached house.

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 July 15, 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 31 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

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Financial Considerations:

None

Contacts:

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

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

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

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

Recommended Conditions

The approval of minor variance application, File Number D13-045-2024, to construct an accessory structures in the front yard of the semi-detached house, shall be subject to the following recommended conditions:

1. Limitation

That the approved minor variance applies only to the accessory structures in the front yard at 28 Maitland 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. Standard Archaeological Condition

In the event that deeply buried or previously undiscovered archaeological deposits are discovered in the course of development or site alteration, all work must immediately cease and the site must be secured. The Archaeology Program Unit of the Ministry of Citizenship and Multiculturalism (archaeology@ontario.ca) and City of Kingston's Planning Services (613-546-4291, extension 3180) must be immediately contacted.

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



Committee of Adjustment Neighbourhood Context

Address: 28 Maitland Street
File Number: D13-045-2024
Prepared On: Jun-03-2024

- Subject Lands
- Property Boundaries
- Proposed Parcels



Prepared By: ebaratt
Prepared On: Jun-03-2024

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Committee of Adjustment Official Plan, Existing Land Use

Address: 28 Maitland Street
File Number: D13-045-2024
Prepared On: Jun-03-2024

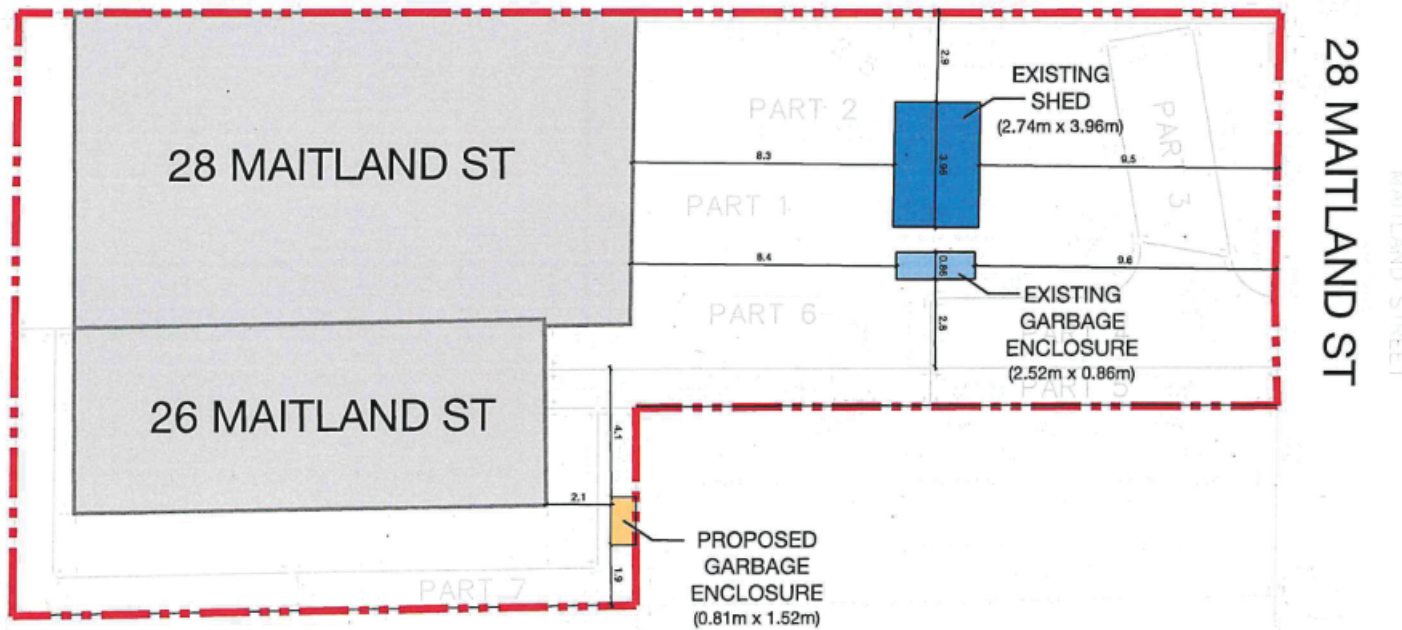
- Subject Lands
- HARBOUR AREA
- OPEN SPACE
- RESIDENTIAL



Prepared By: cbarratt
Prepared On: Jun-03-2024

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26-28
MAITLAND
STREET
KINGSTON
Plot Plan



1	BASE PLAN	2024.05.06	LC
No.	REVISION	DATE	BY

CLIENT
MATHERS FAMILY

FOTENN
Planning + Design

OTTAWA: 788 Centre Street, Suite 205, Ottawa, ON K2P 2H7
KINGSTON: 48 Broadview St., Suite 205, Kingston, ON K7K 1Z7
TORONTO: 214 Spadina Ave., Suite 205, Toronto, ON M5S 2C2

DESIGNED	LC
REVIEWED	ET
DATE	2024.05.06

P1



Figure 1: Looking west at the accessory structure on the subject property.



Figure 2: Looking northwest at the shed adjacent to the existing accessory structure to the north.



Figure 3: Looking northeast towards Maitland Street and the property across the street.



Figure 4: Looking west along the neighbouring driveway at 26 Maitland Street.



Figure 5: Looking south past the frontage of the subject property.



Figure 6: Looking north past the frontage of the subject property.

