



**City of Kingston
Report to Committee of Adjustment
Report Number COA-19-050**

To: Chair and Members of Committee of Adjustment
From: Tim Fisher, Planner
Date of Meeting: August 19, 2019
Application for: Minor Variance
File Number: D13-035-2019
Address: 316 Victoria Street
Owner/Applicant: Jill Mingo

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variance for the property located at 316 Victoria Street. The applicant is proposing to reduce the minimum side yard setback and projections into yards setback from 0.6 metres to 0.3 metres for the addition and deck and reduce the aggregate side yard requirement from 3.0 metres to 1.79 metres to construct a one-storey addition and rear deck along the south side of the existing single-family dwelling.

The requested minor variance is consistent with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 8499. 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.

Recommendation:

It is recommended that minor variance application, File Number D13-035-2019, for the property located at 316 Victoria Street to reduce the minimum side yard, aggregate side yard and projection into yards setbacks to construct a one-storey addition and rear deck along the south side of the existing single-family dwelling, be approved.

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Variance Number 1:

By-Law Number 8499: 6.3(c) Minimum Side Yard
Requirement: 0.6 metres
Proposed: 0.3 metres
Variance Requested: 0.3 metres

Variance Number 2:

By-Law Number 8499: 6.3(c) Minimum Aggregate Side Yard
Requirement: 3.0 metres
Proposed: 1.79 metres
Variance Requested: 1.21 metres

Variance Number 3:

By-Law Number 8499: 5.8 Projections into Yards
Requirement: 0.6 metres
Proposed: 0.3 metres
Variance Requested: 0.3 metres

Approval of the foregoing variance shall be subject to the following conditions:**1. Limitation**

That the approved variances apply only to the one storey addition along the southern lot line and rear deck as shown on 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 Division a copy of the decision of the Committee of Adjustment, together with a copy of the approved drawings, when they make an 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.

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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 Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132) and the City of Kingston's Planning Division (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 Registrar of Cemeteries Regulation Section of the Ontario Ministry of Consumer Business Services (416-326-8404), the Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132), and the City of Kingston's Planning Division (613-546-4291, extension 3180) must be immediately contacted.

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Authorizing Signatures:



Tim Fisher, Planner

In Consultation with the following:

Paige Agnew, Director, Planning, Building & Licensing Services

Lanie Hurdle, Interim Chief Administrative Officer

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Options/Discussion:

On June 24, 2019, a minor variance application was submitted by the owners James and Jill Mingo with respect to the property located at 316 Victoria Street. The variances are requested to reduce the minimum side yard setback and projection into yards setback from 0.6 metres to 0.3 metres for the addition and deck and reduce the aggregate side yard requirement from 3.0 metres to 1.79 metres to construct a one-storey addition along the southwest corner of the dwelling and a rear deck of the existing single-family dwelling.

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

- Site Plan (Exhibit E); and
- Survey (Exhibit F).

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 316 Victoria Street. The 334 square metre parcel of land is developed with a two-and-a-half-storey single-detached dwelling. Parking is located in the rear yard which is accessed by way of a shared driveway with 320 Victoria Street.

The subject property is designated Residential in the Official Plan and zoned 'A' One and Two Family Dwelling in Zoning By-Law Number 8499. The property abuts single-detached dwellings to the north, east, south and west.

Application

The review of an application for minor variances are not a simple mathematical calculation, but rather a detailed assessment of whether the variances 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:

Provincial Policy Statement

In addition to the four tests of a minor variance detailed above, 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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1) The general intent and purpose of the Official Plan are maintained

The subject property is designated Residential in the City of Kingston Official Plan.

In considering whether this proposed variance is desirable, the Committee of Adjustment will have regard to the nine requirements included in Section 9.5.19 of the Official Plan. The following provides these nine requirements and an assessment of how the proposal is consistent with each.

1. The proposed *development* meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of this Plan;

The proposal meets the intent of Section 2 of the Official Plan, and the strategic policy direction that the focus of the City's growth will be within the Urban Boundary, where adequate services exist (Section 2.3.1). The proposed development is for a permitted residential use. Section 2.2.5 – Housing Districts – states that these areas are planned to remain stable in accordance with 2.6 of the Official Plan, but will continue to mature and adapt as the city evolves. Re-investment and upgrading will be encouraged through minor infilling and minor development (i.e. that which can integrate compatibly with the prevailing built form standards of height, density, and amenity that are generally found in the neighbourhood). The proposed development represents a reinvestment in a property and the use and residential density of the property will remain the same.

2. The proposed development will be compatible with surrounding uses, buildings or structures and development standards associated with adjacent properties, and if necessary, incorporate means of alleviating adverse effects on abutting land uses as recommended in Section 2.7 of this Plan;

Sections 2.7.1 and 2.7.2 of the Official Plan require that any development proposals demonstrate that the proposed form, function and use of the land are compatible with surrounding uses and consider the potential for adverse effects. Section 2.7.3 outlines a number of land use compatibility matters which should be considered to assess the potential for adverse effects on abutting land uses.

The one-storey addition along the southern wall of the existing two-storey dwelling and rear deck is in keeping with the residential character and form of the neighbourhood and will not result in any adverse effects on the continued use of the abutting properties. The addition will create a formal dining room with direct access to the proposed rear deck.

There are no windows proposed along the southern wall of the addition which will not result in any intrusive overlook onto the abutting property. A doorway is proposed from the dining room to provide direct access to the deck at the rear of the dwelling. The deck proposes to have a privacy wall along the southern side of the deck which abuts the residential property to the south which will provide added screening and privacy.

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3. The ability of the site to function in an appropriate manner in terms of access, parking for vehicles and bicycles or any other matter and means of improving such function including considerations for universal accessibility;

There is no change proposed to the function of the site in terms of access routes, parking or universal accessibility. The proposed setback of the addition and the deck is required to allow adequate space between the main building property line, in order to maintain functionality of the site. Access to the rear yard will be maintained through the dwelling and along the northern side of the dwelling by way of the shared driveway to access rear yard parking.

4. The conformity of the proposal to any applicable urban design policies endorsed by Council, particularly if the site includes or could impact a built heritage resource or is within a Heritage District;

The property is not designated under Part IV or Part V of the *Ontario Heritage Act*, nor is it adjacent to any designated properties. The site is not within a Heritage Character Area. The simple design of the addition and deck is appropriate for the site and purpose.

5. If the site is designated under the *Ontario Heritage Act*, the application shall be reviewed by Heritage Kingston for approval. If the property is adjacent to a designated property under the *Ontario Heritage Act* or shown as a Heritage Area feature, or is affected by the protected views shown on Schedule 9 of this Plan, then a Heritage Impact Statement may be required to assist staff to determine if the resulting development is desirable;

The subject property is not listed or designated under the *Ontario Heritage Act*, nor is it adjacent to any designated properties. A Heritage Impact Statement is not required.

6. The resulting development has adequate municipal water and sewage services within the Urban Boundary, or is capable of providing individual on-site water and sewage services outside the Urban Boundary;

The subject property is within the urban boundary. No changes to services are proposed as part of this application.

Utilities Kingston has no concerns with the proposal however they advise the owner/applicant to obtain locates prior to any excavation as required.

7. Whether the application and the cumulative impact of the proposed variances would be more appropriately addressed by a zoning amendment to the applicable zoning by-law;

The proposal meets the four tests of a Minor Variance as outlined in the *Planning Act*, and described herein therefore; a zoning by-law amendment is not required.

8. The Committee of Adjustment may attach such conditions as it deems appropriate to the approval of the application for a minor variance including any reasonable requirements,

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recommendations of City departments, or the submission of studies as listed in Section 9.12 of this Plan that may be required to properly evaluate the application;

There are several conditions of approval associated with the recommendation, as outlined in this report.

9. The degree to which such approval may set an undesirable precedent for the immediate area.

It is not anticipated that an undesirable precedent will be set based on the approval of the requested variance. The need for the reduced setbacks to permit addition and rear deck on are specific to this property given the configuration of single detached dwelling.

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

2) The general intent and purpose of the zoning by-law are maintained

The subject property is zoned 'A' One and Two-Family Dwelling in the City of Kingston Zoning By-Law Number 8499, entitled "Restricted Area (Zoning) By-Law of the Corporation of the City of Kingston", as amended. The 'A' zone permits a single-detached dwelling therefore the single-detached dwelling is a permitted use. Any new development is subject to the requirements of 'A' zone and must comply with Section 6 of the zoning by-law.

The one-storey addition will be located along the southern wall of the dwelling. The dwelling is currently setback 1.78 metres from the southern lot line however the applicant proposes to construct a 1.46 metre wide addition to the south west corner of the dwelling. The addition will be setback 0.3 metres from the southern lot line. Section 6.3(c) requires a minimum side yard of 0.6 metres. A variance is requested to reduce the side yard setback from 0.6 metres to 0.3 metres.

Variance Number 1:

By-Law Number 8499:	6.3(c) Minimum Side Yard
Requirement:	0.6 metres
Proposed:	0.3 metres
Variance Requested:	0.3 metres

The proposed 0.3 metre setback will provide the ability to maintain the southern wall of the addition. The addition will be located along the southwest corner of the dwelling. The addition will be setback 6.5 metres from the front wall the dwelling and will buffered from the street as a result of trees and shrubs on the subject property.

The 'A' zone requires an aggregate side yard requirement which is based on the width of the lot. The aggregate side yard is calculated as the sum of both side yards. The required aggregate side yard based on the lot width is 3.0 metres. The existing development has an aggregate side yard of 3.34 metres. Based on the survey and sketch provided by the

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applicant, the aggregate side yard of the proposed development is 1.79 metres as a result of the reduced side yard. A variance is therefore requested to Section 6.3(c) to reduce the aggregate side yard from 3.0 metres to 1.79 metres.

Variance Number 2:

By-Law Number 8499:	6.3(c) Minimum Aggregate Side Yard
Requirement:	3.0 metres
Proposed:	1.79 metres
Variance Requested:	1.21 metres

The intent of the aggregate side yard to is to provide access along one side of the dwelling to provide parking in the side or rear yard. The subject property has a shared driveway with the abutting property to the north (320 Victoria Street) which provides vehicle and pedestrian access from Victoria Street to access rear yard parking on either lot. The reduced aggregate side yard setback will not have any adverse impacts on the existing access or its function as the reduction to the setback is a result of the request to reduce the side yard setback along the southern property line.

Decks, porches and stairs covered or uncovered are subject to Section 5.8 regarding Projections into Yards. The proposed rear deck is required to comply with the minimum side yard setback requirement of 0.6 metres. The side yard setback requirement is being varied however for clarity purposes a variance is also required to recognize the reduced setback for the deck through Section 5.8.

Variance Number 3:

By-Law Number 8499:	5.8 Projections into Yards
Requirement:	0.6 metres
Proposed:	0.3 metres
Variance Requested:	0.3 metres

The proposal complies with all other requirements in the 'A' zone.

3) The variance is minor in nature

The variances are considered minor in nature as the location of addition and rear yard deck minimizes impacts on adjacent properties by providing a side yard setback for maintenance along the southern lot line for the addition and deck. The addition and the requested variance is not for the entire side yard setback, it will only be subject to the location of the addition and rear deck. The addition will be located at the south east corner of the existing dwelling and will be setback 6.5 metres from the front wall of the existing dwelling. The addition and deck minimizes any visual impacts from the public realm. Rear yard access will be maintained along the northern lot line over the shared driveway with 320 Victoria Street.

The one-storey addition along the southern wall of the existing two-storey dwelling and the rear deck is in keeping with the residential character and form of the neighbourhood and

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will not result in any adverse effects on the continued use of the abutting properties. The addition will create a formal dining room with direct access to the proposed rear deck.

There are no windows proposed along the southern wall of the addition which will not result in any intrusive overlook onto the abutting property. A doorway is proposed from the dining room to provide direct access to the deck at the rear of the dwelling. The deck proposes to have a privacy wall along the southern side of the deck which abuts the residential property to the south which will provide added screening and privacy.

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

The proposed variances are desirable and appropriate as they will maintain the residential use of the property and provide additional living space for the single-family residential use. Road access and a shared driveway will be maintained from Victoria Street along northern lot line which provides rear yard access for rear yard parking.

Technical Review: Circulated Departments and Agencies

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> Building Division | <input checked="" type="checkbox"/> Engineering Department | <input checked="" type="checkbox"/> Heritage (Planning Division) |
| <input checked="" type="checkbox"/> Finance | <input checked="" type="checkbox"/> Utilities Kingston | <input checked="" type="checkbox"/> Real Estate & Environmental Initiatives |
| <input checked="" type="checkbox"/> Fire & Rescue | <input checked="" type="checkbox"/> Kingston Hydro | <input type="checkbox"/> City's Environment Division |
| <input type="checkbox"/> Solid Waste | <input type="checkbox"/> Parks Development | <input type="checkbox"/> Canadian National Railways |
| <input type="checkbox"/> Housing | <input checked="" type="checkbox"/> District Councillor | <input type="checkbox"/> Ministry of Transportation |
| <input type="checkbox"/> KEDCO | <input type="checkbox"/> Municipal Drainage | <input type="checkbox"/> Parks of the St. Lawrence |
| <input type="checkbox"/> CRCA | <input type="checkbox"/> KFL&A Health Unit | <input type="checkbox"/> Trans Northern Pipelines |
| <input type="checkbox"/> Parks Canada | <input type="checkbox"/> Eastern Ontario Power | <input type="checkbox"/> CFB Kingston |
| <input type="checkbox"/> Hydro One | <input type="checkbox"/> Enbridge Pipelines | <input type="checkbox"/> TransCanada Pipelines |
| <input type="checkbox"/> 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 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, there are no written public comments or objections 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.

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Conclusion

The requested variances maintain the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 8499. 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.

Approval of this application will provide the owner with additional indoor and outdoor living space to the residential use.

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, 2014

Municipal

City of Kingston Official Plan
Zoning By-Law Number 8499

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on August 19, 2019. 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 41 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.

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:

Not applicable

Financial Considerations:

Not applicable

Contacts:

Sukriti Agarwal, Acting Manager, Planning Initiatives 613-546-4291 extension 3217

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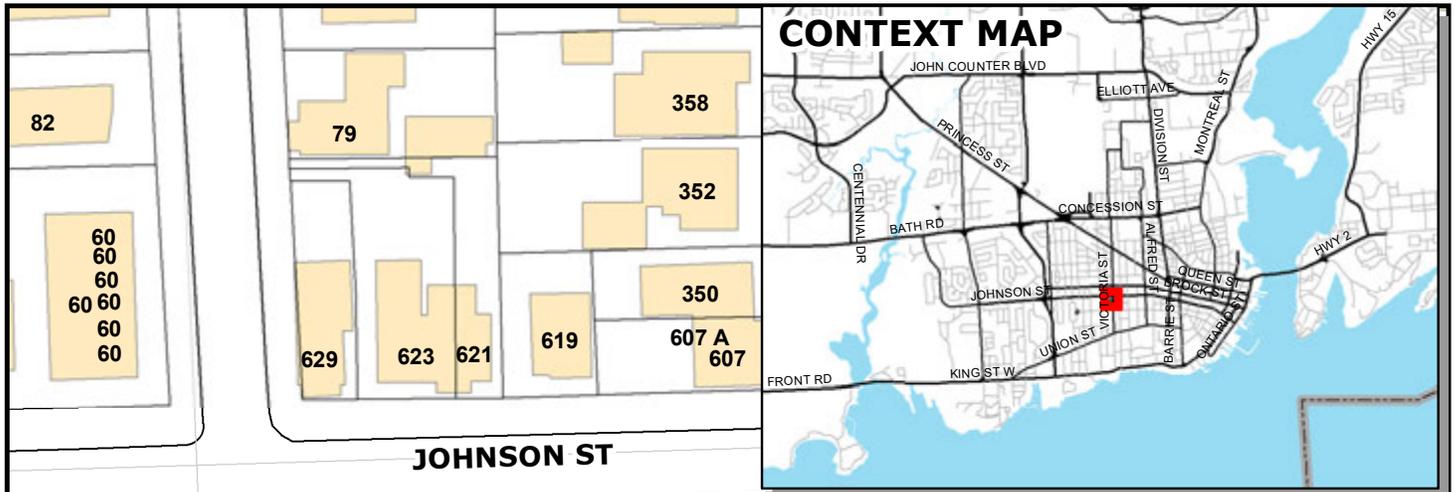
Tim Fisher, Planner 613-546-4291 extension 3215

Other City of Kingston Staff Consulted:

The application was circulated to the relevant internal departments and external agencies for review and comment. The responses to the technical circulation have been addressed in the technical review and included in this report.

Exhibits Attached:

- Exhibit A Key Map
- Exhibit B Public Notification Map
- Exhibit C Official Plan Map
- Exhibit D Zoning By-Law Map
- Exhibit E Site Plan
- Exhibit F Survey



Planning, Building & Licensing Services
a department of
Community Services

COMMITTEE OF ADJUSTMENT

Key Map

File Numbers: D13-035-2019
Address: 316 Victoria Street



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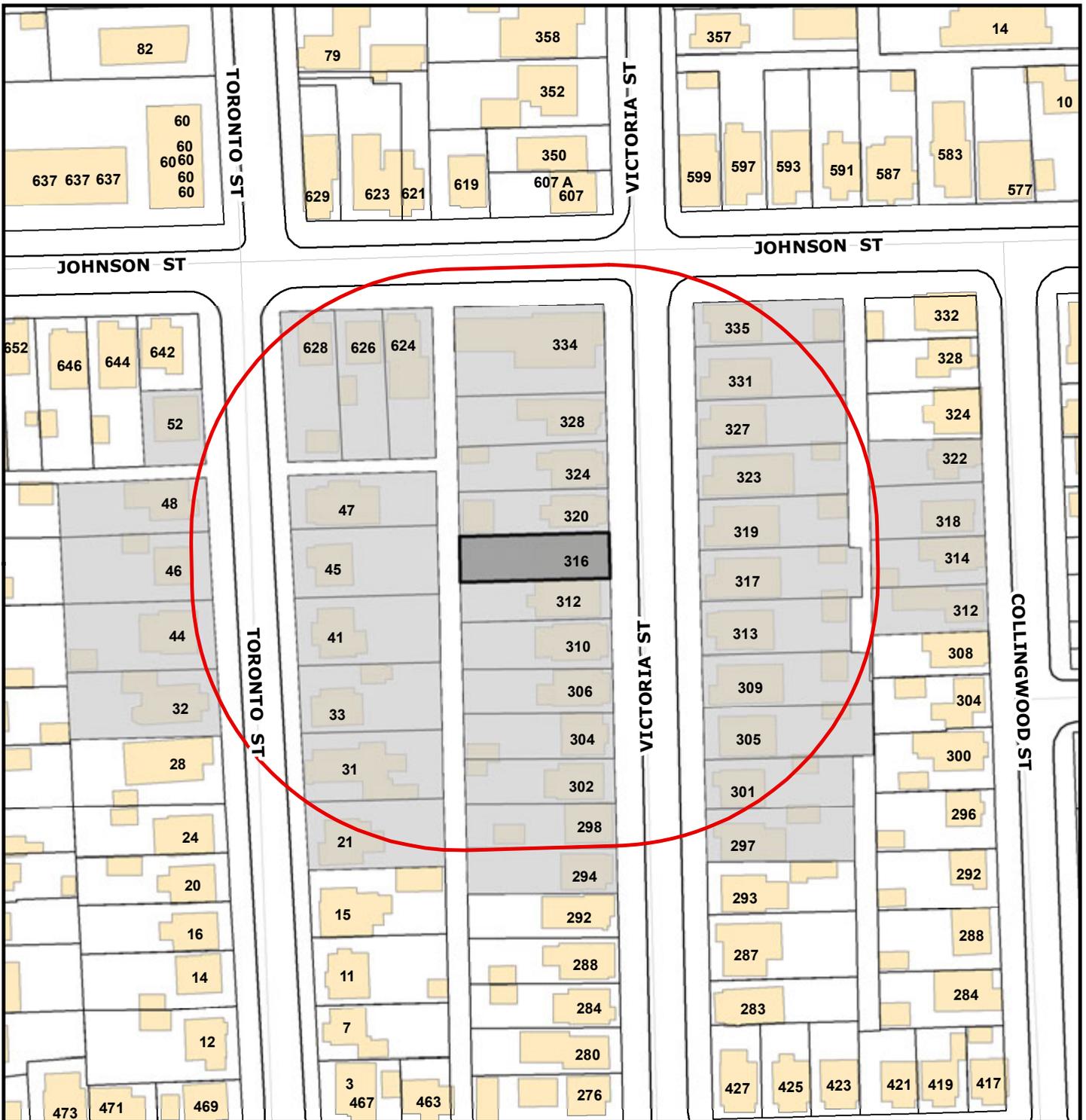
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Lands Subject to Minor Variance



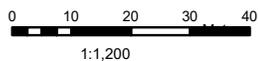
PREPARED BY: A. Dowker
DATE: 2019-07-30

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COMMITTEE OF ADJUSTMENT
Public Notice Notification Map

File Numbers: D13-035-2019
 Address: 316 Victoria Street



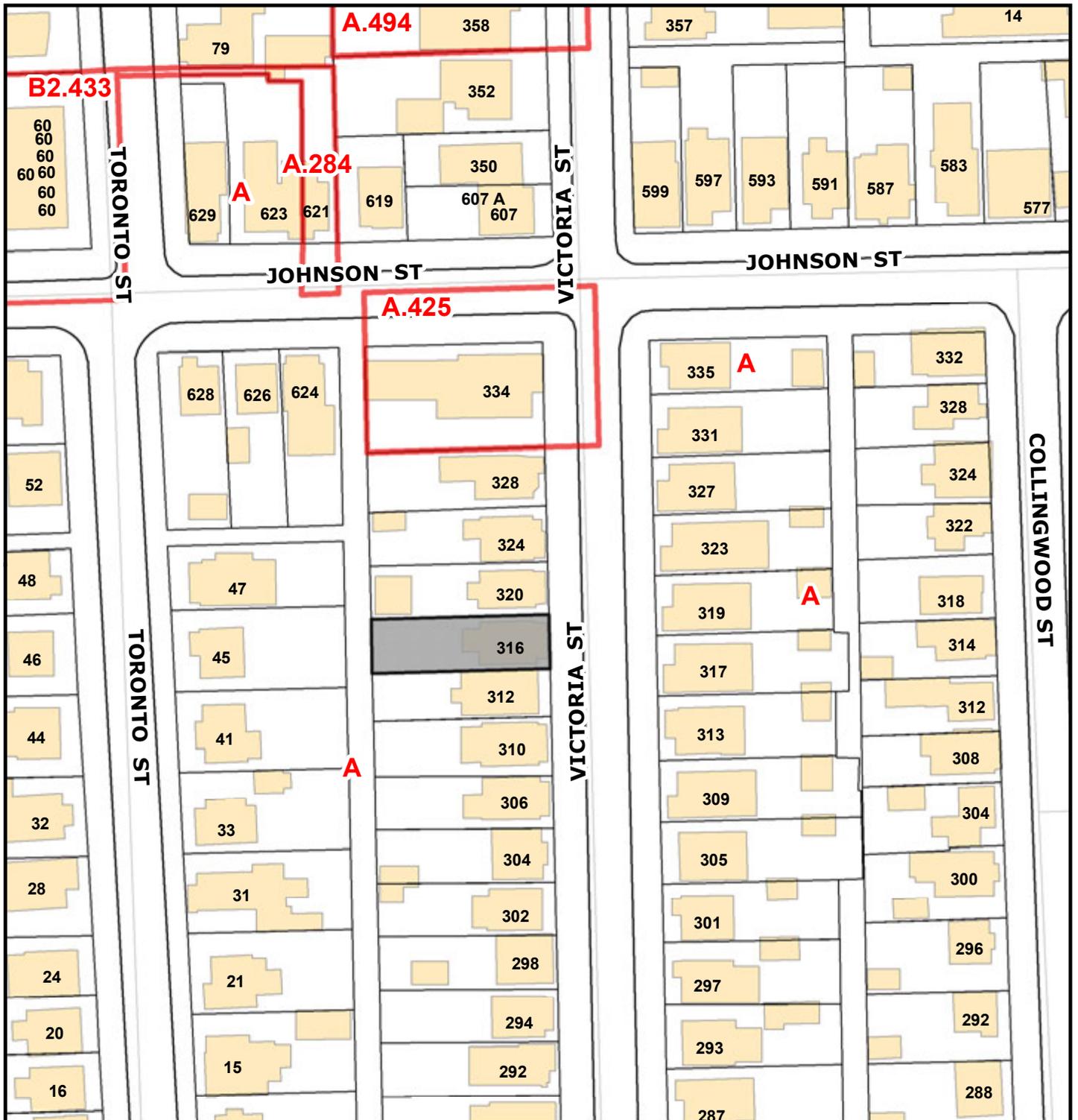
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-  Subject Lands
-  60m Public Notice Boundary
-  41 Properties in Receipt of Notice
-  Property Boundaries



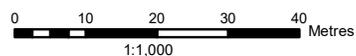
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 DATE: 2019-07-30

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COMMITTEE OF ADJUSTMENT
Zoning By-Law 8499, Map 30

File Numbers: D13-035-2019
 Address: 316 Victoria Street



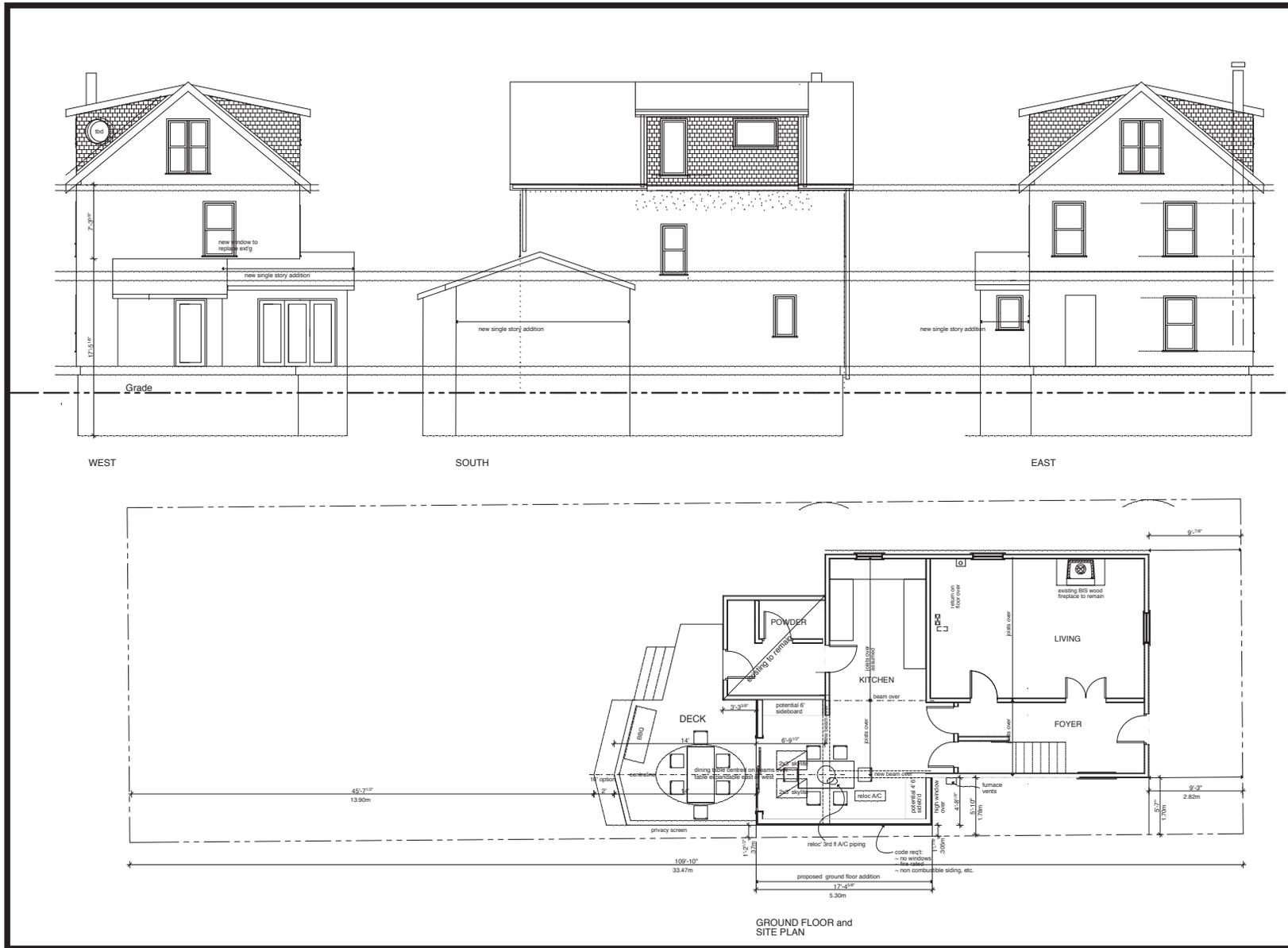
Legend

- Subject Lands
- Consolidated Zoning
- Property Boundaries



PREPARED BY: A. Dowker
 DATE: 2019-07-30

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Alterations and Addition to Jim and Jill Mingo Residence
316 Victoria St.,
Kingston, Ontario

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Tel/Fax: (613) 521-2108
email: pstudio@cohrs.ca

PETERS STUDIO OF BUILDING-DESIGN

date 2019, June 20
scale 1/4" = 1'0" / 1" details
drawn pc, maato, BCIN 21862
issued for review
project

Plan,
Elevations,
for Committee of
Adjustment

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