City of Kingston
Report to Committee of Adjustment
Report Number COA-20-027

To: Chair and Members of Committee of Adjustment
From: Annemarie Eusebio, Intermediate Planner
Date of Meeting: April 20, 2020
Application for: Minor Variance
File Number: D13-058-2019
Address: 3 Drummond Street
Owner: Katherine Burke
Applicant: Mark Peabody and Todd Biggerman

Council Strategic Plan Alignment:

Theme: 2. Increase housing affordability
Goal: 2.1 Pursue development of all types of housing city-wide through intensification and land use policies.

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variances for the property located at 3 Drummond Street. The applicant is proposing to construct a two-storey addition to be located at the rear of the existing dwelling. The total area of the proposed two-storey addition will be 6.5 square metres. The first floor of the proposed addition will contain living space and the second floor will contain an additional bedroom. A rear deck is also proposed. The subject property is located within the Barriefield Heritage Conservation District. On February 19, 2020, Heritage Kingston approved a Heritage Permit under the Ontario Heritage Act for the proposed rear addition and deck. Further information is found in Report HK-20-006.

The subject property is located within a site-specific Residential Type 2 ‘R2-1 zone in Zoning By-Law Number 32-74 and is designated Residential in the Official Plan. To facilitate the construction of the rear building addition, a variance is required to increase the maximum required lot coverage. Section 10 (2) (i) of Zoning By-Law Number 32-74 indicates that the
required maximum lot coverage in the R2 zone is 35 per cent. The proposed rear addition will result in a lot coverage of 52.8 per cent. As such a variance of 17.8 per cent is required.

A variance is also required to reduce the required minimum interior side yard width. Section 10 (3) (a) (v) indicates that in the case of more than 1 such yard, 1.2 metres on one side and 3.04 metres on any other side is required. The subject property has 2 interior side yards. The proposed addition to the south side of the property complies with the required 1.2 metre interior side yard width. On the north side of the property the interior side yard width is 0 metres. As such, a variance of 3.04 metres is required.

A variance is also required to reduce the minimum rear yard depth. Section 10 (2) (f) (v) – indicates that the minimum rear yard depth is 7.5 metres. The proposed addition will result in a rear yard depth of 6 metres. As such a variance of 1.5 metres is required.

The requested minor variances are consistent with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 32-74. 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.

Recommendation:

That minor variance application, File Number D13-058-2019, for the property located at 3 Drummond Street to construct a two-storey rear addition onto an existing dwelling, be approved.

Variance Number 1:
By-Law Number 32-74: Section 10 (2) (i) – Maximum lot coverage
Requirement: 35 per cent
Proposed: 52.8 per cent
Variance Requested: 17.8 per cent

Variance Number 2:
By-Law Number 32-74: Section 10 (3) (a) (v) – Minimum interior side yard width
Requirement: In the case of more than 1 such yard, 1.2 metres on one side and 3.04 metres on any other side
Proposed: 0 metres on the north side of site
Variance Requested: 3.04 metres on the north side of the site

Variance Number 3:
By-Law Number 32-74: Section 10 (2) (f) – Minimum rear yard depth
Requirement: 7.5 metres
Proposed: 6 metres
Variance Requested: 1.5 metres
Approval of the foregoing variances shall be subject to the following conditions:

1. **Limitation**

   That the approved variances apply only to the property known as 3 Drummond 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 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.

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 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 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 Services (613-546-4291, extension 3180) must be immediately contacted.

5. **Archaeological Assessment**

   An Archaeological Assessment (beginning with a Stage One Assessment) and any subsequent or supporting studies are required on the property prior to the issuance of a Building Permit, as the site falls under several of the criteria for archaeological potential. Any area of development or site alteration, including access routes, on lands containing archaeological resources or areas of archaeological potential will need to be assessed by an
archaeologist licensed in the Province of Ontario. The applicant shall contact Planning Services to confirm their requirements for approval of this condition.

6. Utilities Kingston

Utilities Kingston will require a servicing plan showing any existing and proposed services. Only one service is permitted per property. Any existing services not being retained are required to be abandoned at the main(s).

7. Encroachment Agreement

The owner will be required to enter into an encroachment agreement with the City in order to allow for the eaves of the existing dwelling to extend onto City property. The encroachment agreement will be required prior to the issuance of a building permit for the proposed rear two-storey addition.
Authorizing Signatures:

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Annemarie Eusebio, Intermediate Planner

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

Paige Agnew, Commissioner, Community Services
Options/Discussion:

On November 20, 2019, a minor variance application was submitted by Mark Peabody and Todd Biggerman, on behalf of the owner, Katherine Burke, with respect to the property located at 3 Drummond Street. The applicant is proposing to construct a two-storey addition to be located at the rear of the existing dwelling. The total area of the proposed two-storey addition will be 6.5 square metres. The first floor of the proposed addition will contain living space and the second floor will contain an additional bedroom. A rear deck is also proposed. The subject property is located within the Barriefield Heritage Conservation District. On February 19, 2020, Heritage Kingston approved a Heritage Permit under the Ontario Heritage Act for the proposed rear addition and deck.

The subject property is located within a site-specific Residential Type 2 ‘R2-1 zone in Zoning By-Law Number 32-74 and is designated Residential in the Official Plan. To facilitate the construction of the rear building addition, a variance is required to increase the maximum required lot coverage. Section 10 (2) (i) of Zoning By-Law Number 32-74 indicates that the required maximum lot coverage in the R2 zone is 35 per cent. The proposed rear addition will result in a lot coverage of 52.8 per cent. As such a variance of 17.8 per cent is required.

A variance is also required to reduce the required minimum interior side yard width. Section 10 (3) (a) (v) indicates that in the case of more than 1 such yard, 1.2 metres on one side and 3.04 metres on any other side is required. The subject property has 2 interior side yards. The proposed addition to the south side of the property complies with the required 1.2 metre interior side yard width. On the north side of the property the interior side yard width is 0 metres. As such, a variance of 3.04 metres is required.

A variance is also required to reduce the minimum rear yard depth. Section 10 (2) (f) (v) indicates that the minimum rear yard depth is 7.5 metres. The proposed addition will result in a rear yard depth of 6 metres. As such a variance of 1.5 metres is required.

The existing single-family dwelling was constructed in 1920, which existed prior to the date of the adoption of Zoning By-Law Number 32-74. The location of the existing single-family dwelling on the subject property is considered legal non-complying as the dwelling does not meet select zoning provisions of the R2 and R2-1 zone. The existing single-family on the subject property is deficient with respect to the required minimum lot area, minimum lot frontage, minimum front yard depth, minimum interior side yard width and the requirement of 1 parking space. It is proposed to recognize the existing development on the property in order to provide clarity for this minor variance application.

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

- Survey (Exhibit A);
- Site Plan (Exhibit B); and
- Floor Plans and Elevation Plans (Exhibit C).
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 at 3 Drummond Street is located on the west side of Drummond Street, between Regent Street and James Street (Exhibit D – Key Map and Exhibit E – Neighbourhood Context). The property contains a vernacular style, two-bay, front gable one-and-a-half-storey dwelling, set close to the street. The property abuts the City-owned Frontenac County School Museum, which is located directly to the north of the site. The dwelling types within the existing neighbourhood include single-detached and semi-detached dwellings and range from one-and-a-half-storeys to two-storeys in height.

The site is located within the Barriefield Heritage Conservation District, which is situated near the intersection of Highway 2 and Highway 15. The Barriefield Conservation District is adjacent to Fort Henry, and Canadian Forces Base (CFB) Kingston. The subject property is designated Residential in the Official Plan (Exhibit F – Official Plan) and is located within a site-specific Residential Type 2 ‘R2-2’ in Zoning By-Law Number 32-74 (Exhibit G – Zoning).

**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:

**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.

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 proposed rear addition will not have any negative impacts on abutting properties or residential and/or uses or structures. The proposal is compatible with the surrounding residential uses and will not result in significant impacts or changes to the surrounding area.

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;

The proposed rear addition will result in a development that is consistent with the existing built form of several residential buildings located along Drummond Street (6, 8 & 10 Drummond Street). The overall design and scale of the proposal is not anticipated to cause any adverse impacts on the adjacent residential properties.

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;

Section 5(14) (a) of Zoning By-Law Number 32-74 indicates that for single-family dwellings, 1 parking space is required. A parking space does not exist on the subject property. The location of the existing dwelling does not allow enough space for a new parking space to be situated on the subject property. The existing dwelling is located 0.02 metres from the front lot line, 0 metres from the interior side lot line to the north and 0.9 metres from the interior side lot line to the south.

It is recommended that the existing parking deficiency of 1 parking space be recognized as legal non-complying as the existing single family dwelling was constructed in 1920, which existed prior to the date of the adoption of Zoning By-Law Number 32-74. A parking space is not required on the subject property.

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 Official Plan also contains policies with respect to urban design in Section 8.3 to ensure that new residential development is integrated into the existing built fabric and conducive to active transportation: Protect and preserve stable residential communities (in accordance with Section 2.6 of this Plan);

a. A well-established land use pattern in terms of density, type of use(s) and activity level;

The subject property is located within the Barriefield Heritage Conservation District. The form of residential development within this area has long been established. Thus, the overall density, type of use and scale of activity as
proposed is consistent with the existing built form of residential buildings along Drummond Street.

b. A common or cohesive architectural and streetscape character, in terms of massing and built form, architectural expression, age of building stock, and street cross-section;

The proposed development will not create intrusive overlook with respect to adjacent residential properties. The height of the proposed rear addition does not exceed the maximum permitted height in the zoning by-law and will be compatible with the style, colour and massing of the existing dwelling. As the proposed addition will be located at the rear of the dwelling, the proposed variances will not alter the character of the neighbourhood or the existing streetscape of the Barriefield Heritage Conservation District.

c. A stable pattern of land ownership or tenure;

The proposal will result in a stable pattern of land ownership.

d. A consistent standard of property maintenance with relatively little vacancy in land or building occupancy;

All properties are subject to the City’s Property Standards By-Law and Yards By-Law. This proposal does not change the enforcement or applicability of the by-laws.

e. A limited number of applications for development that would alter the established pattern of land assembly and built form;

The proposed variance will not significantly alter the established pattern of land assembly and built form.

f. A sufficient base of social and physical infrastructure to support existing and planned development;

No deficiencies in social infrastructure were identified to limit this application. The appropriate level of physical infrastructure is present to support the development permitted by the draft by-law.

a. Foster developments that are context appropriate;

The proposal does not involve a significant alteration to the existing built form on the site and will not cause any adverse impacts on adjacent properties.

b. Foster attractive developments which add to the existing sense of place;
The proposal will not alter the existing character of the established surrounding residential neighbourhood.

c. Provide a variety of housing types;

The existing single-detached dwelling on the site will provide housing which will assist in meeting the housing demand in the City.

d. Ensure compact, accessible mixed-use development;

The proposal contributes to the compact nature of the neighbourhood.

e. Encourage environmentally sustainable development;

The proposal will not create a significant impact on the existing built form along Drummond Street. The subject property is located within a serviced area which supports the sustainable use of lands, infrastructure and resources.

f. Integrate and highlight cultural heritage resources.

The existing residential use will be maintained on the subject property. The subject property is designated under Part V of the Ontario Heritage Act as part of the Village of Barriefield Heritage Conservation District, but it has been identified as a "non-heritage" building.

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 designated under Part V of the Ontario Heritage Act as part of the Village of Barriefield Heritage Conservation District, but it has been identified as a "non-heritage" building. The owner has submitted an application for a Heritage Permit under the Ontario Heritage Act for the development proposal which included the proposed rear addition and deck for the subject property. On February 19, 2020, The City’s Heritage Committee provided approval for the Heritage Permit. Further information is found in Report HK-20-006.

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 site is located within the Urban Boundary and is developed with sufficient municipal water and sewage services.
April 20, 2020

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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 proposed variance is considered minor and the development is consistent with the existing built form along Drummond Street. 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, 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;

As part of the recommendation, suggested conditions have been listed. The conditions may be added, altered or removed at the Committee’s discretion.

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

The surrounding residential uses include single-detached and semi-detached dwellings. The approval of the requested variance is considered minor and will not set a precedent for the immediate area.

The proposal meets the intent of the Official Plan, as the proposed rear addition 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 located within a site-specific Residential Type 2 'R2-1 zone in the City of Kingston Zoning By-Law Number 32-74, entitled "Township of Pittsburgh Zoning By-Law", as amended. The uses permitted in the 'R2-1 zone include a converted dwelling house, a duplex dwelling house, a semi-detached dwelling house and a public use.

The following variances are required:

**Variance Number 1:**

**By-Law Number 32-74:** Section 10 (2) (i) – Maximum lot coverage

**Requirement:** 35 per cent

**Proposed:** 52.8 per cent

**Variance Requested:** 17.8 per cent

**Variance Number 2:**

**By-Law Number 32-74:** Section 10 (3) (a) (v) – Minimum interior side yard width

**Requirement:** In the case of more than 1 such yard, 1.2 metres on one side and 3.04 metres on any other side

**Proposed:** 0 metres on the north side of site

**Variance Requested:** 3.04 metres on the north side of the site
Variance Number 3:
By-Law Number 32-74: Section 10 (2) (f) – Minimum rear yard depth
Requirement: 7.5 metres
Proposed: 6 metres
Variance Requested: 1.5 metres

The location of the existing single-family dwelling on the subject property is considered legal non-complying as the dwelling does not meet select zoning provisions of the R2-1 zone. As such, it is proposed to recognize the existing development on the property. The overall design and scale of the proposed two-storey rear addition is not anticipated to cause any adverse impacts on the adjacent residential properties within the Barriefield Heritage Conservation District. The proposal meets the intent and purpose of the zoning by-law provisions.

3) The variance is minor in nature

The proposed rear addition will result in a development that is consistent with the existing built form of residential development along Drummond Street. The proposed rear addition is two-storeys in height and will not result in intrusive overlook with respect to adjacent residential properties. The variances will not alter the character of the neighbourhood or the existing streetscape. The variance is considered minor as there will be no negative impacts on abutting properties or residential and/or uses or structures.

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

The proposed development will provide for the functional needs for the proposed residential use. The proposed addition will be located to the rear of the dwelling which will not cause disruption to existing streetscape. The height of the proposed rear addition does not exceed the maximum permitted height in the zoning by-law and will be compatible with the style, colour and massing of the existing dwelling. The proposal is appropriate and compatible with the surrounding residential uses and will not result in significant impacts or changes to the surrounding area.

Technical Review: Circulated Departments and Agencies

- Building Division
- Engineering Department
- Heritage (Planning Services)
- Finance
- Utilities Kingston
- Real Estate & Environmental Initiatives
- Fire & Rescue
- Kingston Hydro
- City’s 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. The following comments have been received:

Encroachment Permit
It is noted that the front porch, which is attached to the dwelling on the subject property extends into the municipally owned road allowance. On June 21, 2017, an Encroachment Permit was issued by the Engineering Department to allow the existing porch to encroach onto the municipally owned road allowance located on Drummond Street. The Engineering Department has verified that they will not permit any encroachment into the municipally owned road allowance beyond what has been permitted under the Encroachment Permit. The owner has confirmed that there are no plans to extend the front porch further into the municipally owned road allowance.

Encroachment Agreement
The eaves of the existing dwelling extend onto the City-owned property located immediately north of the site, which is known as the Frontenac County School museum, located at 412 Regent Street. It has been confirmed by the Real Estate and Environment Division that an encroachment agreement will be required in order to allow for the eaves of the existing dwelling to extend onto City property. The requirement of an encroachment agreement has been included as a condition of this minor variance application.

Utilities Kingston
Utilities Kingston will require a servicing plan showing any existing and proposed services. Only one service is permitted per property. Any existing services not being retained are required to be abandoned at the main(s). This requirement has been included as a condition of this minor variance application.

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 variances maintain the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 32-74. 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 is consistent with the general purpose and intent of both the City of Kingston Official Plan and Zoning By-Law Number 32-74. The proposed application represents good land use planning.

**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  
Village of Barriefield Heritage Conservation District Plan  
Zoning By-Law Number 32-74

**Notice Provisions:**

A Committee of Adjustment Meeting is going to be held respecting this application on March 23, 2020. 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 20 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:**

None

**Financial Considerations:**

None

**Contacts:**

Tim Park, Manager of Development Approvals 613-546-4291 extension 3223

Annamarie Eusebio, Intermediate Planner 613-564-4291 extension 3183
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  Survey
Exhibit B  Site Plan
Exhibit C  Floor Plans and Elevation Plans
Exhibit D  Key Map
Exhibit E  Neighbourhood Context
Exhibit F  Official Plan
Exhibit G  Zoning
Exhibit H  Public Notice Notification Map
Exhibit I  Site Photos
COMMITTEE OF ADJUSTMENT

Neighbourhood Context (2018)

File Number: D13-058-2019
Address: 3 Drummond Street

Legend

- Subject Lands
- Property Boundaries
- Proposed Parcels

Corporation of the City of Kingston
Planning Services
a department of Community Services

PREPARED BY: rochefort
DATE: 2020-02-18
COMMITTEE OF ADJUSTMENT

Existing Zoning - By-law 32-74, Map 3

File Number: D13-058-2019
Address: 3 Drummond Street

Legend

- Subject Lands
- Consolidated Zoning

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COMMITTEE OF ADJUSTMENT
Public Notice Notification Map

File Number: D13-058-2019
Address: 3 Drummond Street

Legend
- **60m Public Notification Boundary**
- **Subject Lands**
- **Property Boundaries**
- **Proposed Parcels**
- **20 Properties in Receipt of Notice (MPAC)**

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Site Photos