City of Kingston
Report to Committee of Adjustment
Report Number COA-20-031

To: Chair and Members of Committee of Adjustment
From: Niall Oddie, Planner
Date of Meeting: April 20, 2020
Application for: Minor Variance
File Number: D13-007-2020
Address: 363 College Street
Owner: Frank Armstrong and Julie Smith
Applicant: Ashley Osmar

Council Strategic Plan Alignment:

Theme: 2. Increase housing affordability

Goal: 2.4 Promote secondary suites and tiny homes.

The proposed development would create a second residential unit within the urban area.

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variances for the property located at 363 College Street. The application seeks to enlarge an existing attached garage and foyer and to construct a second storey addition, which would contain a second residential unit (SRU). The façade of the garage would be constructed 2.1 metres closer to the front lot line and the foyer would be constructed 0.4 metres closer to the front lot line. The SRU would contain one bedroom with approximately 55 square metres of living space and would be accessed by a 1.2 metre pathway located along the southern side lot line with exterior stairs being located along the rear wall of the structure.

The subject property is designated Residential in the City of Kingston Official Plan and located in the One-Family Dwelling and Two-Family Dwelling Zone ‘A’ of Zoning By-Law Number 8499.
A variance is required from Section 6.3(c) of Zoning By-Law Number 8499 to seek relief from the minimum aggregate side-yard width required within the One-Family and Two-Family Dwelling ‘A’ Zone. The minimum requirement is 3.6 metres, whereas the applicant is proposing to maintain the existing 2.41 metre aggregate side-yard setback established by the existing dwelling and existing attached garage. The applicant is seeking a variance of 1.19 metres.

A variance is also required from Section 6.3(g) of Zoning By-Law Number 8499 to seek relief from the maximum permitted residential building depth of the One-Family and Two-Family ‘A’ Zone. Within this zone, the maximum permitted building depth for any permitted residential building is the average distance between the established front building lines and the established rear building lines of the two nearest permitted residential buildings on the nearest lots on the same block on opposite sides of the subject building. Based on these criteria, it has been determined that the maximum permitted residential building depth for the subject site is approximately 13.1 metres. The applicant proposes to maintain the existing 14.7 metre building depth established by the front-wall of the existing dwelling and the rear-wall of the existing attached garage, which does not comply with the maximum permitted residential building depth described above. As such, the applicant is seeking a variance of 1.6 metres.

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 8499. 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 0TD13-007-2020, for the property located at 363 College Street to reduce aggregate side yard setback and increase maximum permitted building depth to enlarge the existing attached garage and to permit a second residential unit to be constructed as an addition above the enlarged attached garage be approved.

Variance Number 1:
By-Law Number 8499: Section 6.3 (c) (i) Minimum Side Yard (aggregate)
Requirement: 3.6 metres
Proposed: 2.41 metres
Variance Requested: 1.19 metres

Variance Number 2:
By-Law Number 8499: Section 6.3 (g) (ii) Maximum Permitted Residential Building Depth
Requirement: 13.1 metres
Proposed: 14.7 metres
Variance Requested: 1.6 metres

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

That the approved variance(s) applies only to the location of the enlarged attached, foyer and second-storey second residential unit as shown on the approved drawings attached to the notice of decision.

2. No Adverse Impacts

The owner/applicant shall demonstrate to the satisfaction of the City that there are no adverse impacts on neighbouring properties as a result of any modifications to on-site grading or drainage.

3. Building Permit Application Requirements

The owner/applicant shall provide to the Building Services a copy of the decision of the Committee of Adjustment, together with a copy of the approved drawings, when they make 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.
Authorizing Signatures:

[Signature]

Niall Oddie, Planner

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

Paige Agnew, Commissioner, Community Services
Options/Discussion:

On February 3, 2020, a minor variance application was submitted by OT Ashley Osmar, on behalf of the owner, OT Frank Armstrong and Julie Smith, with respect to the property located at 363 College Street. Additional supporting information was submitted on February 18, 2020, with revised drawings submitted March 2, 2020 and March 13, 2020. The application seeks to enlarge an existing attached garage and foyer and to construct a second storey addition, which would contain a second residential unit (SRU). The façade of the garage would be constructed 2.1 metres closer to the front lot line and the foyer would be constructed 0.4 metres closer to the front lot line. The SRU would contain one bedroom with approximately 55 square metres of living space and would be accessed by a 1.2 metre pathway located along the southern side lot line with exterior stairs being located along the rear wall of the structure.

A variance is required from Section 6.3(c) of Zoning By-Law Number 8499 to seek relief from the minimum aggregate side-yard width required within the One-Family and Two-Family Dwelling ‘A’ Zone. The minimum requirement is 3.6 metres, whereas the applicant is proposing to maintain the existing 2.41 metre aggregate side-yard setback established by the existing dwelling and existing attached garage. The applicant is seeking a variance of 1.19 metres.

A variance is also required from Section 6.3(g) of Zoning By-Law Number 8499 to seek relief from the maximum permitted residential building depth of the One-Family and Two-Family ‘A’ Zone. Within this zone, the maximum permitted building depth for any permitted residential building is the average distance between the established front building lines and the established rear building lines of the two nearest permitted residential buildings on the nearest lots on the same block on opposite sides of the subject building. Based on these criteria, it has been determined that the maximum permitted residential building depth for the subject site is approximately 13.1 metres. The applicant proposes to maintain the existing 14.7 metre building depth established by the front-wall of the existing dwelling and the rear-wall of the existing attached garage, which exceeds the maximum permitted residential building depth described above. As such, the applicant is seeking a variance of 1.6 metres.

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

- Plot Plan (Exhibit E); and
- Floor Plans and Elevations (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 on the east side of College Street and is situated within the Sunnyside neighbourhood (Exhibit A – Key Map). The subject lands are approximately 628 square metres in size with approximately 16.6 metres frontage on College Street. The property is currently developed with a one-storey single detached dwelling together with an attached
single-storey garage (Exhibit G – Site Photographs). It is noted that the existing dwelling is developed with a hip roof whereas the existing attached garage was constructed with a flat roof; this combination of roof styles is mirrored in the abutting lands to the south.

The subject property is designated Residential in the Official Plan (Exhibit C – Official Plan) and zoned One-Family and Two-Family Dwelling Zone ‘A’ in Zoning By-Law Number 8499 (Exhibit D – Existing Zoning). The property abuts single-detached dwellings to the north, east and south ranging from one to two-storeys in height while Compton Park is located west of the subject lands on the west side of College Street (Exhibit B – Neighbourhood Context). The surrounding neighbourhood contains a variety of architectural styles, with built form ranging from bungalows to two and a half storey multi-unit residential buildings.

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;

Section 2 of the Official Plan generally promotes development to occur within the existing urban boundary and to be supported by existing municipal infrastructure. Section 2 promotes compatible residential intensification within existing stable areas to maintain neighborhood character and encourages a variety of housing options for all residents. It is noted that second residential units are identified as a compatible form of intensification within stable areas.
The proposed development would result in the creation of a second residential unit being established above an existing attached garage and foyer that would be expanded as part of the development. The proposed development will modestly increase the density of the site in a fashion that is compatible with the site and its surroundings and is considered consistent with the Strategic Policy Direction of the Official Plan.

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;

College Street and the immediately surrounding area within the Sunnyside neighbourhood contain a variety of residential dwelling types, ranging from one storey single dwellings to two and a half storey multi-unit residential buildings constructed in a variety of architectural styles. The abutting lands to the north are developed with a two-storey detached dwelling with a detached garage, while the abutting lands to the south are developed with a single-storey detached dwelling with attached garage. The proposed second storey addition and second residential unit have been located and designed to limit overlook for the abutting residential properties by eliminating windows and doors from the sides of the second residential unit; the proposed unit will overlook College Street, Compton Park and the rear yard of the subject lands. Further, both abutting properties are developed with garages along the respective side lot lines which further reduce the potential for overlook and increase privacy.

The proposed development will be compatible with the surrounding uses and there are no adverse effects anticipated.

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;

The applicant has demonstrated that the proposed development would be able to accommodate parking and maneuverability for the existing dwelling unit and the proposed second residential unit; in accordance with Section 3.3.11 of the Official Plan, two tandem parking spaces are being proposed with one of the spaces being located within the enlarged garage. A 1.2 metre wide pathway will provide access from the driveway along the southern side lot line to the rear of the attached garage where a set of exterior stairs will provide access to the second residential unit. It is acknowledged that exterior stairs are not universally accessible; however the installation of an elevator or accessible ramp is not feasible for the proposed project.

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;
Section 8.3 of the Official Plan provides guiding principles for development of residential lots that should be used to ensure new residential development is integrated into the existing built fabric and is conducive to active transportation. These guidelines are as follows:

a) Protect and preserve stable residential communities (in accordance with Section 2.6);

Section 2.6 seeks to preserve and protect stable residential communities from change and incompatible development. Section 2.6.3 clarifies certain forms of intensification, including the creation of second residential units, are generally considered appropriate within stable areas provided the second residential unit complies with the policies of Section 3.3.11. The proposed development complies with Section 3.3.11.

b) Foster developments that are context appropriate;

The proposed development would result in a larger attached garage and foyer for the existing dwelling, with a second storey second residential unit. As noted earlier, College Street and the surrounding neighbourhood contains a diverse mix of one to two plus storey residential units constructed in a variety of architectural styles, including a limited number of flat roof structures. The applicant has taken steps to ensure the second storey second residential unit does not generate any adverse impacts on the surrounding residential properties by considering the location of windows, stairs and the interior layout of the unit. It is noted that both abutting properties have garages along the side property lines to further mitigate against overlook and enhance privacy.

c) Foster attractive development which add to the existing sense of place;

The proposed development respects the built form that has existed on the subject lands for decades by maintaining the existing width and depth of the structure and the architectural relationship between the hip roof dwelling and flat roof garage. As noted earlier, the abutting lands to the south is also developed with a hip roof dwelling and attached flat roof garage. The proposed development is consistent with the scale of development in the surrounding area and compliments the diverse architectural styles present within the community.

d) Provide a variety of housing types;

The proposed development seeks to add a second residential unit within an area that is primarily developed with single detached dwellings.

e) Ensure compact, accessible mixed-use development;

The proposed development maintains the residential use of the property, which is consistent with the surrounding uses. The proposed development is compact and...
the one-bedroom layout of the proposed addition would be accessible to the broader community. Mixed-use development would not be appropriate in the current location.

f) Encourage environmentally sustainable development; and

The proposed development would result in the creation of a second residential unit within a stable neighbourhood supported by municipal services. This form of residential intensification increases net density within the municipality without any substantial infrastructure improvements and reduces the requirement to extend services into undeveloped areas. The proposed development is located in neighbourhood that is serviced by transit and cycling routes and within walking distance of amenities.

g) Integrate and highlight cultural heritage resources.

The existing residential use will be maintained on the subject property. The site is not located within a Heritage District. The site and the immediately surrounding lands are not identified as being on the City of Kingston Heritage Register and therefore will not impact built heritage resources.

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 on the City’s Heritage Register or located adjacent to a property that is located on the register, nor affected by any protected views on Schedule 9 of this Plan. As such 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 proposed development is located on full municipal services. Utilities Kingston was circulated on the application and raised no concerns with respect to servicing capacity.

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 variances requested recognize the existing side yard setbacks and building depth established by the existing dwelling and attached garage. The proposed development would not result in any further deficiencies. The proposed use is permitted within the zone. The requested variances are considered minor and it would not be appropriate to require a zoning by-law amendment.
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 proposed variances are not anticipated to generate an undesirable precedent for the immediate area as the proposed development is not considered intensive. The proposed variances seek to recognize the existing zoning deficiencies in order to permit a minor expansion of the existing garage, foyer and to create a second storey second residential unit.

The proposal meets the intent of the Official Plan, as the variances would facilitate the creation of a second residential unit within a stable residential area while mitigating 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 One-Family Dwelling and Two-Family Dwelling ‘A’ Zone 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, subject to Section 6. Second residential units are permitted within any single-detached dwelling, subject to Section 5.45.

The proposal requires variances to Section 6.3 (c) and (g) as described below:

Variance Number 1:
By-Law Number 8499:  Section 6.3 (c) Minimum Side Yard (aggregate)
Requirement:  3.6 metres
Proposed:  2.41 metres
Variance Requested:  1.19 metres

The existing dwelling is situated 1.07 metres from the northern side lot line while the existing attached garage is situated 1.34 metres from the southern side lot line, for an existing aggregate side setback of 2.41 metres. The proposed enlargement of the garage and construction of a second storey addition above the enlarge garage would maintain the existing setback of 1.34m from the southern side lot line. The proposed development would not result in any further reduction to the aggregate side yard setback.

Variance Number 2:
By-Law Number 8499:  Section 6.3 (g) Maximum Permitted Residential Building Depth
Requirement: 13.1 metres  
Proposed: 14.7 metres  
Variance Requested: 1.6 metres

The existing attached garage is setback approximately 7.38 metres from the façade of the dwelling, resulting in a distance of 14.7 metres between the front wall of the dwelling and the rear wall of the garage. Permitted building depth within the ‘A’ zone is calculated based on the average building depth of the abutting two properties. The property to the south has an attached garage setback from the main building, similar to the subject property, with a resulting building depth of approximately 16.9 metres. The building depth for the property to the north is approximately 9.3 metres, as this property has a detached garage that is not considered within the building depth calculation. The average of these two distances is 13.1 metres.

The length of the existing attached garage would be extended by approximately 2.1 metres by moving the front of the garage closer to the front lot line. The enlarged garage would be setback approximately 5.3 metres from the façade of the dwelling and approximately 10.5 metres from the front lot line. The existing foyer would be enlarged by 0.4 metres towards the front lot line. The second residential unit would be contained within a second-storey addition located above the enlarged garage and foyer. The enlarged garage, foyer and entire second storey addition would be located within the existing building depth of 14.7 metres.

The application meets all other requirements of the One-Family Dwelling and Two-Family Dwelling Zone ‘A’ and Zoning By-Law Number 8499. The proposed variances maintain the intent of the zoning by-law by ensuring development is scaled appropriately and the use of buildings, structures and land are compatible their surroundings.

3) The variances are minor in nature

The variance is considered minor as the requested variances seek to recognize the location of existing buildings constructed on the subject lands. By recognizing these existing setbacks, the applicant would be permitted to enlarge the existing attached garage and foyer and construct a second storey addition that would contain a second residential unit. The applicant has taken steps to reduce overlook onto the abutting residential properties by locating the windows in the front and rear elevations of the second storey addition and by locating the exterior stairs at the rear of the unit. The second residential unit will promote modest residential intensification, which is a goal supported by provincial and municipal policy.

4) The variances are desirable for the appropriate development or use of the land, building or structure

The proposed development is compatible with Section 2.7 and 9.5.19 of the Official Plan. Section 2.6 identifies second residential units as an appropriate form of intensification within stable areas provided the development conforms to the policies contained within
Section 3.3.11. The proposed development conforms to the requirements of the ‘A’ Zone with Zoning By-Law Number 8499, with the exception of minimum aggregate side-yard setback and maximum building depth. It is recognized the variances requested recognize the existing situation created by the existing dwelling and attached garage and that the proposed enlargement of the garage and foyer and construction of a second storey addition containing a second residential unit would not result in further non-compliance. The site is located within the urban boundary, close to educational facilities, commercial and recreational amenities, public transit and active transportation routes and is serviced by existing municipal infrastructure. The proposed development has been designed to minimize adverse effects for abutting property owners. In light of the above, the variances are considered desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

☒ Building Services ☒ 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 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 comments from the public 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 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 facilitate modest intensification through the addition of a second residential unit to the property in a manner that is compatible with the neighbourhood and streetscape, while minimizing adverse effects.

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 April 20, 2020. Pursuant to the requirements of the Planning Act, a notice of Statutory Public Meeting was placed in The Kingston Whig-Standard at least 10 days in advance of the meeting. A courtesy notice was also placed in The Kingston Whig-Standard seven days in advance of the meeting.

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

Niall Oddie, Planner 613-564-4291 extension 3259
Other City of Kingston 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  Neighbourhood Context
Exhibit C  Official Plan Map
Exhibit D  Zoning By-Law Map
Exhibit E  Site Plan
Exhibit F  Floor Plans and Elevations
Exhibit G  Site Photographs
Exhibit H  Public Notification Map
COMMITTEE OF ADJUSTMENT

Official Plan, Existing Land Use

File Number: D13-007-2020
Address: 363 College Street

Legend

- Subject Lands
- OPEN SPACE
- RESIDENTIAL

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Site Photographs – March 18, 2020

Figure 1 - 363 College Street Facade

Figure 2 - Abutting Property (North)
Figure 3 - Abutting Property (South)

Figure 4 - College Street (South)