City of Kingston  
Report to Committee of Adjustment  
Report Number COA-20-051

To: Chair and Members of the Committee of Adjustment  
From: Lindsay Sthamann, Planner  
Date of Meeting: September 21, 2020  
Application for: Minor Variance  
File Number: D13-035-2020  
Address: 444 Victoria Street  
Owner: Anushiya Jeyalingam  
Applicant: Heather Cirella – HMD Drafting and Design

Council Strategic Plan Alignment:

Theme: 2. Increase housing affordability

Goal: 2.4 Promote secondary suites and tiny homes.

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variances for the property located at 444 Victoria Street. The applicant is proposing to construct an addition on the rear and top of an existing residential building in the 'A' Zone of By-Law Number 8499. Two units are proposed (one primary and one secondary) one with 5 bedrooms and one with 6 bedrooms. Two parking spaces will be provided in the rear yard. Minor variances are required to increase the maximum building depth, decrease the minimum required side yard setback and aggregate side yard setback, and to decrease the minimum required driveway width.

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.
Variance Number 1: Maximum Building Depth
By-Law Number 8499:Section 6.3(g)(ii)
Requirement: 11.8 metres
Proposed: 16.9 metres
Variance Requested: 5.1 metres

Variance Number 2: Minimum Side Yard
By-Law Number 8499: Section 6.3(c)
Requirement: 0.6 metres
Proposed: 0.3 metres
Variance Requested: 0.3 metres

Variance Number 3: Minimum Aggregate Side Yard
By-Law Number 8499: Section 6.3(c)
Requirement: 3.0 metres
Proposed: 2.3 metres
Variance Requested: 0.7 metres

Variance Number 4: Minimum Driveway Width
By-Law Number 8499: Section 5.3 B(k)(i)
Requirement: 3.0 metres
Proposed: 2.4 metres
Variance Requested: 0.6 metres

Recommendation:

That minor variance application, File Number D13-035-2020, for the property located at 444 Victoria Street to construct an addition for a second residential unit, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-20-051.
Authorizing Signatures:

☐

Lindsay Sthamann, Planner

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

Paige Agnew, Commissioner, Community Services
Options/Discussion:

On August 4, 2020, a minor variance application was submitted by Heather Cirella – HMD Drafting and Design, on behalf of the owner, Anushiya Jeyalingam, with respect to the property located at 444 Victoria Street. The variance is requested to construct an addition on the rear and top of an existing residential building in the 'A' Zone of By-Law Number 8499. Two units are proposed (one primary and one secondary) one with 5 bedrooms and one with 6 bedrooms. Two parking spaces will be provided in the rear yard. Minor variances are required to increase the maximum building depth, decrease the minimum required side yard setback and aggregate side yard setback, and to decrease the minimum required driveway width.

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

- Site Plan & Floor Plans (Exhibit G);
- Survey (Exhibit H);
- Zoning Compliance Table; and
- Planning Letter.

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 444 Victoria Street. The subject property is designated Residential in the Official Plan and zoned 'A - One-Family Dwelling and Two-Family Dwelling Zone' in Zoning By-Law Number 8499. The property abuts other residential properties.

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 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.

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 will not have any negative impacts on abutting properties or residential uses and/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 addition will result in a development that is consistent with the existing built form of several residential buildings located along Victoria Street. The overall design and scale of the proposal is not anticipated to cause any adverse impacts on the adjacent residential properties and is in keeping with the existing character of the street.

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 proposed decrease in driveway width will facilitate access to the proposed parking area at the rear of the property and ensures that the access to the parking area is located entirely on the subject lands or within the existing easement. One parking space will be provided for each unit and road access will be maintained from Victoria Street.

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 proposal generally conforms to applicable urban design policies, as outlined in Section 8 of the Official Plan. The addition will result in a two-storey structure whose height is permitted in the ‘A’ zone. The addition will comply with the minimum front yard requirement and side yard requirement along the southern lot line. The proposed development has been designed to be visually compatible with the surrounding dwellings.

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 designated under the *Ontario Heritage Act* nor is it adjacent to a designated property.

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;

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;

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;

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

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

The subject property is zoned One-Family 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 residential uses including one-family dwellings, two-family dwellings, libraries, art galleries and museums, public or private day schools, community halls, churches and church halls, institutions or homes operated or supervised by a Children’s Aid Society, community homes, Providence Manor and Rideaucrest Home for the Aged, and accessory buildings to any use permitted in the A Zone. A second residential unit is permitted in association with a primary one-family dwelling.
The proposal requires a variance to Section 6.3 for maximum building depth, minimum side yard, and minimum aggregate side yard setback. A variance to Section 5.3 is also required to reduce the minimum driveway width.

**Variance Number 1: Maximum Building Depth**
By-Law Number 8499: Section 6.3(g)(ii)
Requirement: 11.8 metres
Proposed: 16.9 metres
Variance Requested: 5.1 metres

**Variance Number 2: Minimum Side Yard**
By-Law Number 8499: Section 6.3(c)
Requirement: 0.6 metres
Proposed: 0.3 metres
Variance Requested: 0.3 metres

**Variance Number 3: Minimum Aggregate Side Yard**
By-Law Number 8499: Section 6.3(c)
Requirement: 3.0 metres
Proposed: 2.3 metres
Variance Requested: 0.7 metres

**Variance Number 4: Minimum Driveway Width**
By-Law Number 8499: Section 5.3 B(k)(i)
Requirement: 3.0 metres
Proposed: 2.4 metres
Variance Requested: 0.6 metres

Section 6.3(g) is intended to reduce the potential for negative visual impacts that could result from overdevelopment within the street or block, to avoid the potential for intrusive overlook in rear yards, and to maintain an acceptable amount of open space. The zoning by-law also contains provisions on minimum rear yards and landscaped open space, both of which the proposal satisfies. It should also be noted that the existing building exceeds the maximum building depth, and the proposed addition only accounts for an increase of 2.4 metres from the existing building wall.

The proposed variance meets the intent of the zoning by-law to ensure that buildings are appropriately placed on a property to ensure safety, reduce privacy and overlook concerns and to ensure lands are not over developed. The existing dwelling is situated on a slight angle to the side lot lines, which results in the proposed addition being marginally closer to the north lot line than the existing dwelling, while the addition is further from the southern lot line than the existing dwelling. Due to the existing site conditions, and the proposed addition the aggregate side yard is decreased as a result of the decrease to the northern side yard, while the southern side yard is being maintained. The proposed setbacks maintain the existing condition with a minor extension in the rear yard.
Section 5.3 B(k)(i) is intended to provide functional vehicular access to the proposed development by establishing a minimum driveway width of 3.0 metres. The proposed driveway is not anticipated to be used for parking as it is a shared right-of-way with the adjacent property (440 Victoria St.). The reduced driveway width is requested to accommodate a pinch point between where the existing easement ends, and the dwelling unit is located. It will allow for access to the parking area to be provided completely on the subject lands, which is the preference of the applicant.

The intent of the zoning by-law is maintained because the proposal will comply with minimum landscaped open space (36% proposed), maximum lot coverage (33% proposed), maximum Floor Space Index (0.76 proposed), minimum rear yard setback (21.7 metre proposed), and maximum height (7.9m proposed).

3) The variance is minor in nature

The variance is considered minor as the resulting addition will not cause an adverse impact on adjacent residential properties and will not have a significant impact on the existing streetscape. The addition is designed to avoid impacts such as loss of privacy or overlook to the surrounding area. The proposed addition meets all other required provisions including front and rear yard setbacks, building height, lot coverage and landscaped open space requirements.

The existing dwelling has a depth of 14.5 metres, and the proposal will extend the existing building an additional 2.4 metres into the rear yard, for a total building depth of 16.9 metres. The proposed addition has one new window located in a side yard on the south side of the dwelling adjacent to the driveway.

The proposed addition is the same width as the existing dwelling. There are no new windows proposed on the north side of the dwelling where there would be the greatest potential for privacy and overlook concerns. The proposed addition is further from the south lot line than the existing dwelling due to how the building was originally constructed. The decrease to the aggregate side yard is a result of the decrease to the minimum side yard on the south side of the dwelling.

The existing driveway is subject to an easement, which provides access to the rear yards at a width of 3.0 metres, extending from the front lot line to the rear wall of the existing dwelling. The proposed reduction will recognize existing conditions on the site, as well as the new access to the proposed parking area. The existing building is located 2.4 metres from the southern side lot line and as such it is not possible to accommodate a 3.0 metre wide driveway on the subject lands. 2.4 metres provides adequate space for most vehicles to access the proposed parking area in the rear yard through the proposed driveway. The applicant has provided an estimation of the width of most common vehicles and demonstrated that sedans and SUVs generally do not exceed a width of 2.2 metres which demonstrates that most vehicles will be able to access the proposed parking area using the reduced width at the pinch point of the driveway. This pinch point is an existing
situation that the variance would not exacerbate. The majority of the driveway complies with the minimum width requirement.

The variance is therefore considered minor.

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 facilitate the development of a second residential unit and are not anticipated to have an adverse impact on the streetscape or adjacent properties. This will increase the availability of housing within the urban boundary.

The variance is desirable and appropriate use of the land.

### Technical Review: Circulated Departments and Agencies

- Building Services
- Engineering Department
- Heritage (Planning Services)
- Utilities Kingston
- Kingston Hydro
- City’s Environment Division
- Fire & Rescue
- Parks Development
- Canadian National Railways
- Solid Waste
- Fire & Rescue
- Heritage (Planning Services)
- Fire & Rescue
- 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 Development
- KFL&A Health Unit
- TransCanada Pipelines
- Hydro One
- Eastern Ontario Power
- CFB Kingston
- Kingston Airport
- 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 public comments were 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 variance(s) maintain(s) 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 variance(s)
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 permit the construction of an addition to accommodate a second residential unit.

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
Zoning By-Law Number 8499

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on September 21, 2020 Pursuant to the requirements of the Planning Act, a notice of the Statutory Public Meeting was provided by advertisement in the Kingston Whig Standard at least 10 days in advance of the Public Meeting. A courtesy notice was also 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

Lindsay Sthamann, Planner 613-564-4291 extension 3287
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  Photo
Exhibit G  Site Plan & Floor Plans
Exhibit H  Survey
Recommended Conditions
Application for minor variance, File Number D13-35-2020

Approval of the foregoing application shall be subject to the following recommended conditions:

1. **Limitation**
   
   That the approved minor variance applies only to the single-detached home with 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 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.
COMMITTEE OF ADJUSTMENT
Neighbourhood Context (2019)

File Number: D13-035-2020
Address: 444 Victoria Street

Legend

- Subject Lands
- Property Boundaries

Disclaimer: This document is subject to copyright and may only be used for your personal, noncommercial use provided you keep intact the copyright notice. The City of Kingston assumes no responsibility for any errors, and is not liable for any damages of any kind resulting from the use of, or reliance on, the information contained in this document. The City of Kingston does not make any representation or warranty, express or implied, concerning the accuracy, quality, or reliability of the use of the information contained in this document.
File Number: D13-035-2020
Address: 444 Victoria Street

Legend
- Subject Lands
- RESIDENTIAL

Disclaimer: This document is subject to copyright and may only be used for your personal, noncommercial use provided you keep intact the copyright notice. The City of Kingston assumes no responsibility for any errors, and is not liable for any damages of any kind resulting from the use of, or reliance on, the information contained in this document. The City of Kingston does not make any representation or warranty, express or implied, concerning the accuracy, quality, or reliability of the information contained in this document.

© 2019 The Corporation of the City of Kingston.

Date: 2020-08-10

PREPARED BY: rrochefort
GENERAL NOTES:
1. DO NOT SCALE DRAWING
2. THIS DRAWING IS NOT TO BE REPRODUCED UNLESS PROPER WRITTEN CONSENT IS OBTAINED FROM HMD DRAFTING & DESIGN
3. ALL DIMENSIONS TO BE VERIFIED PRIOR TO CONSTRUCTION
4. ALL WORK SHOULD BE IN STRICT ACCORDANCE WITH THE 2012 ONTARIO BUILDING CODE & LOCAL MUNICIPAL BY-LAWS
5. THESE DRAWINGS MAY BE ALTERED DUE TO ON-SITE CONDITIONS NOT FORESEEN PRIOR TO CONSTRUCTION
6. AFTER PERMIT IS OBTAINED ANY CHANGES MADE BY OWNER OR CONTRACTOR WILL BE THEIR RESPONSIBILITY AND HMD DRAFTING & DESIGN WILL NOT BE RESPONSIBLE
7. BEFORE BEGINNING ANY WORK IF CONTRACTOR FINDS ANY DISCREPANCIES NOTIFY HMD DRAFTING & DESIGN TO RECTIFY A SOLUTION
8. THESE PLANS FORM THE BASIS FOR PERMIT ISSUANCE AND ANY DEVIATIONS FROM THESE PLANS AND DETAILS, INCLUDING THE VENTILATION SYSTEM, HEATING SYSTEM, WOODSTOVE, FIREPLACE, DECKS, BALCONIES, AND FINISHED BASEMENTS, WILL REQUIRE REVISED DRAWINGS AND CLEARANCE BY THE BUILDING DEPARTMENT.
GENERAL NOTES:

1. DO NOT SCALE DRAWING
2. THIS DRAWING IS NOT TO BE REPRODUCED UNLESS PROPER WRITTEN CONSENT IS OBTAINED FROM HMD DRAFTING & DESIGN
3. ALL DIMENSIONS TO BE VERIFIED PRIOR TO CONSTRUCTION
4. ALL WORK SHOULD BE IN STRICT ACCORDANCE WITH THE 2012 ONTARIO BUILDING CODE & LOCAL MUNICIPAL BY-LAWS
5. THESE DRAWINGS MAY BE ALTERED DUE TO ON-SITE CONDITIONS NOT FORESEEN PRIOR TO CONSTRUCTION
6. AFTER PERMIT IS OBTAINED ANY CHANGES MADE BY OWNER OR CONTRACTOR WILL BE THEIR RESPONSIBILITY AND HMD DRAFTING & DESIGN WILL NOT BE RESPONSIBLE
7. BEFORE BEGINNING ANY WORK, IF CONTRACTOR FINDS ANY DISCREPANCIES NOTIFY HMD DRAFTING & DESIGN TO RECTIFY A SOLUTION
8. THESE PLANS FORM THE BASIS FOR PERMIT ISSUANCE AND ANY DEVIATIONS FROM THESE PLANS AND DETAILS, INCLUDING THE VENTILATION SYSTEM, HEATING SYSTEM, ADDITIVE FIREPLACE, DECKS, BALCONIES, AND FINISHED BASEMENTS, WILL REQUIRE REVISED DRAWINGS AND CLEARANCE BY THE BUILDING DEPARTMENT

CONVERSION TO TWO DWELLING UNIT
444 VICTORIA ST, KINGSTON, ON

HMD DRAFTING & DESIGN
Tel: 613-876-6634
Web: hmd-designs.ca
Email: heather@dressler.ca

02/26/2020 ISSUED FOR PRELIM. DESIGN
THE UNDERSIGNED HAS REVIEWED AND TAKES RESPONSIBILITY FOR THIS DESIGN, AND HAS QUALIFICATIONS AND MEETS THE REQUIREMENTS SET OUT IN THE ONTARIO BUILDING CODE TO BE A DESIGNER.

QUALIFICATION INFORMATION

02/28/2020 ISSUED FOR DESIGN REVISIONS
03/06/2020 ISSUED FOR DESIGN APPROVAL
05/13/2020 ISSUED FOR SITE PLAN
07/28/2020 ISSUED FOR SITE PLAN

EXHIBIT G
Report Number - COA-20-051

143