THE CORPORATION OF THE MUNICIPALITY OF MISSISSIPPI MILLS COMMITTEE OF ADJUSTMENT AGENDA

Wednesday, March 14, 2018, at 5:30 P.M. Council Chambers, Municipal Office, 3131 Old Perth Rd., Almonte

- A. CALL TO ORDER
- B. APPROVAL OF AGENDA
- C. DISCLOSURE OF PECUNIARY INTEREST
- D. APPROVAL OF MINUTES
 - Committee of Adjustment Pages 1 to 3
 Committee motion to approve the Committee of Adjustment Minutes from the meeting held on February 21st, 2018.

E. NEW BUSINESS

None.

F. HEARINGS

1. Application A-02-18 - Pages 4 to 15

Owner: Heather Marsh

Applicant: Joe Milroy (Coach Homes of Ottawa)

Address: 174 Teskey Street

Legal Description: Plan 6262, Kemp Section, Lot 11

Ward: Almonte

Zoning: Residential Second Density (R2)

The applicant is requesting relief from multiple Zoning By-law provisions, including: (1) the allowable location of a secondary dwelling unit from only within a principal dwelling to within an appropriate accessory structure; (2) the permitted size of a secondary dwelling unit; and (3) the allowable projection into a side yard. The relief would legally recognize the construction of a detached independent unit for members of the resident's family.

G. OTHER BUSINESS

- 1. Update from the Chair and Recording Secretary regarding membership into the Ontario Association of Committee of Adjustments and Consent Authorities (OACA)
- 2. Motion for consideration:

THAT the Committee of Adjustment support Staff bringing forward a report to Council for a Zoning By-law Amendment to amend existing provisions to meet policies within the Community Official Plan.

H. ANNOUNCEMENTS

I. ADJOURNMENT

THE CORPORATION OF THE MUNICIPALITY OF MISSISSIPPI MILLS COMMITTEE OF ADJUSTMENT MINUTES

Wednesday, February 21, 2018, at 5:30 P.M.

Council Chambers, Municipal Office, 3131 Old Perth Rd., Almonte

PRESENT: Patricia McCann-MacMillan (Chair)

Stacey Blair Christa Lowry

ABSENT: None

APPLICANTS/PUBLIC: A-01-18: 2476342 Ontario Inc.

STAFF: Andrew Scanlan Dickie, Junior Planner, Recording Secretary

Planner called the meeting to order at 5:30 p.m.

A. APPROVAL OF AGENDA

Moved by Patricia McCann-MacMillan Seconded by Christa Lowry THAT the Agenda be accepted.

CARRIED

B. DISCLOSURE OF PECUNIARY INTEREST

None

C. APPROVAL OF MINUTES

1. JANUARY 17, 2018 MEETING
Moved by Christa Lowry
Seconded by Patricia McCann-MacMillan
THAT the Minutes be accepted.

CARRIED

D. NEW BUSINESS

None.

E. HEARINGS:

1. Application A-01-18

Owner: 4437535 Canada Inc. Applicant: 2476342 Ontario Inc.

Legal Description: Plan 6262, Cameron Section, Part Lot F

Plan 27R-10622, Part 3

Ward: Almonte

Zoning: Residential First Density (R1)

The applicant requested from the Committee of Adjustment permission to reduce the rear yard setback of a future single-detached dwelling from 7.5m (24.61ft) to 4.67m (15.32ft) to accommodate a proposed building footprint while complying to sight-line triangle and driveway setback requirements for lots located at street intersections.

Member Lowry and the Chair asked the planner how the design of the exterior side yard façade would be addressed outside of the Minor Variance application. The Planner confirmed that the applicant would be required to pursue Site Plan Control, within which Staff would be able to request changes to design. Without additional concern, the Committee took to a vote.

Moved by Patricia McCann-MacMillan Seconded by Christa Lowry

THAT the Municipality of Mississippi Mills Committee of Adjustment approves the Minor Variance for the land legally described as Plan 6262, Cameron Section, Part Lot F, Plan 27R-10622, Part 3, Almonte Ward, Municipality of Mississippi Mills, located at the corner of Malcolm Street & Dunn Street, to reduce the minimum required rear yard setback from 7.5m (24.62ft) to 4.67m (15.32ft) to accommodate a proposed building footprint that complies to sight-line triangle and driveway setback requirements for corner lots, subject to the following conditions:

- 1. That the Minor Variance is approved based on the plans submitted;
- 2. That the land owner transfers a 4.5m x 4.5m daylighting triangle at the corner of Dunn Street and Malcolm Street to the Municipality, to the satisfaction of the Director of Roads & Public Works;
- 3. That the applicant/land owner enter into Site Plan Control as required by the Mississippi of Mississippi Mills' By-law #15-60; and
- 4. That the owners obtain all required building permits.

CARRIED

F. OTHER BUSINESS

Ontario Association of Committees of Adjustment & Consent Authorities (OACA)
 Moved by Stacey Blair
 Seconded by Christa Lowry

THAT the Chair and Recording Secretary investigate membership into OACA for professional learning;

AND THAT Member Lowry circulate OACA information to the Chair and Recording Secretary.

G. ANNOUNCEMENTS

Wine and Cheese to be held Sunday February 25th at 6:30pm to celebrate Diane Smithson's career as CAO with the Municipality of Mississippi Mills.

H. ADJOURNMENT

There being no further business before the Committee, the meeting was adjourned at 5:51 p.m.

Andrew Scanlan Dickie, Recording Secretary

THE CORPORATION OF THE MUNICIPALITY OF MISSISSIPPI MILLS

PLANNING REPORT

MEETING DATE: Wednesday March 14, 2018 @ 5:30pm

TO: Committee of Adjustment

FROM: Andrew Scanlan Dickie – Junior Planner

SUBJECT: MINOR VARIANCE APPLICATION A-02-18 (D13-MA-18)

Plan 6262, Kemp Section, Lot 11

Almonte Ward, Municipality of Mississippi Mills

Municipally known as 174 Teskey Street

OWNER: Heather Marsh

APPLICANT: Joe Milroy (Coach Homes of Ottawa)

RECOMMENDATION:

THAT the Municipality of Mississippi Mills Committee of Adjustment APPROVES the Minor Variances, referred to as Variances #1 to 4, for the land legally described as Plan 6262, Kemp Section, Lot 11, Almonte Ward, Municipality of Mississippi Mills, municipally known as 174 Teskey Street, to permit a fireplace box projection within 0.75m (2.46ft) of a side lot line and to modify wording within Section 8.16 of the Zoning By-law to adhere to current municipal policy, subject to the following conditions:

- 1. that the Minor Variance is approved based on plans amended to the satisfaction of the Director of Planning; and
- 2. that the owners obtain all required building permits.

THAT the Municipality of Mississippi Mills Community of Adjustment REFUSES Minor Variance #5, for the land legally described as Plan 6262, Kemp Section, Lot 11, Almonte Ward, Municipality of Mississippi Mills, municipally known as 174 Teskey Street, to increase the maximum area to 50% of the principal dwelling's gross floor area.

FURTHERMORE, THAT the Committee of Adjustment support Staff bringing forward a report to Council for a Zoning By-law Amendment to amend existing provisions to meet policies within the Community Official Plan.

PURPOSE AND EFFECT

The applicant is requesting relief from multiple Zoning By-law provisions, including:

- (1) the allowable location of a secondary dwelling unit from only within a principal dwelling to within an appropriate accessory structure;
- (2) the permitted size of a secondary dwelling unit; and
- (3) the allowable projection into a side yard.

The relief would legally recognize the construction of a detached independent unit for members of the resident's family. The application falls within a gap of current municipal zoning

by-laws and aims to align the development with municipal policies updated in October 2016. The Community Official Plan would permit a building permit without requiring a Planning Application, granted it fulfills a set of criteria, including existing zoning requirements. The specific Minor Variance requested to address those requirements are outlined below:

Table 1. – Requested Relief from Zoning By-law #11-83

| # | Section | Zoning Provision | By-law Requirement | Requested |
|---|---------------|--|---|--|
| 1 | Table 6.19(1) | Allowable projection for a chimney, chimney box, and fireplace box | 1m, but not closer than 3m to a lot line | 1m, but not closer than <u>0.75m</u> to a lot line |
| 2 | 8.16(2) | Permitted Structures | In any detached, semi-detached or duplex dwelling | In any detached, semi-detached or duplex dwelling, <u>and appropriate</u> <u>accessory structures.</u> |
| 3 | 8.16(2)d | Location of unit | It only exists along with, and must be contained within the same building as, its principal dwelling. | It exists along with, and is connected by way of services, to its principal dwelling unit. |
| 4 | 8.16(3) | Legal Non- Compliance | A secondary dwelling unit is not permitted on a lot that is legally non- complying with respect to lot width or lot area. | A secondary dwelling unit is not permitted on a lot that is legally noncomplying with respect to lot area. |
| 5 | 8.16(5) | Permitted Size | 40% of the principal unit's gross floor area | 50% of the principal unit's gross floor area. |

DESCRIPTION OF SUBJECT LANDS

The subject property is located near the corner of Teskey and Martin Street, within the Almonte Settlement Area, and is directly adjacent to the parking lot belonging to the Almonte and District High School. The property is ±540.3m² (0.13ac) in size with a frontage of ±15.6m (51.2ft). The property is generally surrounded by low density residential properties, save for the nearby school and the commercial property at the corner of Teskey and Martin. The location of the subject property is depicted in the following photos:

Figure 1 – Property Location



Minor Variance Application A-02-18 Plan 6262, Henderson Section, Block B, Lot 11 Almonte Ward, Municipality of Mississippi Mills Municipally known as 174 Teskey Street





Figure 2 – Aerial Photo (2014)



SERVICING & INFRASTRUCTURE

According to the Municipal Property Assessment Corporation (MPAC), the existing building was built around 1915 and is serviced by municipal water and sewer from Teskey Street, a municipally owned and maintained road. The proposed secondary dwelling unit would tie into these services through the existing dwelling. Municipal servicing and infrastructure demands would change negligibly because of the application.

COMMENTS FROM CIRCULATION OF THE APPLICATION

COMMENTS FROM INTERNAL CIRCULATION

Comments received based on the circulation of this application have been summarized below:

Acting CAO: No concerns or objections.

Acting Clerk: No concerns or objections.

CBO: No concerns or objections. New gas fireplace systems are effective in reducing the amount/concentration of carbon dioxide released. If vented to the exterior, the most noticeable gas released via the exhaust would be steam. As a structure within a 1.2m setback from a lot line, the projection would require proper fire separation, to be addressed through a building permit.

Fire Chief: No comments received.

Director of Roads and Public Works: The grading shown will work and the services are coming off of the existing unit as required. There are no engineering objections to this application.

Recreation Coordinator: No comments or concerns.

COMMENTS FROM EXTERNAL AGENCIES

No comments have been received from external agencies as of the date this report was prepared.

COMMENTS FROM THE PUBLIC

No comments had been received as of the date this report was prepared.

EVALUATION

FOUR TESTS

Section 45 of the *Planning Act* provides the Committee of Adjustment with the authority to grant relief from the requirements of a municipal zoning by-law. In properly evaluating such requests, the Committee needs to be satisfied that the proposal meets the four (4) tests set out in the *Planning Act*. Staff comments concerning the application of the four (4) tests to this Minor Variance application are as follows:

1. Does the proposal maintain the intent of the Official Plan?

The subject property is designated "Residential" in the Municipality's Community Official Plan (COP). The Residential designation permits low and medium density residential uses and accessory uses. Under the Residential policies are those specifically addressing "Secondary Dwelling Units", updated in October 2016 as OPA no.17. The policy is as follows:

Section 3.6.9 Secondary Dwelling Units

One secondary dwelling unit may be permitted within a single detached dwelling, semidetached dwelling or duplex dwelling or **appropriate accessory structures** subject to the requirements of the Zoning By-law.

The Zoning By-law may provide for secondary dwelling unit regulations which allow for such units without an amendment to the Zoning By-law provided the following criteria are satisfied:

- (i) there is only one secondary dwelling;
- (ii) all requirements of the Zoning By-law are met, including adequate off-street parking, and minimum floor area for apartment units;
- (iii) all building code and fire code requirements are addressed; and
- (iv) the secondary dwelling unit **must connect to existing residential servicing**.

Variance #1 – Allowable Fireplace Box Projection

The Municipality's COP does not specifically address or contain policies related to minimum requirements for projections. As such, the requested variance conforms to the general intent and purpose of the COP.

Variance #2 – Permitted Structures for Secondary Dwelling Unit

The proposed variance takes wording directly from the policy, stating that a Secondary Dwelling Unit is permitted to be within an Appropriate Accessory Structures. Specific requirements related to the secondary unit would fall under the Zoning By-law. As such, the requested variance conforms to the general intent and purpose of the COP.

Variance #3 – Location of Secondary Dwelling Unit

The proposed variance follows Section 3.6.9(iv), amending the limitation of a Secondary Dwelling Unit to only being within the principal dwelling unit to elsewhere on the lot, granted that it connects directly into the services of the associated principal unit. As such, the requested variance conforms to the general intent and purpose of the COP.

Variance #4 – Legal Non-compliance of Lots

The Municipality's COP does not specifically address or contain policies related to whether a lot must be in full compliance with current provisions to permit a Secondary Dwelling Unit. As such, the requested variance conforms to the general intent and purpose of the COP.

Variance #5 – Permitted Size of a Secondary Dwelling Unit

The Municipality's COP does not specifically address or contain policies related to minimum size requirements for Secondary Dwelling Units. As such, the requested variance conforms to the general intent and purpose of the COP.

2. Does the proposal maintain the intent of the Zoning By-law?

The subject property is zoned "Residential Second Density (R2)" by the Municipality's Comprehensive Zoning By-law #11-83. The R2 Zone permits single-detached, semi-detached, duplex, and triplex dwellings, along with home-based businesses and associated accessory structures. Secondary Dwelling Units, under Section 8.16, are presently permitted to be within any single-detached, semi-detached, or duplex dwelling. The owner is applying to amend portions of Section 8.16 to legally recognize a second unit outside of the principal dwelling.

Variance #1 – Allowable Fireplace Box Projection

Generally, fireplace or chimney related projection provisions provide for the assurance that sufficient area between the structure and the lot line are maintained. This buffer allows for unhindered circulation around the building, primarily for maintenance, and the decrease of potential nuisances associated with fireplace fumes or odours. The proposed projection variance would be for a gas fireplace, so that it sits flush with the interior walls of the secondary dwelling. The actual projection would be 0.45m from the exterior wall that sits 1.2m from the side lot line – the minimum requirement set out by the R2 Zone and Accessory Structure provisions (Section 6.1). According to the Municipality's Chief Building Official, there are no concerns regarding fumes or circulation, nor have comments or concerns been shared by the public. As such, it meets the intent of the Zoning By-law.

Variance #2 – Permitted Structures for Secondary Dwelling Unit

The Zoning By-law presently does not allow for Secondary Dwelling Units to be in anything but a single-detached, semi-detached, or duplex dwelling. However, updated municipal policies indicate that such a use would now be permitted in appropriate accessory structures without an amendment to the Zoning By-law, granted that the set criteria of Section 3.6.9 of the COP are met. Although the variance does not adhere to the original intent of the Zoning By-law, being to contain a second unit to within the same confines of the primary dwelling, it realigns the provision so that it adheres to current municipal policy and provincial legislation.

Variance #3 – Location of Secondary Dwelling Unit

The Zoning By-law presently does not allow for Secondary Dwelling Units to be external to the principal dwelling. However, municipal policies indicate that such a structure would be permitted without an amendment to the Zoning By-law, granted that the set criteria of Section 3.6.9 of the COP are met, one of which being that the unit be serviced through the principal dwelling. Consequently, the variance amends the wording to keep it in line with municipal policy and provincial legislation.

Variance #4 – Legal Non-compliance of Lots

Criteria (ii) of the Secondary Dwelling Unit Policy outlines that all requirements of the Zoning By-law are to be met, thereby referring to Section 8.16. Within that section, subsection (3) states that a secondary dwelling unit is not permitted on a lot that is legally non-complying with respect to lot width or lot area. Consequently, undersized lots are limited in their permitted uses to avoid overcrowding of units, particularly regarding lot coverage.

Single-detached dwellings require 18m (59.1ft) of frontage; whereas, the subject property has approximately 15.6m (51.2ft). However, the property has a depth of ±34.7m (113.8ft), resulting in a total area of about ±540.3m² (5,815.7ft²) – approximately 90m² (968.8ft²) greater than the

single-detached minimum of 450m² (4,843.8ft²). Furthermore, the entire proposal, inclusive of a new detached garage, would cover approximately 37.3% of the property, below the maximum of 40%. As such, there is sufficient lot area despite the smaller lot width to accommodate additional structures.

Variance #5 – Permitted Size of a Secondary Dwelling Unit

The Municipality's Comprehensive Zoning By-law requires that a Secondary Dwelling Unit be no more than 40% of the principal unit's gross floor area to retain the "secondary" nature of the development. Increasing the allowance from 40 to 50% would not conflict with the intent of the provision, as it remains less than the principal dwelling and meets Ministry of Municipal Affairs and Housing guidelines (discussed in Section 3 of this report). However, concern remains whether the request is truly minor (see Section 4).

3. Is the proposal desirable for the appropriate development of the lands in question?

From the individual owner point of view, the legal recognition of a larger secondary dwelling external to the principal unit is desirable as it would maximize their personal enjoyment of the property. However, Staff must assess whether the proposal fits within the context of the neighbourhood and the Municipality, especially since a second unit external to the principal dwelling is new to the area and has yet to be brought to Council for by-law approval. Nonetheless, municipal policy, and Ministry of Municipal Affairs and Housing (MMAH) best practices, treat Secondary Dwelling Units as "as-of-right" development, granted the construction fulfills the outlined criteria: (i) there is only one secondary dwelling; (ii) all requirements of the Zoning By-law are met, including adequate off-street parking, and minimum floor area for apartment units; (iii) all building code and fire code requirements are addressed; and (iv) the secondary dwelling unit must connect to existing residential servicing. The proposal meets all of the above criteria, or would at the building permit stage, except for Criteria (ii). Specifically, the applicant proposes a unit that is 50% of the principal unit's gross floor area, 10 percentage points higher than the municipal maximum.

According to information distributed by MMAH, the size of second units should be solely regulated by the Building Code and development charge exemptions outlined under the *Development Charges Act, 1997* (Ontario Regulation 82/98). The former would be for minimum dwelling sizes; whereas, the latter is for maximum. According to the Act, one second unit with a size equal to or less than that of the principal unit is exempt from charges. Consequently, MMAH views anything below the principal unit size as an appropriate development. However, once the unit becomes its own structure, it has greater visual impacts to the surrounding area and, although it may not exceed the lot coverage, it begs the question of whether it is truly minor. This will be addressed in Section 4 of this report.

Notwithstanding, the determination of whether the proposal is desirable development for the subject lands and the neighbourhood is primarily dependent on four factors: (1) the density of the area; (2) the structural footprint; (3) the neighbourhood's general character; and (4) the direct impact to adjacent properties.

Density

The area is primarily single-detached or semi-detached dwellings, and classified as low-density residential. As such, the Municipality aims for a maximum gross density of 15 units per hectare. However, the Zoning By-law's Section 8.16(17) states that: Secondary dwelling units

must not be limited by, nor included in, any density control requirement, including for example, number of dwelling units and unit per hectare counts. Thereby, the density calculation is not impacted by the development.

Structural Footprint

Most of the properties along Teskey Street are limited to a lot coverage of 40%, inclusive of all permitted accessory structures. Few lots come close to the maximum; the average lot coverage percentage is ±27.1%, lower than the proposal's 37.3%. Nonetheless, all properties not meeting the 40% maximum would be permitted to do so via additions to homes or building accessory structures without a development application if appropriate zoning provisions are met. Consequently, the owner of the subject property could decide to expand the principal dwelling as an alternative to the current proposal and increase the lot coverage – meaning the impact to coverage could occur regardless of this proposal.

Neighbourhood's Character

In general, the development would not greatly impact the street's character more than provincial legislation would allow. Currently, there is adequate parking on site to accommodate additional residents on the lot, which addresses potential congestion of the roadway. Further, the unit would be located in the lot's rear yard and would have limited impact on the aesthetic of front wall façades.

Direct Impact to Adjacent Properties

The Almonte and District High School sits to the west of the subject property; whereas, the home to the immediate north is buffered by large mature trees. Both lots would be negligibly affected by the new unit. More concerning is the lot abutting to the east, which is separated by small shrubs and no fence (see Schedule B for site photos). Although a two-storey garage originally sat in the approximate location of the proposed second unit, the new build would include habitable space and may be seen as a privacy concern. The Building Code does set a maximum of 7% window coverage at 1.2m from a lot line, which could alleviate the issue. Nonetheless, without amending the Zoning By-law, a second unit could theoretically be built without a planning application if the size were to be 40% and not 50% of the principal dwelling gross floor area. The increase of 10 percentage points would have minimal added impact to privacy.

4. Is the proposal minor?

The most significant concern of the application is whether the proposal's increase in size from 40 to 50% of the principal dwelling's gross floor area keeps true to the "secondary" nature of the unit. Allowing the 50% would result in a structure that has an almost equivalent footprint to the home itself and may visually appear to be two principal dwellings. The MMAH does indicate that second unit sizing should be sympathetic to the development charge provisions set out in the *Development Charges Act, 1997* (Ontario Regulation 82/98). To reiterate, a second unit would be exempt from charges if the area was less than or equal to the principal unit. This is intended for those second units that fall within the principal structure, which are more difficult to distinguish from the main dwelling that it occupies. As an independent structure, the increase in area is noticeable and has greater visual impacts; specifically, it appears to be two principal dwellings on one lot, which is not permitted. Although the Committee and Staff assess each application on their own merits, the request does set a

precedent for potential future development. According to municipal policy and out of date bylaws, the Municipality has minimal control over what it can or cannot require of Second Dwelling Units. Thus, restricting the size is one of few mechanisms to control a development's footprint. As such, Staff consider the proposal to not be minor in nature, and that the maximum size continue to remain at 40% unless otherwise revised through an amendment to the Comprehensive Zoning By-law #11-83. Notwithstanding, Staff do consider Variances #1 to 4 as minor, as they either have minimal impact or follow updated municipal policy.

CONCLUSION

Overall, Staff supports portions of the Minor Variance application. The variances would allow the owners' family members to maximize the use and enjoyment of the property within an independent structure with no foreseeable impacts to other stakeholders within the control of the Municipality. Staff believes that Minor Variance Application A-02-18, with exception of Variance #5 regarding maximum permitted size, meets the four (4) tests for evaluating a Minor Variance as established under the *Planning Act*. Therefore, Planning Staff recommend that the Minor Variances #1 to 4 be granted and that Variance #5 be refused, provided the Committee is satisfied that any issues raised at the public hearing do not require additional Staff evaluation and comment or the submission of additional information, and that the applicant adhere to the conditions outlined at the beginning of this report.

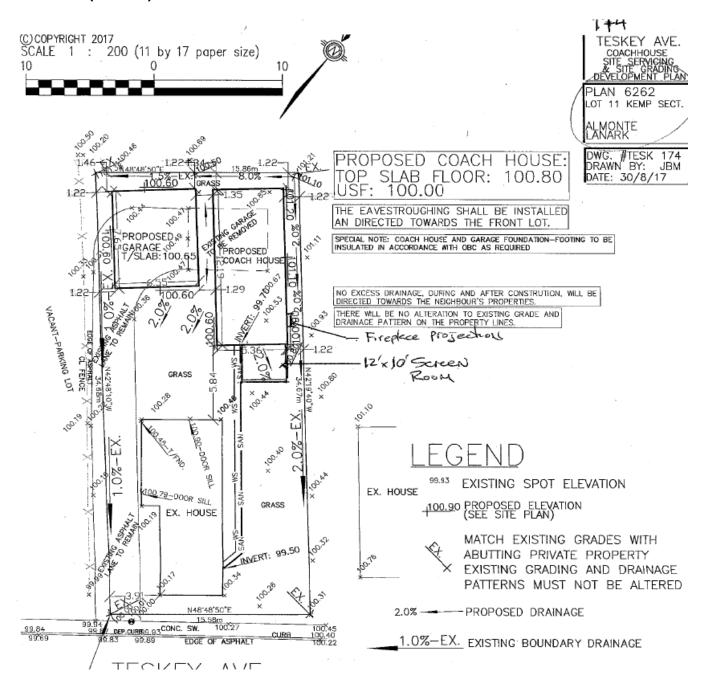
| All of which is respectfully submitted, | |
|---|--|
| Andrew Scanlan Dickie Junior Planner | Cynthia Moyle Reviewed by Acting Clerk |
| Niki Dwyer Reviewed by Director of Planning | |

Attachments:

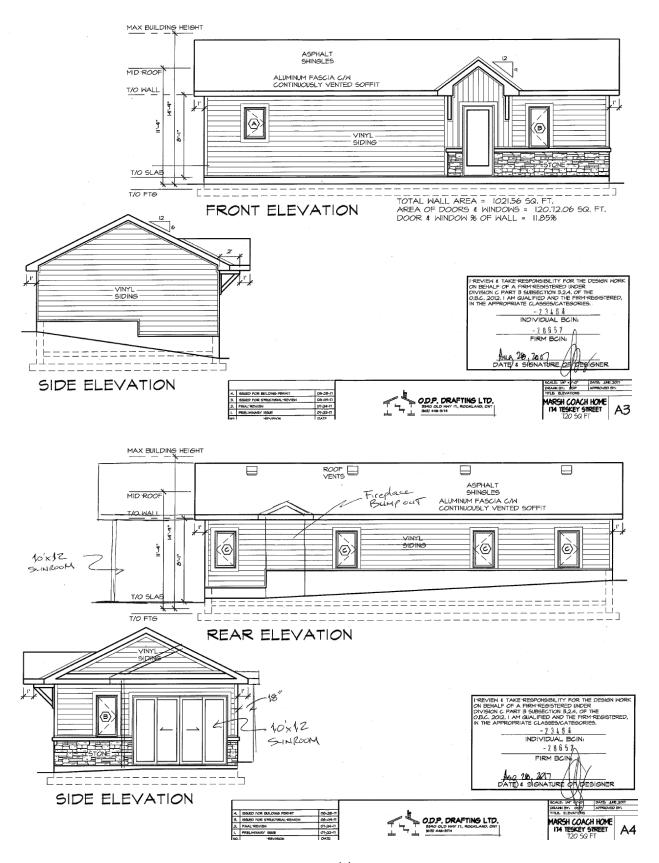
Schedule A – Site Plan & Elevations Schedule B – Site Photos

SCHEDULE A - SITE PLAN & ELEVATION

Site Plan (Extract)



Elevations



SCHEDULE B – SITE PHOTOS

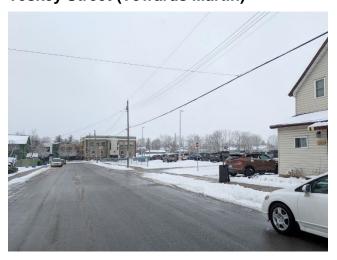
Front Yard



Rear Yard (East Lot Line)



Teskey Street (Towards Martin)



Side Yard



Rear Yard (North Lot Line)



Teskey Street (Towards Norton)

