



City of
Peterborough

Committee of Adjustment Report for November 30, 2021

Staff Recommendations Regarding Files: A43/21, B07/21, B08/21, and A46/21

- File Number: A43/21, 305 Margaret Avenue**
Applicant: Patrick Corcoran
Owner: Patrick Corcoran

Background

The subject property is located on the west side of Margaret Avenue, west of downtown in “The Avenues and Neighbourhood Heritage Conservation District” and as such it is regulated by Part V of the **Ontario Heritage Act**. The property is developed with a two and half storey dwelling that is recognized as a legal non-conforming triplex. The subject property is zoned R.1, R.2 and is designated ‘Residential’ on Schedule A ‘Land Use’ of the City’s Official Plan.

A legal non-conforming use means that the use, a triplex dwelling, was legally established prior to a by-law being in place that prohibits the use. In this case, it has been determined that the dwelling was established on the subject property in 1910, a triplex use of this dwelling was established prior to the first Zoning By-law coming into force, and this use has remained continuous since that time.

The applicant is seeking permission to expand the legal non-conforming triplex at the subject property. The applicant is proposing to enlarge the footprint of a single storey structure at the rear of the dwelling that contains a stairwell from 3.7 square metres to 6.34 square metres.

The application was supported by a Conceptual Site Plan (Exhibit A) depicting the present layout of the dwelling on the property and proposed expansion to the stairwell enclosure at the rear of the dwelling.

Section 3.2 of the City’s Official Plan provides policy direction for legal non-conforming uses. According to this section, “these uses would normally be expected to change to uses in accordance with the provisions of the Official Plan. However, to avoid undue hardship for the owner of the property the non-conforming use may be recognized and/or permitted to extend or enlarge provided it does not adversely affect the residents and other properties of the area.”

Since the triplex dwelling use of the property is considered legal non-conforming, any changes are governed by the **Planning Act** through a request for permission from the Committee of Adjustment. Section 45(2)(a)(i) of the **Planning Act** provides that the Committee of Adjustment may permit “the enlargement or extension of the building or structure, if the use was made of the building or structure on the day the by-law was passed, or a use permitted under subclause (ii) continued until the date of the application to the committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed”.

The test for a request for permission is not the four tests of a minor variance, but rather a looser test that requires the Committee to evaluate the impact of the proposed development on the neighbourhood. When making this evaluation, the Committee will need to consider whether the proposal will have an adverse impact on the surrounding area.

The proposed expansion is minimal, involving a slightly expanded footprint of an existing structure. The expansion will go no closer to the side lot line than the closest point of the existing dwelling (1 metre) and the expansion toward the rear lot line will not impact the function of the parking at the rear. Staff has considered the residential nature of the property and the surrounding neighbourhood and has determined that the proposal is not anticipated to have an adverse impact on the neighbouring properties and the proposed expansion is needed to improve the safety and condition of the property.

Agency Comment

The Otonabee Region Conservation Authority (ORCA) reviewed the application and notes that the proposal is consistent with Section 2.1 (Natural Heritage), 2.2 (Water), and 3.1 (Natural Hazard) of the Provincial Policy Statement. The property is located outside of ORCA’s regulated area, so a permit from the Authority is not required. The subject property is not located in an area subject to the policies of the Trent Source Protection Plan.

Peterborough Utilities Group Services (PUG) has reviewed the application and has no comments.

The Ontario Ministry of Transportation (MTO) has reviewed the application and has determined that the subject lands are not within their permit control area, therefore, MTO has no comments.

The City’s Engineering Design & Construction Technologist/Inspector did not provide comment at the time of publishing this report.

The City’s Planner, Urban Design has reviewed the application and has no comments.

The Heritage Preservation Office have reviewed the application and has indicated that the property is in the Avenues and Neighbourhood Heritage Conservation District and that an approved Heritage Alteration Permit will be required prior to the start of work.

Bell Canada has no comment on the proposed application.

Recommendation

Staff recommends that the Committee of Adjustment **approve** the request for expansion of a legal non-conforming use provided that construction related to this approval proceed substantially in accordance with the concept plan attached as Exhibit A, Page 1.

2. **File Number: B07/21, 215 Herbert Street (Lot 1, Plan 272)**
Applicant: Jessica Reid, EcoVue Consulting Services Inc.
Owner: Kristy Kimball and Jason Murphy

File Number: B08/17, 219 Herbert Street (Lot 185, Plan 272)
Applicant: Jessica Reid, EcoVue Consulting Services Inc.
Owner: Robert Dungan and Karen Dungan

Background

The subject properties are located in the city's north end, approximately 200 metres west of the intersection of Hilliard Street and Philip Street. The two abutting properties are both developed with single detached dwellings and are zoned R.1,1m,2m. The properties are designated 'Residential' on Schedule A 'Land Use' in the City's Official Plan. The properties are both subject to a 1.21 metre wide easement in favour of Bell Canada generally along their easterly (rear) lot lines.

The two properties are situated on a bend in Herbert Street and back onto the Edmison Heights Bible Chapel property at 939 Hilliard Street. Consequently, the two lots are irregularly shaped, with 215 Herbert Street being approximately 21.51 metres wide at its front and only 3.91 metres at its rear (a reverse pie shape) and 219 Herbert Street being approximately 15.52 metres wide at its front and 32 metres wide at its rear (pie shape).

The Applicants are requesting to convey reciprocal lot additions between the two lots to provide a more uniform lot line between the two properties in keeping with the prevailing lot pattern on the street. As illustrated in Exhibit B, land conveyances are proposed as follows:

- Application B07/21: a triangular area of approximately 23.9 square metres to be conveyed from 215 Herbert Street as a lot addition to 219 Herbert Street; and
- Application B08/21: a triangular area of approximately 174.2 square metres to be conveyed from 219 Herbert Street as a lot addition to 215 Herbert Street.

Agency Comments

Otonabee Region Conservation Authority (ORCA) reviewed the applications and advised that the proposal is consistent with Sections 2.1 (Natural Heritage), 2.2 (Water), and 3.1 (Natural Hazard) of the Provincial Policy Statement. The properties are located outside of ORCA's regulated area and are located outside of an area subject to the policies of the Trent Source Protection Plan.

Bell Canada reviewed the applications and has no comment.

Peterborough Utilities Group Services (PUG) reviewed the applications and has no comment.

The Ontario Ministry of Transportation (MTO) reviewed the applications and has no comments.

The Heritage Preservation Office (HPO) have reviewed the application and have indicated they have no comments on the proposed application.

The City's Engineering Design & Construction Technologist/Inspector did not provide comment at the time of publishing this report.

The City's Planner, Urban Design has reviewed the application and has no comments.

Recommendation for B07/21 (lot addition to 219 Herbert Street)

Staff recommends that the Committee of Adjustment grant the consent for the purposes of a lot addition of approximately 23.9 square metres from 215 Herbert Street to 219 Herbert Street (as shown in the attached plan), conditional upon the following:

- i) Prior to registering the Reference Plan at the applicant's cost, the applicant shall submit for approval a draft Reference Plan to the Secretary-Treasurer, showing the proposed severed parcel. Upon registration of the approved Reference Plan, a digital copy of the registered Reference Plan, in PDF format, will be provided to the Secretary-Treasurer;
- ii) A closed polygon vector file of the Part boundaries shown on the Reference Plan is to be provided in Autodesk DWG NAD83 UTM CSRS CGVD28 projection Windows-readable format to the satisfaction of the City of Peterborough Geomatics/Mapping Division. It is recommended that the applicant's Ontario Land Surveyor consult with the City of Peterborough Geomatics/Mapping Division to confirm acceptable standards and formatting. The Surveyor should contact the Secretary-Treasurer for instructions on how to submit this document;
- iii) That the applicant provide the Secretary-Treasurer with a draft of the Transfer/Deed of Land;

- iv) The owner's solicitor shall provide an Undertaking to consolidate the severed lands with the property municipally known as 219 Herbert Street and to provide a registered copy of the Application Consolidation. The consolidated parcels shall be considered as one lot and shall not be dealt separately, and Section 50 (3) or 50 (5) shall apply to any subsequent conveyance or transaction involving the parcel of land that is subject to this Consent application; and
- v) That if the above conditions are not satisfied within 365 days of the circulation of the Committee's decision that this consent will lapse.

Recommendation for B08/21 (lot addition to 215 Herbert Street)

Staff recommends that the Committee of Adjustment grant the consent for the purposes of a lot addition of approximately 174.2 square metres from 219 Herbert Street to 215 Herbert Street (as shown in the attached plan), conditional upon the following:

- i) Prior to registering the Reference Plan at the applicant's cost, the applicant shall submit for approval a draft Reference Plan to the Secretary-Treasurer, showing the proposed severed parcel. Upon registration of the approved Reference Plan, a digital copy of the registered Reference Plan, in PDF format, will be provided to the Secretary-Treasurer;
- ii) A closed polygon vector file of the Part boundaries shown on the Reference Plan is to be provided in Autodesk DWG NAD83 UTM CSRS CGVD28 projection Windows-readable format to the satisfaction of the City of Peterborough Geomatics/Mapping Division. It is recommended that the applicant's Ontario Land Surveyor consult with the City of Peterborough Geomatics/Mapping Division to confirm acceptable standards and formatting. The Surveyor should contact the Secretary-Treasurer for instructions on how to submit this document;
- iii) That the applicant provide the Secretary-Treasurer with a draft of the Transfer/Deed of Land;
- iv) The owner's solicitor shall provide an Undertaking to consolidate the severed lands with the property municipally known as 215 Herbert Street and to provide a registered copy of the Application Consolidation. The consolidated parcels shall be considered as one lot and shall not be dealt separately, and Section 50 (3) or 50 (5) shall apply to any subsequent conveyance or transaction involving the parcel of land that is subject to this Consent application; and
- v) That if the above conditions are not satisfied within 365 days of the circulation of the Committee's decision that this consent will lapse.

3. File Number: A46/21, 513 Parnell Street
Applicant: Bonnie Kubica
Owner: Bonnie Kubica

Background

The subject property is located on the south side of Parnell Street, east of the intersection of Lynch Street and Parnell Street. The property is zoned R.1, R.2 and is designated 'Residential' on Schedule A 'Land Use' in the City's Official Plan. The property is developed with a one and a half storey, single dwelling unit and garage (Exhibit C).

The applicant is seeking a minor variance from Section 6.23(a) of the Zoning By-law to allow one non-resident of the dwelling unit to engage in a home-based business.

The owner of the property owns a catering business that has had to pivot during the pandemic. The need for the variance is to formally allow a non-resident to engage in a catering business, as there will be instances where an additional set of hands is needed on premises to assist in food preparation.

Section 6.23 of the Zoning By-law outlines various parameters that are required to be met for a home-based business to be established. The intent behind these regulations is to ensure there is no external evidence of the home-based business that could detract from the residential nature of the neighbourhood and dwelling. The applicant has confirmed that the home-based component of the business involves the preparation of food that will then be transported offsite to be cooked and served at catered events such as weddings.

Staff have considered the possible impacts of having a non-resident visit the dwelling on a regular basis to assist in the preparation of food. Staff have looked at the property and note there are at least three parking spaces on site that could accommodate up to three vehicles with no off-site impacts. The request would not have any greater impact on the residential nature of the property than that of a home care visitor/nurse visiting a dwelling on a regular basis.

The applicant has indicated that all other regulations outlined in the Home-Based Business provisions of the Zoning By-law are satisfied, which is important as they relate to odour, noise, glare, etc. There will be no restaurant/dine in function, as this is expressly prohibited in the Zoning By-law. Odorous or greasy food will not be prepared on site as this would not meet the requirements set in 6.23.

The purpose of the 'Residential' designation in the Official Plan is to "provide areas for housing and other land uses that are integral to, and supportive of a residential environment." The proposed variance is needed to allow a non-resident to engage in the home-based business. It is anticipated that the proposed additional person, on site on occasion, and engaging in this work, will not detract from the intent and purpose of the residential policies of the Official Plan.

Agency Comment

The Otonabee Region Conservation Authority (ORCA) reviewed the application and notes that the proposal is consistent with Section 2.1 (Natural Heritage), 2.2 (Water), and 3.1 (Natural Hazard) of the Provincial Policy Statement. The property is located outside of ORCA's regulated area, so a permit from the Authority is not required. The subject property is not located in an area subject to the policies of the Trent Source Protection Plan.

Peterborough Utilities Group Services (PUG) has reviewed the application and has no comments.

The Ontario Ministry of Transportation (MTO) has reviewed the application and has determined that the subject lands are not within their permit control area, therefore, MTO has no comments.

The City's Engineering Design & Construction Technologist/Inspector did not provide comment at the time of publishing this report.

The City's Planner, Urban Design has reviewed the application and has no comments.

The Heritage Preservation Office (HPO) have reviewed the application and have indicated they have no comments on the proposed application.

Bell Canada has no comment on the proposed application.

Recommendation

Staff recommend that the Committee of Adjustment approve the application, provided all other regulations set out in the Home-Based Business provisions of the Zoning By-law are met.

Applications A43/21 and A46/21 Prepared By:

Christie Gilbertson, RPP, MCIP
Planner, Policy and Research
Planning Division,
Infrastructure and Planning Services

Applications B07/21 and B08/21 Prepared By:

Brad Appleby, RPP, MCIP
Supervisor Development Planning
Planning Division
Infrastructure and Planning Services

Concurred With:

Andrea Stillman
Zoning Administrator
Building Division,
Infrastructure and Planning Services

Summary of Exhibits

The exhibits attached to this report were provided by the applicants and do not meet international standards for web accessibility. A description of each exhibit is provided below.

If you require additional information regarding the exhibits or the applications, contact the Planning Division at 705-742-7777, extension 1880.

Exhibit A

Conceptual Site Plan illustrating the existing and proposed structures, prepared by the Applicant

Exhibit B

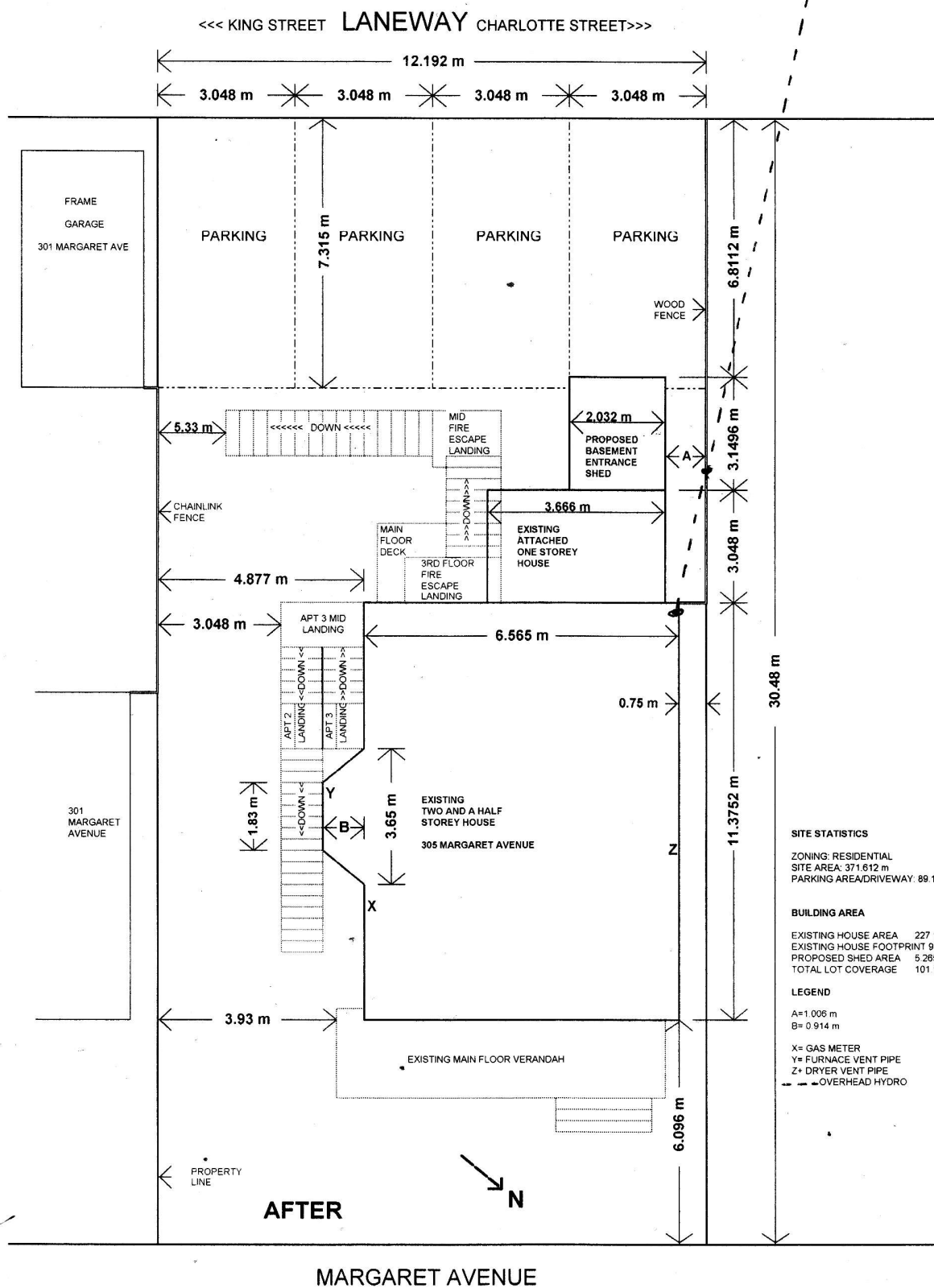
Consent Sketch illustrating the severed and retained lands, prepared by EcoVue Consulting Services Inc., dated September 20, 2021.

Exhibit C

Surveyor's Real Property Report for 513 Parnell Street, prepared by Benninger Surveying Ltd.

305 MARGARET AVENUE EXISTING AND PROPOSED STRUCTURES

HYDRO POLE



SITE STATISTICS

ZONING: RESIDENTIAL
SITE AREA: 371.612 m
PARKING AREA/DRIVEWAY: 89.185 m

BUILDING AREA

EXISTING HOUSE AREA: 227.11 sq m
EXISTING HOUSE FOOTPRINT: 95.852 sq m
PROPOSED SHED AREA: 5.265 sq m
TOTAL LOT COVERAGE: 101.117 sq m

LEGEND

A=1.006 m
B=0.914 m

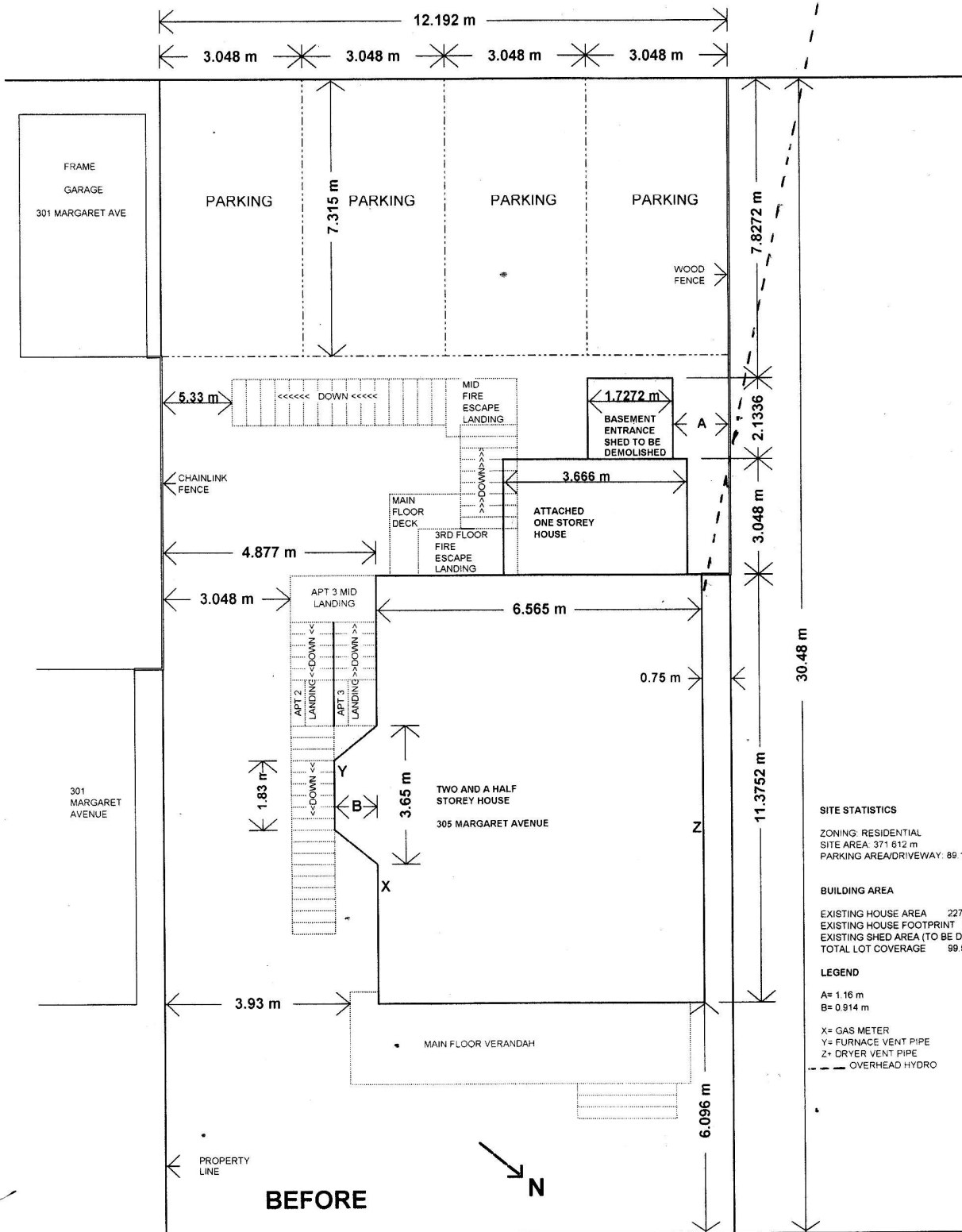
X= GAS METER
Y= FURNACE VENT PIPE
Z= DRYER VENT PIPE
--- OVERHEAD HYDRO

Exhibit A, Page 2 of 2

305 MARGARET AVENUE EXISTING AND TO BE DEMOLISHED STRUCTURES

HYDRO POLE

<<< KING STREET LANEWAY CHARLOTTE STREET >>>



SITE STATISTICS

ZONING: RESIDENTIAL
SITE AREA: 371.612 m²
PARKING AREA/DRIVEWAY: 89.185 m²

BUILDING AREA

EXISTING HOUSE AREA: 227.11 sq m
EXISTING HOUSE FOOTPRINT: 95.852 sq m
EXISTING SHED AREA (TO BE DEMOLISHED): 99.537 sq m
TOTAL LOT COVERAGE: 99.537 sq m

LEGEND

A= 1.16 m
B= 0.914 m

X= GAS METER
Y= FURNACE VENT PIPE
Z= DRYER VENT PIPE
--- OVERHEAD HYDRO

