

This document is presented in the language it was provided.  
Ce document est présenté dans la langue dans laquelle il a été fourni.

February 7, 2024

Committee of Adjustment  
City of Ottawa  
101 Centrepointe Drive  
Ottawa, ON, K2G 5K7

**Attention: Michel Bellemare, Secretary - Treasurer**

**Reference: 1756 Scott Street  
Application for Permission  
Our File No.: 123178**

**Committee of Adjustment  
Received | Reçu le**

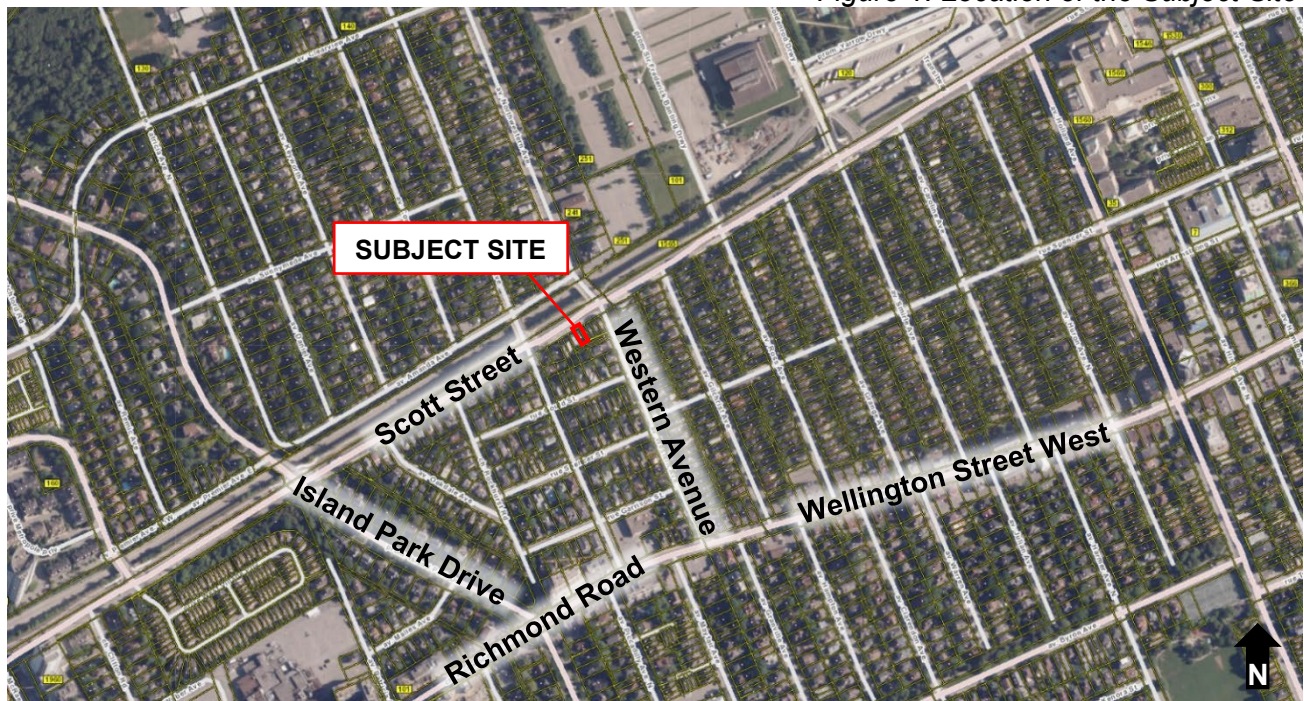
**2024-02-09**

**City of Ottawa | Ville d'Ottawa  
Comité de dérogation**

Novatech has been retained by the owner of the property municipally known as 1756 Scott Street (the "Subject Site") to prepare and file an application for permission to expand a legally non-conforming use. The permission application will facilitate a two-storey addition in the rear yard of the existing legally non-conforming detached dwelling.

This letter describes the existing conditions of the site and its surrounding context, the proposed development, and the rationale in support of the application.

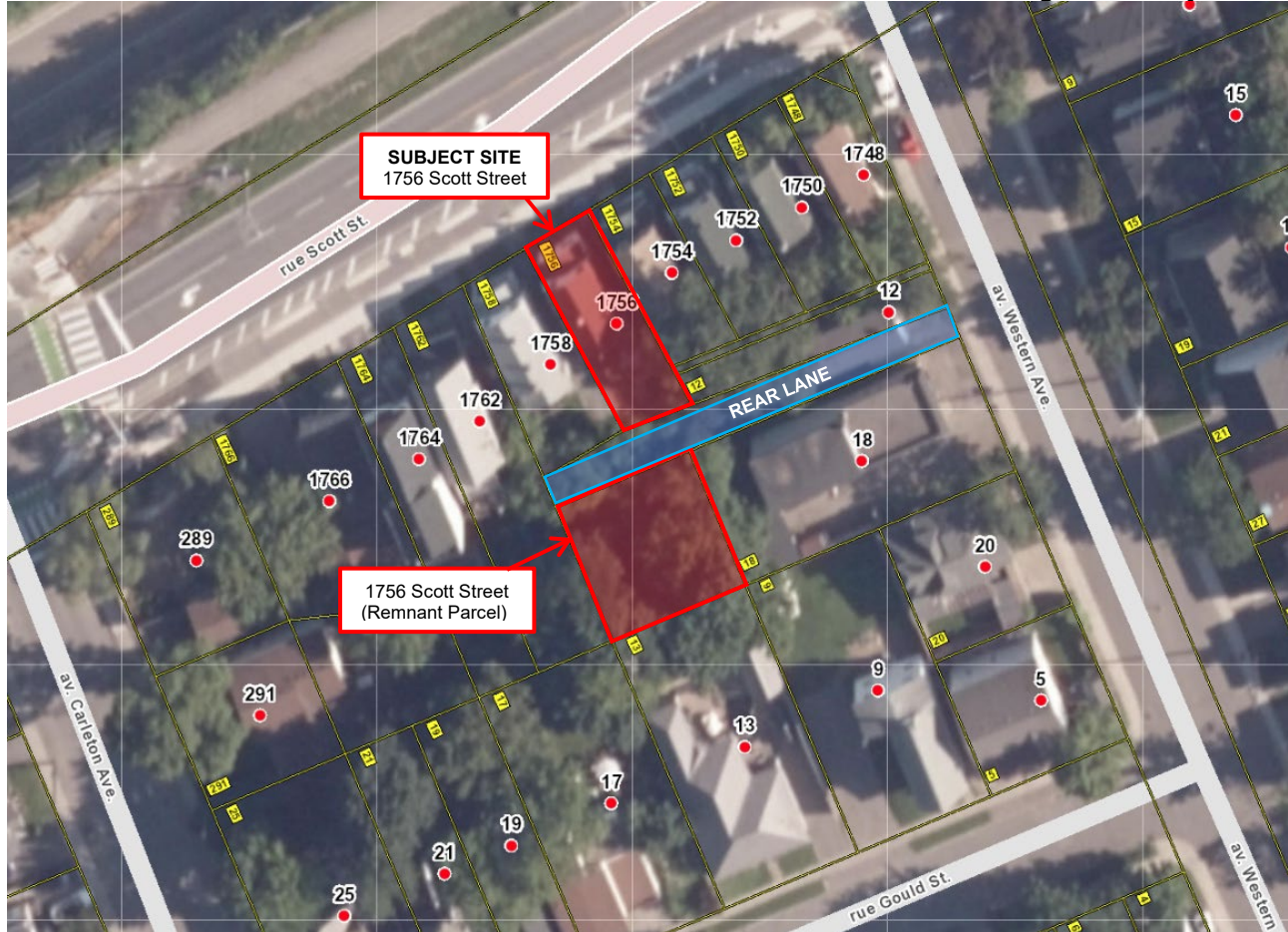
*Figure 1: Location of the Subject Site*



The Subject Site is located in the Kitchissippi ward of the City of Ottawa on the south side of Scott Street (Ward 15) (see Figure 1). The Subject Site is in an area bounded by Scott Street to the north, Western Avenue to the east, Island Park Drive to the west and Richmond Road to the south. The Subject Site is rectangular in shape and has approximately 7.6 metres of frontage along Scott Street and an area of approximately 189 square metres. The Subject Site is legally known as Part of Lot 10 South Scott Street Lots and Part of Lots B & C Registered Plan 145, City of Ottawa.



Figure 2: Subject Site



1756 Scott Street is comprised of two parcels separated by an untravelled rear lane. The rear lane is subject to a right of way providing access to the rear of the Subject Site off Western Avenue, as shown in blue on Figure 2. The remnant parcel on the south side of the right of way is approximately 232 square metres in area.

The Subject Site is zoned Residential First Density, Subzone MM (R1MM) in the City of Ottawa Zoning By-law 2008-250 and is subject to provisions of the Mature Neighbourhoods Overlay. The Subject Site is designated Mainstreet Corridor within the Inner Urban Transect on Schedule B2 of the City of Ottawa Official Plan and is subject to the Evolving Neighbourhoods Overlay.

The Subject Site is currently developed with a detached dwelling. The detached dwelling is two storeys and includes a deck and stairs in the rear of the property. The existing dwelling on the Subject Site was established prior to the current zoning by-law coming into force and does not conform with provisions of the R1MM zone for minimum lot area, minimum lot width and minimum interior side yard setback. The existing dwelling is considered a legally non-conforming use.

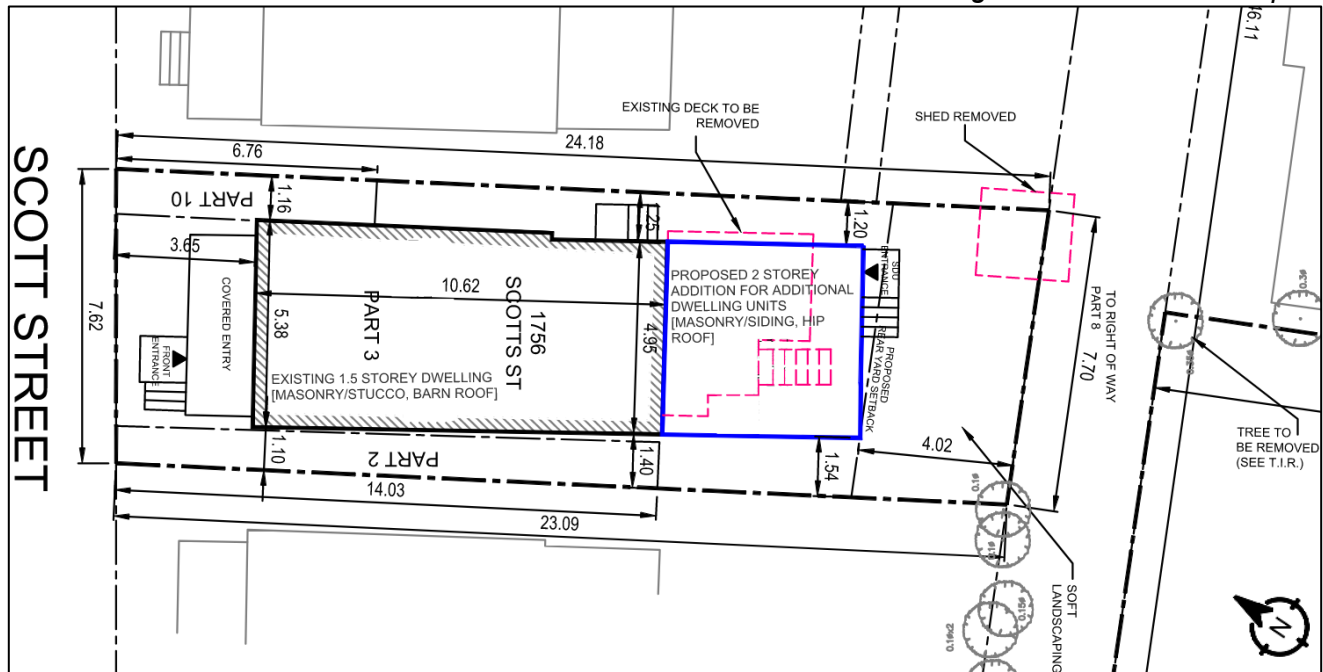
### Proposed Development

It is proposed to construct a two-storey addition in the rear yard of the Subject Site comprising one principal dwelling unit and maximum of two additional dwelling units. Dwelling units in the proposed addition would be accessed via the rear lane off Western Avenue. No modifications are proposed to

the front façade of the existing dwelling. The proposed permission application is required to facilitate the proposed addition to the legally non-conforming detached dwelling on the Subject Site.

A two-storey addition to the existing detached dwelling is proposed in the rear yard (Figure 4). The existing deck and stairs will be removed and replaced by the proposed addition. The addition will extend from the existing building footprint and will provide the required 1.2 metre side yard setback.

Figure 4: Site Plan Excerpt



### Permission Application

The requested permission for this application is identified below:

- a) To permit the expansion of a legal non-conforming detached dwelling providing a rear yard setback of 4.0 metres; whereas the By-law requires a minimum rear yard setback of 6.1 metres (Section 144, Table 144A (ii)).

*Note: All requested permissions have been rounded to the nearest tenths decimal place, as instructed by the Committee of Adjustment.*

### Permission Rationale

Section 45(2) of the Planning Act permits the expansion of a legal non-conforming use. Section 45(2) of the Planning Act states:

*“(2) In addition to its powers under subsection (1), the committee, upon any such application,*

*(a) where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit,*

*(i) the enlargement or extension of the building or structure, if the use that 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, or
- (ii) *the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, if the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee; or*
- (b) *where the uses of land, buildings or structures permitted in the by-law are defined in general terms, may permit the use of any land, building or structure for any purpose that, in the opinion of the committee, conforms with the uses permitted in the by-law. R.S.O. 1990, c. P.13, s. 45 (2)”*

There are no tests set out in the Planning Act for applications under Section 45(2). The decision of Sims et al. v. Daschko (attached) sets out the test for expansion of a legal non-conforming use. The Ontario Municipal Board decision states that “*there must always be a prior consideration of whether what is intended is indeed desirable for the appropriate development or use of the land, building or structure. The effect of any concession made must always be weighed in the light of the impact it could have upon neighbouring properties enjoying a different classification”.*

The existing dwelling on the Subject Site was established prior to the current zoning by-law coming into force and does not conform with provisions of the R1MM zone for minimum lot area, minimum lot width and minimum interior side yard setback. The existing dwelling is considered a legally non-conforming use. Provisions of the Planning Act authorize the Committee of Adjustment to permit an enlargement or extension of the detached dwelling within the existing limits of the Subject Site through an application for permission. The tests for permission to enlarge or extend a legally non-conforming use are that the expansion is desirable for the appropriate development and use of land, building or structure on the Subject Site and that there are no undue or adverse impacts on neighbouring properties.

**The first test for the expansion of a legally non-conforming use is that it must be desirable for the appropriate development or use of the land, building, or structure.**

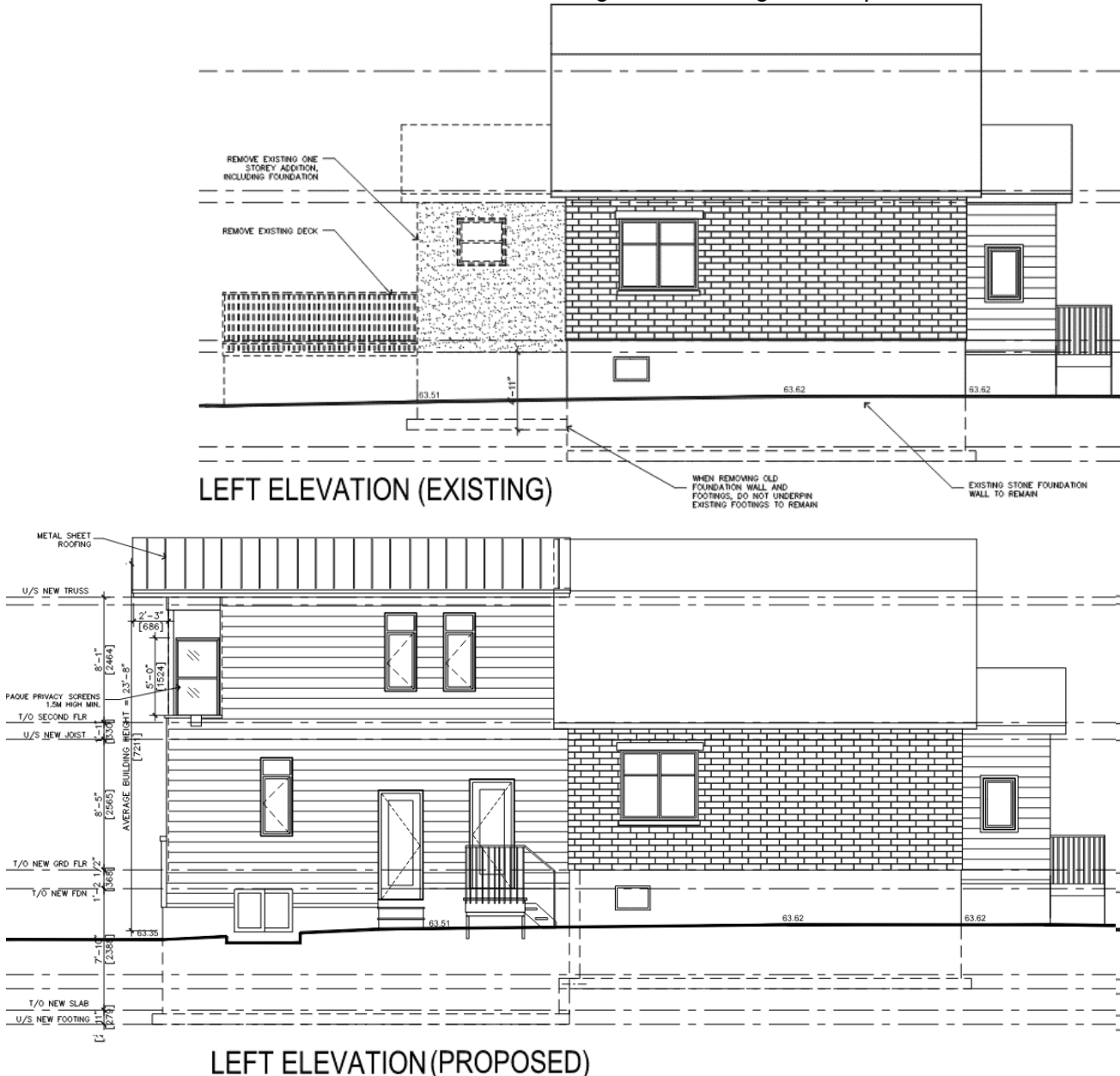
The existing detached dwelling is a low-rise, ground-oriented dwelling that fits into the neighbourhood and includes urban characteristics such as a shallow front yard setback and two functional storeys. The proposed addition will maintain the functionality of the existing dwelling and accommodate a maximum of two additional dwelling units. The Subject Site is an appropriate location for low-rise intensification that is compatible with the surrounding neighbourhood and contributes to increasing residential density in the urban area.

The proposed addition will not increase the height of the existing dwelling. The proposed addition will be constructed in an area previously occupied by a deck and will provide a required interior side yard setback greater than the existing detached dwelling. A soft landscaped area will be maintained in the rear yard. No trees on the Subject Site or adjacent properties will be impacted by the proposed addition.

The expansion of the legally non-conforming use is desirable for the appropriate development or use of the land, building, or structure.

**The second test for expanding a legal non-complying use is the impact on neighbouring properties.**

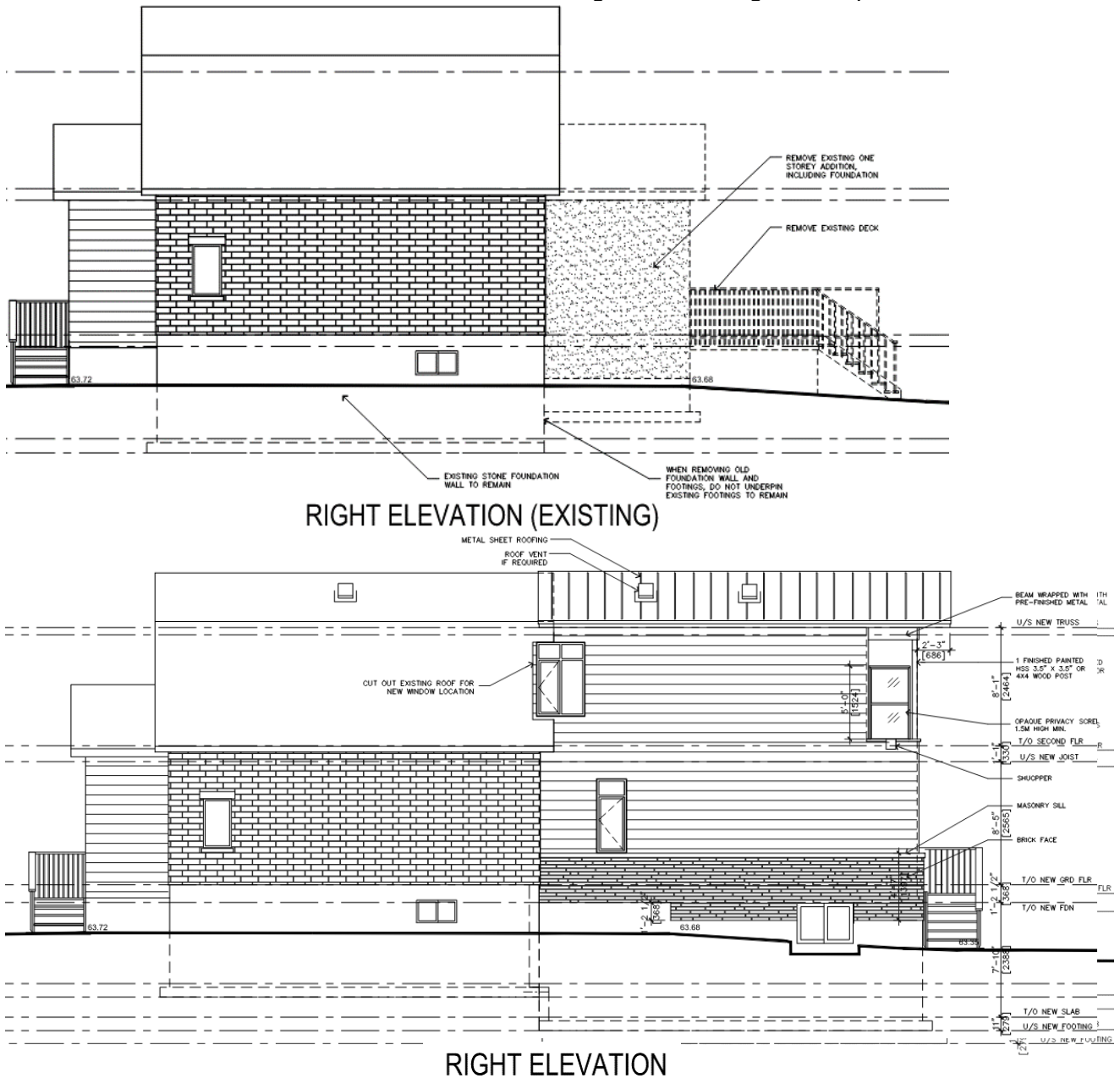
Figure 5: Existing and Proposed East Elevations



The existing detached dwelling is a legal non-conforming use. The R1MM zone permits the existing detached dwelling. The proposed addition is designed to extend into the rear yard with a setback of approximately 4 metres from the rear lot line. The addition will match the height of the existing second storey and will extend into an area previously occupied by a deck (see Figure 5). The proposed addition will not be visible from Scott Street and will have no impact on the streetscape.

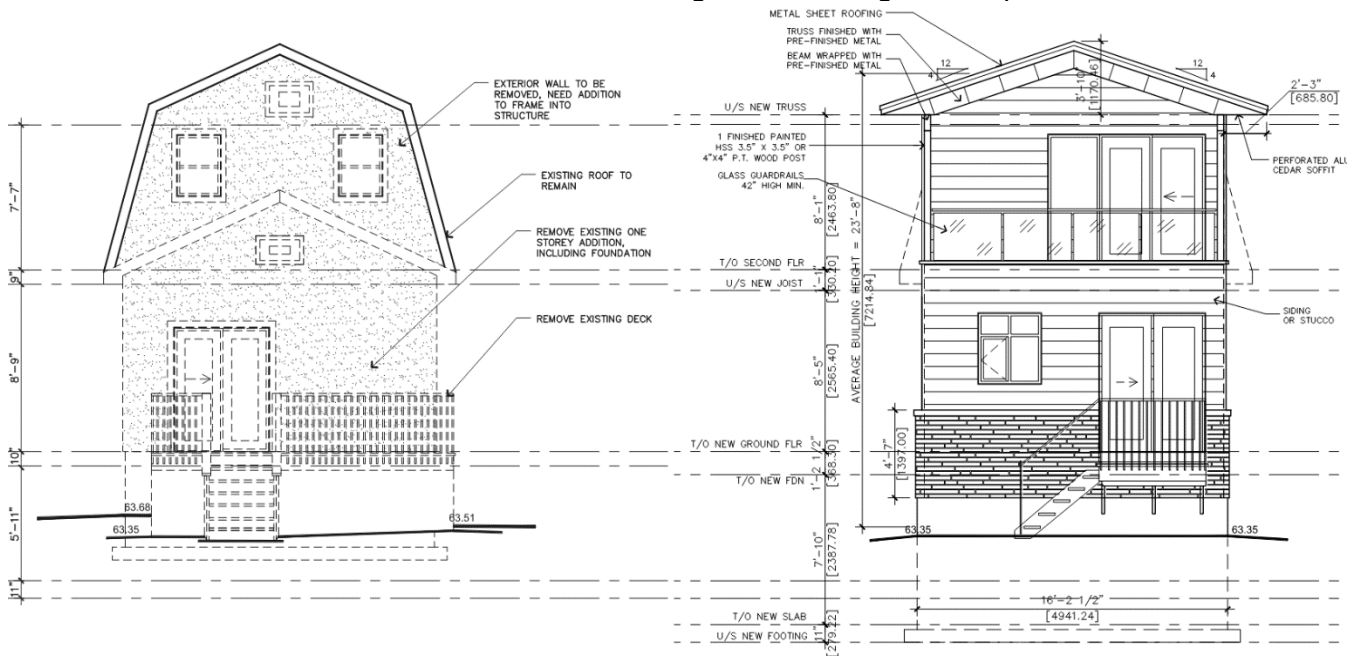


Figure 6: Existing and Proposed West Elevation



A balcony is proposed on the second floor of the addition, facing south into the rear yard. The balcony will have 1.5m opaque privacy screens where facing interior side yards on abutting lots. The balcony location and screening is designed to maintain privacy on the Subject Site and will mitigate potential overlook into the neighbouring rear yards to the east and west (see Figure 6). The proposed addition to the existing detached dwelling will have no significant impact on the building or rear yard area on the abutting lot to the east (1754 Scott) or the abutting lot to the west (1758 Scott).

Figure 7: Existing and Proposed South Elevation



REAR ELEVATION (EXISTING)

REAR ELEVATION (PROPOSED)

The proposed addition will extend from the existing dwelling and will not project into the interior side yard further than the existing dwelling (see Figure 7). The building footprint will be expanded into an area previously occupied by a deck, soft landscape area will be maintained and no trees will be impacted on the Subject Site or adjacent properties. The proposed addition will have a minimal impact on soft landscaping and tree cover on the Subject Site. The proposed addition is compatible with the surrounding neighbourhood.

**The expansion of the legally non-conforming use will not impact neighbouring properties.**

**Provincial Policy Statement**

Section 3(5) of the Planning Act states:

*“A decision of the council of a municipality, a local board, a planning board, a minister of the Crown and a ministry, board, commission or agency of the government, including the Tribunal, in respect of the exercise of any authority that affects a planning matter,*

*(a) shall be consistent with the policy statements issued under subsection (1) that are in effect on the date of the decision;”*

A decision by the Committee of Adjustment with respect to a planning matter must be consistent with the Provincial Policy Statement (PPS). The Provincial Policy Statement provides policy direction on matters of provincial interest that are related to land use planning and development.

Policy 1.1.1 states:

*“Healthy, liveable and safe communities are sustained by:*

- a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;*
- b) accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs;*
- c) avoiding development and land use patterns which may cause environmental or public health and safety concerns;*
- d) avoiding development and land use patterns that would prevent the efficient expansion of settlement areas in those areas which are adjacent or close to settlement areas;*
- e) promoting the integration of land use planning, growth management, transit-supportive development, intensification and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs;*
- f) improving accessibility for persons with disabilities and older persons by addressing land use barriers which restrict their full participation in society;*
- g) ensuring that necessary infrastructure and public service facilities are or will be available to meet current and projected needs;*
- h) promoting development and land use patterns that conserve biodiversity; and*
- i) preparing for the regional and local impacts of a changing climate.”*

The proposed permission application will not impact the development of safe and healthy communities. The proposed addition to a legal non-conforming use will promote efficient development and accommodate an appropriate mix of dwelling units by maintaining the existing dwelling and creating additional dwelling units in the urban area. There will be no health and safety issues resulting from the proposal and there will be no undue or adverse impacts on neighbouring properties.

**The proposed permission application is consistent with the direction of the Provincial Policy Statement.**

### **Conclusion**

The proposed development at 1756 Scott Street conforms to Section 45(2) of the Planning Act. The proposed development is appropriate and desirable for the use of the land and the surrounding area. The expansion will have no undue or adverse impacts on surrounding properties. The permission application is consistent with the Provincial Policy Statement and will contribute to safe, healthy, and liveable communities. The permission to expand a legal non-conforming use on the Subject Site represents good land use planning.



In support of the applications for permission, please find enclosed:

- Cover Letter (one copy)
- Complete Permission Application Form (one original copy)
- Survey Plan (one 8.5x11 copy and one 11x17 copy)
- Site Plan (one 8.5x11 copy and one 11x17 copy)
- Elevation Drawings (one 8.5x11 copy and one 11x17 copy)
- Tree Information Report (one copy)

Should you have any questions regarding these applications, please do not hesitate to contact the undersigned.

Yours truly,

**NOVATECH**



Jeffrey Kelly, MCIP, RPP  
Project Planner