



**COMMITTEE OF ADJUSTMENT
OF THE CITY OF OTTAWA**

**DECISION
MINOR VARIANCE / PERMISSION**
(Section 45 of the *Planning Act*)

File No.: D08-02-22/A-00240
Owner(s): Neil Watanabe & Miranda Jill Davidson
Location: 144 Barton Circle
Ward: 19 - Cumberland
Legal Description: Lot 22, Registered Plan 4M-1580
Zoning: R3YY[2269]
Zoning By-law: 2008-250

Notice was given and a Public Hearing was held on **September 21, 2022**, as required by the *Planning Act*.

PURPOSE OF THE APPLICATION:

The Owners want to construct an uncovered deck at the rear of their existing dwelling, as shown on the plans filed with Committee.

RELIEF REQUIRED:

The Owners require the Authority of the Committee for a Minor Variance from the Zoning By-law to permit **an uncovered deck to project 3.66 metres into the required rear yard** ~~increased projection (uncovered deck) into the rear yard of 3.66 metres,~~ whereas the Zoning By-law permits a maximum projection of 2 metres into a required rear yard.

The application indicates that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING:

The Panel Chair administered an oath to Neil Watanabe, one of the Owners of the property, who confirmed that the statutory notice posting requirements were satisfied.

The Committee noted that requested variance should be amended to read as follows:

The Owners require the Authority of the Committee for a Minor Variance from the Zoning By-law to permit **an uncovered deck to project 3.66 metres into the required rear yard** ~~increased projection (uncovered deck) into the rear yard of 3.66 metres~~, whereas the Zoning By-law permits a maximum projection of 2 metres into a required rear yard.

With the concurrence of Mr. Watanabe, the application was amended accordingly.

The Committee also heard from Hany Gervis of 146 Barton Circle, who raised concerns with the potential for overlook onto his property and its impact on his privacy, as well as a lack of consultation undertaken by the Owners.

In addressing the concerns raised, Mr. Watanabe indicated that a privacy screen could be provided along the south side of the deck. In response to questions from the Committee, Mr. Watanabe agreed to amend his plans to reflect his intent to provide adequate privacy screening along the southerly elevation of the proposed deck as a condition of any forthcoming approval.

Siobhan Kelly of the City's Planning Real Estate and Economic Development Department was also in attendance and confirmed that she had no concerns with the application.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

The Committee considered any written and oral submissions relating to the application in making its Decision.

The Committee has the power to authorize a minor variance from the provisions of the Zoning By-law if, in its opinion, the application meets all four requirements under subsection 45(1) of the *Planning Act*. It requires consideration of whether the variance is minor, is desirable for the appropriate development or use of the land, building or structure, and whether the general intent and purpose of the Official Plan and the Zoning By-law are maintained.

Based on the evidence, the Committee is satisfied that the requested variance meets all four requirements under subsection 45(1) of the *Planning Act*.

The Committee notes that the City's Planning Report raises "no concerns" regarding the application, highlighting that: "The intent of the [relevant] provision is to provide adequate landscaping in the rear yard and to minimize potential privacy impacts from raised decks on adjacent yards. As proposed, the deck is setback 2.92 metres from the rear lot line and the existing dwelling exceeds the minimum required rear yard setback. Accordingly, staff is satisfied that space remains available in the rear yard for soft landscaping." The Committee further notes that the installation of a privacy screen will also aid in the preservation of the neighbours' privacy.

Considering the circumstances, the Committee finds that, because the proposal fits well within its context, the requested variance is, from a planning and public interest point of view, desirable for the appropriate use of the land, building or structure on the property, and relative to the neighbouring lands. The Committee also finds that, because the proposal respects the character of the neighbourhood, the requested variance maintains the general intent and purpose of the Official Plan. In addition, the Committee finds that the requested variance maintains the general intent and purpose of the Zoning By-law because the proposal represents orderly development. Moreover, the Committee finds that the requested variance is minor because it will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general, noting in particular the applicant's agreement to provide a privacy screen along the south side of the deck, to preserve the privacy of the immediate neighbour.

The Committee therefore authorizes the requested variance, **subject to** the location and size of the proposed construction being in accordance with the site plan filed and Committee of Adjustment date-stamped August 5, 2022, and the revised elevation plans filed and Committee of Adjustment date-stamped September 22, 2022, as they relate to the requested variance.

NOTICE OF RIGHT TO APPEAL:

To appeal this decision to the Ontario Land Tribunal (OLT), a completed appeal form along with payment must be received by the Secretary-Treasurer of the Committee of Adjustment by **October 20, 2022**, delivered by email at cofa@ottawa.ca and/or by mail or courier to the following address:

Secretary-Treasurer, Committee of Adjustment,
101 CentrepoinTE Drive, 4th floor, Ottawa, Ontario, K2G 5K7

The Appeal Form is available on the OLT website at <https://olt.gov.on.ca/>. The OLT has established a filing fee of \$400.00 per type of application with an additional filing fee of \$25.00 for each secondary application. Payment can be made by certified cheque or money order made payable to the Ontario Minister of Finance, or by credit card. Please indicate on the Appeal Form if you wish to pay by credit card. If you have any questions about the appeal process, please contact the Committee of Adjustment office by calling 613-580-2436 or by email at cofa@ottawa.ca.

Only individuals, corporations and public bodies may appeal Decisions in respect of applications for consent to the OLT. A notice of appeal may not be filed by an unincorporated association or group. However, a Notice of Appeal may be filed in the name of an individual who is a Member of the Association or group on its behalf.

Please note that there are no provisions for the Committee of Adjustment or the OLT to extend the statutory deadline to file an appeal. If the deadline is not met, the OLT does not have the authority to hold a hearing to consider your appeal.

**DECISION SIGNATURE PAGE
PAGE DE SIGNATURE DE LA DÉCISION**

File No. / Dossier n°: D08-02-22/A-00240
Owner(s) / Propriétaire(s): Neil Watanabe & Miranda Jill Davidson
Location / Emplacement: 144 Barton Circle

We, the undersigned, concur in the decision and the reasons set out by the Committee of Adjustment.

Nous, soussignés, souscrivons à la décision et aux motifs rendus par le Comité de dérogation.

“ANN M. TREMBLAY”

**ANN M. TREMBLAY
CHAIR / PRÉSIDENTE**

“Kathleen Willis”

**KATHLEEN WILLIS
MEMBER / MEMBRE**

“Scott Hindle”

**SCOTT HINDLE
MEMBER / MEMBRE**

“Colin White”

**COLIN WHITE
MEMBER / MEMBRE**


“Julia Markovich”

**JULIA MARKOVICH
MEMBER / MEMBRE**

I certify that this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa.

Je certifie que celle-ci est une copie conforme de la décision rendue par le Comité de dérogation de la Ville d'Ottawa.

**Date of Decision / Date de la décision
September 29, 2022 / 29 septembre 2022**


**Michel Bellemare
Secretary-Treasurer / Secrétaire-trésorier**