



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

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

File No.: D08-02-22/A-00221
Owner(s): 2707120 Ontario Inc.
Location: 436 Athlone Avenue
Ward: 15-Kitchissippi
Legal Description: Lot 100, Registered Plan 272
Zoning: R4UC[2685]
Zoning By-law: 2008-250

Notice was given and a Public Hearing was held on **September 21 and October 5, 2022**, as required by the *Planning Act*.

PURPOSE OF THE APPLICATION:

The Owner wants to construct a three-storey (plus basement) low-rise apartment building for a total of 16 units which include two-bedroom units and a mix of one-bedroom units and bachelors, as shown on plans filed with the Committee.

RELIEF REQUIRED:

The Owner requires the Authority of the Committee for Minor Variances from the Zoning By-law as follows:

- a) To permit a reduced rear yard setback of 25% of the lot depth or 7.6 metres, whereas the By-law states that the minimum required rear yard setback is 30% of the lot depth or 9.1 metres.
- b) ~~To permit a reduced landscape buffer at the rear property line to 0 metres, whereas the By-law requires a 3-metre landscape buffer at the rear property line.~~
To permit a reduced landscape buffer at the rear property line comprising of an area equal to 37.9 square metres and abutting 40 per cent of the rear lot line, whereas the By-law requires a minimum landscape buffer that comprises an area of 45.86 square metres and abutting at least 50 per cent of the rear lot line.

- c) ~~To permit a reduced rear yard setback of 0 metres for bike sheds, whereas the By-law requires a minimum rear yard setback of 0.6 metre for an accessory structure.~~
- d) To reduce the minimum required tenant parking spaces to 0, whereas the By-law requires a minimum of 2 parking spaces.
- e) To reduce the minimum required visitor parking spaces to 0, whereas the By-law requires a minimum of 0.4 parking spaces.

The application indicates that the Property is the subject of a Site Plan Application (D07-12-22-0086), under the *Planning Act*.

PUBLIC HEARING:

Prior to the Hearing on September 21, 2022, the Committee received an adjournment request from Margot Linker, of the City's Planning, Real Estate and Economic Development Department (PRED), on the bases that the Applicant either apply for additional variances or submit revised plans for the bay window.

At the Hearing the Committee heard from Ms. Linker, who reiterated the department's request for the adjournment. The Committee also heard from Ms. Hill, who was in agreement to the adjournment request. She also requested that the application be adjourned to the next scheduled Public Hearing, October 5, 2022.

Also in attendance was Larry Wong, of 440 Dawson Avenue, and David Morgan, of 440 Athlone Avenue. With the concurrence of all parties the application was adjourned to the Hearing scheduled for October 5, 2022.

At the renewed Hearing on October 5, 2022, the Panel Chair administered an oath to Ms. Hill, who confirmed that the statutory notice posting requirements were satisfied. Ms. Hill, who appeared along with Peter Hume, also representing the Applicant, provided the Committee with a full presentation. Ms. Hill confirmed that the bay windows as shown on the plans were zoning complaint. Mr. Hume confirmed that if the site was 11 square metres smaller in area, then parking for the proposed apartment building would not be required under the Zoning By-law.

Ms. Linker was also in attendance, who stated no concerns with the application. Ms. Linker cautioned Ms. Hill, that in her opinion, the windows defined in an internal practice bulletin from Building Code Services and were not considered zoning complaint. Ms. Hill confirmed that she wished to proceed with the plans as filed and would deal with the interpretation of the bay windows at the time of building permit issuance.

Ms. Linker stated no concerns with the application. In reference to her revised report on file, Ms. Linker stated that with the submission of revised plans, variance (c) could be deleted and variance (b) as set out in the notice should be amended, as follows:

- b) ~~To permit a reduced landscape buffer at the rear property line to 0 metres, whereas the By-law requires a 3-metre landscape buffer at the rear property line.~~
To permit a reduced landscape buffer at the rear property line comprising of an area equal to 37.9 square metres and abutting 40 per cent of the rear lot line, whereas the By-law requires a minimum landscape buffer that comprises an area of 45.86 square metres and abutting at least 50 per cent of the rear lot line.
- c) ~~To permit a reduced rear yard setback of 0 metres for bike sheds, whereas the By-law requires a minimum rear yard setback of 0.6 metre for an accessory structure.~~

With all parties in agreement, the application was amended accordingly.

The Committee heard presentations in opposition from the following area residents:

- Larry Wong, of 440 Dawson Avenue
- David Morgan, of 440 Athlone Avenue
- Geoff Lewis, of 263 Wesley Avenue
- Aileen Davies, of 442 Athlone Avenue

The concerns and objections raised were numerous. They touched upon the proposed scale of construction, the setbacks of the accessory structures in the rear yard, mature trees located in the front yard, lack of parking, the number of proposed dwelling units and the loss of the midblock green effect with the reduced rear yard setback being proposed.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED IN PART AS AMENDED

The Committee considered any written and oral submissions relating to the application in making its Decision, including letters of objection.

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 variances (b), (d) and (e) meet all four requirements under subsection 45(1) of the *Planning Act*.

The Committee notes the City's Planning Report highlights "no concerns" with the applications, highlighting that: "General Urban Area policies state that the City shall generally be supportive of a broad mix of dwelling typologies within neighbourhoods subject to the mitigation of any issues arising from parking, excess light, scale or

contextual incompatibilities. Infill development shall ensure existing neighbourhood character is not impacted.”

Considering the circumstances, the Committee finds that, because the proposal fits well in the neighbourhood, the requested variances (b), (d) and (e) are, 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 variances (b), (d) and (e) maintain the general intent and purpose of the Official Plan because the proposal respects the character of the neighbourhood and contributes discreet infill development in the urban area. In addition, the Committee finds that variances (b), (d) and (e) maintain the general intent and purpose of the Zoning By-law because the proposal represents orderly development on the property that is compatible with the neighbourhood. Moreover, the Committee finds that the variances (b), (d) and (e) are minor because they will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.

Conversely, based on the evidence, the Committee is not satisfied that rear yard setback variance (a) meets all four requirements under subsection 45(1) of the *Planning Act*.

Specifically, the Committee finds insufficient evidence was presented that variance (a) is, from a planning and public interest point of view, desirable for the appropriate development or use of the land, building or structure on the property, and relative to the neighbouring lands. Failing one of the four statutory requirements, the Committee is unable to authorize the reduced rear yard.

The Committee authorizes variances (b), (d) and (e), **subject to** the location and size of the proposed construction being in accordance with the revised plans filed, Committee of Adjustment date stamped October 5, 2022, as they relate to the requested variances.

The Committee does not authorize variance (a).

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 **November 3, 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-00221
Owner(s) / Propriétaire(s): 2707120 Ontario Inc.
Location / Emplacement: 436 Athlone Avenue

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.

“John Blatherwick”

**JOHN BLATHERWICK
VICE-CHAIR / VICE-PRÉSIDENT**

Absent / Absent

**STAN WILDER
MEMBER / MEMBRE**

“Heather MacLean”

**HEATHER MACLEAN
MEMBER / MEMBRE**

“Michael Wildman”

**MICHAEL WILDMAN
MEMBER / MEMBRE**

“Colin White”

**COLIN WHITE
MEMBER / MEMBRE**

Absent / Absente

**BONNIE OAKES CHARRON
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
October 14, 2022 / 14 octobre 2022**

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