



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

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

File No.: D08-02-22/A-00118 & D08-02-22/A-00119
Owner(s): Tolou Group Inc.
Location: 308 Atlantis
Ward: 15-Kitchissippi
Legal Description: Lot 214, Reg. Plan 4M-28
Zoning: R3E
Zoning By-law: 2008-250

Notice was given and a Public Hearing was held on **June 15 and October 19, 2022**, as required by the *Planning Act*.

PURPOSE OF THE APPLICATION:

At its Hearing on June 15, 2022, the Committee adjourned these applications to permit the Owner time to address the concerns of both the Planning, Real Estate and Economic Development Department and the Forestry Services Branch. The Owner has revised the Minor Variance Applications and wants to proceed with the applications.

The Owner has filed an Application for Consent (D08-01-22/B-00136) which, if approved, will have the effect of creating two separate parcels of. The proposed new lots and development will not be in conformity with the requirements of the Zoning By-law.

RELIEF REQUIRED:

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

A-00118: 308 Atlantis Avenue, Part 1 (existing detached dwelling):

- a) To permit a reduced lot width of 7.33 metres, whereas the By-law requires a minimum lot width of 15 metres. (new)
- b) To permit a reduced lot area of 233.4 square metres, whereas the By-law requires a minimum lot area of 450 square metres

- c) To permit a reduced interior side yard northerly setback of 0.52 metres, whereas the By-law requires a minimum interior side yard setback of 1.2 metres.
- d) ~~To permit a reduced parking space length of 2.43 metres whereas the By-law requires a parking space length to be 5.2 metres (new)~~

A-00119: 310 Atlantis Avenue, Part 2 (proposed two-storey detached dwelling):

- e) To permit a reduced lot width of 7.91 metres, whereas the By-law requires a minimum lot width of 15 metres. (new)
- f) To permit a reduced lot area of 241 square metres, whereas the By-law requires a minimum lot area of 450 square metres
- g) To permit a reduced interior northerly side yard setback of 0.61 metres, whereas the By-law requires a minimum interior side yard setback of 1.2 metres
- h) To permit a reduced rear yard setback of 24.2% of the lot depth or 7.38 metres, whereas the By-law requires a minimum rear yard setback of is 28% of the lot depth or 8.53 metres but may not less than 6 metres and may not exceed 7.5 metres. (new)
- i) To permit a reduced rear yard area of 24.2% of the lot area or 58.37 square metres, whereas the By-law requires a minimum rear yard area of 25% of the lot area, or in this case, rear yard area of 60.25 square metres. (new)

The applications indicate that the Property is the subject of the above-noted Consent Application under the *Planning Act*.

PUBLIC HEARING:

Prior to the Hearing on June 15, 2022, the Committee received an adjournment request from Craig Hamilton of the City's Planning, Real Estate and Economic Development Department (PRED), on the basis that additional variances and a Tree Information Report were required. At the Hearing, the Committee heard from Joseph Vahidi, Agent for the Applicant, who confirmed that he would seek the additional variances identified by the City Planner and was in agreement with the adjournment requested by the department. With the concurrence of all parties the applications were adjourned *sine die*.

At the renewed Hearing on October 19, 2022, the Panel Chair administered an oath to Mr. Vahidi, who confirmed that the statutory notice posting requirements were satisfied. Mr. Vahidi provided the Committee with a brief presentation explaining that since the original Hearing in June, the plans had been revised to protect the two trees at the front of the new dwelling.

The Committee heard from Mr. Hamilton, of the City's PRED, who explained that the initial concerns regarding the reduced interior side yard in relation to the tree has been alleviated with the submission of revised plans. The department still had concerns with the reduced side yard setback but notes that access is still provided to the rear yard through the larger side yard. In response to questions from the Committee, Mr. Hamilton indicated further concerns with the requested variance for reduced parking space length, as it could potentially lead to a vehicle parking on the City's Right-of-Way. After some discussion and acknowledging Mr. Hamilton's concerns, Mr. Vahidi, amended the application to remove variance (d).

With the concurrence of all parties the application was amended accordingly.

The Committee heard from Haley Murray, the City's Infill Forester, who confirmed that she was satisfied with the revisions to the plans to protect trees #1 and #3.

Also in attendance was Patricia Le Saux, representing the Westboro Beach Community Association. Ms. Le Saux expressed that the association was in support of the proposed development. Josh Svatek, of 314 Atlantis Avenue and Rod Thiessen, of 304 Atlantis Avenue, also were in attendance and spoke in favour of the application. Mr. Thiessen raised some concern with the removal of variance (d), as without that relief, no on-site parking could be accommodated on the property, leading to more demand for on street parking.

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

The Committee considered any written and oral submissions relating to the application in making its Decision, including the expressions of support from the Westboro Beach Community Association and the neighbours.

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 (a), (b), (c), (e), (f), (h) and (i) meet all four requirements under subsection 45(1) of the *Planning Act*.

The Committee notes the City's Planning Report highlights "minor concerns" with the applications, highlighting that: "Staff concerns with the proposed variance to reduce the minimum interior side yard setback to 0.6m have largely been alleviated. Provided plans have been updated to ensure the protection of Tree #1 and Tree #3, as noted in the Tree Information Report. Staff would encourage the applicant to provide a greater

interior side yard setback for the purposes of exterior maintenance and access to the rear yard, if possible.”

Considering the circumstances, the Committee finds that, because the proposal fits well in the neighbourhood, the requested variances (a), (b), (c), (e), (f), (h) and (i) 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 (a), (b), (c), (e), (f), (h) and (i) 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 (a), (b), (c), (e), (f), (h) and (i) 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 (a), (b), (c), (e), (f), (h) and (i) 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 reduced interior northerly side yard setback variance (g) meets all four requirements under subsection 45(1) of the *Planning Act*.

Specifically, the Committee finds insufficient evidence was presented that variance (g) 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 setback.

The Committee authorizes variances (a), (b), (e) and (f).

The Committee authorizes variance (c), **subject to** the relief applying to the existing dwelling known municipally as 308 Atlantis Avenue and being restricted to the life of this building only.

The Committee authorizes variances (h) and (i), **subject to** the location and size of the proposed construction being in accordance with the revised site plan filed, Committee of Adjustment date stamped September 9, 2022, and the revised elevation plans filed, Committee of Adjustment date stamped June 13, 2022, as they relate to the requested variances.

The Committee does not authorize variance (g).

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 17, 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-00118 & D08-02-22/A-00119
Owner(s) / Propriétaire(s): Tolou Group Inc.
Location / Emplacement: 308 Atlantis 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**

“Stan Wilder”

**STAN WILDER
MEMBER / MEMBRE**

“Heather MacLean”

**HEATHER MACLEAN
MEMBER / MEMBRE**

Absent / Absente

**BONNIE OAKES CHARRON
MEMBER / MEMBRE**

“Michael Wildman”

**MICHAEL WILDMAN
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 28, 2022 / 28 octobre 2022**

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