

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

Date of Decision:	December 16, 2022
File No(s):	D08-02-22/A-00270
Owner(s):	Louis Yam and Linh M. Ho
Location:	307 Picton Avenue
Ward:	15-Kitchissippi
Legal Description:	Part of Lot 8, Registered Plan 184
Zoning:	R4UB
Zoning By-law:	2008-250
Hearing Date:	December 7, 2022

PURPOSE OF THE APPLICATION

- [1] The Owners want to convert a three-unit dwelling to a low-rise apartment building with the addition of a basement unit, as shown on plans filed with the Committee.
- [2] At its hearing on October 19, 2022, the Committee adjourned the application *sine die* to allow the Owners time to revise their plans and identify any additional variances required. The Owners have since submitted revised application information.

RELIEF REQUIRED

- [3] The Owner requires the Authority of the Committee for Minor Variances from the Zoning By-law as follows:
 - a) To permit a reduced lot width of 9.0 metres, whereas the Zoning By-law requires a minimum lot width of 10 metres.
 - b) To permit a reduced lot area of 274.3 square metres, whereas the Zoning By-Law requires a minimum lot area of 300 square metres.
 - c) To permit a reduced **westerly** interior side yard setback of 1.2 metres, whereas the By-law requires a minimum interior yard setback of 1.5 metres.
 - d) To permit a reduced front yard setback of 2.9 metres, whereas the By-law requires a minimum front yard setback of 4.5 metres. **(new)**

- e) To permit a maximum of two motor vehicle parking spaces, whereas the By-law does not permit motor vehicle parking. **(new)**
 - f) To permit reduced soft landscaping of 32 square metres in the rear yard, whereas the By-law requires a minimum area of soft landscaping of 35 square metres in the rear yard. **(new)**
 - g) To permit a reduced soft landscaped rectangular area in the rear yard to be 14.2 square metres, whereas the By-law requires a minimum of one aggregated, softly-landscaped area in the rear yard of at least 25 square metres. **(new)**
- [4] The Application indicates that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [5] The Chair administered an oath to Caleb Miller, Agent for the Owners, who confirmed that the statutory notice posting requirements were satisfied.
- [6] The Committee noted that variance (c) is amended to read as follows:
- c) To permit a reduced **westerly** interior side yard setback of 1.2 metres, whereas the By-law requires a minimum interior yard setback of 1.5 metres.
- [7] With the concurrence of Mr. Miller, the application was amended accordingly.
- [8] Mr. Miller provided the Committee with an overview of the application and stated that the conversion of the basement unit into a dwelling unit results in change of land use, namely a low-rise apartment. As a result, the subject property no longer complies with the Zoning By-law. Mr. Miller confirmed that the requested variances are not the result of any changes to existing conditions.
- [9] In response to questions from the Committee, Mr. Miller confirmed that the triplex was built in 2015.
- [10] The Committee then heard from Murray Chown, also representing the Owners, who stated that the Planning Department has no concerns with the requested variances relating to the change of land use. Mr. Chown emphasized that concerns relate to the existing parking spaces only. He highlighted that the parking spaces are there to serve current tenants and any changes would occur over time. Also, when the triplex was built, , the Zoning By-law did not prohibit parking spaces for either a low-rise apartment or a triplex building. It was Mr. Chown's opinion that the application is consistent with the policies of the new Official Plan.
- [11] In response to questions from the Committee, Mr. Chown confirmed that the proposed soft landscaping is 32 square metres, 3 square metres short of the

required minimum area. He also confirmed that, when the triplex was built, soft landscaping in the rear yard was not a zoning requirement and has become one only for low-rise apartments.

- [12] City Planner Margot Linker summarized the concerns outlined in her report, highlighting the R4UB Zone prioritizes soft landscaping rather than parking spaces. She stated that the Zoning By-law does not require parking on the subject property that is also close to rapid transit.

**DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED
AS AMENDED**

- [13] The Committee considered all written and oral submissions relating to the application in making its Decision.
- [14] 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.
- [15] Based on the evidence, the Committee is satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [16] The Committee notes that the City's Planning Report raises "some concerns" with the proposal to provide parking spaces that are not required under the Zoning By-law, and at the expense of soft landscaping.
- [17] The Committee also notes that no evidence was presented that the variances would result in any unacceptable adverse impact on adjacent properties or the neighbourhood in general.
- [18] Considering the circumstances, the Committee finds that, because the proposal facilitates modest residential intensification that fits well in the neighbourhood, the requested variances are, 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.
- [19] The Committee also finds that the requested variances maintain the general intent and purpose of the Official Plan because the conversion of a three-unit dwelling to a low-rise apartment is an example of ground-oriented intensification in the General Urban Area that respects the character of the neighbourhood.
- [20] In addition, the Committee finds that the requested variances 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 surrounding area.

- [21] Moreover, the Committee finds that the requested variances, both individually and cumulatively, are minor because they will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.
- [22] THE COMMITTEE OF ADJUSTMENT authorizes variance (a) and (b).
- [23] THE COMMITTEE OF ADJUSTMENT authorizes variances (c) and (d) **subject to** the relief applying to the existing dwelling known municipally as 307 Picton Avenue and being restricted to the life of this building only.
- [24] THE COMMITTEE OF ADJUSTMENT authorizes variances (e), (f), and (g), **subject to** the location and size of the proposed construction being in accordance with the site plan filed, Committee of Adjustment date stamped September 23, 2022, as they relate to the requested variances.

"John Blatherwick"
JOHN BLATHERWICK
VICE-CHAIR

Absent
STAN WILDER
MEMBER

"Heather MacLean"
HEATHER MACLEAN
MEMBER

"Bonnie Oakes Charron"
BONNIE OAKES CHARRON
MEMBER

"Michael Wildman"
MICHAEL WILDMAN
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **December 16, 2022**.



Michel Bellemare
Secretary-Treasurer

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 **January 5, 2023**, delivered by email at cofa@ottawa.ca and/or by mail or courier to the following address:

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

The Appeal Form is available on the OLT website at <https://olt.gov.on.ca/>. The Ontario Land Tribunal 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 the applicant, the Minister or a specified person or public body that has an interest in the matter may appeal the decision to the Ontario Land Tribunal. A “specified person” does not include an individual or a community association.

There are no provisions for the Committee of Adjustment or the Ontario Land Tribunal 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.

Ce document est également offert en français.

Committee of Adjustment
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