

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

Date of Decision: December 16, 2022
File No(s): D08-02-22/A-00285 to D08-02-22/A-00288
Owner(s): 4176855 Canada Inc.
Location: 432 and 436 Ravenhill Avenue
Ward: 15-Kitchissippi
Legal Description: Part of Lots 10 and 11, West Cole Avenue, Registered Plan 235
Zoning: R3R[2687] H(8.5) and R4UA[2686] H (8.5)
Zoning By-law: 2008-250
Hearing Date: December 7, 2022

PURPOSE OF THE APPLICATION

- [1] The Owner has filed Consent Applications (~~D08-01-22/B-00299~~ **D08-01-22/B-00300** to D08-01-22/B-00302) which, if approved, will have the effect of creating three separate parcels of land. It is proposed to create three new detached dwellings. The proposed parcels and development will not be in conformity with the requirements of the Zoning By-law.

RELIEF REQUIRED

- [2] The Owner require the Authority of the Committee for the following Minor Variances from the Zoning By-law:

D08-02-22/A-00285, Part of Lots 10 & 11, Plan 235, 436 Ravenhill Avenue (one half of an existing semi-detached dwelling)

- a) To permit a reduced lot width of 5.5 metres, whereas the By-law requires a minimum lot width of 6 metres.
- b) To permit a reduced lot area of 136 square metres, whereas the By-law requires a minimum lot area of 180 square metres.
- c) To permit a reduced interior side yard setback of 0.4 metres, whereas the By-law requires a minimum interior side yard setback of 1.5 metres.

- d) To permit a reduced rear yard setback of 4 metres (the lot depth minus 20.51 metres) whereas the By-law requires a minimum rear yard setback of 7.01 metres (the lot depth minus 17.5).
- e) To permit a reduced rear yard area of 22 square metres (16% of the lot area), whereas the By-law requires a minimum rear yard area of 34 square meters (25% of the lot area)
- f) To permit a reduced rear yard soft landscape buffer of 4 metres, whereas the By-law requires a minimum rear yard soft landscape buffer of 4.5 metres.

D08-02-22/A-00286, Parts 5, 6 & 7 on the draft 4R-Plan, 458 Cole Avenue (proposed detached dwelling)

- g) To permit a reduced interior side yard setback of 1.2 metres, whereas the By-law requires a minimum interior side yard setback of 1.5 metres
- h) To permit a reduced rear yard setback of 3.9 metres (14 % of the lot depth), whereas the By-law requires a minimum rear yard setback of 7.9 metres (30% of the lot depth).
- i) To permit a reduced rear yard area of 43 square metres (13% of the lot area), whereas the By-law requires a minimum rear yard area of 80 square metres (25% of the lot area).
- j) To permit a reduced rear yard soft landscape buffer of 0 metres, whereas the By-law requires a minimum rear yard soft landscape buffer of 4.5 metres.

D08-02-22/A-00287, Parts 3 & 4 on the draft 4R-Plan, 454 Cole Avenue (proposed detached dwelling)

- k) To permit an increased building height of 10.4 metres, whereas the By-law permits a maximum building height of 10 metres.
- l) To permit a reduced lot area of 225 square metres, whereas the By-law requires a minimum lot area of 300 square metres.
- m) To permit a reduced interior side yard setback of 0.6 metres, whereas the By-law requires a minimum interior side yard setback of 1.5 metres.
- n) To permit a deck above the first floor to project 1.5 metres into the rear yard, whereas the By-law states that a deck above the first floor may project a maximum of 0 metres.
- o) To permit a reduced rear yard soft landscape buffer of 0 metres, whereas the By-law requires a minimum rear yard soft landscape buffer of 4.5 metres.

D08-02-22/A-00288, Parts 1 & 2 on the draft 4R-Plan, 432 Ravenhill Avenue
(proposed detached dwelling)

- p) To permit a reduced lot area of 241 square metres, whereas the By-law requires a minimum lot area of 300 square metres.
 - q) To permit a reduced corner side yard setback of 1.5 metres, whereas the By-law requires a minimum corner side yard setback of 3.3 metres.
 - r) To permit a reduced interior side yard setback of 1.2 metres, whereas the By-law requires a minimum interior side yard setback of 1.5 metres.
 - s) To permit a deck above the first floor to project 1.5 metres into the rear yard, whereas the By-law states that a deck above the first floor may project a maximum of 0 metres.
 - t) To permit a reduced rear yard soft landscape buffer of 0.2 metres, whereas the By-law requires a minimum rear yard soft landscape buffer of 4.5 metre
- [3] The applications indicate that the Property is the subject of the above noted Consent Applications under the *Planning Act*.

PUBLIC HEARING

- [4] Prior to the scheduled Hearing on November 2, 2022, the Committee received an adjournment request from Kathleen Klassen of 438 Ravenhill Avenue for additional time to discuss the application with her solicitor. Debbie Bellinger, solicitor for Ms. Klassen, raised concerns relating to the shared laneway.
- [5] Murray Chown and Ryan Poulton, Agent for the Applicants, and Bryan Ernst and Kevin McMahon, Owners of the property, were also in attendance. Mr. McMahon highlighted efforts to consult with Ms. Klassen and Ms. Bellinger since August 2022 and indicated the proposal would not be amended. Mr. McMahon requested that the hearing of the applications proceed as scheduled. Mr. Chown highlighted that Ms. Klassen had ample time to discuss the matter with all parties and that adjourning the application would not accomplish anything. He also requested that the hearing of the applications proceed as scheduled. Ms. Bellinger emphasized that the applications are complex and that an adjournment would be appropriate.
- [6] After some discussion, the Committee agreed that the applications be adjourned to December 7, 2022, to allow time for Ms. Bellinger and Ms. Klassen to further discuss their concerns with the Applicants.
- [7] At the Hearing on December 7, 2022, the Panel Chair administered an oath to Mr. Ernst who confirmed that the statutory notice posting requirements were satisfied.

- [8] Mr. Poulton provided the Committee with a slide presentation that included 3D renderings, aerial photographs, draft plans, architectural plans, and a landscape plan.
- [9] The Committee also heard from Ms. Bellinger, who highlighted the definition of a “planned unit development” under the Zoning By-law: “two or more residential use buildings on the same lot” with certain exceptions. Ms. Bellinger believed the proposed development should be reviewed as a planned unit development because the properties had merged on title and are now considered to be a single lot. She also raised concerns about adverse impacts on surrounding properties because of no rear yard setbacks and rear yard buffering, encroachment of decks into the rear yard, shared services with 436 Ravenhill, inconsistency with the streetscape character, garbage collection, and snow removal. Ms. Bellinger believed the proposed development is not minor nor consistent with the intent and purpose of the Zoning By-law.
- [10] Ms. Klassen also expressed concerns regarding impact on the streetscape character, loss of privacy, loss of an existing hedge, and problematic sharing of the existing laneway.
- [11] In response to questions from the Committee, Ms. Klassen confirmed that, if approved, the laneway will no longer be functional because access would be challenging because of the turning radius and little space for larger vehicles to maneuver.
- [12] Mr. Chown emphasized the proposed development will not alter the configuration nor the functionality of access to the rear yard. He stated that the amount of proposed soft landscaping is more than required. He also stated the proposal is not considered a “planned unit development”.
- [13] Ms. Linker confirmed that the department opposes the consent and minor variance applications and summarized the concerns outlined in her Planning Report, noting the cumulative impact of this configuration to on-site soft landscaping and the impact of rear-facing balconies and reduced rear yards on 436 Ravenhill Avenue. It was her opinion that the proposed development does not meet all four statutory requirements for the minor variance applications, and in particular, does not maintain the general intent and purpose of both the Zoning By-law and Official Plan.
- [14] Responding to the Committee’s questions, Ms. Linker confirmed that a Zoning By-law Amendment is not required in this case. Ms. Linker also confirmed the proposed application before the Committee is not considered a “planned unit development”.
- [15] Also in attendance was Marc Lemay, lawyer for the Applicants.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS REFUSED

- [16] The Committee considered all written and oral submissions relating to the applications in making its Decision.
- [17] 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.
- [18] Based on the evidence, the Committee is not satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [19] The Committee notes that the City's Planning, Real Estate and Economic Development Department "opposes" the applications. The Planning Report highlights that "[t]he subject site is within the Westboro Overlay and underwent major rezoning to consider and address residents' concerns in a manner consistent with current and new Official Plan policies for intensification." The report also highlights that: "Staff are of the opinion that the intent and purpose of the Zoning By-law and Official Plan are not met with respect to the lack of provision of on-site soft landscaping and the impact of rear-facing balconies and reduced rear yards on 436 Ravenhill Avenue. Staff believe that the reduction in area will result in an overall built form that does not properly manage its impacts on-site and is therefore not desirable for the appropriate development or use of the property, and are not minor in terms of the cumulative effect of the proposed variances."
- [20] Considering the circumstances, the Committee finds that, because the proposal does not fit well in the neighbourhood and would amount to overdevelopment of the site, the requested variances are, from a planning and public interest point of view, not desirable for the appropriate development or use of the land, building or structure on the property, and relative to the neighbouring lands.
- [21] The Committee also finds that the requested variances do not maintain the general intent and purpose of the Official Plan, including landscaped patterns when implementing the intensification objectives, because the proposal does not respect the character of the area.
- [22] In addition, the Committee finds that the requested variances do not maintain the general intent and purpose of the Zoning By-law—including the Westboro Overlay provisions requiring new infill development to maintain and reinforce landscaping and buffering that is representative of the existing lot fabric and development context in the neighbourhood—because the proposal does not represent orderly development of the property that is compatible with the surrounding area.

[23] Moreover, the Committee finds that the requested variances are, both individually and cumulatively, not minor because they will create an unacceptable adverse impact on abutting properties and the neighbourhood in general.

[24] THE COMMITTEE OF ADJUSTMENT therefore does not authorize the requested variances.

"John Blatherwick"
JOHN BLATHERWICK
VICE-CHAIR

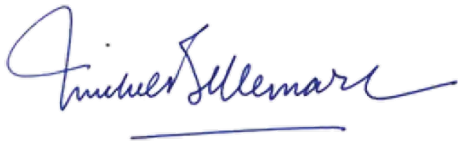
Absent
STAN WILDER
MEMBER

"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 CentrepoinTE 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.

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