

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

**Date of Decision:** December 16, 2022  
**File No(s):** D08-02-22/A-00210  
**Owner(s):** R&Y Holdings Inc.  
**Location:** 16 Lowrey Street  
**Ward:** 15-Kitchissippi  
**Legal Description:** Part of Lot 65, Registered Plan 57  
**Zoning:** R4UB  
**Zoning By-law:** 2008-250  
**Hearing Date:** December 7, 2022

**PURPOSE OF THE APPLICATION**

- [1] The Owner wants to convert the existing three-unit dwelling into a four-unit low-rise apartment building, as shown on plans on file with the Committee.
- [2] At its hearing on October 5, 2022, the Committee adjourned the application *sine die*, to allow the Applicant time to apply for additional variances and to file a Streetscape Character Analysis (SCA).

**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 rear yard setback of 7.25 metres, **and a rear yard area of 22.6%**, or 24.03% of the lot depth, whereas the By-law requires a minimum side yard setback of 9.05 metres, or 30% of the lot depth **and a minimum rear yard area of 25%**.
  - b) To permit a reduced ~~northerly~~ **interior** side yard **setback** of 1.2 metres, whereas the By-law requires a minimum **interior** side yard **setback** of 1.5 metres.
  - c) ~~To permit a reduced southerly side yard setback of 1.2 metres, whereas the By-law requires a minimum side yard setback of 1.5 metres.~~

- d) To permit 14.5% of the area of the front façade to be recessed an additional 0.6 metres from the front setback line, whereas By-law requires at least 20% of the area of the front façade must be recessed an additional 0.6 metres from the front setback line. **(new)**
  - e) To permit a reduced garbage pathway width of 0.9 metres, whereas the By-law requires the garbage pathway width to be no less than 1.2 metres. **(new)**
  - f) To permit an interrupted path for the movement of garbage containers between a garbage storage area and the street line or travelled public lane, whereas the By-law states that a path for the movement of garbage containers between a garbage storage area and the street line or travelled public lane be uninterrupted by any window well, depression or grade change that would impede the movement of a wheeled garbage container. **(new)**
- [4] The application indicates that the Property is not the subject of any other current application under the *Planning Act*.

## PUBLIC HEARING

- [5] At the Hearing, the Panel Chair administered an oath to Amanda Sanford, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied.
- [6] In her presentation to the Committee, Ms. Sanford highlighted the SCA had been submitted as required by the Planning Department. Ms. Sanford stated that the requested variances were for existing conditions on the site. The building had been recently constructed as a triplex, and with the proposed addition of a fourth dwelling unit, the building would now be considered a four-unit low-rise apartment building, triggering the need to comply to additional provisions under the Zoning By-law.
- [7] In response to questions from the Committee, Ms. Sanford confirmed that the parking space at the front of the building had been removed as onsite parking is not permitted on a lot of this width and total area.
- [8] The Committee noted that, as highlighted in the Planning Report, variance (c) could be deleted, and variances (a) and (b) should be amended as follows:
- a) To permit a reduced rear yard setback of 7.25 metres, **and a rear yard area of 22.6%**, or 24.03% of the lot depth, whereas the By-law requires a minimum side yard setback of 9.05 metres, or 30% of the lot depth **and a minimum rear yard area of 25%**.
  - b) To permit a reduced ~~northerly~~ **interior** side yard **setback** of 1.2 metres, whereas the By-law requires a minimum **interior** side yard **setback** of 1.5

metres.

- c) ~~To permit a reduced southerly side yard setback of 1.2 metres, whereas the By-law requires a minimum side yard setback of 1.5 metres.~~

[9] With the concurrence of Ms. Sanford, the application was amended accordingly.

[10] The Committee also heard from Cheryl Parrott of 123 Bayview Station Road. She expressed concerns relating to health and safety regarding the movement of garbage down the north side yard, highlighting the already reduced setback and the encroachment of the neighbouring property onto the subject site. Ms. Parrott believed the south side yard would be the preferred path for moving garbage back and forth. In response, Ms. Sandford stated that the proposal would allow the south side yard to continue to function as the preferred pathway for moving garbage.

[11] City Planner Margot Linker of the Planning, Real Estate and Economic Development Department was also in attendance.

#### **DECISION AND REASONS OF THE COMMITTEE: APPLICATION REFUSED**

[12] The Committee considered all written and oral submissions relating to the application in making its Decision.

[13] 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.

[14] Based on the evidence, the Committee is not satisfied that requested variances (e) and (f) meet all four requirements under subsection 45() of the *Planning Act*. Also, only two of the four Members of the Committee that heard the application (Vice-Chair J. Blatherwick and Member M. Wildman) are satisfied that variances (a), (b) and (d) meet all four requirements under subsection 45(1) of the Act. Pursuant to the Committee's *Rules of Procedure*, any application on which there is a tie vote shall be deemed to be refused.

[15] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications. However, the report also highlights that "Staff recognize that in this particular application, the three-unit dwelling is already constructed and that the amount of room in the interior side yard for waste movement cannot be increased."

- [16] Considering the circumstances, the Committee (Vice-Chair J. Blatherwick and Member M. Wildman dissenting on variances (a), (b) and (d)) finds that the proposal is not functional for the proper maintenance of the subject property, and finds that insufficient evidence was presented demonstrating that the requested variances are desirable for the appropriate use of the land, building or structure on the property, and relative to the neighbouring lands, or that they maintain the general intent and purpose of the Official Plan and the Zoning By-law, or that they are minor.
- [17] THE COMMITTEE OF ADJUSTMENT therefore does not authorize the requested variances.

With Noted Dissent  
JOHN BLATHERWICK  
VICE-CHAIR

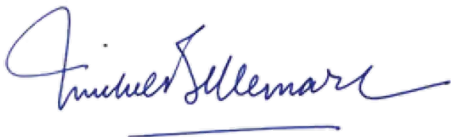
Absent  
STAN WILDER  
MEMBER

*"Heather MacLean"*  
HEATHER MACLEAN  
MEMBER

*"Bonnie Oakes Charron"*  
BONNIE OAKES CHARRON  
MEMBER

With Noted Dissent  
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](mailto:cofa@ottawa.ca) and/or by mail or courier to the following address:

Secretary-Treasurer, Committee of Adjustment,

101 CentrepoinTE Drive, 4<sup>th</sup> 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](mailto: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**  
City of Ottawa  
[Ottawa.ca/CommitteeofAdjustment](https://ottawa.ca/CommitteeofAdjustment)  
[cofa@ottawa.ca](mailto:cofa@ottawa.ca)  
613-580-2436



**Comité de dérogation**  
Ville d'Ottawa  
[Ottawa.ca/Comitedederogation](https://ottawa.ca/Comitedederogation)  
[cded@ottawa.ca](mailto:cded@ottawa.ca)  
613-580-2436