

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

Date of Decision:	January 20, 2023
File No(s):	D08-02-22/A-00295
Owner(s):	Jackson Homes Inc.
Location:	7459 Copeland Road
Ward:	21 – Rideau-Goulbourn
Legal Description:	Part of Lot 13, Concession 5, Geographic Township of Goulbourn
Zoning:	RU
Zoning By-law:	2008-250
Hearing Date:	January 11, 2023

PURPOSE OF THE APPLICATION

- [1] The Owner wants to construct a detached dwelling on their property.

RELIEF REQUIRED

- [2] The Owner requires the Authority of the Committee for a Minor Variance from the Zoning By-law to permit a reduced setback for the proposed dwelling from a mineral aggregate reserve zone (MR1) of 59.1 metres, whereas the By-law requires a minimum setback of 150 metres for a dwelling from a Mineral Aggregate Reserve Zone.
- [3] The application indicates that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [4] Prior to the scheduled hearing on November 16, 2022, the Committee received an adjournment request from Stephan Kukkonen, of the City's Planning, Real Estate and Economic Development Department, to allow the applicant time to file a revised Mineral Aggregate Reserve Zone (MR1A). Chris Clarke, Agent for the Applicant, was in agreement with the adjournment request. With the concurrence of all parties the application was adjourned to the Hearing scheduled for January 11, 2023.

- [5] At the hearing on January 11, 2023, the Panel Chair administered an oath to Josh Jackson, representing the Owner of the property, who confirmed that the statutory notice posting requirements were satisfied.
- [6] The Committee heard a presentation from Chris Clarke, Agent for the Applicant, and Gary McLaren, Aggregate Specialist, who addressed the variance in relation to the MR1 zone and the condition of the licenced pit with its depleted resources.
- [7] In response to questions from the Committee, Mr. Clarke confirmed that the house is constructed and the issue was not flagged at the building permit stage. Mr. McLaren confirmed there is no bedrock in this area and that the pit is strictly for sand and gravel.
- [8] City Planner Jack Graham stated that despite the revised Mineral Resource Impact Assessment received from the Applicant, the department still has concerns with the requested variance as it relates to the policies currently in place.
- [9] Tracy Zander, also representing the Applicant, was also in attendance.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

- [10] The Committee considered any written and oral submissions relating to the application in making its Decision.
- [11] 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.
- [12] Based on the evidence, the Committee is satisfied that the requested variance meets all four requirements under subsection 45(1) of the *Planning Act*.
- [13] The Committee notes that the City's Planning Report raises "significant concerns" regarding the application. The report highlights that "concerns regarding the proximity to the adjacent Mineral Resource Extraction zone remain". However, the Committee is satisfied that Mr. McLaren's analysis of the mineral resource impact is sufficient in addressing the review policies under the Official Plan.
- [14] The Committee also notes that no compelling evidence was presented that the variance would result in any unacceptable adverse impact on neighbouring properties.
- [15] Considering the circumstances, the Committee finds that, because the proposal fits well in the area, the requested variance 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.

- [16] The Committee also finds that the requested variance maintains the general intent and purpose of the Official Plan because the proposal is appropriate for its location while respecting the rural character of the area.
- [17] In addition, the Committee finds that the requested variance maintains the general intent and purpose of the Zoning By-law because the proposal represents orderly development of the property that is compatible with the surrounding area.
- [18] Moreover, the Committee finds that, because the proposal respects the character of the neighbourhood, the requested variance is minor because it will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.
- [19] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variance, **subject to** the following conditions:
1. That the Owner enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the Development Review Manager of the Relevant Branch within Planning, Infrastructure and Economic Development Department, or his/her designate, which provides the following covenant/notice that runs with the land and binds future Owner(s) on subsequent transfers to the effect of the following:

“The subject property lies within 60 metres of lands zoned for resource extraction and may be subject to levels of noise and dust that may be a nuisance, neither the owner of that resource nor the City of Ottawa bears responsibility, financial or otherwise, to provide solutions to the deficiency, such solutions being the sole responsibility of the home-owner.”

The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.
 2. The location and size of the proposed construction being in accordance with the revised plans filed, Committee of Adjustment date stamped October 11, 2022, as they relate to the requested variance.

"Fabian Poulin"
FABIAN POULIN
VICE-CHAIR

"Terence Otto"
TERENCE OTTO
MEMBER

"Steven Lewis"
STEVEN LEWIS
MEMBER

"Martin Vervoort"
MARTIN VERVOORT
MEMBER

"Jocelyn Chandler"
JOCELYN CHANDLER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **January 20, 2023**.



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 **February 9, 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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