

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

Date of Decision: January 20, 2023
File No(s): D08-02-22/A-00327
Owner(s): Brian Elder & Voahangy Thorp
Location: 15 Horned Lark Court
Ward: 19 – Orléans South-Navan
Legal Description: Lot 10, Concession 9, Geographic Township of Cumberland
Zoning: V1E[842r]
Zoning By-law: 2008-250
Hearing Date: January 11, 2023

PURPOSE OF THE APPLICATION

- [1] The Owners want to construct a detached dwelling on their property, as shown on plans filed with the Committee.

RELIEF REQUIRED

- [2] The Owners require authorization from the Committee for Minor Variances from the Zoning By-law to permit a reduced side yard setback from the westerly lot line of 55 metres, whereas the By-law requires a minimum side yard setback of 70 metres.
- [3] The application indicates that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [4] The Panel Chair administered an oath to Brian Elder, one of the Owners of the property, who confirmed that the statutory notice posting requirements were satisfied.
- [5] Tracy Zander, Agent for the Applicant, provided the Committee with an overview of the application, highlighting constraining property conditions for development. She also indicated that a noise study had been completed.

- [6] The Committee heard from City Planner Jack Graham, who stated that the planning department had received the response from the Applicant regarding the comments to the noise study. He confirmed that the department's concerns had been addressed and the condition requesting a noise and vibration attenuation study was no longer required.
- [7] The Committee also heard from James Holland of the South Nation Conservation Authority, who highlighted a steep slope running along the rear property boundary. He stated the property is at the toe of this slope where any erosion could have a negative impact at the top of the slope. Mr. Holland suggested it would be prudent to have an engineer evaluate the property and comment on any need for further study based on the proposal.
- [8] Eric Chatelain, also representing the Applicant, indicated that the house is far enough away from the top of the slope that it would not be an issue. He also confirmed, in response to questions from the Committee, that the subdivision was registered around 2018, and that a need for slope stability studies would presumably have been caught through the subdivision process. He further confirmed that there was a Geotechnical report on file and was able to confirm that a slope stability assessment was conducted by an engineering firm.
- [9] Considering the evidence provided by the Applicant's agents, the Committee did not feel that it was necessary to impose the condition requested in the Planning Report.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

- [10] The Committee considered all 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 City's Planning Report raises "concerns" regarding the application; however, the Committee notes that a response provided by the applicant's agents addresses those concerns to the satisfaction of the planning department.
- [14] The Committee also notes that no 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, because the proposal respects the character of the neighbourhood, the requested variance maintains the general intent and purpose of the Official Plan.
- [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 the requested variance is minor because it will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.

THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variance, **subject to** the location and size of the proposed construction being in accordance with the plans filed, Committee of Adjustment date stamped December 2, 2022, as they relate to the requested variance.

"Fabian Poulin"
FABIAN POULIN
VICE-CHAIR

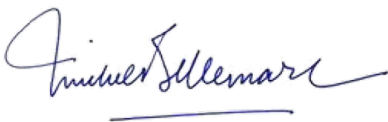
"Terence Otto"
TERENCE OTTO
MEMBER

"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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