

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

<b>Date of Decision:</b>	January 20, 2023
<b>File No(s):</b>	D08-02-22/A-00262
<b>Owner(s):</b>	Mark Rushton
<b>Location:</b>	860 Bayview Drive
<b>Ward:</b>	5 – West Carleton-March
<b>Legal Description:</b>	Lot 59 Registered Plan 424 and Lot 20, Concession 5, former Township of Torbolton
<b>Zoning:</b>	V1H
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	January 11, 2023

**PURPOSE OF THE APPLICATION**

- [1] The Owner wants to construct a two-storey detached dwelling, as shown on plans filed with the Committee. The existing dwelling has been demolished.

**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 of ~~21.5~~ **24.0** metres from the normal high-water mark whereas the By-Law requires a minimum yard setback of 30 metres from the normal high-water mark.
- [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 Mark Rushton, Owner, who confirmed that the statutory notice posting requirements were satisfied. Mr. Rushton confirmed that the application should be amended as follows:

The Owner requires the Authority of the Committee for a Minor Variance from the Zoning By-Law to permit a reduced setback of ~~21.5~~ **24.0** metres from the normal

high-water mark whereas the By-law requires a minimum setback of 30 metres from the normal high-water mark.

- [5] With the concurrence of all parties, the application was amended accordingly.
- [6] City Planner Sean Harrigan requested that the application be tied to plans filed on January 9, 2023, if approved.
- [7] Brittany Moy, of the Mississippi Valley Conservation Authority, was also in attendance.

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

- [8] The Committee considered all written and oral submissions relating to the application in making its Decision.
- [9] 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.
- [10] Based on the evidence, the Committee is satisfied that the requested variance meets all four requirements under subsection 45(1) of the *Planning Act*.
- [11] The Committee notes that the City's Planning Report raises "no concerns" regarding the application, highlighting that: "the previous site conditions consisted of two properties each with their own dwellings. Reducing this to one lot with one dwelling is a significant improvement".
- [12] The Committee also notes that no evidence was presented that the variance would result in any unacceptable adverse impact on neighbouring properties.
- [13] 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.
- [14] 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.
- [15] 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.

[16] 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 January 9, 2023, 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](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](http://Ottawa.ca/CommitteeofAdjustment)  
[cofa@ottawa.ca](mailto:cofa@ottawa.ca)  
613-580-2436



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