

DECISION

MINOR VARIANCE / PERMISSION

Section 45 of the *Planning Act*

Date of Decision:	March 10, 2023
File No(s):	D08-02-22/A-00229
Owner(s):	James Kubina
Location:	91 Anderson Street
Ward:	14 – Somerset
Legal Description:	Part of Lot 6, Registered Plan 51
Zoning:	R4UB
Zoning By-law:	2008-250
Hearing Date:	March 1, 2023

PURPOSE OF THE APPLICATION

- [1] The Owner wants to establish a secondary dwelling unit on the second floor of the existing detached dwelling, as shown on plans filed with the Committee.

RELIEF REQUIRED

- [2] The Owner requires the Authority of the Committee for Minor Variances from the Zoning By-law as follows:
- a) To permit a secondary dwelling unit on a lot that is legally non-complying with respect to lot area (107 square metres), whereas the By-law states that a secondary dwelling unit is not permitted on a lot that is legally non-complying with respect to lot area. In this case, the minimum lot area is 225 square metres.
 - b) ~~To permit a secondary dwelling unit at or above grade with a floor area equal to 58% of the gross floor area of the principal dwelling, whereas By-law states that a secondary dwelling unit must not be greater in size than an amount equal to 40% of the gross floor area of the principal dwelling unit.~~ **(amended)**
 - c) To permit a secondary dwelling unit on a lot that is legally non-complying with respect to lot width (7.16 metres), whereas the By-law states that a secondary dwelling unit is not permitted on a lot that is legally non-

complying with respect to lot width. In this case, the minimum lot width is 7.5 metres.

- d) To permit a reduced front yard setback of 2.58 metres, whereas the By-law requires a minimum front yard setback of 4.5 metres.
- e) To permit a reduced rear yard setback of 1.27 metres, whereas the By-law requires a minimum rear yard setback of 4 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 James Kubina, who confirmed that the statutory notice posting requirements were satisfied. The Panel Chair confirmed that the variance to permit an increased floor area was to be deleted:

- ~~b) To permit a secondary dwelling unit at or above grade with a floor area equal to 58% of the gross floor area of the principal dwelling, whereas By-law states that a secondary dwelling unit must not be greater in size than an amount equal to 40% of the gross floor area of the principal dwelling unit.~~

[5] The application was amended accordingly.

[6] City Planner Margot Linker was also present.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED AS AMENDED

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

[8] 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.

[9] Based on the evidence, the Committee is satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.

[10] The Committee notes that the City's Planning Report raises "no concerns" regarding the application, highlighting that "the subject site is able to support all functions and services for the principal dwelling unit, which the secondary dwelling unit will be subsidiary to." Regarding the reduced front and rear yard setbacks, the

report highlights that “staff appreciate that the applicant has applied for these variances to formalize these existing conditions.”

- [11] The Committee also notes that no evidence was presented that the variances would result in any unacceptable adverse impact on neighbouring properties.
- [12] Considering the circumstances, the Committee finds that, because the proposal fits well in the area, the requested variances are, 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.
- [13] The Committee also finds that the requested variances maintain the general intent and purpose of the Official Plan because the proposal respects the character of the neighbourhood and contributes to appropriate infill development in the General Urban Area.
- [14] In addition, the Committee finds that the requested variances maintain the general intent and purpose of the Zoning By-law because the proposal represents orderly development on the property that is compatible with the neighbourhood.
- [15] Moreover, the Committee finds that the requested variances, both individually and cumulatively, are minor because they will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.
- [16] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variances, **subject to** the relief being restricted to the life of the building.

“John Blatherwick”
JOHN BLATHERWICK
VICE-CHAIR

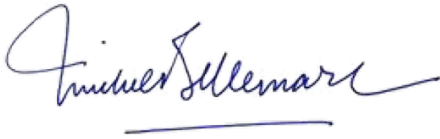
“Stan Wilder”
STAN WILDER
MEMBER

“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 **March 10, 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 **March 30, 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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