

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

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|---------------------------|------------------------------------|
| Date of Decision: | March 24, 2023 |
| File No(s): | D08-02-23/A-00039 |
| Owner(s): | Rosemount Avenue Inc. |
| Location: | 78 Rosemount Ave |
| Ward: | 15 – Kitchissippi |
| Legal Description: | Part of Lot 20, Registered Plan 94 |
| Zoning: | R4UB |
| Zoning By-law: | 2008-250 |
| Hearing Date: | March 15, 2023 |

PURPOSE OF THE APPLICATION

- [1] The Owner wants to demolish the existing two-storey duplex and construct a new three storey, 12-unit apartment building.

RELIEF REQUIRED

- [2] The Owner requires the Authority of the Committee for a Minor Variance from the Zoning By-law to permit a reduced rear yard setback of 7.30 metres, whereas the By-law requires a minimum rear yard setback of 8.77 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 Acting Panel Chair administered an oath to Jacob Levinson, Agent for the Owner, who confirmed that the statutory notice posting requirements were satisfied.
- [5] The Committee requested that City Planner Margot Linker address the amended site plan, which was submitted earlier in the day. Ms. Linker explained that she had requested confirmation from the applicant that the rear-facing balconies would comply with the Zoning By-law, and that the site plan was revised to demonstrate compliance.

- [6] Mr. Levinson provided the Committee with a brief presentation, in which he addressed the four-part test for minor variances under subsection 45(1) of the *Planning Act*.
- [7] The Committee also heard from project architect Jessie Smith, who explained that the proposed building could be redesigned to comply with the minimum rear yard setback, but that this would eliminate either the option to provide two-bedroom units for families at the rear of the building or private outdoor amenity space.
- [8] Cheryl Parrott of the Hintonburg Community Association outlined her opposition to the reduced rear yard setback. She explained that the community association supports redevelopment on the site but opposes the requested variance on the grounds that the recently implemented R4U zoning designation increases the required rear yard setback to minimize the impacts of higher density.
- [9] Ms. Linker responded to questions from the Committee, highlighting that the intent of the rear yard setback requirement was to provide amenity area and space for trees, in addition to preserving the privacy of neighbours.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION REFUSED

- [10] The Committee considered all written and oral submissions relating to the application in making its Decision, including concerns raised by neighbours and the Hintonburg Community Association.
- [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 majority of the Committee (Acting Chair M. Wildman dissenting) is not satisfied that the requested variance meets all four requirements under subsection 45(1) of the *Planning Act*.
- [13] Considering the circumstances, the majority of the Committee finds that, from a planning and public interest point of view, the requested variance is not desirable for the appropriate development or use of the land, building or structure on the property, and relative to the neighbouring lands, concluding that an alternative design could be achieved that is more sensitive to the surrounding neighbourhood.
- [14] In addition, the majority of the Committee finds that the requested variance does not maintain the general intent and purpose of the Zoning By-law, noting that the required rear yard setback was recently increased to preserve the privacy of neighbours while accommodating increased density.

[15] Moreover, the majority of the Committee finds that the requested variance is not minor because it will create unacceptable adverse impacts on the abutting neighbours to the rear.

[16] THE COMMITTEE OF ADJUSTMENT therefore does not authorize the requested variance.

Absent
JOHN BLATHERWICK
VICE-CHAIR

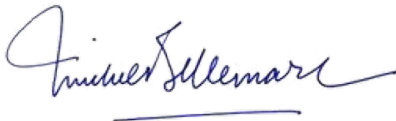
"Stan Wilder"
STAN WILDER
MEMBER

"Heather MacLean"
HEATHER MACLEAN
MEMBER

"Bonnie Oakes Charron"
BONNIE OAKES CHARRON
MEMBER

Dissent
MICHAEL WILDMAN
ACTING CHAIR

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **March 24, 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 **April 13, 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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