

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	April 14, 2023
File No(s):	D08-02-23/A-00042
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Fleming Property Management
Property Address:	93 Fifth Avenue
Ward:	17 - Capital
Legal Description:	Part of Lot 35 (North side of Fifth Avenue) Block 24, Registered Plan 34756, Geographic Township of Nepean
Zoning:	R3Q [1474]
Zoning By-law:	2008-250
Hearing Date:	April 5, 2023

APPLICANT(S)' PROPOSAL AND PURPOSE OF THE APPLICATION(S)

- [1] The Owner wants to regularize the existing non-complying walkway at the front of the dwelling, as shown on plans filed with the Committee.

REQUESTED VARIANCE(S)

- [2] The Owner requires the Authority of the Committee for a Minor Variance from the Zoning By-law to permit an increased walkway width of 1.32 metres whereas the By-law requires a maximum walkway width of 1.2 metres.

PUBLIC HEARING

- [3] The Panel Chair administered an oath to Thomas Freeman, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied.

Oral Submissions Summary

- [4] Mr. Freeman provided an overview of the application and responded to questions from the Committee, confirming that the walkway was constructed wider than what was permitted by the By-law. Mr. Freeman further confirmed that the outstanding orders, issued by Building Code Services, will be resolved with the approval of the Minor Variance Application.

- [5] The Committee also heard oral submissions from the following individual:
- Ali Ramezani, 33 Fifth Avenue, noted his concerns regarding the lack of soft landscaping within the front yard of the subject property.
- [6] City Planner Basma Alkhatib responded to the Committee's questions, highlighting that the Applicant submitted a revised site plan indicating the removal of the existing illegal front yard parking space and the reinstatement of soft landscaping. Ms. Alkhatib also confirmed she has no concerns with the application, provided that the Applicant commits to removing the existing parking space.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Four-Part Test

- [7] 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.

Evidence

- [8] Evidence considered by the Committee included all oral submissions made at the hearing, as highlighted above, and the following written submissions held on file with the Secretary-Treasurer and available from the Committee Coordinator upon request:
- Application and supporting documents, including planning rationale, plans, and tree information.
 - City Planning Report received March 31, 2023, with an adjournment request.
 - Revised City Planning Report received April 4, 2023, with no concerns.
 - Rideau Valley Conservation Authority dated March 24, 2023, with no objections.
 - Hydro Ottawa dated March 29, 2023, with no comments.
 - Building Code Service's Outstanding Orders, received March 21, 2023.

Effect of Submissions on Decision

- [9] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [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 updated site plan shows the removal of the parking space, and the front yard is proposed to be softscaped, except for the walkway. Staff recognize that the proposed walkway provides access between the right-of-way and the walkway (subject walkway for minor variance) that is aligned with the entrance stairs. The proposed walkway and the softscaping satisfy the requirements of the By-law."
- [12] The Committee also notes that no cogent evidence was presented that the requested 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 the requested variance maintains the general intent and purpose of the Official Plan because the proposed development respects the character of the neighbourhood.
- [15] In addition, the Committee finds that the requested variance maintains the general intent and purpose of the Zoning By-law, because the proposed walkway 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.
- [17] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variance, **subject to** the location and size of the proposed construction being in accordance with the revised site plan filed, Committee of Adjustment date stamped April 4, 2023.

"John Blatherwick"
JOHN BLATHERWICK
VICE-CHAIR

"Stan Wilder"
STAN WILDER
MEMBER

"Heather MacLean"
HEATHER MACLEAN
MEMBER

Absent
BONNIE OAKES CHARRON
MEMBER

Absent
MICHAEL WILDMAN
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **April 14, 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 **May 4, 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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