

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	April 28, 2023
File No(s):	D08-02-23/A-00070
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Mary Lapner & Andrew Gaffen
Property Address:	241 Manor Avenue
Ward:	13 – Rideau-Rockcliffe
Legal Description:	Part of Lot 15, Registered Plan M-60
Zoning:	R1B [1259]
Zoning By-law:	2008-250
Hearing Date:	April 19, 2023

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owners want to renovate and construct an addition to their existing dwelling, as shown on plans filed with the Committee.

REQUESTED VARIANCES

- [2] The Owners require the Authority of the Committee for Minor Variances from the Zoning By-law as follows:
- a) To permit a reduced southerly interior side yard setback of 3.8 metres, whereas the By-law requires a minimum interior side yard setback of 4.5 metres.
 - b) To permit a reduced rear yard setback of 9.8 metres, whereas the By-law requires a minimum rear yard setback of setback of 12 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 Chris Jalkotzy, Agent for the Applicants, who confirmed that the statutory notice posting requirements were satisfied.

Oral Submissions Summary

- [5] The Panel Chair noted that the City's Planning Department had requested an adjournment, having identified that the location and width of the existing driveway did not comply with the requirements of the Zoning By-law. Mr. Jalkotzy explained that the driveway had been altered, but it was his client's intent to reinstate the driveway to comply with the Zoning By-law. He proposed that this be addressed through the imposition of a condition.
- [6] City Planner Cass Sclauzero was also present and agreed that a condition could be imposed to require the elimination of front yard parking and a reduced driveway width, to the satisfaction of the City's Building Code Services.

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 any 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 a planning rationale, plans, tree information, and a copy of a heritage permit application to the City of Ottawa and accompanying rationale
 - City Planning Report received April 14, 2023, with no concerns but requesting adjournment
 - Rideau Valley Conservation Authority email dated April 17, 2023, with no objections
 - Hydro Ottawa email dated April 13, 2023, with no comments

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 variances meet 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. The report highlighted that the requested variances would "regularize existing legal non-complying interior side yard and rear yard setbacks" for the proposed second-storey addition, with no change to the dimensions of these yards.
- [12] The Committee also notes that no evidence was presented that the variances 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 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.
- [14] The Committee also finds that because the proposal respects the character of the neighbourhood, the requested variances maintain the general intent and purpose of the Official Plan.
- [1] 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.
- [2] 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.
- [3] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variances, **subject to:**
1. The location and size of the proposed construction being in accordance with the elevation drawings filed and Committee of Adjustment date stamped March 23, 2023, and the revised site plan filed and Committee of Adjustment date stamped April 17, 2023, as they relate to the requested variances.
 2. Prior to the issuance of a building permit, the Owner(s) shall provide evidence to the satisfaction of the **Chief Building Official, or his/her designate**, that the front yard parking and portion of the driveway between the front wall of the dwelling and the street have been removed and soft landscaping has been reinstated, and that the maximum width of the vehicular access at the lot line is 3.05 metres.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

"Kathleen Willis"
KATHLEEN WILLIS
MEMBER

"Scott Hindle"
SCOTT HINDLE
MEMBER

"Colin White"
COLIN WHITE
MEMBER

Absent
JULIA MARKOVICH
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **April 28, 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 18, 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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