

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	April 28, 2023
File No(s):	D08-02-23/A-00034
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Steven & Marguerite Elder
Property Address:	49 Elvaston Avenue
Ward:	9-Knoxdale-Merivale
Legal Description:	Lot 222, Registered Plan 645570, Ottawa
Zoning:	R2M
Zoning By-law:	2008-250
Hearing Date:	April 19, 2023

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owners want to convert their existing semi-detached dwelling unit to a detached dwelling, as shown on plans filed with the Committee.
- [2] The owner of the abutting property at 47 Elvaston Avenue has filed a Consent Application (D08-01-23/B-00041) for a Lot Line Adjustment to convey a portion of his property to 49 Elvaston Avenue.

REQUESTED VARIANCES

- [3] The Owners require the Authority of the Committee for Minor Variances from the Zoning By-law as follows:
 - a) To permit a reduced interior side yard setback of 0.0 metres, whereas the By-law requires a minimum side yard setback of 0.9 metres.
 - b) To permit an eave to project to 0.0 metres from the lot line, whereas the By-law permits a maximum projection of 1.0 metre, but not closer than 0.3 metres to a lot line.

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 Mike Segreto, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied

Oral Submissions Summary

- [5] Mr. Segreto provided an overview of the application and responded to questions from the Committee.
- [6] City Planner Alex Gatien raised some concerns with the application and recommend that the area of the severed land as in Consent Application D08-01-23/B-00041 be increased to provide a larger side yard setback for 49 Elvaston Avenue, to allow access for maintenance purposes.
- [7] In response, Mr. Segreto proposed that a maintenance easement be established over a portion of 47 Elvaston Avenue, in favour of 49 Elvaston. Mr. Gatien indicated that an easement would satisfy his concerns and the Consent Application was amended accordingly.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Four-Part Test

- [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.

Evidence

- [9] 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 cover letter, lot fabric evidence, site photos and plans
 - City Planning Report received April 17, 2023, 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

- [10] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [11] Based on the evidence, the Committee is satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [12] The Committee notes that the City's Planning Report raises "some concerns" regarding the applications, indicating that, "the proposed zero-metre side yard setback and setback to the eaves of 49 Elvaston could prove challenging for accessing the side of the building for any future maintenance". However, City Planner Alex Gatien confirmed at the hearing that these concerns were addressed with the introduction of a maintenance easement.
- [13] The Committee also notes that no evidence was presented that the variances would result in any unacceptable adverse impact on neighbouring properties.
- [14] 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.
- [15] 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.
- [16] 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 surrounding area.
- [17] 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.
- [18] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variances, **subject to** the location and size of the proposed construction being in accordance with the plans filed, Committee of Adjustment date stamped March 21, 2023, as they relate to the requested variances.

"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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