

23-1886-BEA

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March 31, 2023

Mr. Michel Bellemare
Secretary-Treasurer
Committee of Adjustment (the “Committee”)
101 Centrepointe Drive
Ottawa, ON K2G 5K7

Committee of Adjustment
Received | Reçu le

2023-04-19

City of Ottawa | Ville d'Ottawa
Comité de dérogation

Re: 2992 Beaman Lane., Ottawa, ON
Application for Minor Variance

Dear Mr. Bellemare:

Holzman Consultants Inc. (“HCI”) was retained by the Owner of the above noted property (the “Owner”) to prepare this Planning Rationale (the “Planning Rationale”) in support of an application for Minor Variance (the “MV Application”) related to the redevelopment of a residential lot located along the south side of Beaman Lane (Ward 21) of the City of Ottawa (the “City”), as depicted in Exhibit A and Exhibit B, municipally known as 2992 Beaman Lane, (the “Subject Property”).

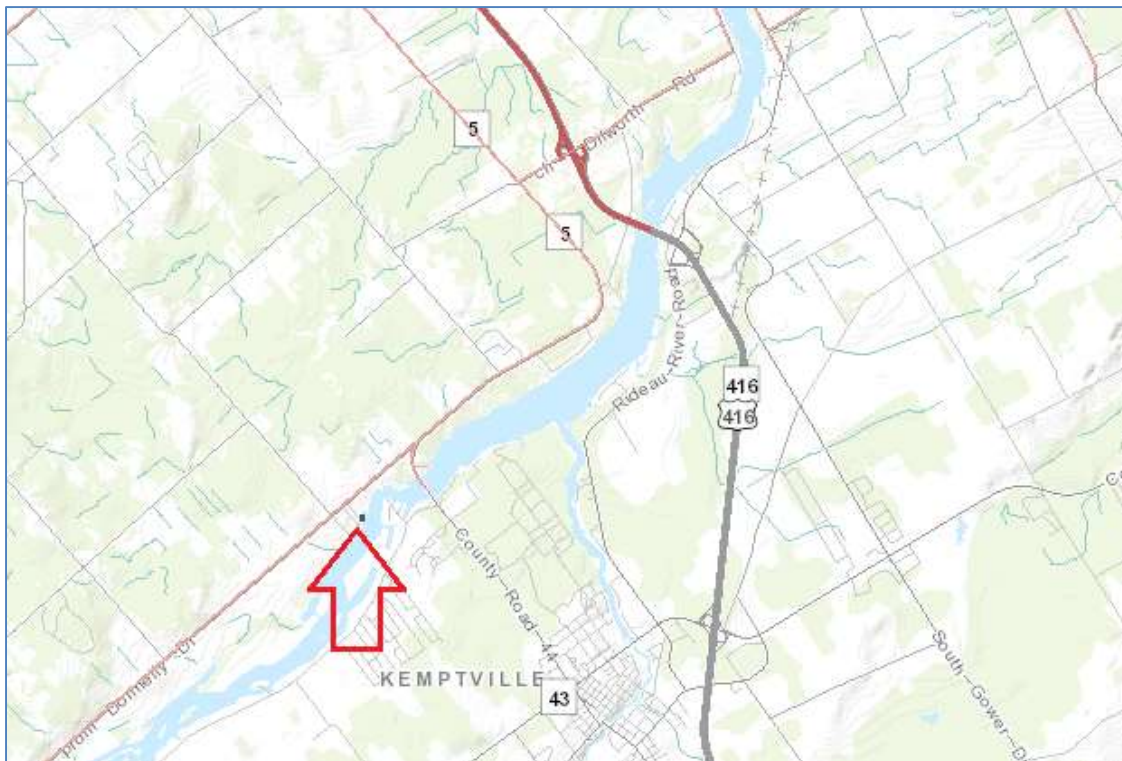


Exhibit A: Location Map with Subject Property marked by red arrow (source: GeoOttawa)

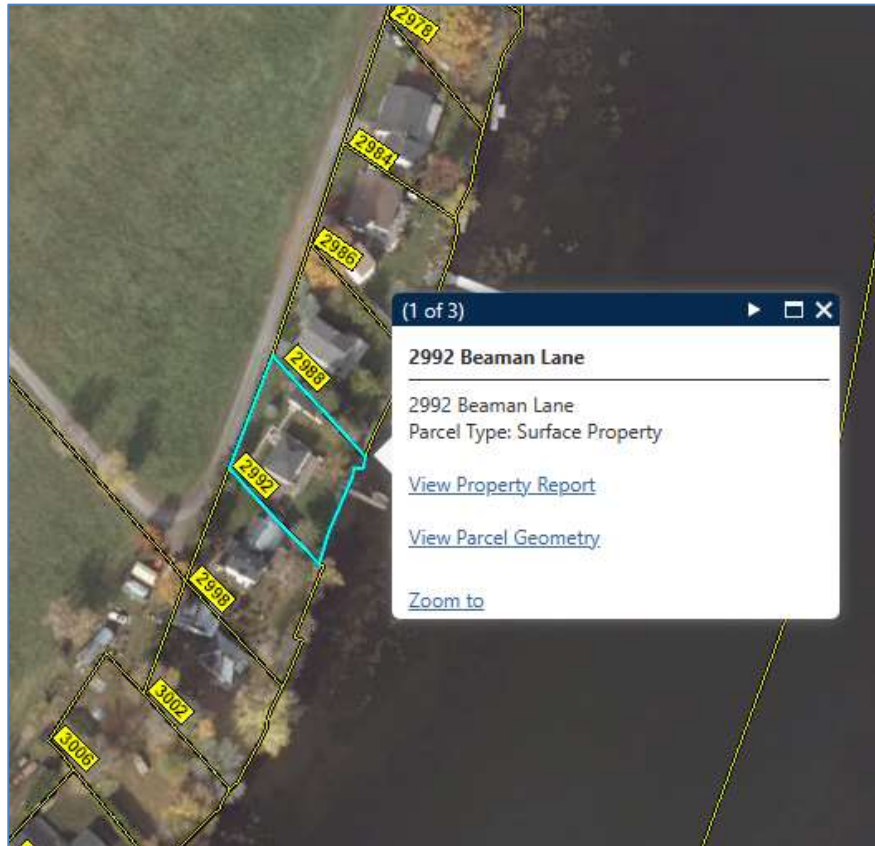


Exhibit B: Subject Property outlined in blue (source: GeoOttawa)

The current homeowner proposes to remove the existing sloped roof and construct a 2nd floor above the existing ground floor with a new roof. The existing single detached dwelling, having been located on the Subject Property since the 1950s, is in need of repair. To undertake this redevelopment, the municipal approvals require a construction permit and minor variance, along with approvals from the Rideau Valley Conservation Authority and Ottawa Septic System Office.

With regards to the zoning compliance, there are two provisions of the Zoning By-law that need to be addressed

1. **Section 58 – Flood Plain Overlay** provides that an addition to a building or structure for a use permitted in the underlying zone which does not exceed an amount equal to 20% of the gross floor area of the building or 20 m², whichever is less, is permitted. In this case the proposed second floor addition would be required to be no more than 20% of the gross floor area of the existing one-storey detached dwelling which would be 12.42 m². The proposed second floor addition is 43.61 m².
2. **Section 69 – Setback from Watercourses** provides that except for flood or erosion control works, or a public bridge or a marine facility, no building or structure, including any part

of a sewage system, which does not require plan of subdivision, or site plan control approval, shall be located closer than: (a) 30 m to the normal high-water mark of any watercourse or water body, or (b) 15 m to the top of the bank of any watercourse or water body, whichever is the greater. In this regard, the current zoning by-law requires any new buildings, structures or septic systems to be located a minimum setback distance of 30 m from the normal high-water mark of the Rideau River. As a result, the proposed construction of a second storey addition of the existing dwelling is located at 12.49 m whereas the requirement is 30 metres from the normal high-water mark.

The MV Application is being submitted to address these issues.

Please find attached the following submission materials in support of the above noted application:

- One (1) copy of this Planning Rationale, explaining the nature of the application and an assessment of the requested variance;
- One (1) copy of the completed MV Application Form;
- One (1) full-sized copy and one (1) reduced copy of the following plans;
 - Reference Plan of Survey 4R-15252;
 - Building Lot Survey dated November 21, 1977;
 - Site Plan, A1.0, Rev. 3, dated 2023/03/17;
 - Ground Floor – Demolition, A1.2, Rev. 3, dated 2023/03/17;
 - Ground Floor Plan, A1.6, Rev.3, dated 2023/03/17;
 - Attic/Second Floor, A1.7, Rev. 3, dated 2023/03/17;
 - Right and Left Elevation, A2.2, Rev. 3, dated 2023/03/17;
 - Front and Rear Elevation, A2.3, Rev. 3, dated 2023/03/17;
 - Building Section, A3.0, Rev. 3, dated 2023/03/17;
- Plans Examiner’s Deficiency Letter for Application A22-0054539 dated August 10, 2022;
- RVCA Letter of Permission dated July 20, 2022;
- Ottawa Septic System Office approval letter signed dated December 21, 2022 on page 8 of said package;
- Application fee by cheque, in the amount of \$2,951.00 made payable to the City of Ottawa.

Background

The Subject Property is described as: *Part of East ½ of Lot 6, Concession Broken Front, Geographic Township of Rideau, PIN 03923-0080(LT), more specifically described as Parts 1, 2, 3 on Plan 4R15252.* Please refer to Exhibit C below.

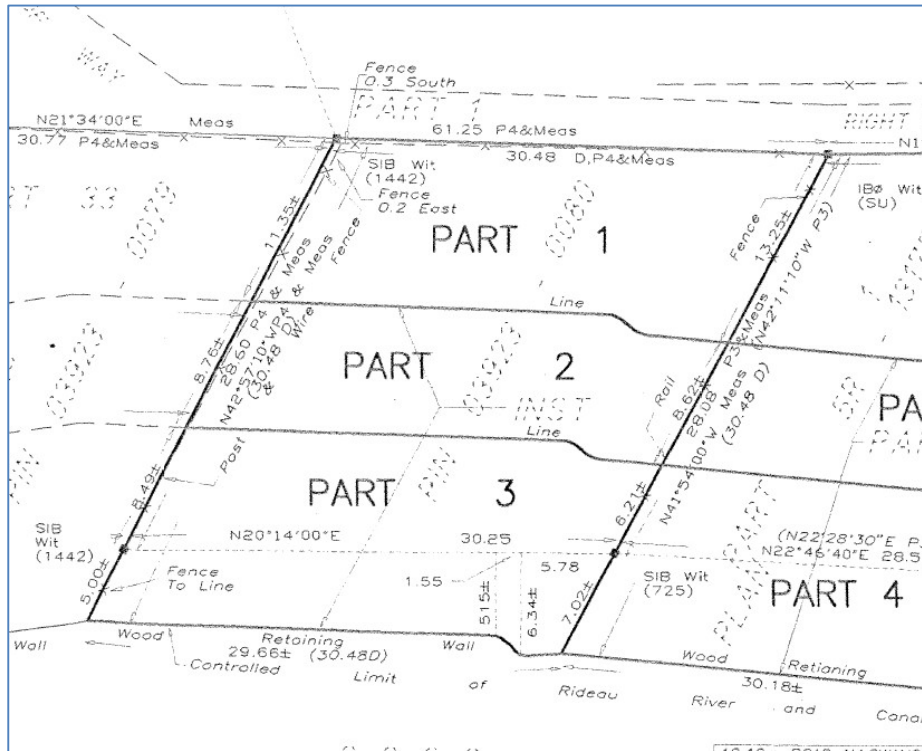


Exhibit C: Portion of Reference Plan 4R15252

Description of Subject Property

The Subject Property is irregular in shape with a total area of 920m² and legal frontage of 30.48m along the south side of Beaman Lane, although both side lot lines are generally parallel with each other. It has historically been used for residential purposes with an existing single detached bungalow. The lot slopes down from the road towards the Rideau River and is currently setback 12.49m (41') from the normal high-water mark/wood retaining wall according to the Building Location Survey included as Exhibit D below. The building is a single storey structure with sloped roof from roadside towards the Rideau River.

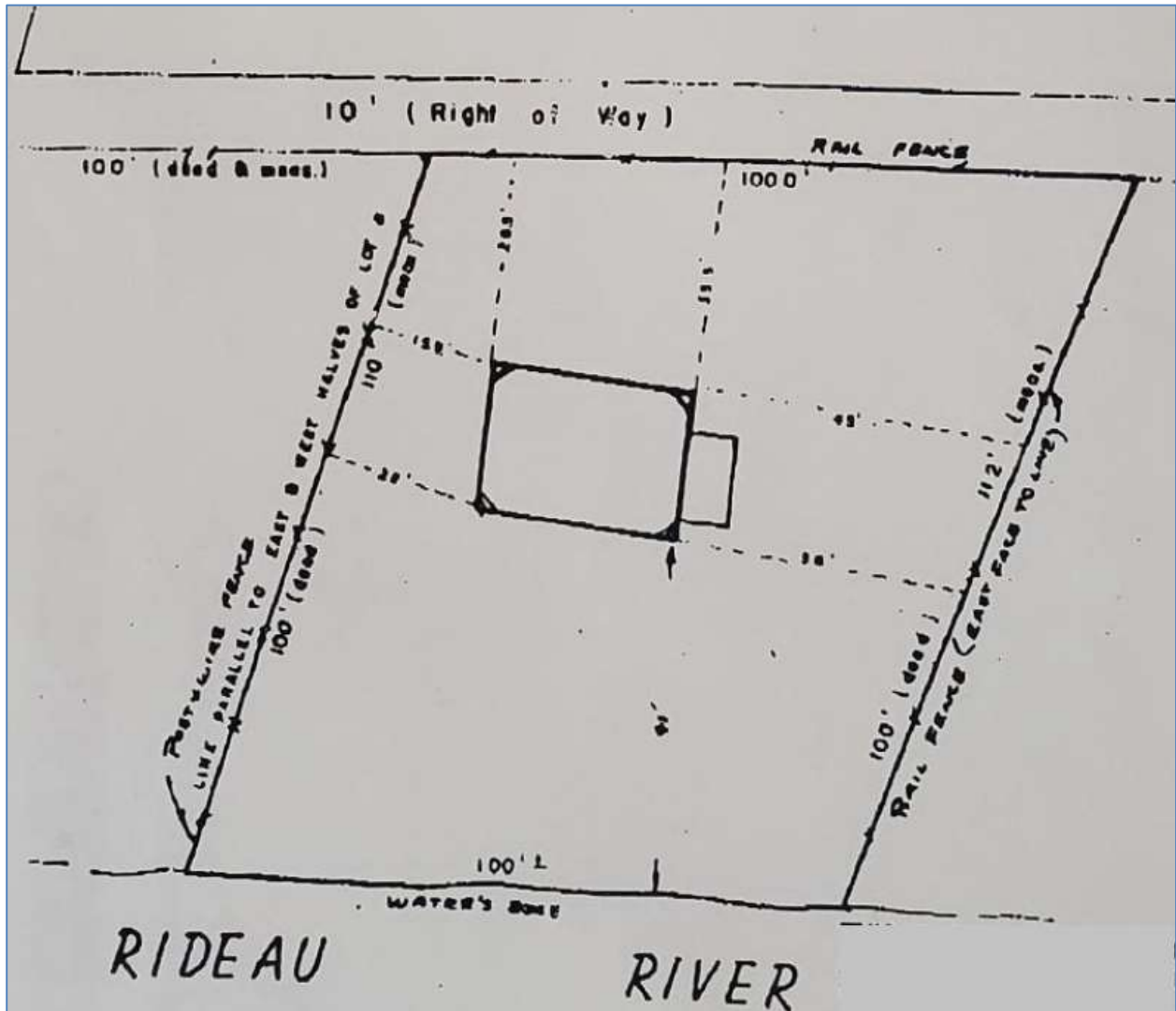


Exhibit D: Building Location Survey dated 1977

The Subject Property is presently served by a private well and holding tank for sewage treatment that requires periodic pumping of effluent. There are a few mature trees on the lot that will not be impacted by the proposed redevelopment. The roadside ditch on the south side of Beaman Lane provides some level of stormwater control while the majority of the site currently surface drains to the Rideau River that abuts the southern portion of the lot.



Exhibit E-1: Photograph of the front of the Subject Property (March 24, 2023)



Exhibit E-2: Photograph of the rear of the Subject Property (March 24, 2023)

Site Context

The Subject Property is located within a rural 7 lot subdivision that provides waterfront for each permanent dwelling/lot along the Rideau River. It is located at the most southerly portion of the City and in fact has a Kemptville mailing address, and as such is more associated with Kemptville

social and cultural services rather than those provided by the City of Ottawa. That said, being within the municipality, the lands are subject to planning policy as approved by City Council.

On the north side of Donnelly Drive is agricultural uses. Donnelly Drive is considered as a rural arterial roadway and connects villages to Highway 416 that is located to the east of the Subject Property.

As described above, the existing single storey dwelling is in need of repair, both to the structure as well as to the existing sewage system. The current owners purchased the property in 2021 and intend to undertake the necessary works to both elements to provide for their permanent residence. The Site Plan, Drawing A.1.0 included as Exhibit F below, illustrates the location of the existing single storey house, and associated elements. As shown on the attached building plans that are the subject of an ongoing application for construction (building permit) with the City, the existing structure has a series of concrete piers (+/-12) which hold up the single storey structure. The existing ground floor is rectangular with main room, single bedroom, kitchen, washroom and utility room and has a stated gross floor area of 63.52 m². This is illustrated on Drawing A1.2. Some demolition of interior walls is proposed, along with significant upgrading of the Foundation/Crawl Space, while maintaining the current building footprint and location within the Subject Property.

The proposed ground floor layout will include the aforementioned family room, bedroom and kitchen in the same locations, with a slight shift of the washroom and laundry room due to the addition of a staircase leading to the new second floor. The kitchen will be open above. This is illustrated on Drawing A1.5. The attic/second Floor elements include a storage area, mechanical room with furnace and additional closet-storage areas as illustrated on Drawing A1.6. The gross floor area of the ground floor remains the same as existing, while the gross floor area of the second floor is calculated to be 43.61 m² as per the definition of Gross Floor Area in the City's Zoning By-law. This is noted in the aforementioned Plans Examiner's Deficiency Letter.

The existing uniformly sloped roof as shown on Drawing A2.2 will be replaced in its entirety with a new sloped roof as per Drawing A3.0. Please refer to Exhibit G.

As noted above, the landowner has already submitted an application for Permission from the Rideau Valley Conservation Authority and to the Ottawa Septic System Office, both of which have been issued based on the current proposed drawings and intended replacement of the existing holding tank with a larger and improved quality tank.

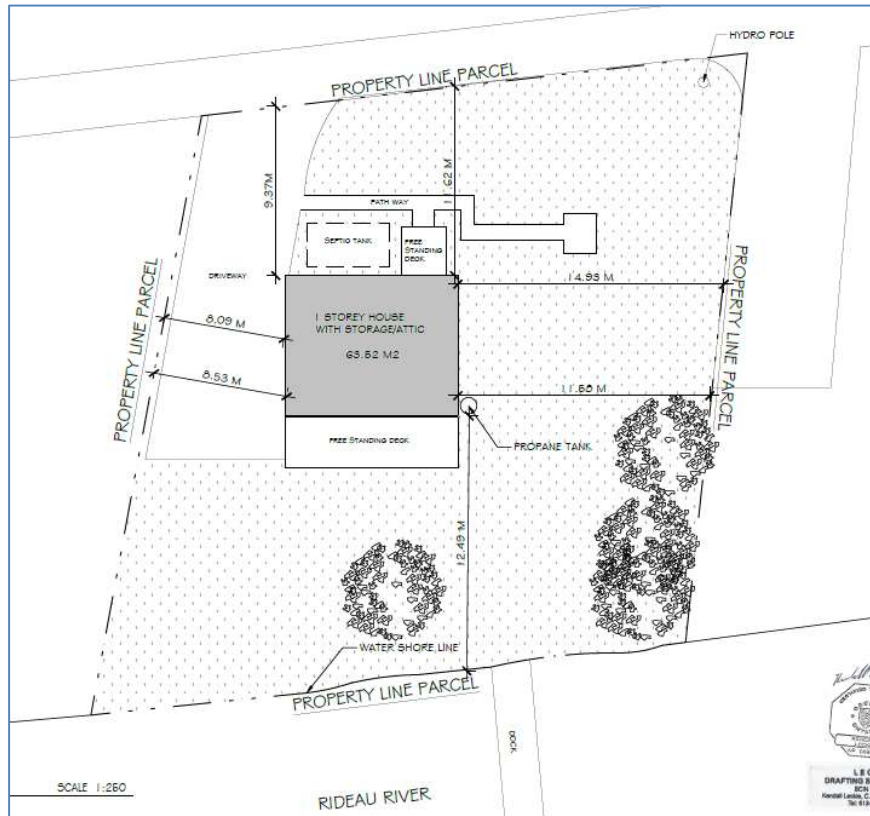


Exhibit F: Proposed Site Plan for the Subject Property

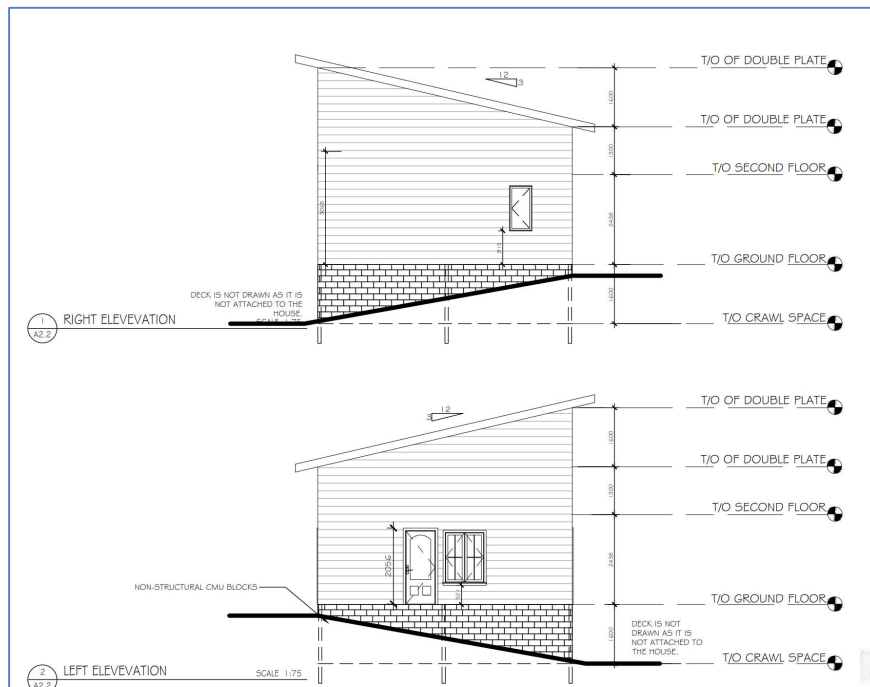


Exhibit G: Proposed Elevations

Evaluation of the Minor Variance

It is our opinion that the required minor variance to enable the construction of the intended addition above the existing ground floor is both minor and desirable in nature, while also conforming to the general intent and purpose of the Zoning By-law and the recently approved City of Ottawa Official Plan (the “OP”). The objective of these four tests is to determine if the variances are warranted. A central theme in the four tests is whether the proposal is *compatible* with the surrounding area. It is critical to note that being “compatible with” is not the same as being “the same as”. Rather, being “compatible with” means being capable of coexisting in harmony with the uses in the surrounding area.

The following is our detailed examination of the four tests as set out in Section 45(1) of the *Planning Act*.

1. General Intent and Purpose of OP

The OP provides a policy framework to guide the city's development to the year 2046. It provides a vision for the future growth of the City of Ottawa and it specifically addresses matters of provincial interest as defined by the *Planning Act* and the PPS.

As depicted in Exhibit H, the Subject Property is designated Rural Transect – Agricultural Resource Area. Existing single family residential uses that existed prior to the adoption of the Official Plan are permitted to continue, therefore there is no issue with the use provisions.



Exhibit H: Excerpt from Official Plan, Rural Transect (Schedule B9 to the OP), with Subject Property marked by a red circle

With regards to the requested variance to Section 58 that regulates the maximum permitted size of an addition when a structure is located within the Flood Plain Overlay, the Protection of Health and Safety Section 10.1.1 Policy 1 of the OP generally prohibits development in the 1:100 Flood Plain (the lands located within the Flood Plain Overlay). However, Policy 3 provides exceptions to this prohibition under certain criteria.

3) Notwithstanding Policy 1) and 2), some minor development and site alterations may be permitted. Minor development and site alterations are defined as the following:

a) Facilities which by their nature must locate in the flood plain, such as bridges, flood and/or erosion control works;

b) Minor additions and/or renovations to existing structures, which do not affect flood flows, meet appropriate floodproofing requirements and are supported by the appropriate conservation authority;

c) The replacement of a dwelling that was in existence at the date of adoption of this Plan, with a new dwelling where:

i) The new dwelling is generally the same gross floor area as the existing dwelling;

ii) The new dwelling is in a location on the lot that has lower flood risk than the existing dwelling;

iii) The new dwelling, in conjunction with any site alteration does not result in a negative effect on flooding; and

iv) The new dwelling and any associated site alteration shall meet the appropriate floodproofing requirements and be supported by the appropriate conservation authority.

d) Passive open spaces which do not affect flood flows;

e) Minor site alterations which do not result in a negative effect on flooding and which are supported by the appropriate conservation authority; and,

f) The severance of a lot containing a surplus farm dwelling as permitted by the provisions of Subsection 9.1.3 provided that safe access to the dwelling or the retained parcel is not eliminated during the regulatory flood event.

Subsection b) and e) are the relevant policies. Adding a second floor over top of an existing ground floor structure will have no negative effect on flood flows and have been supported by the Rideau Valley Conservation Authority as noted in the Letter of Permission. The replacement

of the existing holding tank for sewage with a new tank does not constitute negative site alterations and has been approved by the Ottawa Septic System Office as noted above.

In terms of the minor variance to address Section 69 of the Zoning Bylaw that would reduce the required building setback from the normal high-water mark from 30 m to 12.49 m, the Water Resource Policies in Section 4.9.3, Subsections 2 and 7, are applicable to the proposed redevelopment.

4.9.3 Restrict or limit development and site alteration near surface water features

- 1) The minimum setback from surface water features shall be the development limits as established by a Council-approved watershed, sub watershed or environmental management plan.*
- 2) Where a Council-approved watershed, sub watershed or environmental management plan does not exist, or provides incomplete recommendations, the minimum setback from surface water features shall be the greater of the following:*
 - a) Development limits as established by the conservation authority's hazard limit, which includes the regulatory flood line, geotechnical hazard limit and meander belt;*
 - b) Development limits as established by the geotechnical hazard limit in keeping with Council-approved Slope Stability Guidelines for Development Applications;*
 - c) 30 metres from the top of bank, or the maximum point to which water can rise within the channel before spilling across the adjacent land; and*
 - d) 15 metres from the existing stable top of slope, where there is a defined valley slope or ravine.*

As the lot exists, and the lot depth at 30m makes it impossible to meet the required setback, and the fact that the structure has been existing for 65 years, and no change in building footprint is proposed, Policy 7 below provides for exceptions to the setback as follows:

- 7) Exceptions to the setbacks in Policy 2) shall be considered by the City in consultation with the conservation authority in situations where development is proposed on existing lots where, due to the historical development in the area, it is impossible to achieve the minimum setback because of the size or location of the lot, approved or existing use on the lot or other physical constraint, providing the following conditions are met to the City's satisfaction:*

- a) *The ecological function of the site is restored and enhanced, to the greatest extent possible, through naturalization with native, non-invasive vegetation and bioengineering techniques to mitigate erosion and stabilize soils; and*
- b) *Buildings and structures are located, or relocated, to an area within the existing lot that improves the existing setback, to the greatest extent possible, and does not encroach closer to the surface water feature.*

It is also important to note that the river edge along the Subject Property is a vertical wood retaining wall that has the effect of controlling the water flow onto the lot under normal conditions which may not be as effective if the water's edge was a sloped surface.

It is therefore our opinion that for both requested variances to the Zoning Bylaw, the general intent and purpose of the Official Plan is being maintained with the minor variance represents an acceptable exception to the normal policies that suggests a greater minimum building setback.

2. General Intent and Purpose of the Zoning By-law

As depicted in Exhibit G below, the Subject Property is zoned RR12[18r] and EP3 which is a Rural Residential Subzone along with an Environmental Protection Subzone over a strip of land extending along the Rideau River.

The purpose of the RR – Rural Residential Zone is to:

1. *recognize and permit large-lot residential development in planned subdivisions and to acknowledge existing smaller lot development in areas designated as **General Rural Area** or **Rural Natural Features** in the Official Plan;*
2. *recognize clusters of existing residential development found in areas designated as **Agricultural Resource Area** or **Greenbelt Rural** in the Official Plan;*
3. *permit residential-only uses as well as related and accessory uses;*
4. *regulate development in a manner that respects both the residential character of the area and the surrounding rural context.*

The existing single detached dwelling would be considered suitable under 2. above. It was established prior to the adoption of the initial Comprehensive Zoning Bylaw for the amalgamated City (that took the former Township of Rideau into its fold), and as such, the use on the lot is permitted.

The Subzone 12 imposes specific performance standards in Table 226B. The table below illustrates zoning compliance and well as addressing the Exception 18r which overrides the minimum required lot width in Table 226B with a 30m minimum lot width.

The approximate 2.5m average width/strip of the lot along the river is zoned EP3 as shown on Exhibit I below.

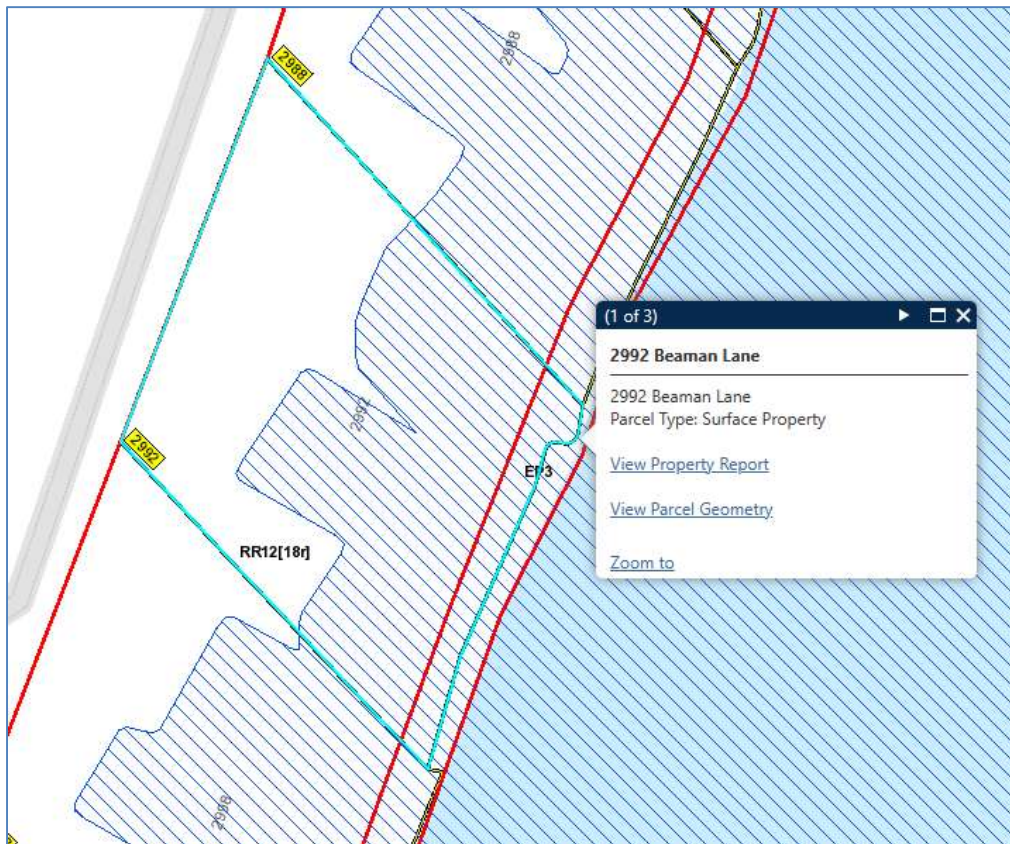


Exhibit I: GeoOttawa map identifying the RR12[18r], EP3 zoning for the Subject Property, highlighted in orange

The purpose of the EP-Environmental Protection Zone is to:

1. recognize lands which are designated in the Official Plan as Significant wetlands, Natural Environment Areas and Urban Natural Features that contain important environmental resources which must be protected for ecological, educational and recreational reasons; (By-law 2012-334)
2. permit only those uses which are compatible with and assist in the protection of the environmental attributes of these lands, or are in keeping with applicable Official Plan policies; and

3. *regulate development to minimize the impact of any buildings or structures within these environmental areas.*

The Subzone 3 provides for the following additional uses;

1. *the following uses are also permitted:
one detached **dwelling** on a lot fronting on a public street
home-based business, see Part 5, Section 127*
2. *an accessory building or structure associated with a detached dwelling or a home-based business may be located no further than 60m from the detached dwelling.*

NOTE: *Development in an EP zone or adjacent to an EP zone may be regulated under the Conservation Authorities Act, and, in addition to a building permit from the municipality under the Building Code Act, may require a permit from the Conservation Authority or other authority having jurisdiction over the regulated area.*

Where a lot has more than one zoning, Section 33 of the Zoning By-law applies and states the following;

1. *Where a lot is divided into more than one zone, each portion of the lot must be used in accordance with the provisions of the applicable zone; however, the zone boundary is not to be treated as a lot line. Where two or more regulations are equally applicable to a lot, Section 18 applies.*

No development is planned for that area of the Subject Property hence there is no issues arising out of the EP3 zoning.

The performance standards for the RR12 portion of the lot are contained in Table 226B. All of the zoning provisions are being complied with.

Mechanism	Required	Provided	Compliance
Minimum lot area	800 m ²	920 m ²	Yes
Minimum lot width	30m (Note 1)	30.48 m	Yes
Maximum lot coverage	20% (184 m ²)	6.9% (63.52 m ²)	Yes
Minimum front yard setback	7.5 m	11.28 m	Yes
Minimum interior side yard setback	3.0 m	8.09 m	Yes
Minimum rear yard setback	7.5 m	12.49 m	Yes
Maximum building height	11.0 m	5.3 m	Yes

Note 1 – increased from 20 m to 30 m as per Exception 18r.

All of the zoning performance standards on the underlying zoning designations are being respected. The application for minor variance for the redevelopment of the lot is being advanced to address Sections 58 and 69 only. The fact that the existing ground floor footprint location is not be revised AND that the addition is only a partial 2nd floor indicate an intention to not ignore, but to maintain the intent and purpose of the Zoning By-law. If the ground floor footprint was being expanded and/or was moved closer to the river, thus reducing the setback, this in our view would offend the Zoning By-law.

It is our opinion that through the above noted information and facts, the general intent and purpose of the Zoning By-law would be maintained if the minor variances for the proposed redevelopment of the lot were to be approved.

3. Desirable

The proposed variances that would allow for the new construction is desirable as it makes the entire building more flood proofed and replaces an aging holding tank with a larger and more modern tank. This would result in an improved environmental situation to reduce the chances of major issues with an older existing non-floodproofed structure onto abutting lands in the event of a catastrophic flood.

4. Minor in Nature

The concept of a variance being “minor” is not a mathematical test but rather a test of impact. As such, it is our opinion that in evaluating whether a variance is minor in nature, its impact on the subject site and surrounding land uses must be examined. The proposed 2nd floor addition to the existing building has absolutely no impact on the flood plain as the ground floor established any impact being within the 30m setback and within the Flood Plain Overlay. It also does not impact on the views of the River from the street as the sloped lot minimizes the additional building height of the 2nd storey.

With proper construction methods as illustrated on the building plans and the removal of the older holding tank to be replaced with a new modern tank, these will actually improve upon the environmental impact to reduce the negative impact of the existing elements on the Subject Property. This improvement provides more confidence in handling any floods in the future that may affect the Subject Property.

Summary and Conclusions

In conclusion, it is our professional planning opinion that all four tests of the *Planning Act* are met and that the requested reductions in the required setback from the normal high-water mark and the increase in permitted addition/building area within the Flood Plain Overlay should be granted by the Committee. The proposed redevelopment is in keeping with the policies of the

new Official Plan and the purpose and intent of the Zoning By-law and accordingly represents good and defensible land use planning.

We trust that you will process this application expeditiously for the next available hearing of Panel 3 of the Committee. If you have any questions or require clarification on any matters, please do not hesitate to contact the undersigned.

Holzman Consultants Inc.



Per: Jonah Bonn, MCIP, RPP
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