

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	May 12, 2023
File No(s):	D08-02-23/A-00081
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Zeeshan Ali
Property Address:	41 Arlington Avenue
Ward:	14 - Somerset
Legal Description:	Part of Lot 21 North Arlington Avenue, Registered Plan 30
Zoning:	R4UD [479]
Zoning By-law:	2008-250
Hearing Date:	May 3, 2023

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owner wants to construct a three-storey low rise apartment building, containing eight residential units. The existing building will be demolished.

REQUESTED VARIANCES

- [2] The Owner requires the Authority of the Committee for Minor Variances from the Zoning By-law as follows:
- a) To permit a low-rise apartment building whereas the By-law prohibits new construction that does not maintain the same character and at the same scale, massing, volume, floor area and in the same location as existed prior to it's the removal or destruction of the building.
 - b) To permit exit stairs to project 3.4 **2.94** metres into the rear yard whereas the By-law permits exit stairs to project a maximum of 2.2 metres into the required yard.
 - c) ~~To permit exit stairs to project 3.4 metres into the rear yard whereas the By-law permits switchback stairs to project 2.2 metres into the rear yard where they are intended to provide a means of egress for dwelling units located on the second and higher storeys.~~

- d) To permit a walkway to extend from the walkway between the right-of-way and entrance to provide access to a bench in the front yard whereas the By-law permits a walkway in the front yard where it provides access between a right-of-away or driveway and an entranceway to a dwelling.

[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 Tamara Nahal, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied.

Oral Submissions Summary

[5] Ms. Nahal provided an overview of the application, highlighting that after further discussions with the City Planner, the proposal was modified to address concerns relating to the stair projection into the rear yard. Ms. Nahal advised that variance (c) was redundant and no longer required, and with the submission of the revised plans, variance (b) should be revised, as follows:

- b) To permit exit stairs to project ~~3.4~~ **2.94** metres into the rear yard whereas the By-law permits exit stairs to project a maximum of 2.2 metres into the required yard.

~~c) To permit exit stairs to project 3.4 metres into the rear yard whereas the By-law permits switchback stairs to project 2.2 metres into the rear yard where they are intended to provide a means of egress for dwelling units located on the second and higher storeys.~~

[6] Zeeshan Ali, Applicant, Jacob Bolduc, also representing the Applicant and City Planner Margot Linker were also present.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED AS AMENDED

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, and tree information.
 - City Planning Report, received May 1, 2023, with no concerns
 - Rideau Valley Conservation Authority, email dated April 27, 2023, with no objections
 - Hydro Ottawa, email dated April 27, 2023, with no concerns
 - Hydro One, email dated April 27, 2023, with no concerns
 - Ministry of Transportation, email dated April 25, 2023, with 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 highlights that: "Considering that the subject proposal contributes to achieving the broader city goal of intensification, that the applicant has addressed the relevant criteria required for the demolition of a contributing CSR [Character-Supporting Resource], and that the design of the proposed building is compliant and consistent with the policies and guidelines of the HCD [Centertown Heritage Conservation District] Plan, staff had no objections to its approval." The report also acknowledges the Applicant's efforts to respond to concerns raised, highlighting that the "revised plans demonstrate that the stairs will project further than the maximum requirement to accommodate the bottom three steps, and the rest of the stairs will be compliant with the Zoning By-law".
- [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 neighbourhood, 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 the requested variances maintain the general intent and purpose of the Official Plan, because the proposal respects the character of the neighbourhood.
- [15] In addition, the Committee finds that the requested variances maintain the general intent and purpose of the Zoning By-law, because the proposal is compatible with the land use patterns and low-rise residential character of the neighbourhood.
- [16] 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.
- [17] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variances, **subject to** the location and size of the proposed construction being in accordance with the revised plans filed, Committee of Adjustment date stamped April 28, 2023, as they relate to the requested variances.

Absent
JOHN BLATHERWICK
VICE-CHAIR

"Stan Wilder"
STAN WILDER
MEMBER

Absent
HEATHER MACLEAN
MEMBER

"Steven Lewis"
STEVEN LEWIS
MEMBER

"Michael Wildman"
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 **May 12, 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 **June 1, 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.

Committee of Adjustment
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