

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	May 12, 2023
File No(s):	D08-02-2023/A-00064
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Blueprint Builds
Property Address:	183 Forward Avenue
Ward:	15 - Kitchissippi
Legal Description:	Lot 14 (East Forward Avenue), Registered Plan 35
Zoning:	R4UD
Zoning By-law:	2008-250
Hearing Date:	May 3, 2023

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owner wants to construct a 10-unit, low-rise apartment building. The existing building will be demolished.

REQUESTED VARIANCES

- [2] The Owner require the Authority of the Committee for Minor Variances from the Zoning By-law as follows:
- a) To permit a reduced rear yard setback of 6.5 metres, whereas the By-law requires a minimum rear yard setback of 8.96 metres.
 - b) To permit a reduced rear yard area of 99.39 square metres, whereas the By-law requires a minimum rear yard area of 114.2 square metres.
- [3] The applications indicates that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [4] Prior to the scheduled hearing on April 19, 2023, the Committee received an adjournment request from City Infill Forester Haley Murray, to allow for additional time for consultation between the Applicant and the Planning Department regarding tree planting in the rear yard and for the tree planting plan to be revised.

The Committee heard from Scott Alain, Agent for the Applicant, who agreed with the adjournment. As requested, the Panel adjourned the hearing to May 3, 2023.

- [5] At the hearing on May 3, the Panel Chair administered an oath to Mr. Alain, who confirmed that the statutory notice posting requirements were satisfied.

Oral Submissions Summary

- [6] Mr. Alain provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. Mr. Alain explained that the proposed accessory structure in the rear yard was fully compliant with the Zoning By-law and was the preferred and more functional option for refuse storage on the site. Mr. Alain confirmed that even with the inclusion of the accessory structure, the proposal would exceed the soft landscaping requirement of the By-law and provide space for tree planting in the rear yard.
- [7] The Panel Chair noted that the City's Planning Report requests the installation of a fence on the rear property line to prevent encroachment onto a City-owned lane. Mr. Alain agreed to the installation of the fence as a condition of approval.
- [8] The Committee also heard oral submissions from the following individual:
- Lorrie Marlow, Mechanicsville Community Association, highlighted concerns relating to privacy, overlook and shadowing of neighbouring properties, encroachment and use of the rear lane, as well as the reduced size of the proposed rear yard. Ms. Marlow also stated her support for the revised tree planting plan.
- [9] City Planner Margot Linker was also present.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Four-Part Test

- [10] 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

- [11] 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 April 28, 2023, with some concerns and received April 18, 2023, requesting an adjournment
- Rideau Valley Conservation Authority, emails dated April 27 and April 17, 2023, with no objections
- Hydro Ottawa, email dated April 14, 2023, with no concerns
- Lorrie Marlow, Mechanicsville Community Association, emails dated April 12 and April 27, 2023, opposed
- Yves Fortier, 198 Forward Avenue, email dated April 14, 2023, in support
- Kevin Yang, email dated April 14, 2023, with concerns

Effect of Submissions on Decision

- [12] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [13] Based on the evidence, the Committee is satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [14] The Committee notes that the City's Planning Report raises "some concerns" regarding the application, highlighting that "Staff strongly encourage the applicant to remove the accessory structure and relocate the waste storage internally within the principal building to increase the amount of rear yard soft landscaping and amenity area, which was lost due to the reduced rear yard setback." However, the report also highlights that "there does not appear to be a contiguous rear yard setback within the subject neighbourhood block bounded by Forward Avenue, Lyndale Avenue, Hinchey Avenue, and Scott Street, and that the proposed rear yard setback will not be distinct from the varied rear yard setbacks within the vicinity of the subject site." The report further highlights that there is "a rear lane that reduces the impact of the reduced rear yard setback on the abutting properties to the rear."
- [15] The Committee also notes that no evidence was presented that the variances would result in any unacceptable adverse impact on neighbouring properties.
- [16] Considering the circumstances, the majority of the Committee (Member S. Wilder dissenting) 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.

[17] The majority of 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 neighbourhood while contributing mild intensification on an under-utilized site within a designated Low-Rise Neighbourhood.

[18] In addition, the majority of 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.

[19] Moreover, the majority of 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.

[20] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variances, **subject to:**

- a. The location and size of the proposed construction being in accordance with the site plan filed, Committee of Adjustment date stamped May 2, 2023, and the elevations filed, Committee of Adjustment date stamped April 28, 2023, as they relate to the requested variances.
- b. Prior to the issuance of a building permit, the Owner(s) shall provide evidence to the satisfaction of the satisfactory to the **Development Review Manager of the Planning, Real Estate and Economic Development Department, or his/her designate**, that a fence will be installed along the rear property line.

Absent
JOHN BLATHERWICK
VICE-CHAIR

Dissent
STAN WILDER
MEMBER

“Steven Lewis”
STEVEN LEWIS
MEMBER

Absent
HEATHER MACLEAN
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.

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