

Committee of Adjustment
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City of Ottawa | Ville d'Ottawa
Comité de dérogation



Minor Variance
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
Panel 2

Site Address: 131 Winding Way

Legal Description: Lot 13, Registered Plan 4M-1282

File No.: D08-02-23/A-00062

Date: May 12, 2023

Hearing Date: May 17, 2023

Planner: Justin Grift

Official Plan Designation: Neighbourhood, Suburban Transect

Zoning: R1E

PROPOSED MODIFICATION

~~Lots 12 & 13, Registered Plan 4M-1282; Lot 13, Registered Plan 4M-1282~~

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **has some concerns** with the minor variance request as Staff is not satisfied it meets policy 4.9.3.7 of the Official Plan.

DISCUSSION AND RATIONALE

The subject property is on Winding Way, backing directly onto the Rideau River in Ward 24 – Barrhaven East. The surrounding area is primarily residential. A building permit for a two-storey detached dwelling was issued on the property in August 2022.

The Official Plan (2021) designates the property Neighbourhood in the Suburban Transect. The policies pertaining to this transect and designation include supporting a wide variety of housing types with a focus on missing-middle housing, which can include new housing types. The Official Plan also identifies a large portion of the property to have Unstable Slopes (*Schedule C15 – Environmental Constraints*) and to fall within the Natural Heritage Features Overlay (*Schedule C11-A Natural Heritage System, West*). Staff has communicated with the City's Environmental Planner regarding these layers in the Official Plan, their comments can be examined further in this report.

Additionally, Section 4.9.3 of the Official Plan explains that development exceptions to allow development to encroach within watercourse setbacks shall be considered where it is impossible to meet the minimum setback because of lot size or location. This Section expands that land within the minimum setback to a watercourses should remain in a naturally vegetated condition to protect the ecological function of surface water features from adjacent land uses.



The property is zoned *Residential First Density Zone with Subzone E (R1E)*. The purpose of this zone is to restrict the building form to detached dwellings and regulate development in a manner that is compatible with existing land use patterns so the residential character of the neighbourhood is maintained or enhanced. As per Section 69, the Zoning By-law prescribes a 30 metre setback from the *normal highwater mark* of any watercourse or waterbody for any building or structure; as per the definitions in the Zoning By-law, a terrace is considered a structure. This section expands that the setback is to “provide a margin of safety from hazards associated with flooding and unstable slopes and to help protect the environmental quality of watercourses and waterbodies.”

As seen in the submitted site plan, the proposed rear terrace would encroach within the 30 metre watercourse setback in two instances, one encroaching for 3.05 metres into the required setback and the other for 3.6 metres. Staff notes the proposed encroachment is cantilevered and does not touch the ground. Staff is not satisfied the applicant has demonstrated the cantilever cannot meet the minimum watercourse setback, as detailed in the exceptions permitted in policy 4.9.3.7 of the Official Plan. Therefore, Staff is of the opinion the minor variance does not meet the general intent of the Official Plan; and subsequently, does not pass the four tests outlined in Section 45(1) of the Planning Act.

ADDITIONAL COMMENTS

Notwithstanding the variance request, Staff noticed a zoning deficiency regarding the driveway’s placement between the dwelling and the street in the submitted site plan. The deficiency pertains to Section 107 of the Zoning By-law. Staff recommend the applicant submit a separate minor variance application to legalize the placement of the driveway.

Environment Planner comments

The requirements for a watercourse setback variance are contained in section 4.9.3.7 of the Official Plan and specify that such exceptions are only provided if “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.” This site would not meet these conditions. It is possible to develop this site in a manner that does not encroach on the 30-metre watercourse setback. I would encourage the applicant to consider a new design that respects the full 30 metre setback.

Additionally, there are some exceptions for overhanging terraces/decks encroaching into setbacks in the Zoning By-law; however, Section 65(1)(d) specifies that none of these exceptions apply to watercourse setbacks.

Notwithstanding, this application would typically require an Environmental Impact Study because there are Natural Heritage Features on site; however, the EIS Guidelines grant the environmental planner the ability to waive EIS requirements if they feel that “the risk of negative impacts occurring as a result of the proposed project is extremely low to non-existent, such that the completion of the Scoped EIS Form would not afford any useful



benefit to the environment, the applicant or the City.”

In this case, as the overhang does not have any material effect on the landscape nor remove any habitat, I doubt that there would be any value in such a report. The only situation in which environmental harm could occur in this case would be structural failure resulting the overhang collapsing onto the protected area. However, that would be a matter for the engineers, and I trust that the slope stability work which approved this application would sufficiently address any such concerns.

Heritage Planner comments

Heritage staff have reviewed the proposal against OP policy 4.5.2.2, and have determined that there are no impacts to the Rideau River, a protected heritage property. Only the cantilevered part of the terrace is beyond the 30m buffer zone. Heritage staff have not requested a heritage impact assessment.

Forester comments

There are no trees impacted by the proposed minor variance, though the watercourse setback is an ideal location to plant new trees to protect the shoreline soils. Both protected trees identified in the Tree Information Report must be protected throughout construction in accordance with the City's Tree Protection Specifications. It is recommended to develop a comprehensive planting plan to improve the canopy cover on this site with a minimum of one new 50mm tree planted in the Right of Way following construction, to improve the streetscape and canopy cover.

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