

**DECISION**  
**MINOR VARIANCE / PERMISSION**

<b>Date of Decision:</b>	May 26, 2023
<b>File No(s):</b>	D08-02-23/A-00082 & D08-02-23/A-00083
<b>Application:</b>	Minor Variance under section 45 of the <i>Planning Act</i>
<b>Owner(s)/Applicant(s):</b>	2501308 Ontario Inc.
<b>Property Address:</b>	1544 Kilborn Avenue
<b>Ward:</b>	18 – Alta Vista
<b>Legal Description:</b>	Lot 1, Registered Plan 296
<b>Zoning:</b>	<b>R10</b>
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	May 17, 2023

**APPLICANT(S)' PROPOSAL AND PURPOSE OF THE APPLICATION(S)**

- [1] The Owner has filed Consent Application D08-01-23/B-00102 & D08-01-23/B-00103 which, if approved, will have the effect of creating two separate parcels of land for the construction of a two-storey dwelling. The existing dwelling will remain. The proposed parcels and development will not be in conformity with the Zoning By-law.

**REQUESTED VARIANCE(S)**

- [2] The Owner requires the Authority of the Committee for Minor Variances from the Zoning By-law as follows:

A-00082:1544 Kilborn Avenue, Part 1 (proposed detached dwelling):

- a) To permit a reduced lot area of 323.4 square metres, whereas the By-law requires a minimum lot area of 450.0 square metres.
- b) To permit a reduced lot width of 10.6 metres, whereas the By-law requires a minimum lot width of 15.0 metres.
- c) To permit the entrance of the attached garage to project to be 3.8 metres closer to the front lot line than the principal building entrance whereas the By-law requires that the entrance to the attached garage set back at least 0.6 metres further from the front lot line than the principal entrance.

A-00083:1540 Kilborn Avenue, Part 2 (existing dwelling):

- d) To permit a reduced lot area of 353.9 square metres, whereas the By-law requires a minimum lot area of 450.0 square metres.
  - e) To permit a reduced lot width of 11.3 metres, whereas the By-law requires a minimum lot width of 15.0 metres.
  - f) To permit a reduced total interior side yard setback of 2.05 metres, with one setback being 0.85 metres (east side), whereas the By-law requires a total interior side yard setback total of 3.0 metres where no setback is no less than 1.2 metres.
  - g) To permit a parking space to be located partially in the front yard, whereas the By-law prohibits parking spaces to be established in a required and provided front yard.
- [3] The applications indicate that the Property is the subject of the above noted Consent applications under the *Planning Act*.

**PUBLIC HEARING**

- [4] The Panel Chair administered an oath to Anthony Bruni, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied.

**Oral Submissions Summary**

- [5] Mr. Bruni provided a slide presentation that included architectural plans, 3D renderings, lot fabric, and photographs, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. He noted that the zoning description, as indicated in the Planning Report, should be amended to read as follows: ~~R10~~ **R10**. Mr. Bruni highlighted efforts to consult area residents and the community association, with only one resident raising concerns regarding the front yard parking space. He advised that the partial front yard parking on the retained lot has been an existing condition for over 30 years with a requested variance to legalize the parking space. Mr. Bruni elaborated on the reasoning behind the proposed design, indicating that there are houses in the area where the front entrance is located on the side of the structure. He referred to the ground floor plan, indicating that locating the front door on the side enables a more functional interior space for a home office/study instead of an empty foyer. It was his opinion that the proposal is in keeping with the streetscape pattern.
- [6] In response to questions from the Committee, Mr. Bruni confirmed that as part of the redevelopment of the subject site, the existing driveway on the retained lands would be reduced in width.
- [7] City Planner Siobhan Kelly responded to the Committee's questions, highlighting that, instead of guidelines, the Alta Vista Faircrest Heights/Riverview Park

Secondary Plan includes policies that carry the same weight as those of the Official Plan. Ms. Kelly summarized the Secondary Plan policies, highlighting that Kilborn Avenue is identified as a “road designated for Low-Rise Neighbourhood development”. Ms. Kelly also highlighted that there are two existing private approaches and the proposal maintain an unbroken curb space for soft landscaping and tree planting.

## **DECISION AND REASONS OF THE COMMITTEE: APPLICATION(S) GRANTED**

### **Application(s) 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 all 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:

- Applications and supporting documents, including planning rationale, plans, and tree information.
- City Planning Report, received May 12, 2023, with some concerns
- Rideau Valley Conservation Authority email dated May 10, 2023, with no objections
- Hydro Ottawa email dated May 10, 2023, with comments
- Glenda Lahde, 1523 Kilborn Avenue, email dated May 10, 2023, with objections

### **Effect of Submissions on Decision**

- [10] The Committee considered all written and oral submissions relating to the applications in making its decision and granted the applications.
- [11] Based on the evidence, the majority of the Committee (Member C. White dissenting for reasons noted below) 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 Planning Report raises “some concerns” regarding requested variances (c) (front-facing garage) and (g) (parking space). The report highlights that: “the entrance to a front-facing garage must be set back at least 0.6 metres further from the front lot line than the principal entrance” and that the “intent of this provision is to ensure that the front façade and principal entrance is more prominent than vehicle parking.” The report also highlights that “the design of the dwelling features a large window, which can mimic the appearance of a principal entrance. However, it is the opinion of staff that the variance does not maintain the intent of the Zoning By-law.” The report further highlights that “removing the front porch to accommodate the legal parking space [...] would meet the intent of the Zoning By-law.”
- [13] The Committee also notes that no cogent evidence was presented that the variances would result in any unacceptable adverse impact on neighbouring properties.
- [14] Considering the circumstances, the majority of the Committee finds that 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, because the proposal fits well in the area.
- [15] 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 the neighbourhood.
- [16] 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 that is compatible with the surrounding area.
- [17] Moreover, 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.
- [18] THE COMMITTEE OF ADJUSTMENT therefore authorizes requested variances (a), (b), (d), and (e).
- [19] THE COMMITTEE OF ADJUSTMENT also authorizes the requested variances (c), (f) and (g), **subject to** the location and size of the proposed construction being in accordance with the site plan filed, Committee of Adjustment date stamped April 20, 2023, and the elevations filed, Committee of Adjustment date stamped April 5, 2023, as they relate to the requested variances.
- [20] *Member C. White dissents, finding that the requested variances are not consistent with the policies of the Official Plan and the Alta Vista/Faircrest Heights/Riverview Park Secondary Plan, and that insufficient evidence was presented demonstrating*

*that the proposed lot width and lot area would be consistent with the surrounding area, and that the requested variances are substantial and inconsistent with the general intent and purpose of the Zoning By-law.*

*“Ann M. Tremblay”*  
ANN M. TREMBLAY  
CHAIR

*“Kathleen Willis”*  
KATHLEEN WILLIS  
MEMBER

*“Scott Hindle”*  
SCOTT HINDLE  
MEMBER

*Dissent*  
COLIN WHITE  
MEMBER

*“Julia Markovich”*  
JULIA MARKOVICH  
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **May 26, 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 15, 2023**, delivered by email at [cofa@ottawa.ca](mailto:cofa@ottawa.ca) and/or by mail or courier to the following address:

Secretary-Treasurer, Committee of Adjustment,  
101 CentrepoinTE Drive, 4<sup>th</sup> 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](mailto: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**  
City of Ottawa  
[Ottawa.ca/CommitteeofAdjustment](http://Ottawa.ca/CommitteeofAdjustment)  
[cofa@ottawa.ca](mailto:cofa@ottawa.ca)  
613-580-2436



**Comité de dérogation**  
Ville d'Ottawa  
[Ottawa.ca/Comitedederogation](http://Ottawa.ca/Comitedederogation)  
[cded@ottawa.ca](mailto:cded@ottawa.ca)  
613-580-2436