

## DECISION

### MINOR VARIANCE / PERMISSION

<b>Date of Decision:</b>	May 26, 2023
<b>File No(s):</b>	D08-02-22/A-00336
<b>Application:</b>	Minor Variance under section 45 of the <i>Planning Act</i>
<b>Owner(s)/Applicant(s):</b>	Simon Saab & Jeffrey Abboud
<b>Property Address:</b>	65 Acacia Avenue
<b>Ward:</b>	13 – Rideau-Rockcliffe
<b>Legal Description:</b>	Lot 11, Registered Plan 189537
<b>Zoning:</b>	R4UD [2646]
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	May 17, 2023

#### APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] At the February 1, 2023, hearing, the Committee of Adjustment adjourned the application to allow the Owners time to revise their plans and identify any additional requested variances. The Owners have submitted revised materials and now want to proceed with the application
- [2] The Owners want to construct a three-storey, ~~six-unit~~ **seven-unit** low-rise apartment building, as shown on the plans filed with the Committee.

#### REQUESTED VARIANCES

- [3] The Owners require the Authority of the Committee for Minor Variances from the Zoning By-law as follows:
  - a) To permit a reduced lot area of 285.7 square metres, whereas the By-law requires a minimum lot area of 300 square metres.
  - b) To permit reduced northerly and southerly interior side yard setbacks of 1.5 metres, whereas the By-law requires a minimum site yard setback of 2 metres.
  - c) To permit a reduced rear yard area of 70 square metres, whereas the By-law requires a minimum rear yard area of 116 square metres.

d) To permit a reduced rear yard amenity area of 56 square metres, whereas the By-law requires a minimum rear yard amenity area of 102 square metres.

- [4] The application indicates that the Property is not the subject of any other current application under the *Planning Act*.

## PUBLIC HEARING

- [5] Prior to the hearing on February 1, 2023, the Committee received an adjournment request from City Planner Margot Linker because additional variances are and to enable further consultation between the Applicants and the City. Paul Robinson, Agent for the Applicant, agreed with the adjournment request. With the concurrence of all parties the application was adjourned *sine die*.
- [6] Prior to the hearing on April 19, 2023, the Committee received an adjournment request from City Planner Margot Linker for additional consultation time and for the Applicants to provide an updated Tree Information Report. The Committee heard from Paul Robinson, Agent for the Applicants, who agreed with the adjournment request. With the concurrence of all parties the application was adjourned to May 17, 2023.
- [7] At the hearing on May 17, 2023, the Panel Chair administered an oath to Mr. Robinson, who confirmed that the statutory notice posting requirements were satisfied.

## Oral Submissions Summary

- [8] Mr. Robinson provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. Mr. Robinson highlighted that since the adjournment on April 19, 2023, the proposal was revised from a six-unit low-rise apartment to a **seven-unit** low-rise apartment building. The changes to the plans were internal to the building and did not require any amendment to the requested variances. Mr. Robinson advised that any alterations to the site related to the cutting down of trees and grading of the property were done prior to his client's purchase of the parcels in late 2010.
- [9] The Committee also heard oral submissions from the following individual:
- Richard Colvin, 41 Acacia Avenue, highlighted concerns relating to removal of trees on the subject property, grading and drainage, and the calculation of the average grade of the site as it relates to the height of the proposed apartment building.
- [10] City Infill Forester Haley Murray responded to questions from the Committee, confirming that the requested condition requiring a Development Agreement or a Letter of Undertaking to obtain securities for the protection of Tree #1 is because the tree is City-owned and in a high-risk area as grading work will occur in close proximity.

[11] The Panel agreed that any approval would not be subject to this condition as the protection of the City-owned tree would be enforceable under the City's Tree Protection By-law.

[12] City Planner Margot Linker was also present.

**DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED AS AMENDED**

**Application Must Satisfy Statutory Four-Part Test**

[13] 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**

[14] 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 Reports, received May 12, 2023, with no concerns, April 14, 2023, adjournment request and January 27, 2023, adjournment request
- Rideau Valley Conservation Authority, emails dated May 15 and April 17, 2023, with no objections
- Hydro Ottawa, emails dated May 15, April 11, and January 24, 2023, with no concerns
- Richard Colvin, 41 Acacia Avenue, email dated May 1, 2023, with concerns
- Keith Walsh, 328 St-Denis Street, email dated May 4, 2023, in support

**Effect of Submissions on Decision**

[15] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.

[16] Based on the evidence, the Committee is satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.

- [17] The Committee notes that the City's Planning Report raises "no concerns" regarding the application. The report highlights that: "In the Evolving Overlay, the City will be supportive of applications for low-rise intensification that seek to move beyond the development standards of the underlying zone where the proposal demonstrates that the development achieves objectives of the applicable transect with regards to density, built form and site design in keeping with the intent of Sections 3 (Growth Management Framework) and 5 (Transects) of the Official Plan."
- [18] The Committee also notes that no evidence was presented that the variances would result in any unacceptable adverse impact on neighbouring properties.
- [19] Considering the circumstances, the Committee 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.
- [20] 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 surrounding development and contributes mild intensification within an Evolving Neighbourhood within the Inner Urban Transect.
- [21] In addition, 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.
- [22] 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.
- [23] 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 25, 2023, as they relate to the requested variances.

*"John Blatherwick"*  
JOHN BLATHERWICK  
VICE-CHAIR

*"Stan Wilder"*  
STAN WILDER  
MEMBER

*"Heather MacLean"*  
HEATHER MACLEAN  
MEMBER

*Absent*  
MICHAEL WILDMAN  
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**  
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