



**MINOR VARIANCE APPLICATION
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
PANEL 2**

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 3954 Shirley Avenue
Legal Description: Part of Lot 15 Concession 1 (Rideau Front) former geographic Township of Gloucester
File No.: D08-02-23/A-00101
Report Date: June 1, 2023
Hearing Date: May 6, 2023
Planner: Siobhan Kelly
Official Plan Designation: Suburban Transect, Neighbourhood
Zoning: R1AA

Committee of Adjustment
Received | Reçu le
2023-06-01
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Comité de dérogation

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **has no concerns with** the application.

DISCUSSION AND RATIONALE

The applicant proposes to rebuild a detached dwelling on the subject property known municipally as 3954 Shirley Avenue. The subject property backs onto the Rideau River in Ward 22 – Riverside South-Findlay Creek. The applicant is seeking relief to permit a reduced watercourse setback of 21.07 metres from the normal high-water mark of the Rideau River, whereas the Zoning By-law requires a 30-metre setback from the normal high-water mark of any watercourse or waterbody. Staff note that the existing detached dwelling is set back 20.4 metres from the normal high-water mark of the Rideau River.

The Official Plan designates the subject property Neighbourhood in the Suburban Transect. The Neighbourhood Designation and Suburban Transect policies support low-rise density and ground-oriented dwellings. Additionally, the Official Plan identifies that the subject property is within the Natural Heritage Features Overlay (*Schedule C11 – Natural Heritage System*) and that it has Unstable Slopes (*Schedule C15 – Environmental Constraints*).

Section 4.9.3 of the Official Plan limits development near surface water features and Policy 2 prescribes a minimum 30 metre setback from surface water features. Despite this requirement, Policy 7 identifies that exceptions to the minimum setback can be made

where due to the historical development in the area, it is impossible to achieve the minimum setback because of the size or location of the lot, approved or existing use or other physical constraint, provided the following conditions are met:

a) The ecological function of the site is restored and enhanced, to the greatest extent possible, through naturalization with native, non-invasive vegetation and bioengineering techniques to mitigate erosion and stabilize soils; and

b) Buildings and structures are located, or relocated, to an area within the existing lot that improves the existing setback, to the greatest extent possible, and does not encroach closer to the surface water feature.

Staff is satisfied that 7 a) is met as the Landscape Plan and Environmental Impact Study (EIS) submitted with the application demonstrates a re-naturalization of the protected area. Further, 7 b) is met as the proposed development does not encroach closer to the Rideau River and improves the existing setback from 20.4 metres to 21.07 metres.

The property is zoned Residential First Density, Subzone AA (R1AA). A portion of the property abutting the Rideau River is within the Flood Plain Overlay, but the proposed detached dwelling will not be built within the Flood Plain Overlay. The Zoning By-law requires a minimum setback of 30 metres from the normal high-water mark of any watercourse or waterbody. The intent of this setback is to provide a margin of safety and protect the environmental quality of the watercourse. The proposed setback provides an increased margin of safety as the proposed dwelling is setback further from the Rideau River than the existing dwelling. As outlined in the EIS, the development will not disturb any new areas along the shoreline, and it will not directly impact the significant natural heritage features onsite.

Staff are satisfied that the requested minor variance meets the “four tests” as outlined in Section 45 (1) of the *Planning Act*, R.S.O. 1990 c. P.13, as amended. The reduced setback is desirable as it improves the existing setback and is comparable to existing setbacks in the surrounding context. The variance is minor as it will not produce undue adverse impacts on the significant wildlife habitat and ecological function of the Rideau River as confirmed with the EIS. The reduced setback is desirable as it improves the existing setback and is comparable to existing setbacks in the surrounding context.

ADDITIONAL COMMENTS

Planning Forestry

The Tree Information Report (TIR) submitted with the application identifies the removal of two trees in poor to fair health (Tree #2 and 4). Tree #2 is not impacted by the proposed development but will be included in the tree removal permit application as its poor condition will continue to decline. Tree #4 is a butternut protected under the Endangered Species Act. The TIR assessed Tree #4 using the butternut health assessment protocol and concluded that it is a cultivar and exempt from protections

under the Act. The proposed location of the septic bed impacts Tree #4, which is in fair/poor health. The applicant will need to obtain a tree removal permit prior to the removal of Tree #4.

Before applying for a building permit. The applicant will need to correct Tree Information section of the TIR as there is a small clerical error - Tree # 6 is missing from the inventory list.

Planning Forestry staff note that compensation (monetary and/or replacement planting) will be confirmed as part of the tree removal permit. The applicant must install and maintain tree protection fencing for the retained trees as shown on the TIR. No construction activities, equipment access or storage is permitted within the tree protection fencing. Failure to maintain the fencing is a Tree Protection By-law infraction.



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