

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	July 28, 2023
Panel:	1 - Urban
File No(s):	D08-02-23/A-00140
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Godfrey Roofing Inc.
Property Address:	320 Cooper Street
Ward:	14 - Somerset
Legal Description:	Part of Lots 44 and 45, South Cooper Street, Registered Plan 12281
Zoning:	R4UD [479]
Zoning By-law:	2008-250
Hearing Date:	July 19, 2023, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owner wants to regularize 5 basement dwelling units and construct a fire access/egress stair from the basement level of the existing three-storey, 26-unit, low-rise apartment building, as shown on the plans filed with the Committee.

REQUESTED VARIANCES

- [2] The Owner requires the Committee's authorization for minor variances from the Zoning By-law as follows:
- a) To permit a reduced lot width of 11.30 metres, whereas the By-law requires a minimum lot width of 15 metres.
 - b) To permit a reduced lot area of 403.78 metres, whereas the By-law requires 450 square metres.
 - c) To permit a reduced front yard setback of 1.81 metres, whereas the By-law requires a minimum front yard setback of 4.50 metres.
 - d) To permit a reduced rear yard setback of 2.10 metres, whereas the By-law requires a minimum rear yard setback of 7.50 metres.

- e) To permit a reduced interior side yard setback of 0.47 metres, whereas the By-law requires a minimum interior side yard setback of 1.50 metres.
- f) To permit a reduced amount of rear yard soft landscaping of 13.86 metres, whereas the By-law requires 50 square metres of soft landscaping in the rear yard.
- g) To permit no soft landscaping to be in any yard, other than the rear yard, whereas the By-Law requires 40% soft landscaping to be located in any yard, other than the rear yard.

PUBLIC HEARING

Oral Submissions Summary

- [3] Theresa O'Neill, Agent for the Owner, appeared along with Amy Greenberg.
- [4] Ms. O'Neill confirmed that the existing building contains 26 units, including basement units that the application proposes to regularize. She also confirmed that the Applicant would be submitting a Site Plan Control Application, and City Planner Basma Alkhatib explained that pre-application consultation had already begun.
- [5] City Planner Erin O'Connell responded to questions from the Committee regarding the history of the building and the status of the existing basement units, speculating that the Owner may have considered establishing legal non-conforming status, but chose to regularize the basement units through this application and the Site Plan Control process.
- [6] Ms. O'Neill indicated that she had no concerns with the condition of approval requested by the City, which would require the Owner to enter into a Maintenance and Liability Agreement with the City.
- [7] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application 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 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 cover letter, plans, tree information, a heritage permit, a property transfer, a copy of a previously registered Common Elements Agreement, a copy of a previously registered Access and Cost-Sharing Agreement, a photo of the posted sign and a posting declaration.
 - City Planning Report received July 13, 2023, with no concerns.
 - Revised City Planning Report received July 18, 2023, with no concerns.
 - Rideau Valley Conservation Authority email dated July 11, 2023, with no objections.
 - Hydro Ottawa email dated July 14, 2023, with comments.
 - Ministry of Transportation email dated July 6, 2023, with no comments.

Effect of Submissions on Decision

- [10] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [11] Based on the evidence, the Committee 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's Planning Report raises "no concerns" regarding the application, highlighting that the proposal is a legalization of existing conditions, and that the additional basement units achieve the intensification objectives of the Official Plan.
- [13] The Committee also notes that no evidence was presented that the variances would result in any unacceptable adverse impact on neighbouring properties.
- [14] Considering the circumstances, the Committee finds that, because the proposal is existing and 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.

[15] The Committee also finds that the requested variances maintain the general intent and purpose of the Official Plan because the proposal maintains the character of the neighbourhood.

[16] 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 that is compatible with the area.

[17] 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.

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

1. The location and size of the proposed construction being in accordance with the plans filed, Committee of Adjustment date stamped June 20, 2023, as they relate to the requested variances.
2. The Owner acknowledging and agreeing it shall be required to enter into a **Maintenance and Liability Agreement with the City following the approval of a Site Plan Control application**, for all plant and landscaping material (except municipal trees), decorative paving and street furnishings placed in the City's right-of-way along the entire frontage of 320 Cooper Street in accordance with City Specifications, and the Maintenance and Liability Agreement shall be registered on title, at the Owner's expense. Immediately after the registration of the Maintenance and Liability Agreement, the Owner shall assume all maintenance and replacement responsibilities in perpetuity. The Owner shall assume all maintenance and replacement responsibilities in perpetuity.

"Ann M. Tremblay"
ANN M. TREMBLAY
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JOHN BLATHERWICK
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ARTO KEKLIKIAN
MEMBER

"Sharon Lécuyer"
SHARON LÉCUYER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **July 28, 2023**



Cheryl Williams
Acting 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 **August 17, 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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