

This document is presented in the language it was provided.
Ce document est présenté dans la langue dans laquelle il a été fourni.

July 21, 2023

Mr. Michel Bellemare
Secretary-Treasurer
Committee of Adjustment
101 Centrepointe Drive, Fourth Floor
Ottawa, ON K2G 5K7

RE: Application for Minor Variance
9 Ladouceur Street, Ottawa

Committee of Adjustment
Received | Reçu le

2023-07-24

City of Ottawa | Ville d'Ottawa
Comité de dérogation

Dear Mr. Bellemare,

Fotenn Planning + Design ("Fotenn") has been retained by Marco Rayes (the "Owner") to submit a Minor Variance application on his behalf for the property known municipally as 9 Ladouceur Street ("the subject property") in the City of Ottawa.

The purpose of this Minor Variance application is to address non-compliance with the Zoning By-law resulting from the establishment of the low-rise apartment use in an existing building on the subject property. The establishment of the low-rise apartment use stems from the addition of a fourth unit within the existing structure and this application seeks to address issues of Zoning non-compliance resulting from the change in use from an original three-unit dwelling to a low-rise apartment. This Minor Variance application is seeking relief from Section 161(16)(a) as well as the Interior Side-Yard Setback requirement of the R4UB zone.

Please find enclosed the following materials in support of the application:

- / A cover letter explaining the nature of the application;
- / The minor variance application form;
- / Building Permit Drawings prepared by T-Design; and,
- / Site Survey prepared by Farley, Smith & Denis Surveying Ltd.

Please contact the undersigned at saunders@fotenn.com or casagrande@fotenn.com with any questions or requests for additional materials.

Sincerely,



Evan Saunders, M.PL
Planner



Brian Casagrande, MCIP RPP
Partner

Ottawa
396 Cooper Street, Suite 300
Ottawa, ON K2P 2H7
613.730.5709

Kingston
The Woolen Mill
4 Catarqui Street, Suite 315
Kingston, ON K7K 1Z7
613.542.5454

Toronto
174 Spadina Avenue, Suite 304
Toronto, ON M5T 2C2
416.789.4530

fotenn.com

FOTENN

1.0 Introduction

Fotenn Planning + Design (“Fotenn”) has been retained to prepare this Planning Rationale and in support of a Minor Variance application to address Zoning non-compliance related to the establishment of a low-rise apartment use on the property municipally known as 9 Ladouceur Street (the “subject property”) in the City of Ottawa.

1.1 Required Application

Following the original construction of the three (3) unit building on the subject property, an additional dwelling unit was added within the existing structure resulting in the establishment of the low-rise apartment use, per the City of Ottawa Zoning By-law definition. As a result, per Section 3 of the Zoning By-law, the property is subject to a Zoning review against the provisions pertaining to the ‘low-rise apartment’ use, excluding those provisions relating to the legal non-complying rights granted to the original three-unit dwelling. The proposed variances, as part of this application, identify Zoning deficiencies triggered by use-specific provisions not captured through legal non-complying rights as well as performance standards related to the low-rise apartment use which place a higher-degree of restrictiveness than the provisions related to the “three-unit dwelling” use.

1.2 Requested Minor Variance

Section 161(16)(a) of the City of Ottawa Zoning By-law prohibits motor vehicle parking on properties with a lot area of less than 450m², specifically related to stacked dwelling and low-rise apartment uses within the R4-UA, R4-UB, R4-UC and R4-UD zones, to which this applies. This application is seeking relief from this provision in order to permit two (2) existing motor vehicle parking spaces on the subject property that were originally established, though not prohibited, for a three-unit dwelling use.

The existing building has an interior side yard setback of 0.65 metres which would have been zoning compliant when the building was originally constructed as a three-unit dwelling. At a subsequent point in time, stemming from a change in zoning standards, the original three-unit dwelling became legally non-compliant in this regard. The performance standards for the low-rise apartment use within the R4-UB zone, as detailed in Table 162A of Section 162 of the Zoning By-law, require an interior side-yard setback provision of 1.2 metres for a three-unit dwelling whereas the setback provision related to the low-rise apartment use requires a setback of 1.5 metres. . The addition of the additional unit not only changed the previous use but also resulted in the loss of these existing legal non-complying rights. This application is seeking relief from the interior side-yard setback performance standard pertaining to the low-rise apartment use in order to permit a setback of 0.65 metres where 1.5 metres is required.

Subject Property and Surrounding Context

2.1 Subject Property

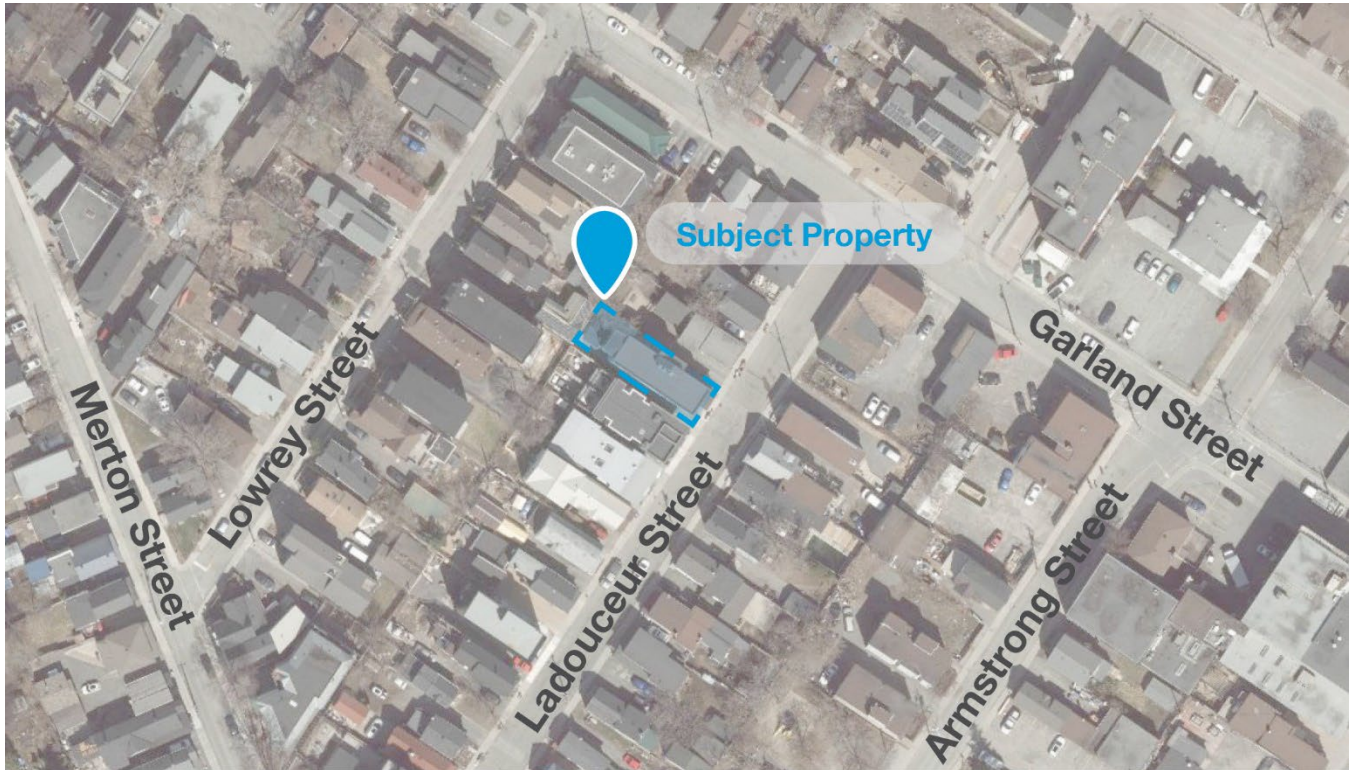


Figure 1: Site context (subject property identified).

The subject property, located in the Kitchissippi Ward (Ward 15) and Hintonburg neighbourhood of the City of Ottawa, is a rectangular interior lot with approximately 10.06 metres of frontage along Ladouceur Street and a lot depth of 30.16 metres resulting in a total area of approximately 303.96m². The property currently contains a three-storey, multi-unit residential dwelling, with vehicular access from Ladouceur Street. The subject property is located approximately 430 metres west of the Bayview LRT Station.

2.2 Surrounding Context

North: Immediately north of the subject property is the eastern edge of the Hintonburg neighbourhood, bound by Scott Street to the north and the LRT to the east. The area is characterized by two (2) and three (3) storey single and multi-unit residential buildings. Approximately 430 metres to the north is the Bayview LRT station and the planned Bayview Yards development surrounding the station.

East: The area to the east of the subject property is characterized by the low-rise residential context of the Hintonburg neighbourhood as well as the mainstreet character found along Wellington Street West and Somerset Street West. Along both mainstreets, the built form is characterized by low to mid-rise buildings with retail frontages along the street and residential or office uses located above.

West: West of the subject property is the northern portion of the Hintonburg residential neighbourhood bound by Scott Street to the north. Beyond Scott Street and the parallel-running LRT tracks to the north, is the Mechanicsville neighbourhood, Tunney's Pasture LRT Station and future planned development surrounding the station lands.

South: Immediately south of the subject property is the continuation of the Hintonburg residential neighbourhood, characterized by low-rise single and multi-unit residential buildings. Further south is the east-west-running Wellington Street West corridor, characterized by low- to mid-rise mixed-use buildings.

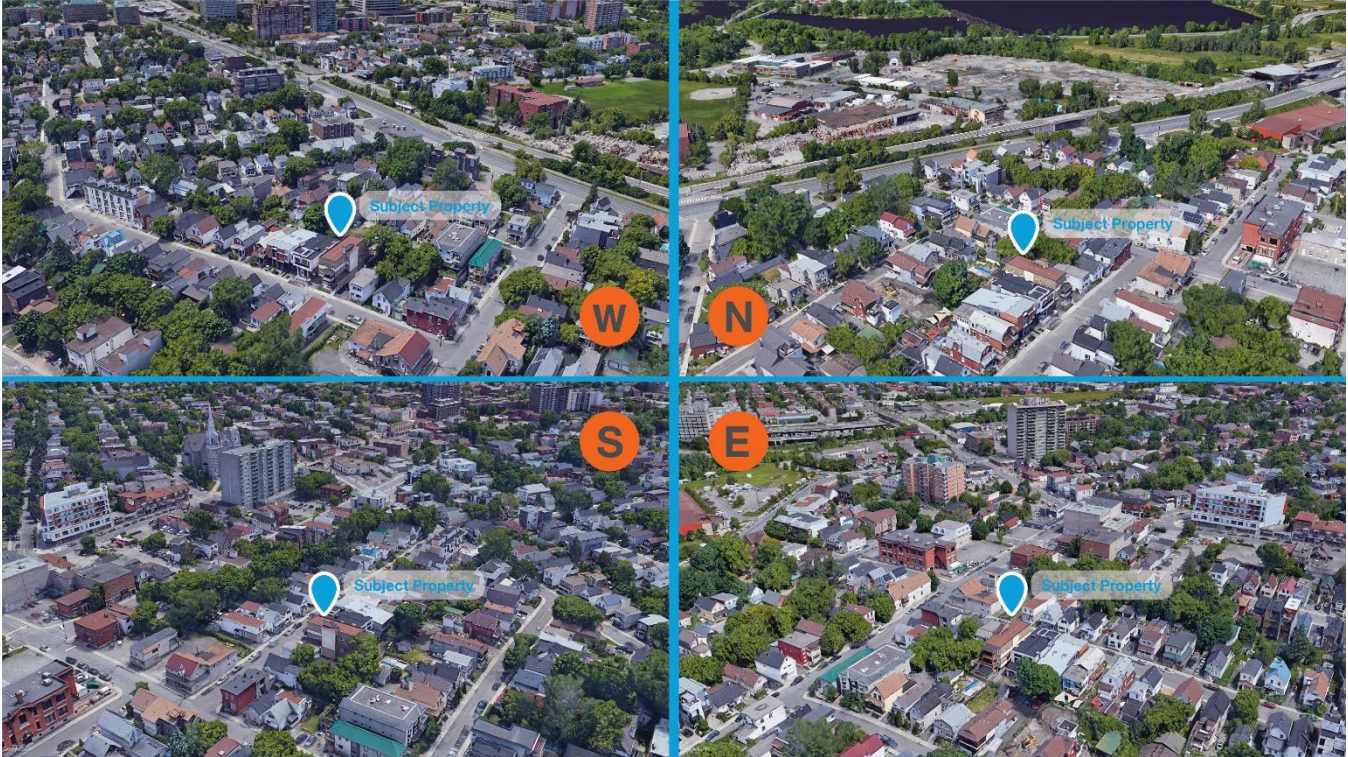


Figure 2: Surrounding context (subject property identified).

2.3 Road Network

The subject property is located along Ladouceur Street, in between Garland Street to the northeast and Merton Street to the southwest. Ladouceur Street is characterized as a local street in the city of Ottawa Official Plan, specifically in Schedule C4 (see Figure 3). The subject site is also located between and has direct access to both Scott Street to the north and Wellington Street West to the south, which are both classified as Arterial roads in Schedule C4 of the Official Plan (Figure 3). Arterial roads are intended to function as major corridors in the urban communities, accommodating a variety of transit modes including vehicle, pedestrian, bicycle, and public transportation. Arterial roads are designed in a manner which meets the needs of these users through the provision, where appropriate, of sidewalks, cycling lanes, and transit stops. The subject property is well served by the existing road network due to its proximity to two (2) Arterial roads along Scott Street and Wellington Street West and the greater urban road network of the City of Ottawa.

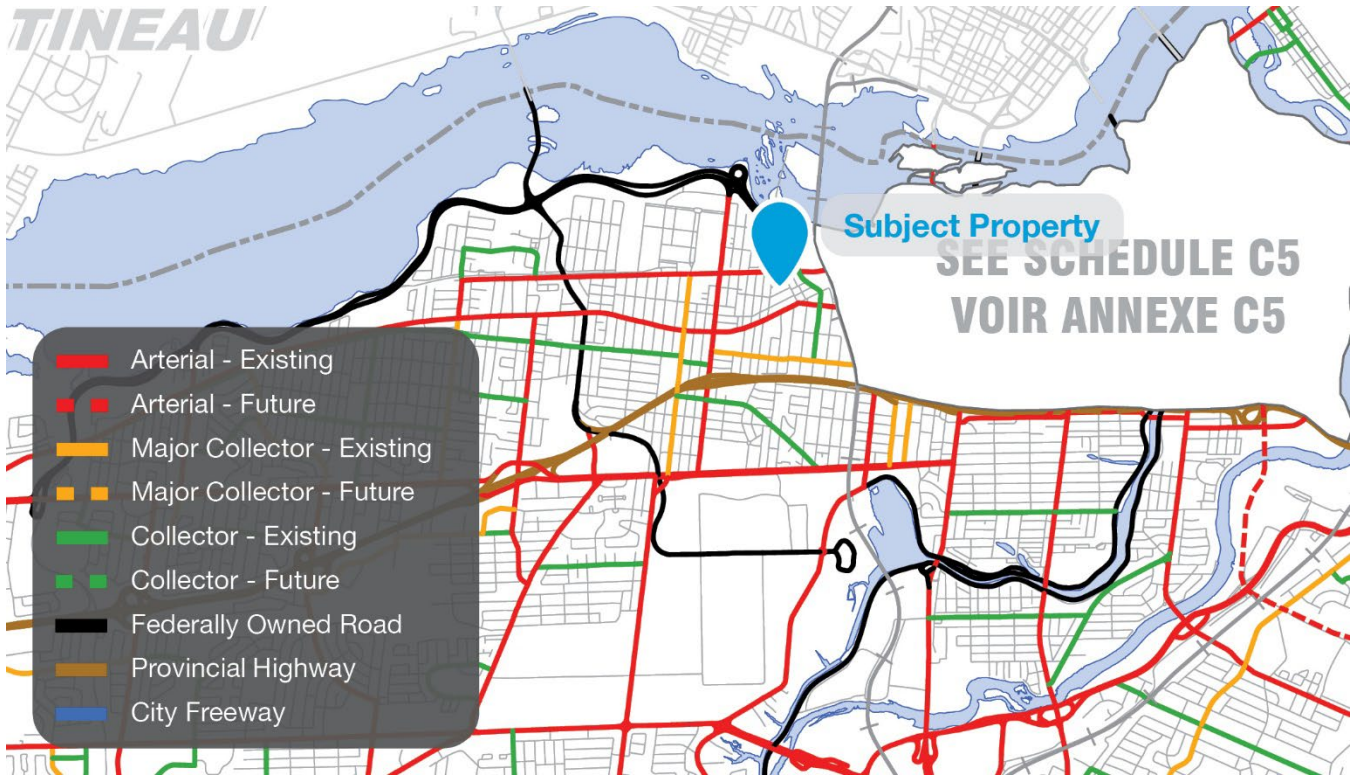


Figure 3: Schedule C4, Urban Road Network (subject property identified).

2.4 Transit Network

The subject property is located approximately 200 metres away from several OC Transpo bus stops, including for routes 51, 11, 16 and 66. These routes provide access to destinations along their network as well as to the planned and existing LRT Stations, including Bayview LRT Station and Tunney’s Pasture LRT Station. The subject property is also located approximately 430 metres, or 600 metres walking distance from Bayview Station. The subject property has proximate access to the existing and planned transit network, providing adequate accessibility to daily needs in both immediate proximity to the property as well as those found along the City’s greater transportation network.

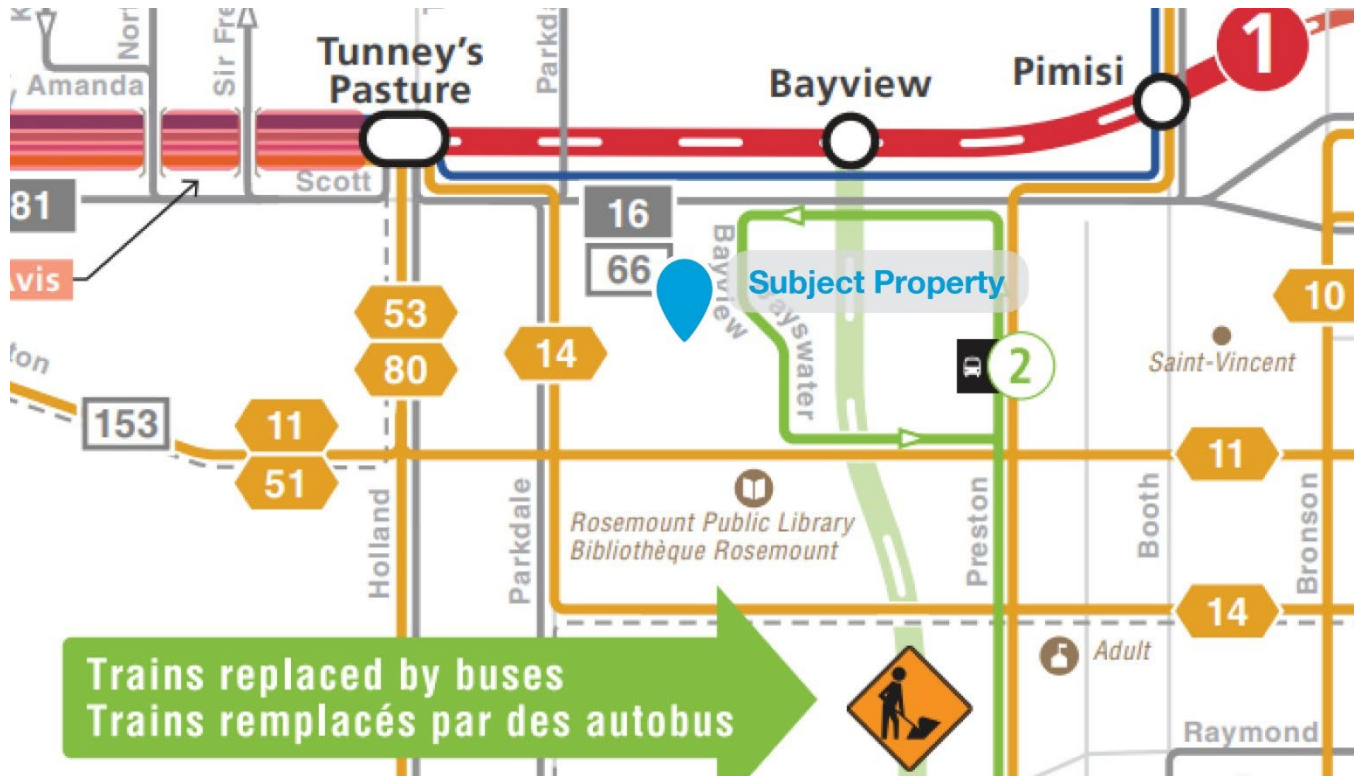


Figure 4: OC Transpo Route Map (subject property identified).

2.5 Neighbourhood Amenities

Considering its location in the established Hintonburg neighbourhood, the subject property benefits from close proximity to many nearby amenities, including a range of commercial uses, community services, and greenspaces. A non-exhaustive list of neighbourhood amenities illustrates the wide range of uses, and include:

- / A wide variety of commercial and retail business to both the north along Wellington Street West as well as to the east within the City Centre commercial plaza;
- / Recreational centres and facilities, including the Tom Brown Arena, Laroche Park, as well as other urban public park facilities;
- / Community Centres such as the Hintonburg Community Centre, the Origin Arts & Community Centre, and Community Helpers.
- / Schools including Devonshire Community Public School, Connaught Public School, and St. Francis of Assisi.

3.0 Existing Conditions

3.1 Existing Structure

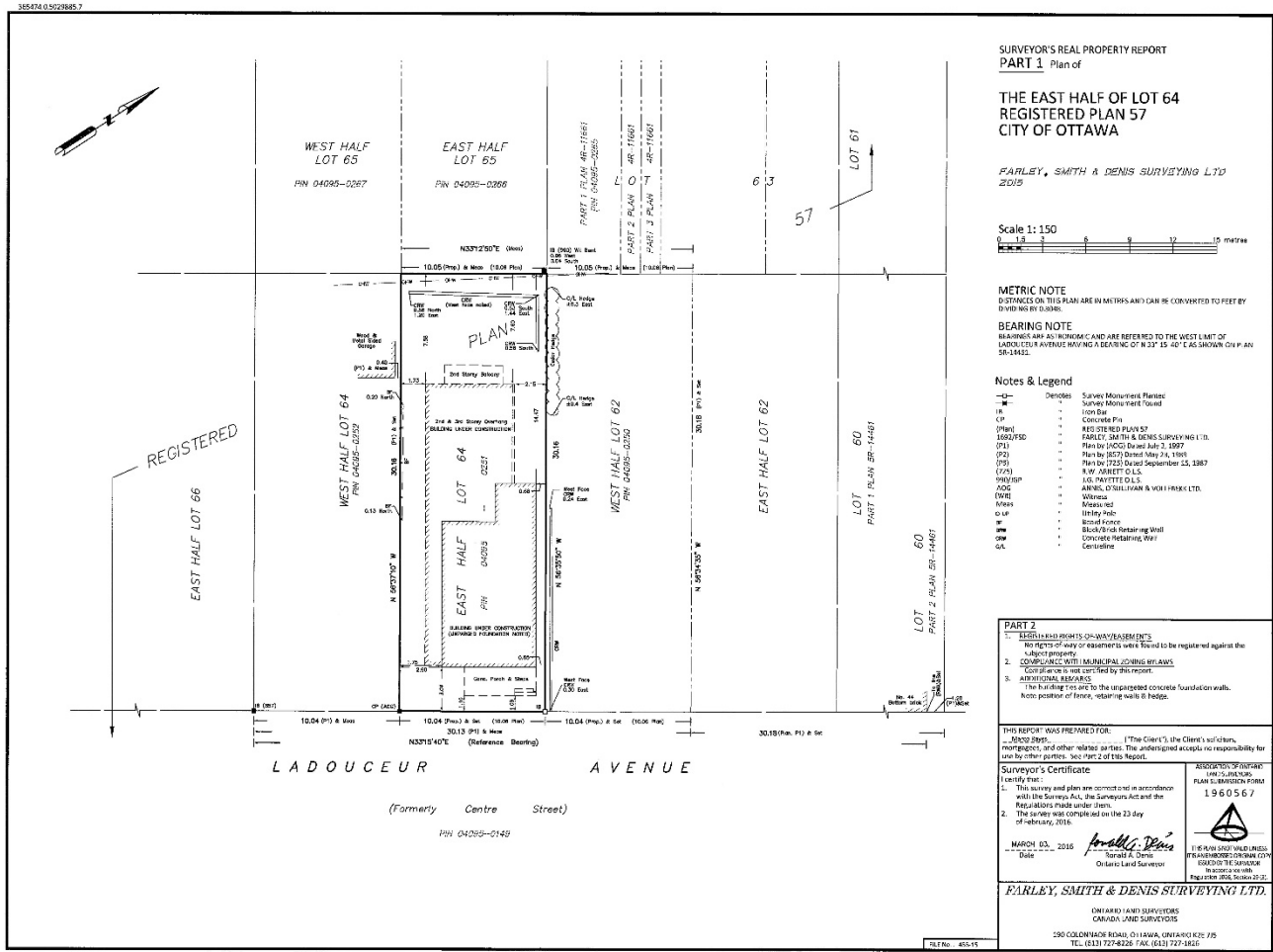


Figure 5: Site Survey.

The subject property is improved with an existing multi-unit residential building. Originally constructed to support three (3) residential dwelling units, a fourth unit has been added within the existing structure. As per Section 54 of the City of Ottawa Zoning By-law, the addition of a fourth unit establishes the use of the building as a low-rise apartment. The existing building, as a three-unit dwelling, benefited from legal non-complying rights related to lot characteristics, as well as any applicable Zoning provisions in which the site was proven deficient. Upon the establishment of the low-rise apartment use, the legal non-complying rights remain as it relates to lot characteristics as well as provisions applicable to both three-unit dwellings and low-rise apartment uses. Only in cases where the Zoning provisions prove to be more restrictive than the previous use has the subject property become Zoning deficient.

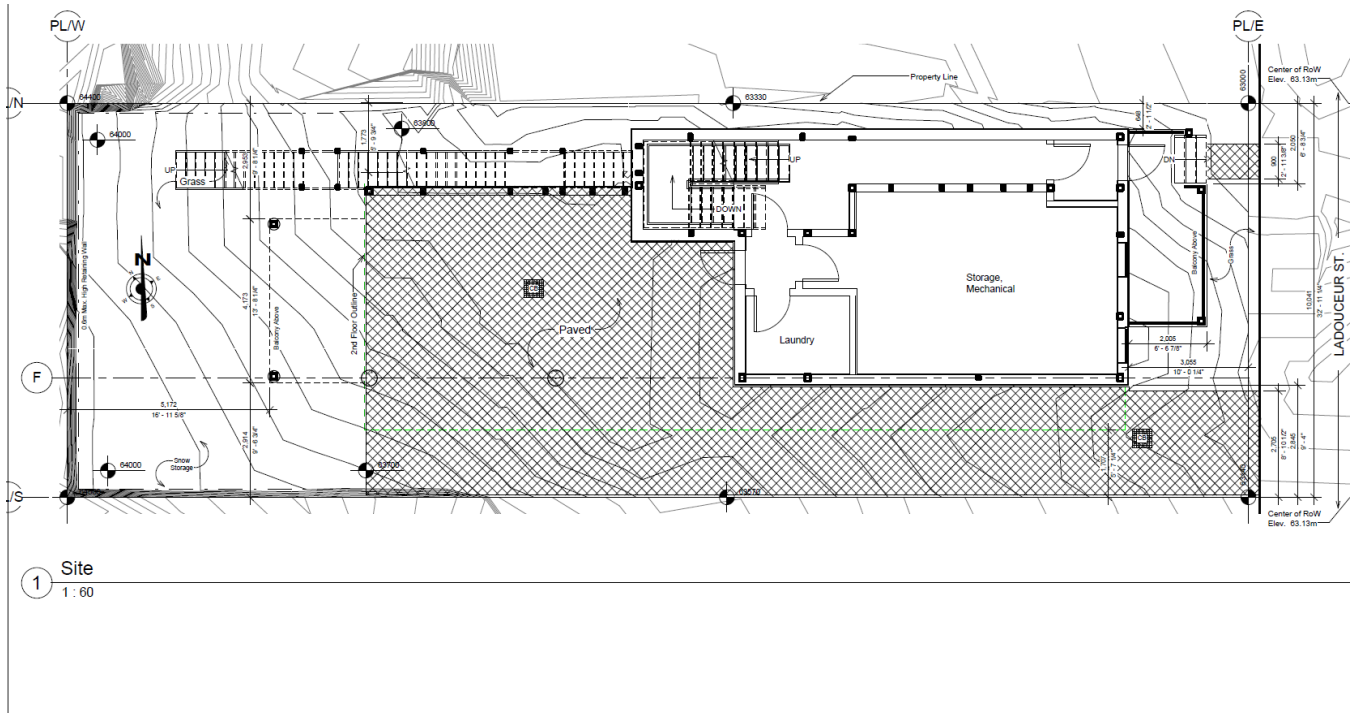


Figure 6: Building Permit drawings depicting the paved portions of the lot which serve as the two (2) parking spaces on the property.

The subject property features a shed in the rear yard which provides secure bicycle parking for the residents of the building. The facilities are capable of providing upwards of two (2) bicycle parking spaces.

Two (2) vehicular parking space is also provided under a supported portion of the building (see Figure 6) with access provided along the south-western side of the lot.

3.2 Neighbourhood Context

The area surrounding the subject property, as described previously, is characterized by single-detached as well as multi-unit residential buildings. The side yard and parking conditions of the surrounding context are similar to that of the subject property and the variances sought through this application. As shown in Figure 7, the adjacent properties along Ladouceur Street feature similar interior side yard setbacks to that of the subject property along their north-eastern lot lines. The general character of these lots is seen to be represented by the bulk of the building massing being concentrated to one lot line, leaving room for a driveway along the other lot line, leading to parking spaces in the rear or interior side yard.

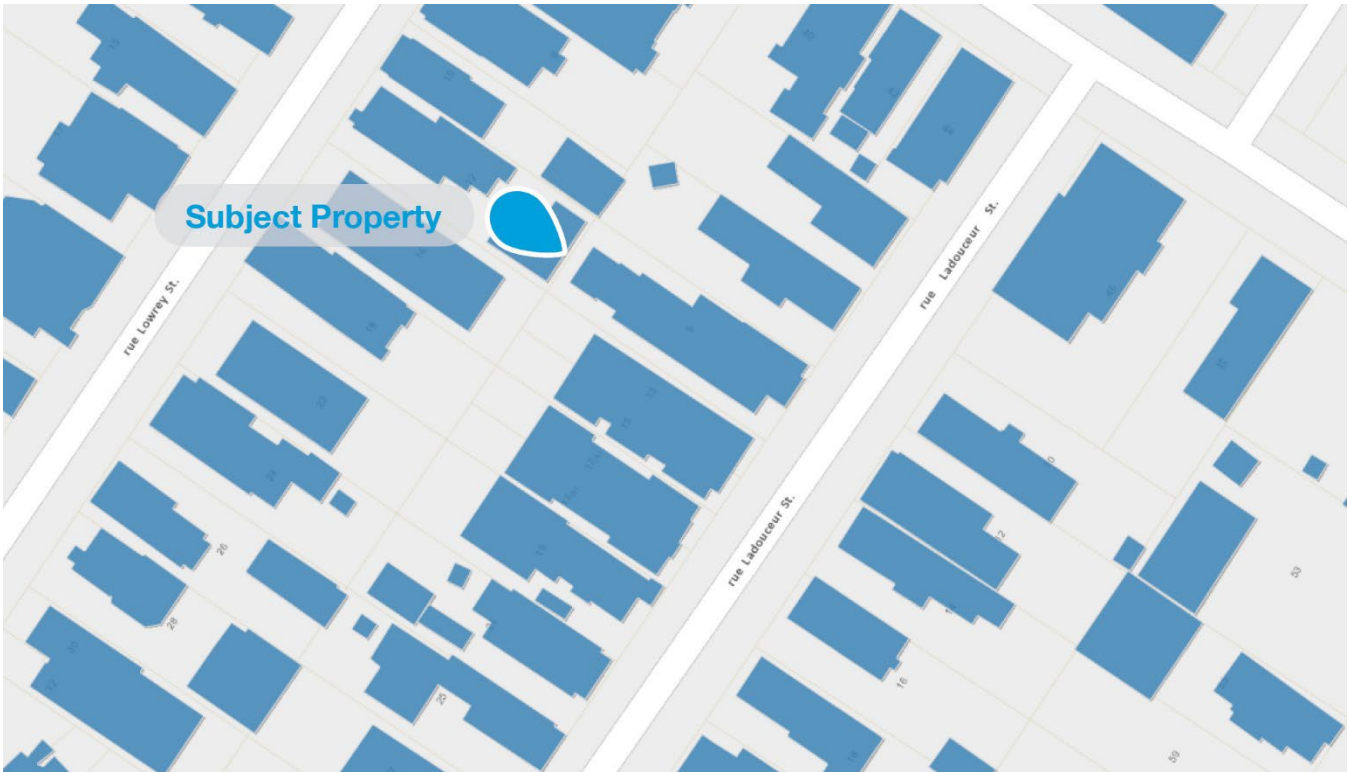


Figure 7: Excerpt from Open Ottawa illustrating the existing building footprints along Ladouceur Street.



Figure 8: Graphic illustrating the existing urban fabric along Ladouceur Street, highlighting similar side yard conditions to that of the subject property as it relates to the proposed Minor Variance. (Excerpt from Open Ottawa)

Using the City's open data portal, building footprints and property lines can be shown to identify urban fabric characteristics. Although not a precise measure for setbacks or yard conditions, the tool can be used to speak generally to characteristic yard conditions found within a certain area. As shown in 7 and 8, the conditions found on the lots adjacent to the subject property represent a similar condition to that proposed through this Minor Variance application. Figure 8 illustrates the six (6) metre interior side yard setbacks along the north side of Ladouceur Street which are representative of the built form described above.



Figure 9: Existing conditions found along Ladouceur Street showing the consistent presence driveways and parking fronting onto the street/

In addition to the side yard conditions present on Ladouceur Street, many of the properties also feature on-site parking in the rear, side, and front yards. Figure 9 depicts the properties at 17A, 17B, 15, 13, and 7 Ladouceur Street which feature driveways fronting onto Ladouceur Street for either parking in the front yard or further onto the properties. The surrounding lot conditions do not differ from those proposed through this application and the proposed Minor Variance would not negatively alter the present street character along Ladouceur Street.

4.0 Policy and Regulatory Context

4.1 Provincial Policy Statement

The Provincial Planning Statement (PPS) is a guiding policy document issued by the Province of Ontario under the Planning Act which provides direction on matters of provincial interest related to land use planning and development. All decisions on planning matters “shall be consistent with” the PPS. The PPS recognizes that “land use must be carefully managed to accommodate appropriate development to meet the full range of current and future needs, while achieving efficient development patterns”. In order to respond to current and future needs, a range of housing options is encouraged through new development and intensification.

Policies that support the proposed Minor Variances include:

- / 1.1.1: Healthy, liveable and safe communities are sustained by:
 - o Promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term (1.1.1a);
 - o Accommodating an appropriate affordable and market-based range and mix of residential types, including multi-unit housing (1.1.1.b); and,
 - o Promoting the integration of land use planning, growth management, transit-supportive development, intensification and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs (1.1.1.e);

- / 1.1.3: Identifies Settlement Areas as the focus of growth and development, where:
 - o Land use patterns in settlement areas are to be based on densities and a mix of land uses which efficiently use land and resources, are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available and avoid the need for their unjustified and/or uneconomical expansion (1.1.3.2); and,
 - o New development taking place in designated growth areas should occur adjacent to the existing built-up area and shall have a compact form, mix of uses and densities that allow for the efficient use of land, infrastructure and public service facilities (1.1.3.6).

- / 1.4.3: Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs or current and future residents of the regional market area by:
 - o Permitting and facilitating:
 - All housing options required to meet the social, health, economic and well-being requirements of current and future residents, including special needs requirements and needs arising from demographic changes and employment opportunities (1.4.3.b.1); and,
 - All types of residential intensification, including additional residential units, and redevelopment (1.4.3.b.2);
 - o Directing the development of new housing towards locations where appropriate levels of infrastructure and public service facilities are or will be available to support current and projected needs (1.4.3.c);
 - o Promoting densities for new housing which efficiently use land, resources, infrastructure and public service facilities, and support the use of active transportation and transit in areas where it exists or is to be developed (1.4.3.d);

- / 1.7.1: Long-term economic prosperity should be supported by:
 - o Encouraging residential uses to respond to dynamic market-based needs and provide necessary housing supply and range of housing options for a diverse workforce (1.7.1.b).

- / 1.8.1: Planning authorities shall support energy conservation and efficiency, improved air quality, reduced greenhouse gas emissions, and preparing for the impacts of a changing climate through land use and development patterns which:
 - o promote compact form and a structure of nodes and corridors (1.8.1.a);

- promote the use of active transportation and transit in and between residential, employment (including commercial and industrial) and institutional uses and other areas (1.8.1.b); and
- encourage transit-supportive development and intensification to improve the mix of housing uses to shorten commute journeys and decrease transportation congestion (1.8.1.e).

The proposed variances on the subject property are consistent with the Provincial Policy Statement, 2020 in that it achieves its vision in addressing efficient development and land use patterns. The establishment of a low-rise apartment use on the subject property is an appropriate type and tenure of residential dwellings to meet long-term needs of the City, promoting cost-effective development patterns and supporting public transit and active transportation. Furthermore, considering that the proposed Minor Variances merely seek to address deficiencies of an existing structure following changes that will not affect the exterior bulking massing, or appeal of the building, this proposal aligns with the policies of the PPS.

4.2 City of Ottawa Official Plan (2022)

The Official Plan for the City of Ottawa was approved November 4, 2022. The Plan provides a framework for the way that the City will develop until 2046 when it is expected that the City’s population will surpass 1.4 million people. The Official Plan directs how the city will accommodate this growth over time and set out the policies to guide the development and growth of the City.

4.2.1 Inner Urban Transect

Schedule A of the Official Plan divides the City into six (6) concentric policy areas called Transects. Each Transect represents a different gradation in the type and evolution of built environment and planned function of the lands within it, from most urban (the Downtown Core) to least urban (Rural).

The subject property is located in the “Inner Urban Transect” of the Official Plan. The Inner Urban Transect includes the pre-World War II neighbourhoods that immediately surround the Downtown Core, and the earliest post-World War II areas directly adjacent to them and is therefore characterized by both urban and suburban elements. The New Official Plan provides guidance for how the existing character of these neighbourhoods should be complemented while allowing for the development of walkable, service-rich, 15-Minute Neighbourhoods.

The Inner Urban Transect promotes greater densities than the Outer Urban and Suburban transects; the intended pattern of built form is urban. The transect is generally planned for mid- to high-density development, subject to their proximity to transit, their underlying land use designation, and municipal servicing capacity constraints. Section 5.2 sets the policies guiding development under this transect designation. The policies focus on enhancing the pattern of development to reflect the desired urban character, creating walkable and transit-supportive communities, as well as encouraging appropriate ‘missing-middle’ intensification within established neighbourhoods.

The following policies apply to the proposed Minor Variance application on the property as follows:

- / 5.2.2(2) Accommodate motor vehicle access and movement provided doing so does not erode the public realm nor undermine the priority of pedestrians, cyclists and transit users.
- / 5.2.2(3) Motor vehicle parking in the Inner Urban Transect shall be managed as follows:
 - a) Where new development is proposed to include parking as an accessory use, such parking:
 - Shall be hidden from view of the public realm by being located behind or within the principal building, or underground;
- / 5.2.4 1) Neighbourhoods located in the Inner Urban area and within a short walking distance of Hubs and Corridors shall accommodate residential growth to meet the Growth Management Framework as outlined in Subsection 3.2, Table 3b. The Zoning By-law shall implement the density thresholds in a manner which adheres to the built form requirements as described in Subsection 5.6.1, as applicable and that:

- a) Allows and supports a wide variety of housing types with a focus on missing-middle housing, which may include new housing types that are currently not contemplated in this Plan;
- c) Provides for a low-rise built form, by requiring in Zoning a minimum built height of 2 storeys, generally permitting 3 storeys

The subject property is located in the Inner Urban Transect in the City of Ottawa Official Plan. This location promotes intensification and densities that meet or exceed what is proposed on the subject lands through the Minor Variances. The proposed Minor Variance application on the subject property seeks to permit two (2) vehicular parking spaces on the subject property as well as permit for an existing interior side yard setback of 0.65 metres to legalize an existing low-rise apartment. The variances sought through this application align with the policies of the Inner Urban Transect.

4.2.2 Neighbourhood Designation

The subject property is designated “Neighbourhood” in Schedule B2 of the Official Plan (Figure 10). The Neighbourhood designation represents the core of the communities found in the urban and suburban areas of the City. The stage of evolution varies across neighbourhoods around the city, and the policies of the Official Plan recognize this, and help to guide development towards the desired 15-minute neighbourhood pattern of development. Section 3.2.3 outlines the role of Neighbourhoods in supporting a large portion of the intensification projected by the Plan as they develop in proximity to designations of greater density and mix of uses, such as Corridors and Hubs. The designation policies ensure intensification and development while remaining sensitive to the existing character of the neighbourhood.

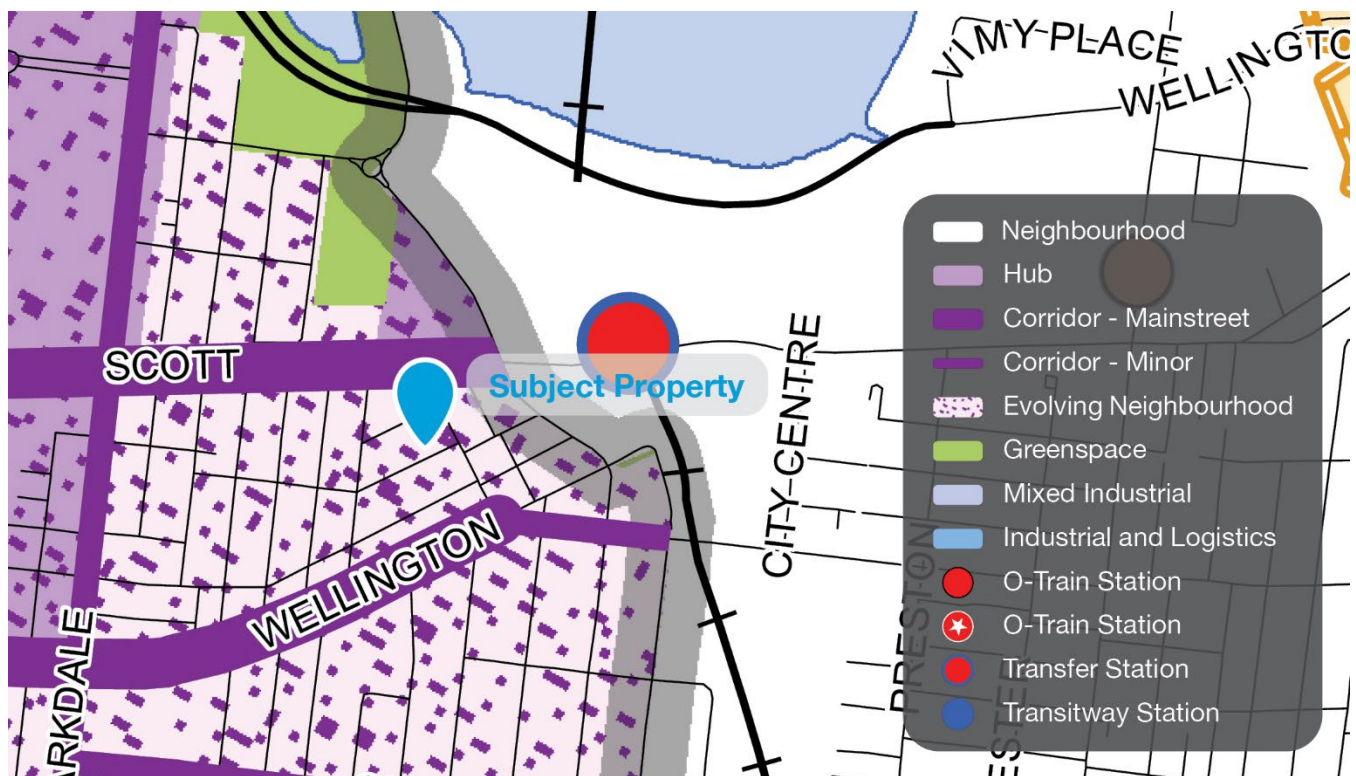


Figure 10: Schedule B2 – Inner Urban Transect.

The following policies apply to the proposed variances:

- / 6.3.1 2) Permitted building heights in Neighbourhoods shall be Low-rise;

- / 6.3.1 4) The Zoning By-law and approvals under the Planning Act shall allow a range of residential and non-residential built forms within the Neighbourhood designation, including:
 - o a) Generally, a full range of Low-rise housing options sufficient to meet or exceed the goals of Table 2 and Table 3b;
 - o b) Housing options with the predominant new building form being missing middle housing, which meet the intent of Subsection 6.3.2, Policy 1);
- / 6.3.1 5) The Zoning By-law will distribute permitted densities in the Neighbourhood by:
 - o a) Allowing higher densities and permitted heights, including predominantly apartment and shared accommodation forms, in areas closer to, but not limited to, rapid-transit stations, Corridors and major neighbourhood amenities;
- / 6.3.2 1) The Zoning By-law and approvals under the Planning Act will allow innovative buildings forms, including in the missing middle housing category, in order to strengthen, guide towards or seed conditions for 15- minute neighbourhoods. Innovative building forms include but are not limited to: adaptive reuse of existing buildings into a variety of new uses.

The subject property is designated as Neighbourhood within the City of Ottawa’s Official Plan. The designation policies permit for mid-density residential uses, ensuring compatibility within the existing context and providing for needed densities in proximity to transit. The proposed variances on the subject property are compatible and align with the policies of the Neighbourhood designation.

The City of Ottawa’s Official Plan outlines the general strategies for growth and development across the region, detailing specific policies for both urban and rural areas. The Plan highlights key features related to residential development within the Inner Urban Transect and the role of the Neighbourhood designation in accommodating a bulk of the intensification proposed through the Plan. The policies of the Official Plan are supportive of the proposed Minor Variances on the subject property. The variances do not propose any new development, rather, the application seeks only to bring an existing building into conformity with the Zoning as a result of adding an additional dwelling unit in an area capable and designated by policy to support growth.

4.3 City of Ottawa Comprehensive Zoning By-law

The subject site is zoned Residential Fourth Density, Subzone UB (R4UB). It is also within the Mature Neighbourhoods.

The **Residential Fourth Density Zone** is intended to allow a wide mix of residential building forms ranging from detached to low rise apartment dwellings, in no case more than four storeys, in areas designated as General Urban Area.



Figure 11: Zoning map with the subject property identified. (GeoOttawa)

The **Mature Neighbourhoods Overlay** includes zone provisions intended to ensure that new infill development complements and reinforces the established neighbourhood character as seen along each street. As per Section 140 of the By-Law, the Mature Neighbourhoods Overlay generally regulates development or additions within the front or corner side yard through the completion of a Streetscape Character Analysis (SCA). Pursuant to Section 140, Policy 3, the proposed development is not subject to an SCA as it is not seeking to develop a new residential building, building addition, or driveway or carport in the front or corner side yard.

Table 1 below describes the permitted uses at the subject property.

Table 1: Permitted Uses in the R4UB zone.

Residential	
/	apartment dwelling, low rise
/	bed and breakfast
/	detached dwelling(only if in existence prior to Feb 24, 2021)
/	duplex dwelling
/	group home
/	home-based business
/	home-based daycare
/	linked-detached dwelling
/	planned unit development
/	retirement home
/	rooming house
/	secondary dwelling unit
/	semi-detached dwelling
/	stacked dwelling

- / three-unit dwelling
- / townhouse dwelling

Table 2 below describes the Zoning By-Law provisions and requirements, with specific review of the Residential Fourth Density, Subzone UB provisions as they relate to low-rise apartment dwellings containing eight or fewer units. The table further provides compliance details as they relate to the provided survey.

Table 2: City of Ottawa Zoning By-law – R4UD Zone provisions.

Provision	Required	Provided	Compliance
Minimum Lot Width	10 metres	10.04 metres	Yes
Minimum Lot Area	300m ²	303.96m ²	Yes
Maximum Building Height	11 metres	Three (3) storeys	LNC
Minimum Front Yard Setback	Average of the Abutting Lots Note* 20% of the front facade must be recessed an additional 0.6 m from the front setback line, or provide one balcony/porch for every unit that faces the public street	3.04 metres 20% of the front facade is recessed an additional 0.6 metres	LNC LNC
Minimum Interior Yard Setback	1.2 metres	1.73 metres to the SW 0.65 metres to the NE	Yes No
Minimum Rear Yard Setback and Area	For any lot with a lot depth greater than 25 metres, a distance equal to 30% of the lot depth which must comprise at least 25% of the area of the lot. 30.16m x 30% = 9.1m and 303.96m ² x 25% = 75.99m ²	7.58 metres and 76.18m ² rear yard area	LNC Yes
Landscaped Area	30% of the lot area must be provided as landscaped area 50% of the rear yard must be soft landscaped 40% of the front yard must be soft landscaped	N/A	LNC LNC LNC
Rear Yard Landscape Buffer	3 metres	N/A	LNC

Table 3 describes vehicle and bicycle parking requirements.

Provision	Required	Provided	Compliance
Vehicle Parking Requirements	0.5 spaces / unit for each unit in excess of 12.	2 spaces provided	Yes

	0 spaces required		
Visitor Parking	0.1 per dwelling unit, less the first 12 units 0 spaces required	0 visitor spaces provided	Yes
Bicycle Parking	0.5 spaces per dwelling unit 4 units x 0.5 = 2 bicycle spaces	2+ spaces provided	Yes

4.3.1 Section 162(16)

- / In the case of a Low-rise Apartment Dwelling or Stacked Dwelling in the R4-UA, R4-UB, R4-UC and R4-UD zones
 - o (a) No motor vehicle parking is permitted on a lot less than 450 square metres in area.

4.4 Required Minor Variances

As a result of the establishment of the low-rise apartment use on the subject property, a Minor Variance application is required to address two specific zoning deficiencies related to the interior side yard setback and on-site parking. The required Minor Variances are as follows:

- / to permit an interior side yard setback of 0.65 metres whereas Section 162 of the Zoning By-law requires 1.5 metres for low-rise apartment uses; and,
- / to permit two (2) parking spaces to be provided for a Low-rise Apartment Dwelling in the R4-UB zone whereas Section 161(16)(a) of the Zoning By-law prohibits vehicular parking for such uses on a lot less than 450 square metres in area.

Four Tests of the Planning Act

Section 45 (1) of the Planning Act (R.S.O. 1990, c. P.13) outlines four tests for determining the suitability of a proposed minor variance. If all four tests are met, the Committee of Adjustment is authorized to grant a variance.

There are two (2) variances being sought through this application to address the Zoning deficiencies resultant from the establishment of a low-rise apartment use on the subject property related to the addition of a unit within the existing structure, resulting in a total unit count of four (4). Per Section 3 of the Zoning By-law, the subject property and the existing structure are granted specific legal non-complying rights. The variances sought through this application seek to address the specific deficiencies related to the applicable Zoning By-law provisions as they relate specifically to the newly established use that does not maintain legal non-complying rights.

The evaluation criteria are explored below:

1) The variance is minor in nature.

The primary consideration of whether a variance is minor is the evaluation of adverse impacts on other properties. The Minor Variances proposed through this application are minor in nature as the purpose of the application is seeking only to bring an existing building and its existing facilities into conformity with the Zoning By-law. The proposed interior side yard setback and parking spaces on the subject property were originally established legally when the building was constructed as a three-unit dwelling. As a result, the addition of one more unit internally is not likely to be perceived by the surrounding public so as to generate any noticeable impact relative to the existing interior side yard setback or the provided parking spaces. This is particularly true when one considers that the alternative scenario within the previous three-unit dwelling could have resulted in larger units resulting in a similar occupant load in the building. Additionally, similar building setbacks and on-site parking scenarios are extremely common within the surrounding neighbourhood context.

The proposed Minor Variances are shown to be minor in nature.

2) The variance maintains the general intent and purpose of the Zoning By-law.

The stated purpose of the R4 - Residential Fourth Density Zone includes:

1. allow a wide mix of residential building forms ranging from detached to low rise apartment dwellings, in some cases limited to four units, and in no case more than four storeys, in areas designated as **General Urban Area** in the Official Plan; and
2. regulate development in a manner that is compatible with existing land use patterns so that the mixed building form, residential character of a neighbourhood is maintained or enhanced.

The Minor Variances maintain the general intent and purpose as they will accommodate a use that is permitted within the R4 zoning. It is also important to note that a duplex dwelling would permit a 0.6 m side yard that is less than the requested variance and a three-unit building would not prohibit the existing parking spaces. Given that these alternative uses would realistically accommodate a similar occupant load within the same existing on-site conditions, it is fair to conclude the variances maintain the general intent and purpose of the Zoning By-law.

The general intent and purpose of the Zoning By-law is maintained through the proposed Minor Variances.

3) The variance maintains the general intent and purpose of the Official Plan.

The proposed Minor Variance maintains the general intent and purpose of the Official Plan as it permits for a low-rise apartment use within the Inner Urban Transect and Neighbourhood designation. The applicable policies are supportive of missing middle housing options and support low- to mid-density growth within these planning areas that is commonly expressed within low-rise apartment uses. The applicable policies primarily relate to new development and exterior building additions and alternations, and as a result, the proposed variances do not stray from the general intent and purpose of the Official Plan and its policies both in terms of the land use that is being accommodated as well as the resulting modest level of intensification.

The proposed Minor Variances maintain the general intent and purpose of the Official Plan.

4) The variance is considered desirable for the development and use of the property.

The proposed Minor Variances on the subject property do not alter the existing building footprint, massing, bulking, layout, or facilities in any way that would detract from the building functionality nor desirability through accommodating an additional dwelling unit as encouraged by the Official Plan. The surrounding conditions, identified in this cover letter, illustrate that the proposed variances are not dissimilar to those on the surrounding properties, and the addition of a dwelling unit internal to the building does not compromise the site or use functionality as the relationship between lot and building size are not set to change. For these reasons, the conditions created through these Minor Variances is shown to be a desirable development and site use.

The proposed Minor Variances are considered desirable for the development and use of the subject property.

6.0 Conclusion

In our professional opinion, the Minor Variances represent good planning and meet the applicable evaluation criteria established in Sections 45 of the Planning Act. The application therefore upholds sound land use planning principles and is in the public interest.

Please contact the undersigned at saunders@fotenn.com and casagrande@fotenn.com with any questions or requests for additional material.

Sincerely,



Evan Saunders, M.PL
Planner



Brian Casagrande, MCIP RPP
Partner