

**MDECISION
MINOR VARIANCE / PERMISSION**

Date of Decision: August 25, 2023
Panel: 1 - Urban
File No(s): D08-02-23/A-00158
Application: Minor Variance under section 45 of the *Planning Act*
Owner(s)/Applicant(s): Ali Aleali and Oksana Zbyranyk
Property Address: 435 Echo Drive
Ward: 17 – Capital
Legal Description: Part of Lot 10, Plan 102
Zoning: R4UD
Zoning By-law: 2008-250
Hearing Date: August 16, 2023, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

[1] The Owner wants to construct a three-storey detached dwelling on their property.

REQUESTED VARIANCE

[2] The Owners/Applicants require the Committee's authorization for a minor variance from the Zoning By-law to permit an increased building height of 11 metres, whereas the By-law permits a maximum building height of 10 metres.

PUBLIC HEARING

[3] At the hearing on August 2, 2023, the Committee adjourned the application for the applicant to provide a Geotechnical report to both the Committee and the Old Ottawa East Community Association and to provide clarification that the rear yard setback does not have an impact on the proposed height. With the concurrence of all parties the application was adjourned to August 16, 2023

Oral Submissions Summary

- [4] At the hearing on August 16, 2023, Simran Soor, agent for the Applicant, provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request.
- [5] Ms. Soor confirmed that the proposal for increased height is unrelated to a previous minor variance filed for the subject property (D08-02-23/A-00036) and currently under appeal. She also stated that the requested increase in height is due to the entire building footprint having to be increased to accommodate

servicing under the property, and the ceiling heights are the same as the previous application.

[6] City Planner Adrian Van Wyk stated that the Geotechnical report has been reviewed and that staff have no concerns with the application.

[7] The Committee also heard oral submissions from the following individual:

- J. Dance, Chair, Old Ottawa East Community Association, stated that due to the cumulative nature of previous approved variances, the proposal is not minor and that the proposal does not meet the intensification objectives of the Official Plan. He further noted that the applicant could revise the proposal to eliminate the need for the height variance.

[8] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION REFUSED

Application Must Satisfy Statutory Four-Part Test

[9] 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

[10] 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, a tree information report, a geotechnical report, a photo of the posted sign, and a sign posting declaration.
- City Planning Report received July 27, 2023, with no concerns; received August 10, 2023, with no concerns.
- Rideau Valley Conservation Authority email dated July 27, 2023, with no objections; received August 10, 2023, with no objections.
- Hydro Ottawa email dated July 28, 2023, with no comments.

- Ministry of Transportation email dated August 10, 2023, with no comments.
- J. Dance, Chair, Old Ottawa East Community Association, email dated August 1, 2023, opposed; dated August 15, 2023, opposed.
- J. Colizza, neighbour, email dated July 26, 2023, in support.
- V. Colizza, neighbour, email dated July 26, 2023, In support.

Effect of Submissions on Decision

- [11] The Committee considered all written and oral submissions relating to the application in making its decision and refused the application.
- [12] Based on the evidence, the Committee is not satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [13] The Committee notes that the City's Planning Report raises "no concerns" regarding the application, highlighting that the proposal would not impact existing patterns of height along the streetscape.
- [14] Considering the circumstances, the Committee finds that from a planning and public interest point of view, the requested variance is not desirable for the appropriate development or use of the land, building or structure on the property, and relative to the neighbouring lands, noting that an alternative design to incorporate the extra height on the interior of the dwelling would be more appropriate development.
- [15] The Committee also finds that insufficient evidence was presented to rationalize the height variance and to demonstrate that the general intent and purpose of the Zoning By-law and the Official Plan are maintained.
- [16] THE COMMITTEE OF ADJUSTMENT therefore does not authorize the requested variance.

"Simon Coakeley"
SIMON COAKELEY
ACTING PANEL CHAIR

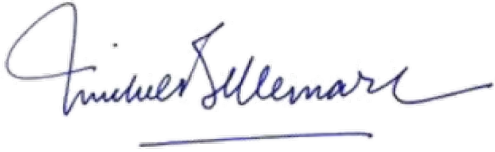
"John Blatherwick"
JOHN BLATHERWICK
MEMBER

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

"Arto Keklikian"
ARTO KEKLIKIAN
MEMBER

"Sharon Lecuyer"
SHARON LECUYER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **August 25, 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 **September 14, 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.

Committee of Adjustment
City of Ottawa
Ottawa.ca/CommitteeofAdjustment
cofa@ottawa.ca
613-580-2436



Comité de dérogation
Ville d'Ottawa
Ottawa.ca/Comitedederogation
cded@ottawa.ca
613-580-2436