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FILE NO: 57215-1000

BY COURIER
July 26, 2023

Committee of Adjustment
City of Ottawa
4th Floor, 101 Centrepointe Drive
Ottawa, ON K2G 5K7
Attn: Michel Bellemare, Secretary-Treasurer

Committee of Adjustment
Received | Reçu le
2023-08-02
City of Ottawa | Ville d'Ottawa
Comité de dérogation

Dear Mr. Bellemare:

Re: Applications for Consent (Lot Line Adjustment) and Minor Variances
60 Pontiac Street, Ottawa
62 Pontiac Street, Ottawa

We are the solicitors for Daniel Wilcock and Maya Gold (“**Wilcock/Gold**”), the registered owners of the lands known municipally as 60 Pontiac Street (“**60 Pontiac**”, together with 62 Pontiac Street, the “**Subject Properties**”) and legally described in the attached PIN 04032-0038, and for the Estate of Sherri Watson, the registered owner of the lands known municipally as 62 Pontiac Street (“**62 Pontiac**”, together with 60 Pontiac the “**Subject Properties**”) and legally described in the attached PIN 04032-0037, for the purposes of the enclosed applications for lot line adjustments and minor variances. The purpose of the enclosed applications is to better align the legal ownership of the Subject Properties with the continued use of the lands and to regularize the location of the existing buildings.

The Existing Situation

62 Pontiac was severed from 60 Pontiac in the 1960s (or earlier). As shown on Plan 5R5186 (enclosed and shown as Figure 1 below), 62 Pontiac is an irregular shape in that it includes a 3.35m wide strip that runs south of 60 Pontiac for 29.25 metres, stopping 0.3 metres short of Cowley Avenue (the “**Pan Handle**”). The Pan Handle is shown as Part 4 on the enclosed Draft Reference Plan and the 0.3m strip along Cowley Avenue (part of 60 Pontiac) is shown as Part 3.

The historical and continued use of the lands is not in accordance with the existing legal property boundaries. Due to physical barriers and long-existing improvements, the Owner of 62 Pontiac does not have physical access to the Pan Handle (Part 4) and there is a fence that currently runs east-west down the middle of the Pan Handle effectively dividing access to it between 60 Pontiac and 124 Cowley Avenue to the south. In addition, a shed belonging to the Owner of 62 Pontiac encroaches onto 60 Pontiac. This encroachment is not shown on Plan 5R5186, but is shown within Part 2 on the Draft Reference Plan.

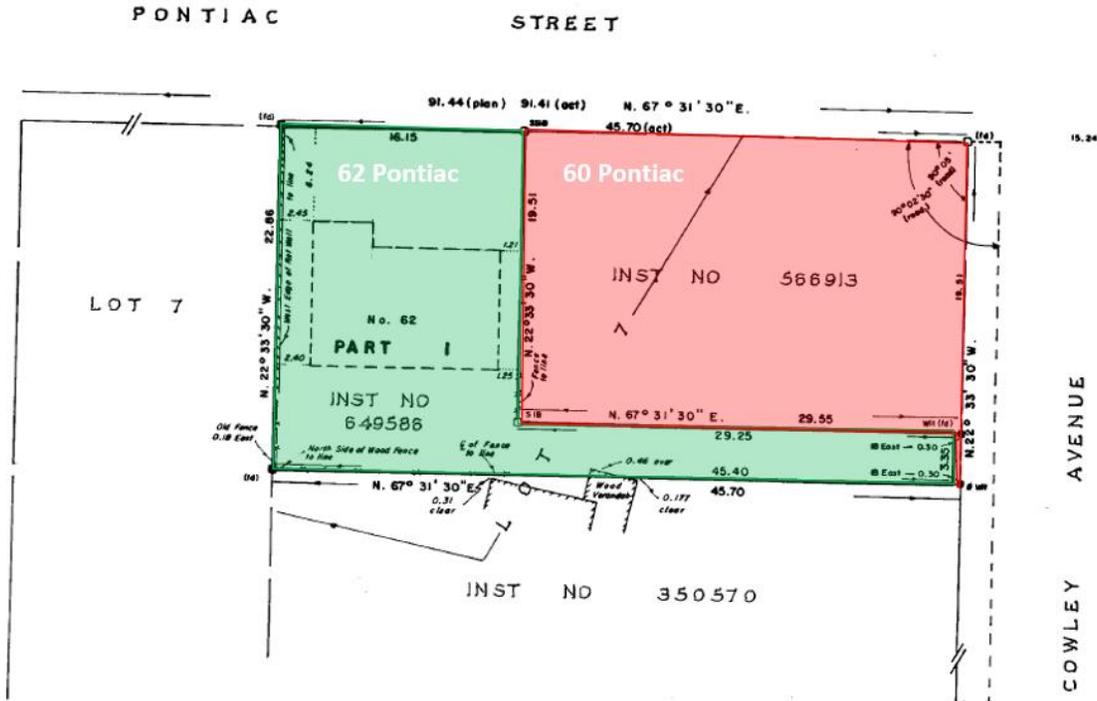


Figure 1: Excerpt of Plan 5R5186

The Subject Properties

60 Pontiac and 62 Pontiac are in Ward 15 (Kitchissippi), in the neighbourhood of Champlain Park as shown on Figure 2 below.



Figure 2: Context Map (Source: GeoOttawa)

The Subject Properties are serviced by municipal water and wastewater systems, and each is developed with a detached dwelling. The original dwelling at 60 Pontiac was developed in the 1920s and the dwelling at 62 Pontiac was developed in approximately the 1960s. The current parcel boundaries are as shown on Figure 3 below.



Figure 3: Aerial photo of Subject Properties (Source: GeoOttawa)

City of Ottawa Policy Documents

City of Ottawa New Official Plan

The Subject Properties are designated **Neighbourhood**, on Schedule B2 – Inner Urban Transect of the City’s New Official Plan (See Figure 4). In accordance with Section 6.3 of the Official Plan, the goals of the policies applicable to the Neighbourhood designation are to:

1. Define neighbourhoods and set the stage for their function and change over the life of this Plan
2. Guide the evolution of neighbourhoods based on their context, location, age, maturity and needs, generally towards the model of 15-minute neighbourhoods
3. Ensure that neighbourhoods form the cornerstone of liveability in Ottawa

Section 11 of the Official Plan speaks to Implementation. Section 11.5 provides direction to Committee of Adjustment processes, including the following:

3. Applications to the Committee of Adjustment for Minor Variance / Permissions are categorized as adjustments to a Zoning By-law development standard or the addition of a use which is in keeping with the applicable land-use designation of the Official Plan and the four tests for a minor variance.

8. The City shall permit lot adjustments in any land-use designated for legal or technical reasons. For the purposes of this section, legal or technical reasons include severances for purposes such as easements, corrections of deeds, quit claims and minor boundary adjustments, which do not result in the creation of a new lot or render an existing lot as non-complying.



Schedule B2 - Inner Urban Transect

DESIGNATIONS / DÉSIGNATIONS



Figure 4: Official Plan Schedule B2 - Extract

Comprehensive Zoning By-law 2008-250

The Subject Properties are zoned R2D [2159] - Residential Second Density, Subzone D, Exception 2159. The purpose of the R2 Zone is to:

1. restrict the building form to detached and two principal unit buildings in areas designated as General Urban Area in the Official Plan;
2. allow a number of other residential uses to provide additional housing choices within the second density residential areas;
3. permit ancillary uses to the principal residential use to allow residents to work at home;
4. regulate development in a manner that is compatible with existing land use patterns so that the detached and two principle dwelling, residential character of a neighbourhood is maintained or enhanced; and
5. permit different development standards, identified in the Z subzone, primarily for areas designated as Developing Communities, which promote efficient land use and compact form while showcasing newer design approaches.

Section 158 of the Zoning By-law sets the performance standards for the R2 Subzones. Specific provisions in Section 144 and Exception 2159, however, override Section 158. Table 1 below indicates the applicable performance standards and post-lot line adjustment compliance for each of the Subject Properties.

For the purposes of the Zoning By-law, the front lot line of 60 Pontiac, defined by the By-law as “*the lot line which abuts a street for the shortest distance, whether or not that line jogs or curves, and extending between the side lot lines, more or less for the full width of the lot*”, is the lot line abutting Cowley Avenue. This is reflected in Table 1.

Minimum Rear Yard Setback Calculation

Footnote 6 of the Table in Section 158 provides that for those lots within Schedule 342, Part V Section 144 – Alternative Yard Setbacks for Low-Rise Residential Uses applies. The Subject Properties are within Schedule 342 and are therefore subject to Section 144 and Table 144A applies.

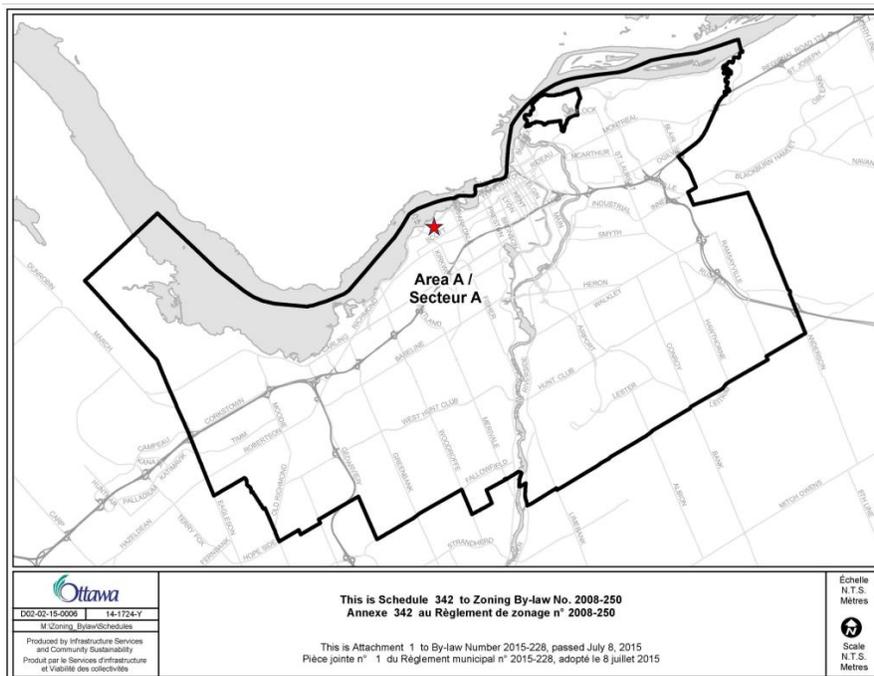


Figure 5: Schedule 342 to Zoning By-law 2008-250

Section 144 – Alternative Yard Setbacks affecting Low-rise Residential Development in the R1 to R4 Zones within the Greenbelt

Rear Yards on Interior or through lots

- Where a lot's rear lot line abuts either an R1, R2, R3 or R4 zone, or abuts a lane that abuts an R1, R2, R3, or R4 zone on either side, except in the case of a Planned Unit Development:

1. the rear yard must comprise at least 25 percent of the lot area; and the minimum rear yard setback is pursuant to Table 144A or 144B below (emphasis added).

1. where the minimum front yard is 4.5 m or less, the minimum rear yard depth is determined by Table 144A:

Table 144A - Rear Yard Requirements for lots with a front yard setback of 4.5 or less

| | I Lot Depth | II Minimum Rear Yard |
|-------|---|--------------------------------|
| (i) | 23.5 metres or less | 25 per cent of the lot depth |
| (ii) | Greater than 23.5 but not more than 25 metres | the lot depth minus 17.5metres |
| (iii) | greater than 25 metres | 30 per cent of the lot dept |

The lot-line adjustment applications will not alter the lot depths of the existing lots. 60 Pontiac has a lot depth of 29.55m. In accordance with row (iii) of Table 144A the required minimum rear yard is 30% of the lot depth, being 8.87m. 62 Pontiac has a lot depth of 22.86 metres, and the minimum required rear yard, in accordance with row (i) of Table 144A is 25% of the lot depth, being 5.72m.

Post lot-line adjustment approval, in accordance with the Schedule included on the Draft Reference Plan, 60 Pontiac (Parts 1, 3 and 4) will have a lot area of 656.7 m² and a corresponding minimum rear yard area requirement of 164.18 m² and 62 Pontiac (Parts 2 and 5) will have a lot area of 385.8 m² and a corresponding minimum rear yard area requirement of 96.45 m².

| Performance Standard Exception [2159] | 60 Pontiac Street Wilcock/Gold | | 62 Pontiac Street Watson | |
|--|-----------------------------------|---------------|-----------------------------|---------------------------|
| | Compliant | Non-Compliant | Compliant | Non-Compliant |
| Minimum Lot Width - Table 158A row IV - 15 m | X 26.31 | | X 16.15m | |
| Minimum Lot Area - Table 158A row V - 450 m² | X 656.7 m ² | | | X 385.8 m ² |
| Minimum Front Yard Setback – Exception 2159 – 6.0m | X 13.78m | | X 6.18 m | |
| Minimum Corner Side Yard – Exception 2159 – 4.5m (existing condition) | | X 3.46m | N/A | |
| Minimum Interior Side Yard Setback –Table 158A row IV – 1.2m (existing condition) | X 2.51m | | | X 0.77m |
| Minimum Rear Yard Setback - s. 144, Table 144A(iii) 30% of lot depth – 60 Pontiac – 8.87 m (existing condition) | | X 2.96 m | N/A | |
| Minimum Rear Yard Setback - s. 144, Table 144(A(i) 25% of lot depth – 62 Pontiac - 5.72 m (existing condition) | N/A | | X 6.8 m | |
| Minimum Rear Yard Area - s. 144 (3) - 25% of lot area – 60 | | X | N/A | |

| Performance Standard Exception [2159] | 60 Pontiac Street Wilcock/Gold | | 62 Pontiac Street Watson | |
|---|-----------------------------------|---------------|-----------------------------|---------------|
| | Compliant | Non-Compliant | Compliant | Non-Compliant |
| Pontiac - 164.18 m² | | 58.0 m | | |
| Minimum Rear Yard Area - s. 144 (3) - 25% of lot area – 62 Pontiac - 96.45 m² | N/A | | X 127.8 m ² | |
| Accessory Building Minimum Setback in a rear yard – Table 55 row 2(e)(ii) – 0.6m | N/A | | | X 0.23m |

Table 1: Subzone R2D [1259] Performance Standards

The Applications

We are submitting two combined primary consent and minor variance applications for the purpose of adjusting the parcel boundaries of the Subject Properties to align with the historical use by the Owners, and to regularize the location of the existing detached dwellings in accordance with the new parcel boundaries. No new development is proposed should the applications be approved.

Pre-consultation discussions were held with Margot Linker in the Planning, Real Estate and Economic Development Department. In pre-consultation, it was the opinion of the Department that regularizing the shapes of the existing lots was desirable.

Wilcock/Gold have consulted with the Owners of 124 Cowley Avenue. The Owners of 124 Cowley have acknowledged the proposal to transfer ownership the whole Pan Handle (Part 4) from 62 Pontiac to 60 Pontiac and have confirmed that they do not object to this proposal.

As shown on Plan 5R5186 and the Draft Reference Plan, a portion of the wooden verandah of the detached dwelling at 124 Cowley Avenue encroaches onto Part 4. If the transfer of the Part 4 is successfully completed, Wilcock/Gold have informally agreed with the Owners of 124 Cowley Avenue not to take any action in respect of the ongoing encroachment of the wooden verandah for as long as the structure and land use at 124 Cowley Ave remains as it currently does. The parties have executed a Memorandum of Understanding regarding this agreement.

60 Pontiac – Parts 1, 3 and 4 on Draft R-Plan

- Application for Lot Line Adjustment to transfer Part 2 on Draft R-Plan to 62 Pontiac to regularize the location of the existing shed. The proposed lot lines are shown on Figure 6 below.

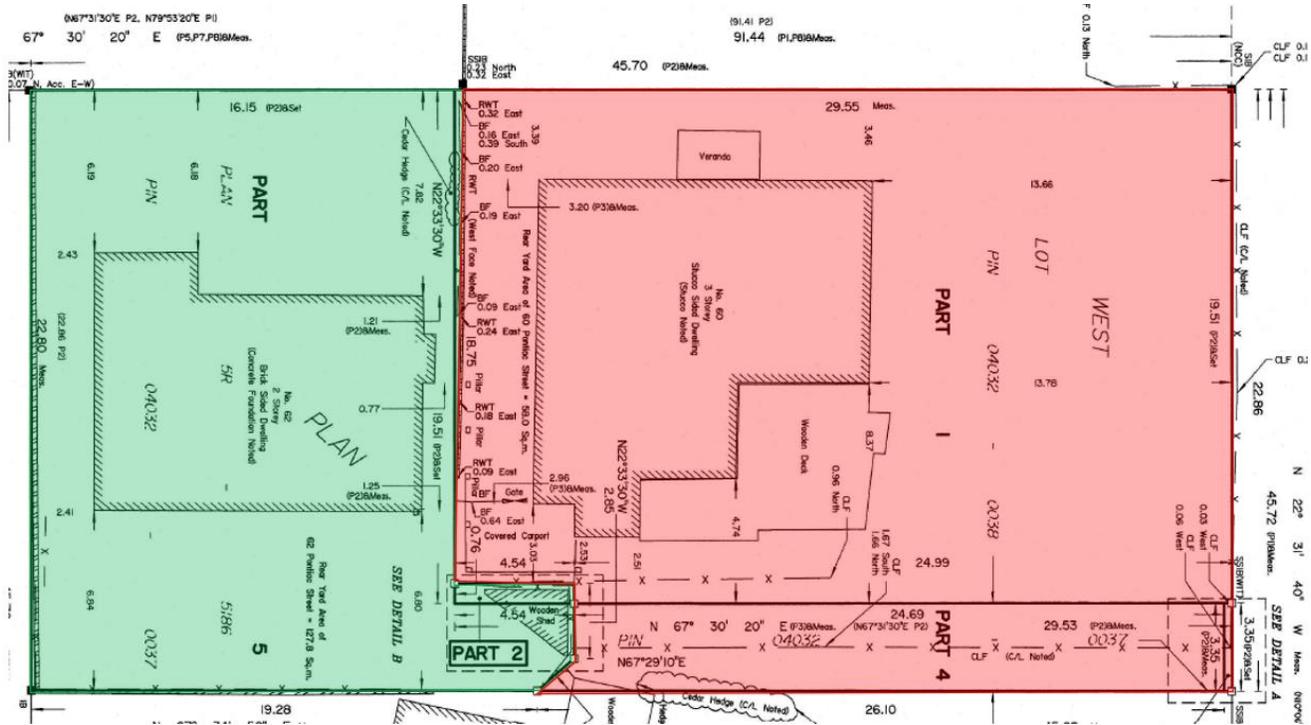


Figure 6: Proposed lot configuration

- Application for the following Minor Variances to regularize the location of the existing detached dwelling in both the existing situation and in relation to the proposed new parcel boundaries, as shown on Figure 7:

| Variance | By-law Section | Minimum Requirement | Proposed Minor Variance | To regularize existing situation? |
|--------------------------------------|-------------------------|-----------------------|-------------------------|---|
| (a) Minimum Corner Side Yard Setback | Exception [2159] | 4.5m | 3.46m | Yes |
| (b) Minimum Rear Yard Setback | s. 144, Table 144A(iii) | 8.87m | 2.96m | Yes |
| (c) Minimum Rear Yard Area | s. 144(3) | 164.18 m ² | 58.0 m ² | This variance increases an existing non-compliant situation by 2.2 m ² being the portion of Part 2 that constituted rear yard prior to the lot line adjustment |

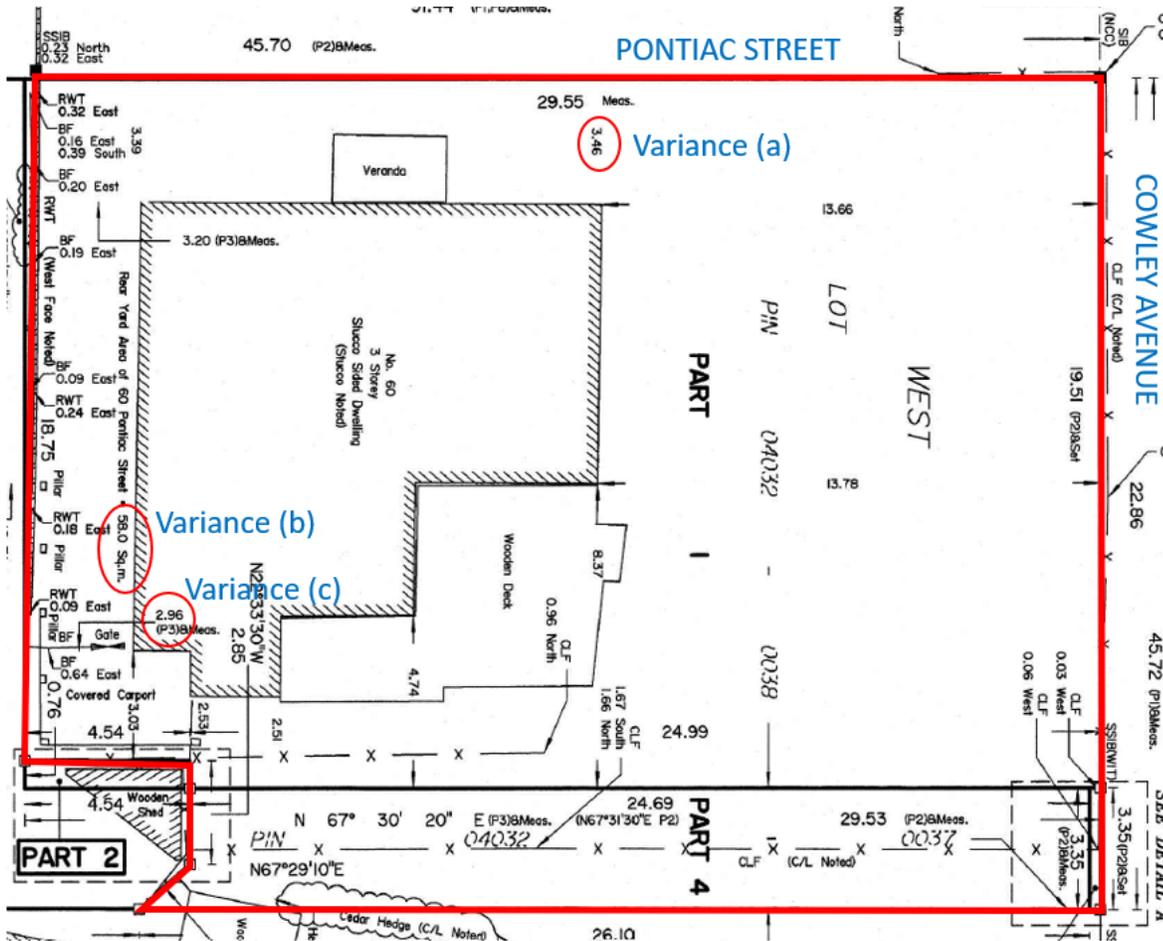


Figure 7: Requested variances for 60 Pontiac Street

62 Pontiac – Parts 2 and 5 on Draft R-Plan

- Application for Lot Line Adjustment to transfer Part 4 to 60 Pontiac to reinstate as much of the original parcel as possible. The proposed lot lines are shown on Figure 6 above.
- Application for Minor Variance to regularize the lot area of the proposed new lot and to regularize the location of the existing detached dwelling in both the existing situation and in relation to the proposed new parcel boundaries, as shown on Figure 8:

| Variance | By-law Section | Minimum Requirement | Proposed Minor Variance | To regularize existing situation? |
|--|--------------------|---------------------|-------------------------|---|
| (d) Minimum Lot Area | Table 158A, row V | 450 m ² | 385.8 m ² | This variance increases an existing non-compliant situation |
| (e) Minimum Interior Side Yard Setback | Table 158A, row IV | 1.2m | .77m | Yes |

| | | | | |
|---|------------------------|------|-------|---|
| (f) Minimum Accessory Building Setback in a rear yard | Table 55, row 2(e)(ii) | 0.6m | 0.23m | This variance replaces a previous encroachment. |
|---|------------------------|------|-------|---|

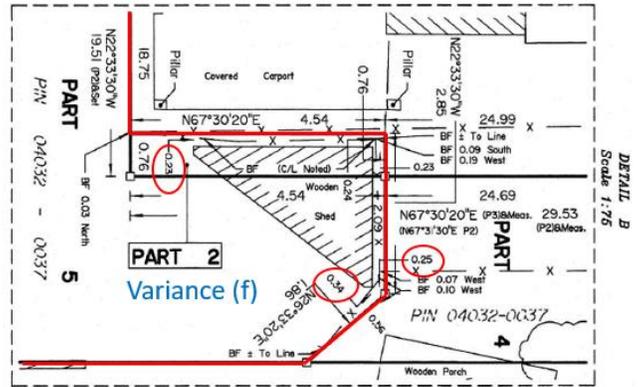
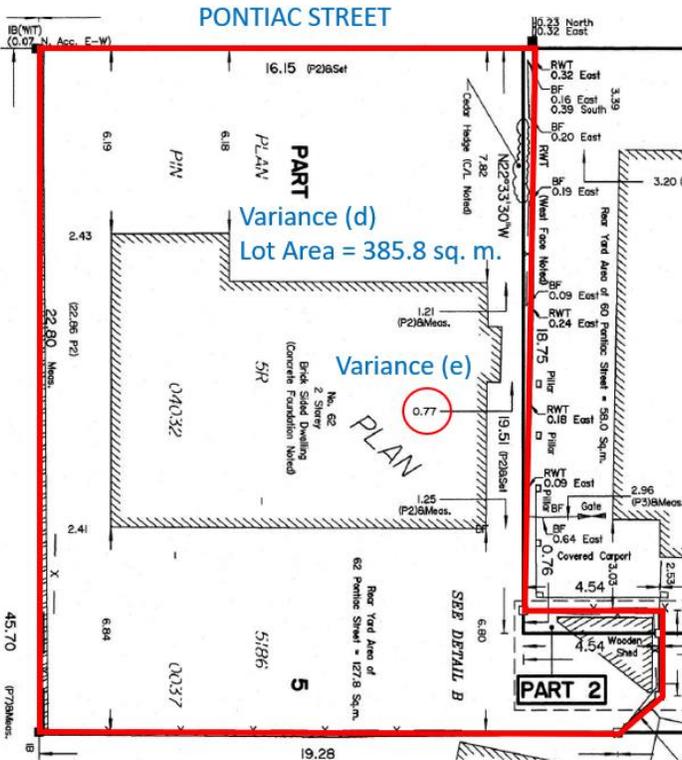


Figure 8: Requested variances for 60 Pontiac Street

62 Pontiac is serviced from Pontiac Street. There are no services within the Pan Handle and no changes to the servicing of either parcel will be required should the applications be approved.

Planning Act Requirements

Lot Line Adjustments

The Official Plan provides that the City shall permit lot adjustments in any land-use designated for legal or technical reasons. For the purposes of this section, legal or technical reasons include severances for purposes such as minor boundary adjustments which do not result in the creation of a new lot or render an existing lot as non-complying. While two instances of increased non-compliance will result from the approval of the proposed lot line adjustments (Rear yard area for 60 Pontiac and lot area for 62 Pontiac), the non-compliance will be of little or no consequence to anyone beyond the Owners, and there will be an overall benefit that results from the adjustment to create two more regularly shaped lots in accordance with the historical and continued use of the lands.

We submit that a plan of subdivision is not required for the proper and orderly development of the municipality as provided in Section 53(1), and that the Committee has the authority to grant the requested lot line adjustments pursuant to Sections 50(3)(f) and 53 of the Planning Act, considering Section 51(24), as follows:

| Planning Act section 51(24) | Rationale |
|---|--|
| <p>Criteria <u>(24)</u> In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,</p> | <p>-No present or future inhabitant will be negatively impacted by the proposed lot line adjustment applications.</p> |
| <p>(a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;</p> | <p>No development is proposed. The approval of the proposed lot line adjustments will not be a concern to the matters of provincial interest listed in section 2 of the <i>Planning Act</i>.</p> |
| <p>(b) whether the proposed subdivision is premature or in the public interest;</p> | <p>- The lot line adjustments are not premature and are in the public interest. The properties have been used as proposed at least since Ms. Watson acquired 62 Pontiac in 1980. It is in the public interest that the lot lines be regularized as this will facilitate redevelopment of the lands when the useful life of the existing buildings has been surpassed. No development or re-development is proposed at this time.</p> |
| <p>(c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;</p> | <p>-The proposed new lot configuration conforms to the official plan.</p> |
| <p>(d) the suitability of the land for the purposes for which it is to be subdivided;</p> | <p>-The lands have been developed with detached dwellings since the 1920s. No change is proposed.</p> |
| <p>(d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing.</p> | <p>-No housing units, affordable or otherwise, are proposed.</p> |
| <p>(e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;</p> | <p>-No new development is proposed.</p> |
| <p>(f) the dimensions and shapes of the proposed lots;</p> | <p>- The approval of the lot line adjustments will result in two regularly shaped lots. The reconfiguration of</p> |

| | |
|---|---|
| | the lot lines in accordance with continued and historic use by the Owners is desirable. |
| (g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land; | -Not applicable. |
| (h) conservation of natural resources and flood control; | -Not applicable. |
| (i) the adequacy of utilities and municipal services; | - The lands are sufficiently serviced. |
| (j) the adequacy of school sites; | - No development is proposed. The existing dwellings are well served by existing schools. |
| (k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes; | - Not applicable as no new development is proposed. |
| (l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and | - Not applicable as no development is proposed. |
| (m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the <i>City of Toronto Act, 2006</i> , 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4) 2016, c. 25, Sched. 4, s. 8 (2). | - No development is proposed. The lot line adjustments will not trigger site plan control approval. |

Minor Variances

The requested variances, both individually and when taken together, meet the 4 tests under the *Planning Act* and the Committee has the authority to authorize the requested minor variances pursuant to section 45(1) of the Act. The proposed variances maintain the general intent and purpose of the Zoning By-law and Official Plan, are desirable for the appropriate use of the buildings and lots, and are minor.

As noted above, the detached dwellings are existing and no development is proposed. The non-compliance is either existing or a result of the lot line adjustments that, if approved, will create more regularly shaped lots in accordance with historical use. No development, redevelopment or construction of any kind is proposed.

General Intent and Purpose of the Zoning By-law

The required variances maintain the general intent and purpose of the Zoning By-law and the R2D subzone which restricts the building form to detached and two principal unit buildings and has not yet been updated to reflect the additional dwelling unit permission included in Bill 23. The By-law permits detached dwellings on the Subject Properties and provides performance standards for their location. The requested variances will regularize the location of the existing buildings within the proposed new parcel boundaries. While very small instances of increased non-compliance will result, this will not be due to new construction or increases in the existing building footprints.

General Intent and Purpose of the Official Plan

The Subject Properties are designated Neighbourhood and are not subject to an Overlay that encourages redevelopment or a focus on intensification. No changes are proposed to the existing development.

As noted above, Policy 3 of Section 11.5 of the Official Plan recognized that applications to the Committee of Adjustment for Minor Variance are categorized as adjustments to a Zoning By-law development standard which is in keeping with the applicable land-use designation of the Official Plan and the four tests for a minor variance.

Desirable for the appropriate use of the land

The requested variances, as noted, result from the proposed reconfiguration of the existing property boundaries to match the continued and longstanding use of lands by the Owners.

62 Pontiac is an irregular shape. It is unknown why the parcel, which was originally severed from 60 Pontiac, was created to include the Pan Handle (Part 4). While the PIN indicates that the Owner of 62 Pontiac, who is now deceased, became the sole owner of the property in 2019, she originally purchased the property in 1980 and owned it alone or with her partner from 1980 until the time of her death. The Pan Handle was never, within that time, used by the Owners of 62 Pontiac.

60 Pontiac is also irregularly shaped, following the severance of 62 Pontiac, in that it includes a strip of land along Cowley Avenue that is 0.3m x 3.35m. The reason for this lot configuration is also unknown.

It is desirable to restore as much of the original parcel at 60 Pontiac as possible and to regularize the shapes of the Parcels.

Minor

The requested variances are either to

- (a) regularize existing instances of non-compliance,
- (b) permit a minor increase in existing non-compliance
- (c) permit non-compliance that will replace a historical encroachment, or

- (d) permit very small instances of non-compliance that result from the approval of desirable lot line adjustment applications.

The authorization of the required variances will not result in any undue adverse impact on neighbouring residents or the community. The variances are technical in nature as no development or changes are proposed and no harm will result.

Accordingly, the minor variances requested satisfy all four parts of the minor variance test.

Enclosures

In support of these Application, please find enclosed:

- 1) Application for Consent (60 Pontiac)
- 2) Application for Minor Variances (60 Pontiac)
- 3) Owners' executed Authorization for the Applications (60 Pontiac)
- 4) Parcel Abstract for 60 Pontiac (PIN 04032-0038)
- 5) Application for Consent (62 Pontiac)
- 6) Application for Minor Variances (62 Pontiac)
- 7) Owner's executed Authorization for the Applications (62 Pontiac)
- 8) Parcel Abstract for 62 Pontiac (PIN 04032-0037)
- 9) Plan 5R5186
- 10) Draft Reference Plan 4R-XXX (1 full sized and 1 reduced)
- 11) Email from Nancy Young re: Tree Information Report
- 12) Our firm cheque in the amount of \$9,996 for the Application Fee (including RVCA and PRED review fees)

Please do not hesitate to contact me, or my colleague Crystal McConkey, should you have any questions or concerns regarding the Applications or this submission. We look forward to the assignment of a hearing date.

Yours very truly,



Krista Libman
KML/

Encl.
cc. Dan Wilcock and Maya Gold (via email)