

**DECISION**  
**MINOR VARIANCE / PERMISSION**

<b>Date of Decision:</b>	September 15, 2023
<b>Panel:</b>	1 - Urban
<b>File No(s):</b>	D08-02-23/A-00162 and D08-02-23/A-00163
<b>Application:</b>	Minor Variance under section 45 of the <i>Planning Act</i>
<b>Owner(s)/Applicant(s):</b>	Fares Elsabbagh under Agreement of Purchase and Sale
<b>Property Address:</b>	70 Havelock Street and 123 Harvey Street
<b>Ward:</b>	17 - Capital
<b>Legal Description:</b>	Part of Lot 8, Registered Plan 48
<b>Zoning:</b>	R4UD
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	September 6, 2023, in person and by videoconference

**APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS**

- [1] The Owner wants to subdivide their property into two separate parcels of land. It is proposed to demolish the existing dwelling at 70 Havelock Street and construct two three storey, low-rise apartment buildings each containing eight units, with one building on each parcel.

**REQUESTED VARIANCES**

- [2] The Owner/Applicant requires the Committee's authorization for minor variances from the Zoning By-law as follows:

A-00162: 123 Harvey Street, proposed three storey low-rise apartment:

- a) To permit a reduced interior side yard setback of 0.8 metres, whereas the By-law requires a minimum interior side yard setback of 1.5 metres.

A-00163: 70 Havelock Street, proposed three storey low-rise partment

- b) To permit a reduced rear yard setback of 28.7% of the lot depth or 8.7 metres, whereas the By-law requires a minimum required rear yard setback of 30% of the lot depth, or 9.08 metres.

- c) To permit a reduced interior side yard setback of 0.8 metres, whereas the By-law requires a minimum interior side yard setback of 1.5 metres.

## **PUBLIC HEARING**

- [3] Alain Bisson, Agent for the Applicant, confirmed that revised plans were filed that include a ramp in the easterly side yard to allow access for bicycles and wheeled waste contained storage.
- [4] The Committee also heard oral submissions from the following individuals:
- P. Castiglione, neighbour, who noted concerns parking, bicycle access and waste storage, and lack of unit diversity to attract a variety of tenants.
- [5] City Planner Margot Linker confirmed that, based on the revised plans, the applications meet the relevant Official Plan criteria for variances to setbacks for low-rise apartment buildings. In response to a comment from the neighbour, she also clarified that vehicle parking is prohibited on this site.
- [6] Following the public hearing, the Committee reserved its decision.

## **DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED**

### **Applications Must Satisfy Statutory Four-Part Test:**

- [7] 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**

- [8] 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, parcel registers, an agreement of purchase and sale, tree information, a photo of the posted sign, and a sign posting declaration.
  - City Planning Report received August 31, 2023, with no concerns.
  - Building Code Services email dated August 31, 2023, with comments.

- Rideau Valley Conservation Authority email dated August 31, 2023, with no objections.
- Hydro Ottawa email dated September 1, 2023, with comments.
- Bell email dated September 5, 2023, with comments.
- Ottawa International Airport Authority email dated August 22, 2023, with no comments.
- J. Dance, President, Old Ottawa East Community Association email dated September 5, 2023, with no objections.
- S. Fleck, neighbour, email dated September 5, 2023, with concerns.

### **Effect of Submissions on Decision**

- [9] The Committee considered all written and oral submissions relating to the application in making its decision and granted the applications.
- [10] Based on the evidence, the Committee is satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [11] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications, highlighting that the "interior side yard for both developments as demonstrated on the plans will facilitate a mechanical room which does not increase privacy concerns" and, concerning the reduced rear yard for 70 Havelock Street, "the proposal meets the minimum required soft landscaping requirements and this relief does not create overlooking concerns".
- [12] The Committee also notes that no compelling evidence was presented that the variances would result in any unacceptable adverse impact on neighbouring properties.
- [13] Considering the circumstances, the Committee finds that, because the proposal 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.
- [14] The Committee also finds that the requested variances maintain the general intent and purpose of the Official Plan because the proposal respects the character of the neighbourhood.
- [15] 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 on the property that is compatible with the surrounding area.

[16] 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.

[17] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variances, **subject to** the location and size of the proposed construction being in accordance with the revised plans filed, Committee of Adjustment date stamped August 31, 2023, as they relate to the requested variances.

*"Ann M. Tremblay"*  
ANN M. TREMBLAY  
CHAIR

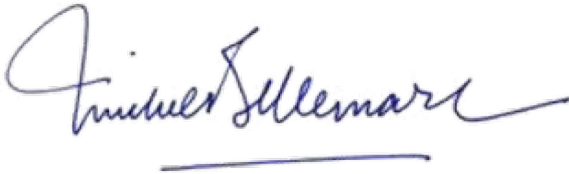
*"John Blatherwick"*  
JOHN BLATHERWICK  
MEMBER

*Absent*  
SIMON COAKELEY  
MEMBER

*"Arto Keklikian"*  
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 **September 15, 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 **October 5, 2023**, delivered by email at [cofa@ottawa.ca](mailto:cofa@ottawa.ca) and/or by mail or courier to the following address:

Secretary-Treasurer, Committee of Adjustment,  
101 CentrepoinTE Drive, 4<sup>th</sup> 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](mailto: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**  
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