

2023-08-31



**MINOR VARIANCE APPLICATION
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
PANEL 2**

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 131 Winding Way
Legal Description: Lots 12 & 13, Registered Plan 4M-1282
File No.: D08-02-23/A-00062
Report Date: August 31, 2023
Hearing Date: September 5, 2023
Planner: Justin Grift
Official Plan Designation: Suburban Transect, Neighbourhood Designation
Zoning: R1E

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **has some concerns** with minor variance request **a** – regarding the watercourse setback but has **no concerns** with minor variance request **b** – regarding the placement of the driveway.

BACKGROUND

At both, the April 19th and May 17th hearing, the Committee of Adjustment adjourned the variance application to reduce the watercourse setback to provide the applicant the opportunity to address the concerns of the Rideau Valley Conservation Authority. The Committee also requested that the applicant submit an additional variance to address the deficiency with Section 107 of the Zoning By-law, for the placement of the driveway for the detached dwelling.

The application was adjourned a third time at the June 20th hearing, as per the applicant's request to change the relief sought for the watercourse setback.

DISCUSSION AND RATIONALE

The subject property is on Winding Way, backing directly onto the Rideau River in Ward 24 – Barrhaven East. The surrounding area is primarily residential. A building permit for a two-storey detached dwelling was issued on the property in August

2022.

The Official Plan designates the property Neighbourhood in the Suburban Transect. The policies pertaining to this transect and designation include supporting a wide variety of housing types with a focus on missing-middle housing, which can include new housing types. The Official Plan also identifies a large portion of the property to have Unstable Slopes (*Schedule C15 – Environmental Constraints*) and to fall within the Natural Heritage Features Overlay (*Schedule C11-A Natural Heritage System, West*). Staff has communicated with the City's Environmental Planner regarding these layers in the Official Plan, their comments can be examined further in this report.

The property is zoned *Residential First Density Zone with Subzone E (R1E)*. The purpose of this zone is to restrict the building form to detached dwellings and regulate development in a manner that is compatible with existing land use patterns so the residential character of the neighbourhood is maintained or enhanced.

Watercourse Setback (Variance a)

Section 4.9.3 of the Official Plan provides direction that exceptions to permit development to encroach within watercourse setbacks shall be considered where it is *impossible to achieve the minimum setback* because of the size and location of the lot. This Section expands that the area within the required setback to a watercourses should remain in a naturally vegetated condition to protect the ecological function of surface water features from adjacent land uses.

Further, Section 69 of the Zoning By-law prescribes a 30 metre setback from the *normal highwater mark* of any watercourse or waterbody for any building or structure. As per the definitions in the Zoning By-law, a terrace is considered a structure. This section expands that the setback is to “provide a margin of safety from hazards associated with flooding and unstable slopes and to help protect the environmental quality of watercourses and waterbodies.”

As detailed in the site plan, the proposed terrace would encroach within the 30 metre watercourse setback by 4.8 metres. Staff recognizes the applicant has made significant changes to the plans and opted for one area to encroach within the 30 metres as opposed to two. Staff also notes the terrace would be cantilevered and does not touch the ground or directly impact the existing landscape within the 30 metres to the Rideau River. However, Staff is not satisfied the applicant has demonstrated it is *impossible* to meet the 30-metre watercourse setback, as per policy 4.9.3.7 of the Official Plan.



Placement of Driveway (Variance b)

Section 107 (3) of the Zoning By-law prohibits a driveway to be located between the front wall of a residential building and the street. The intent of this provision is to reduce hard surface impacts and to ensure the living space is the dominant element facing the street. In this case, construction of the detached dwelling is underway and the applicant is looking to legalize the placement of the driveway.

As seen in the site plan, the garage door faces the side yard of the property which requires the driveway to cross in front of the front wall of the dwelling to access the established parking space. The configuration of the house, with the garage and attached tennis court closer to the street than the dwelling portion, creates an interior courtyard which is not standard for most properties. The driveway provision in Section 107 does not take into account irregular dwelling configurations and interior courtyards. Staff is of the opinion that the requested variance is minor in nature and the vehicle access is not the dominant element facing the street due to layout of the dwelling. Additionally, there are several other properties along Winding Way with similar driveway and garage placements. Therefore, Staff has no concerns with requested variance b, as it is also compatible with the surrounding area.

ADDITIONAL COMMENTS

Environment Planner comments

The requirements for a watercourse setback variance are contained in section 4.9.3.7 of the Official Plan and specify that such exceptions are only provided if “it is impossible to achieve the minimum setback because of the size or location of the lot, approved or existing use on the lot or other physical constraint.” This site would not meet these conditions, as it is possible to develop this site in a manner that does not encroach on the 30-metre watercourse setback. I would encourage the applicant to consider a new design that respects the full 30 metre setback.

Typically this sort of application would require an Environmental Impact Study because there are Natural Heritage Features on site; however, the EIS Guidelines grant the environmental planner the ability to waive EIS requirements if they feel that “the risk of negative impacts occurring as a result of the proposed project is extremely low to non-existent, such that the completion of the Scoped EIS Form would not afford any useful benefit to the environment, the applicant or the City.”

In this case, as the overhang does not have any material effect on the landscape



nor remove any habitat, I doubt that there would be any value in such a report. The only situation in which environmental harm could occur in this case would be structural failure resulting the overhang collapsing onto the protected area. However, that would be a matter for the engineers, and I trust that the slope stability work which approved this application would sufficiently address any such concerns.

Heritage Planner comments

Heritage staff have reviewed the proposal against OP policy 4.5.2.2 and have determined that there are no impacts to the Rideau River, a protected heritage property. Only the cantilevered part of the terrace is beyond the 30m buffer zone. Heritage staff have not requested a heritage impact assessment.

Forester comments

There are no trees impacted by the proposed minor variance, though the watercourse setback is an ideal location to plant new trees to protect the shoreline soils. Both protected trees identified in the Tree Information Report must be protected throughout construction in accordance with the City's Tree Protection Specifications. It is recommended to develop a comprehensive planting plan to improve the canopy cover on this site with a minimum of one new 50mm tree planted in the Right of Way following construction, to improve the streetscape and canopy cover.

Unrelated to the application at hand, please contact 311 to have a City Forestry Inspector assess tree #2 listed as being in poor health with extensive deadwood present.

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