

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	September 15, 2023
Panel:	2 - Suburban
File No(s):	D08-02-23/A-00062
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Harry and Joanne Mews
Property Address:	131 Winding Way
Ward:	24 – Barrhaven East
Legal Description:	Lots 12 & 13, Registered Plan 4M-1282
Zoning:	R1E
Zoning By-law:	2008-250
Hearing Date:	September 5, 2023, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owners want to construct a detached dwelling with a terrace, as shown on plans filed with the Committee.

REQUESTED VARIANCES

- [2] The Owners/Applicants require the Committee's authorization for minor variances from the Zoning By-law as follows:
- a. ~~To permit a reduced setback from a watercourse (Rideau River) of 25.2 metres for an overhanging portion of the terrace, whereas the By-law requires a minimum setback of 30 metres.~~
 - b. To permit a driveway to be located between the front wall of a dwelling and the street, whereas the By-law does not permit any part of the driveway to be located between the front wall of the residential use building and the street.

PUBLIC HEARING

- [3] Prior to hearing on April 20, 2023, the Committee received adjournment requests from Eric Lalande of Rideau Valley Conservation Authority, and the City Planner

Justin Grift, to allow the Applicants additional time to revise their application and submit a Slope Stability Report. At the hearing, the Committee heard from Todd Duckworth, Agent for the Applicants, who was in agreement with the adjournment request. With the concurrence of all parties, the application was adjourned to the hearing scheduled on May 17, 2023.

- [4] Prior to the hearing on May 17, 2023, the Committee received correspondence from Mr. Lalande and City Planner Justin Grift, requesting an adjournment to allow time for the Applicants to consult with the Conservation Authority and apply for an additional variance. At the hearing, the Committee heard from Rheel Labelle, also acting Agent for the Applicant, who requested the application be heard as scheduled. Upon deliberation with Mr. Lalande and Mr. Grift, the Committee agreed to adjourn the application to June 20, 2023.
- [5] Prior to the hearing on June 20, 2023, the Committee received an adjournment request from Mr. Lalande to allow additional time for the Applicants to provide a revised application, and for Ottawa Septic System office to review the application. At the hearing, the Committee heard from Mr. Labelle, who was in agreement with the adjournment request. With the concurrence of all parties the application was adjourned *sine die*.

Oral Submissions Summary

- [6] At the hearing on September 5, 2023, Rheel Labelle, agent for the applicant confirmed that due to the redesign of the proposal, variance (a) was no longer required and there was no longer an overhang of the terrace.
- [7] The application was amended accordingly.
- [8] City Planner Justin Grift was also present.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED AS AMENDED

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 cover letter, revised site plans, revised landscape plans, TIR, photo of the posted sign, and a sign posting declaration.
- City Planning Report received August 31, 2023, with some concerns; received June 15, 2023, with some concerns; received May 12, 2023, with some concerns; received April 17, 2023, with some concerns.
- Rideau Valley Conservation Authority email dated September 1, 2023, with no concerns; dated June 20, 2023, requesting adjournment; dated May 10, 2023, requesting adjournment; dated April 17, 2023, requesting adjournment.
- Hydro Ottawa email dated September 1, 2023, with no concerns; dated June 20, 2023, with no comments; dated May 10, 2023, with no comments; dated April 12, 2023.
- Ottawa International Airport Authority received August 23, 2023, with no comments.
- Parks Canada email dated April 12, 2023, with no comments.

Effect of Submissions on Decision

- [11] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [12] Based on the evidence, the Committee is satisfied that the requested variance meets all four requirements under subsection 45(1) of the *Planning Act*.
- [13] The Committee notes that the City's Planning Report raises "no concerns" with requested variance, highlighting that the requested variance "is minor in nature and the vehicle access is not the dominant element facing the street due to the layout of the dwelling" and that it is "compatible with the surrounding area."
- [14] The Committee also notes that no evidence was presented that the variance would result in any unacceptable adverse impact on neighbouring properties.
- [15] Considering the circumstances, the Committee finds that because the proposal fits well with the neighbourhood, the requested variance is, 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.

- [16] The Committee also finds that the requested variance maintains the general intent and purpose of the Official Plan because the proposal respects the character of the area.
- [17] In addition, the Committee finds that the requested variance maintains 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.
- [18] Moreover, the Committee finds that the requested variance is minor because it will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.
- [19] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variance, **subject to** the location and size of the proposed construction being in accordance with the site plan filed, Committee of Adjustment date stamped September 5, 2023, as they relate to the requested variance.

"Fabian Poulin"
FABIAN POULIN
VICE-CHAIR

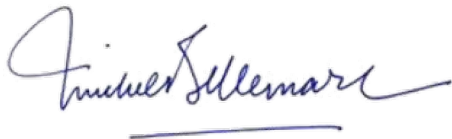
Absent
JAY BALTZ
MEMBER

"George Barrett"
GEORGE BARRETT
MEMBER

"Heather MacLean"
HEATHER MACLEAN
MEMBER

"Julianne Wright"
JULIANNE WRIGHT
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 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
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