

2023-09-29



**PERMISSION APPLICATION
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
PANEL 2**

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 49 Loch Isle Road
Legal Description: Lot 2 Registered Plan 466 & Part of Lot 13 Concession 1
(Ottawa Front) Geographic Township of Nepean
File No.: D08-02-23/A-00199
Report Date: September 28, 2023
Hearing Date: October 3, 2023
Planner: Sole Soyak
Official Plan Designation: Outer Urban Transect, Neighborhood Designation
Zoning: R1E

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **has no concerns with** the application.

DISCUSSION AND RATIONALE

The Owner requires the permission of the Committee to expand the legal non-conforming use for the construction of a new deck partially within 30 metres of the high-water mark of the Ottawa River. Section 34 (9) of the *Planning Act* establishes 'legal non-conforming uses,' and Section 45 (2) authorizes the Committee of Adjustment to consider Applications for Permission to expand or change a legal non-conforming use. Non-conforming uses do not need to comply with the policies in the Official Plan or the performance standards as per the Zoning By-law. However, these policies and performance standards can guide the Committee on the appropriateness of the proposal. The four tests for a minor variance are not applicable; instead, the evaluation of the application is based on the desirability for the development of the property and its impact on the surrounding areas.

The Provincial Policy Statement requires planning authorities to protect, improve or restore the quality and quantity of water by implementing the necessary restrictions on development and site alteration to properties. Section 4.9.3 Policy 3 of the Official Plan states that lands within the minimum setback shall remain naturally vegetated to protect the ecological function of surface water features from adjacent land-use impacts.

Furthermore, any disturbance of the natural vegetation due to development or site alteration activities shall be restored and enhanced. Section 4.9.3 Policies 7 outlines exceptions to the watercourse setback where it is impossible to achieve the minimum setback due to lot constraints.

Section 69 of the Zoning By-law states that no building or structure, including any part of a sewage system, shall be located closer than 30 metres to the normal high-water mark of any watercourse or waterbody.

Having reviewed the application, the Department has no concerns with the expansion of the deck, noting that the portion that will extend into the setback is minimal; however, the Department requests that the owner prepares a scoped Environmental Impact Statement (EIS) to ensure the construction of the deck will not have a detrimental impact on the natural vegetation.

ADDITIONAL COMMENTS

Planning Forestry

The proposed permission application to expand the deck has no direct impact on existing trees, though the location of the proposed addition does. The TIR confirms that the addition will be within the Critical Root Zone of 3 trees along the shared property line, but that they are to be retained by using augered footings. Ownership of these trees must be determined and protection fencing must be installed and maintained in accordance with the TIR throughout construction.

Right of Way Management

The Right-of-Way Management Department has **no concerns** with the proposed permission application as there are no requested changes to the private approach/driveway.

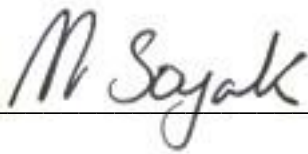
CONDITION

Section 45 (9) of the *Planning Act* gives authority to the Committee to impose conditions on permission applications.

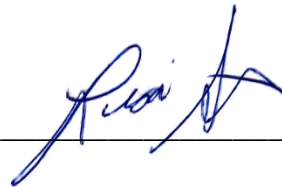
If approved, the Planning, Real Estate and Economic Development Department requests that the Committee of Adjustment impose the following condition on the application:

1. Prior to the issuance of a building permit, the Owner/Applicant(s) shall:
 1. Prepare and submit a scoped EIS prepared by the applicant/landowner, incorporating a planting plan into the EIS showing a re-naturalization of the landscape between the development and the water's edge, accomplished

through vegetation plantings to the satisfaction of the **Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate**. If the accepted report recommends specific mitigation measures or other requirements, the Owner shall enter into a Development Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the **Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, which is to be registered on the title of the property, which includes those recommendations. The Committee requires a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title.



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