

**DECISION
PERMISSION**

Date of Decision:	October 13, 2023
Panel:	2 - Suburban
File No.:	D08-02-23/A-00199
Application:	Permission under section 45 of the <i>Planning Act</i>
Owner/Applicant:	David Baron
Property Address:	49 Loch Isle Road
Ward:	7 - Bay
Legal Description:	Lot 2 Registered Plan 466 & Part of Lot 13 Concession 1 (Ottawa Front) Geographic Township of Nepean
Zoning:	R1E
Zoning By-law:	2008-250
Hearing Date:	October 3, 2023, in person and by videoconference

APPLICANT PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owner wants to replace the existing rear deck, retaining wall and stairs to the basement with a new covered deck, as shown on the plans filed with the Committee.

REQUESTED PERMISSION

- [2] The Owner/Applicant requires the Permission of the Committee to permit the expansion of a legal non-conforming use (deck) to be located 27.7 metres from the normal high-water mark of a watercourse or waterbody, whereas the Zoning By-law states that no building or structure which does not require a plan of subdivision or site plan control approval shall be located closer than 30 metres from the normal high-water mark of any watercourse or waterbody.

PUBLIC HEARING**Oral Submissions Summary**

- [3] On September 19, 2023, Arjan Soor and Adam Thompson, Agents for the Owner, City Planner Sole Soyak and City Environmental Planner Mark Elliot, and David Barron, the Owner of the property, were in attendance. With the agreement of all

parties, the application was adjourned to October 3, 2023, for additional information regarding the legal non-conforming status of the existing deck.

- [4] On October 3, 2023, Mr. Soor provided an overview of the application and responded to questions from the Committee and outlined the Applicant's opposition to the condition requested by the City for a scoped Environmental Impact Statement. He submitted that an Environmental Impact Statement was not necessary or appropriate in this instance, highlighting relevant policy direction in the City's Official Plan for waiving this requirement, as well as the limited scope of work proposed. The Committee also heard arguments for the removal of the condition from Mr. Thomson, who submitted that its inclusion may inappropriately broaden the scope of the City's review in connection with this application.
- [5] The Committee also heard from Mr. Barron, who confirmed that there would be no living space above the proposed covered deck.
- [6] City Planner Samantha Gatchene summarized the reasons for the City's request for a scoped Environmental Impact Statement, which would confirm that there would be no negative impacts on natural vegetation.
- [7] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Two-Part Test

- [8] The Committee has the power to permit an extension of a legal non-conforming use under subsection 45(2) of the *Planning Act* based upon both the desirability for development of the property in question and the impact on the surrounding area.

Evidence

- [9] 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 cover letter, evidence regarding legal non-conforming status, plans, with revisions, tree information, photos of the posted sign and a sign posting declaration.
 - City Planning Reports received September 15 & September 29, 2023, with no concerns.
 - Rideau Valley Conservation Authority emails dated September 14 & September 27, 2023, with no objections.

Effect of Submissions on Decision

- [10] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [11] In considering the City's request for a scoped Environmental Impact Statement as a condition of approval, the majority of the Committee (Members Jay Baltz and Julianne Wright dissenting) finds that the requested condition is not reasonable or necessary in this instance.
- [12] Based on the evidence, the Committee is satisfied that the requested permission meets the two-fold test relating to desirability and impact.
- [13] The Committee notes that the City's Planning Report raises "no concerns" regarding the application.
- [14] The Committee further notes that no evidence was presented that the proposal would create any unacceptable impact on abutting properties or the neighbourhood in general.
- [15] Considering the circumstances, the Committee finds that the requested permission is, from a planning and public interest point of view, desirable for the appropriate use of the land, building or structure on the property, and relative to the neighbouring lands.
- [16] The Committee also finds that the proposal will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.
- [17] THE COMMITTEE OF ADJUSTMENT therefore permits the expanded use, **subject to** the proposed construction being in accordance with the site plan filed and Committee of Adjustment date-stamped September 18, 2023.

"Fabian Poulin"
FABIAN POULIN
VICE-CHAIR

"Jay Baltz"
(with noted dissent)
JAY BALTZ
MEMBER

"George Barrett"
GEORGE BARRETT
MEMBER

"Heather MacLean"
HEATHER MACLEAN
MEMBER

"Julianne Wright"
(with noted dissent)
JULIANNE WRIGHT
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **OCTOBER 13, 2023**



Matthew Garnett
Acting 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 **NOVEMBER 2, 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.

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