

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	October 27, 2023
Panel:	1 - Urban
File No(s):	D08-02-23/A-00231
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Marc-Alexander Shank
Property Address:	138 Forward Avenue
Ward:	15 – Kitchissippi
Legal Description:	Lot 4, West Forward Avenue Lots, Registered Plan 35
Zoning:	R4UD
Zoning By-law:	2008-250
Hearing Date:	October 18, 2023, in person and by videoconference

APPLICANT’S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owner wants to construct an ~~20-unit~~ **18-unit**, low-rise apartment building, as shown on plans filed with the Committee. The existing building will be demolished.

REQUESTED VARIANCES

- [2] The Owner/Applicant requires the Committee’s authorization for a minor variance from the Zoning By-law as follows:
- a. To permit a reduced rear yard setback of 5.94 metres, whereas the By-law requires a minimum rear yard setback of 7.44 metres.
 - b. To permit a reduced rear yard area of 90.88 square metres, or 19.8% of the lot area, whereas the By-law requires a minimum rear yard area of 114.5 square metres, or 25% of the lot area.
- [3] The Application indicates that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

Oral Submissions Summary

- [4] Evan Saunders, Agent for the Applicant, responded to questions from the Committee.
- [5] The Committee noted that the application contained an error, and needed to be revised, as follows:
- The Owner wants to construct a ~~20-unit~~, **18-unit**, low-rise apartment building, as shown on plans filed with the Committee. The existing building will be demolished.
- [6] With the agreement of Mr. Evans, the application was amended accordingly.
- [7] City Planner Margot Linker responded to questions from the Committee and noted that the proposed rear balconies would be required to have a 1.5-metre-high opaque screen facing the interior side yard setback to reduce potential overlook onto the abutting properties to the north and south, as it was a requirement of the Zoning By-law.
- [8] Bria Aird, also acting as Agent for the Applicant, stated that revised elevations would be submitted to the Committee to reflect the height and materiality of the privacy screen and railing for the rear balconies. Ms. Aird agreed that any approval would be tied to these revised elevations.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

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, plans, a photo of the posted sign, and a sign posting declaration.
 - City Planning Report received by email October 12, 2023, with no concerns.

- Rideau Valley Conservation Authority email dated October 12, 2023, with no objections.
- Hydro Ottawa email dated October 5, 2023, with no concerns.
- K. Hopkins, resident, email dated October 17, 2023, with concerns.

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 variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [13] The Committee notes that the City's Planning Report raises "no concerns" regarding the application. The report highlights that the "elevations demonstrate that no windows are provided in the additional 1.5 metre setback, resulting in no exacerbated privacy concerns,". The report also highlights that "the entire rear yard is softly landscaped (except for window wells) and exceeds the minimum rear yard soft landscaping requirements."
- [14] The Committee also notes that no compelling evidence was presented that the variances would result in any unacceptable adverse impact on neighbouring properties.
- [15] 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.
- [16] 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 while contributing to residential intensification within the Inner Urban Transect Policy Area.
- [17] 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.
- [18] 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.
- [19] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variances, **subject to:**

- a. The location and size of the proposed construction being in accordance with the site plan filed, Committee of Adjustment date stamped October 20, 2023 and the elevations filed, Committee of Adjustment date stamped October 20, 2023, as they relate to the requested variances.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

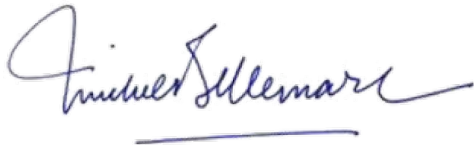
"John Blatherwick"
JOHN BLATHERWICK
MEMBER

"Simon Coakeley"
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 **October 27, 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 **November 16, 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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