

**DECISION**  
**MINOR VARIANCE / PERMISSION**

<b>Date of Decision</b>	October 27, 2023
<b>Panel:</b>	2 - Suburban
<b>File Nos.:</b>	D08-02-23/A-00227 to A-00230
<b>Application:</b>	Minor Variance under section 45 of the <i>Planning Act</i>
<b>Owner/Applicant:</b>	Estate of Lidia Pietrantonio
<b>Property Address:</b>	429 Ancaster Avenue
<b>Ward:</b>	7 - Bay
<b>Legal Description:</b>	Part of Lot 5, Registered Plan 461
<b>Zoning:</b>	R2F
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	October 17, 2023, in person and by videoconference

**APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS**

- [1] The Owner wants to subdivide their property into four separate parcels of land to create long semi-detached dwellings on their property.
- [2] The Owner/Applicant requires the Committee's authorization for a minor variance from the Zoning By-law as follows:

**REQUESTED VARIANCES**

**A-00227: 425 A and B Ancaster Avenue, Parts 1, 2 and 9 on Draft 4R- Plan, proposed long semi-detached dwelling:**

- a) To permit two reduced parking spaces with a length of 2.4 metres x 4.6 metres, whereas the By-law requires a parking space size of 2.6 metres x 5.2 metres.
- b) To permit a driveway over a mutual easement leading to one or more parking spaces to be shared by four abutting lots, whereas the By-law states a driveway over a mutual easement leading to one or more permitted parking spaces may be shared by two dwellings on abutting lots.

**A-00228: 427 A and B Ancaster Avenue, Parts 3 and 4 on Draft 4R-Plan, proposed long semi-detached dwelling:**

- c) To permit two reduced parking spaces with a length of 2.4 metres x 4.6 metres, whereas the By-law requires a parking space size of 2.6 metres x 5.2 metres.
- d) To permit a driveway over a mutual easement leading to one or more parking spaces to be shared by four abutting lots, whereas the By-law states a driveway over a mutual easement leading to one or more permitted parking spaces may be shared by two dwellings on abutting lots.
- e) To permit a reduced lot width of 0.76 metres, whereas the By-law requires a minimum lot width of 10 metres.
- f) To permit a reduced lot frontage on a public street of 0.76 metres, whereas the By-law requires that land abuts an improved public street for a minimum distance of 3 metres.
- g) To permit a reduced rear yard setback of 13.9% of the lot depth or 6 metres, whereas the By-law requires the minimum required rear yard setback is 30% of the lot depth or 12.92 metres.

**A-00229: 429 A and B Ancaster Avenue, Parts 5 and 6 on Draft 4R-Plan, proposed long semi-detached dwelling:**

- h) To permit two reduced parking spaces with a length of 2.4 metres x 4.6 metres, whereas the By-law requires a parking space size of 2.6 metres x 5.2 metres.
- i) To permit a driveway over a mutual easement leading to one or more parking spaces to be shared by four abutting lots, whereas the By-law states a driveway over a mutual easement leading to one or more permitted parking spaces may be shared by two dwellings on abutting lots.
- j) To permit a reduced lot width of 0.76 metres, whereas the By-law requires a minimum lot width of 10 metres.
- k) To permit a reduced lot frontage on a public street of 0.76 metres, whereas the By-law requires that land abuts an improved public street for a minimum distance of 3 metres.
- l) To permit a reduced rear yard setback of 9.6% of the lot depth or 6 metres, whereas the By-law requires the minimum required rear yard setback is 30% of the lot depth or 18.75 metres.
- m) To permit a parking space to be located in the front yard whereas the By-law does not permit parking in a required and provided front yard.

**A-00230: 431 A and B Ancaster Avenue, Parts 7 and 8 on Draft 4R-Plan, proposed long semi-detached dwelling:**

- n) To permit a driveway over a mutual easement leading to one or more parking spaces to be shared by four abutting lots, whereas the By-law states a driveway over a mutual easement leading to one or more permitted parking spaces may be shared by two dwellings on abutting lots.
- o) To permit a reduced lot width of 0.76 metres, whereas the By-law requires a minimum lot width of 10 metres.
- p) To permit a reduced lot frontage on a public street of 0.76 metres, whereas the By-law requires that land abuts an improved public street for a minimum distance of 3 metres.
- q) To permit a reduced rear yard setback of 9.5% of the lot depth or 6 metres, whereas the By-law requires the minimum required rear yard setback is 30% of the lot depth or 18.92 metres.
- r) To permit a parking space to be located in the front yard whereas the By-law does not permit parking in a required and provided front yard.
- s) To permit a reduced rear yard area of 21.2% of the lot area or 85.52 square metres, whereas the By-law requires a minimum rear yard area of 25% of the lot area or, in this case, 100.93 square meters.

## **PUBLIC HEARING**

### **Oral Submissions Summary**

- [3] Paul Robinson, agent for the Applicant, provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. Mr. Robinson provided an overview of the application and responded to questions from the Committee.
- [4] Ursula Melinz, the Applicant's lawyer, responded to the City's position that the proposal should be considered a planned unit development. She noted that a planned unit development is defined as a parcel of land containing more than one building and, in this case, the proposal is to subdivide the land so that each building is located on a separate lot, sharing a common driveway. Regarding site services, Ms. Melinz requested that the Committee not impose a condition requested by the City requiring independent services, because the proposed buildings would connect to a common service pipe located beneath the driveway. She also briefly addressed written comments from area residents opposed to the applications, highlighting that the loss of sunlight, perceived loss of property value, and loss of privacy are not valid planning reasons to refuse the applications.
- [5] Michael Brum of Altare Group Inc., representing the Applicant and purchaser of the property under an agreement to purchase and sale, detailed the proposed site design, its energy efficiency and its objective to encourage community interaction and provide needed rental housing close to rapid transit. He also addressed the additional time and costs involved with other planning approval processes, such as

a Plan of Subdivision or Plan of Condominium application and rezoning, which would negatively impact the viability of the proposal.

- [6] City Planner Solé Sayek highlighted that, while intensification on the site is possible, the proper mechanism to consider this proposal would be a Zoning By-law Amendment and Plan of Condominium application, which would also appropriately address the proposed shared services. City Planner Sayek recommended refusal of the applications.
- [7] The Committee heard oral submissions from the following individuals:
- R. Lee, resident, with concerns regarding the impact of vehicle traffic along the shared driveway, a loss of privacy, a lack of community consultation and transparency, and the inappropriateness of the proposed development for the R2 zone.
  - N. Babic, resident, with concerns regarding the extent of the requested variances, impacts to privacy, the proposal's incompatibility the intent of the Zoning By-law and overcrowding.
  - A. Vieira, resident, with additional concerns regarding the reduced rear yards and the density of the development.
  - S. Milburn-Hopwood, Woodpark Community Association, in support of the applications, highlighting the proposed permeable pavers and energy efficient design, and the Applicant's efforts to preserve the streetscape. She stated that most residents canvassed by the community association supported the application, with some noted concerns regarding infrastructure capacity, drainage, and parking. She therefore requested that, if the applications are approved, conditions be imposed related to stormwater management and service capacity studies.

D. Levesque of the Woodpark Community Association was also in attendance.

- [8] Following the public hearing, the Committee reserved its decision.

## **DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS REFUSED**

### **Applications 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:

- Applications and supporting documents, including a planning rationale, parcel register, plans, a streetscape analysis, tree information, photo of the posted sign, and a sign posting declaration.
- City Planning Report received October 13, 2023, recommending refusal of the applications.
- Rideau Valley Conservation Authority email dated October 11, 2023, with no objections.
- Hydro Ottawa email dated October 10, 2023, with no concerns.
- Hydro One email dated October 12, 2023, with no concerns.
- Y. Park and C. Artuso, residents, also on behalf of D. and M. Wilson, residents, email dated October 15, 2023, opposed to the applications.
- D. Levesque, Woodpark Community Association, email dated October 16, 2023, in support.
- A. Vieira, resident, also on behalf of N. Babic, A. and R. Lee, and Mr. and Mrs. Gao, email dated October 16, 2023, opposed to the applications.
- S. Milburn-Hopwood, Woodpark Community Association, email dated October 17, 2023, in support of the applications, with conditions.
- B. & M. Williams, email dated October 17, 2023, opposed to the applications.

## Effect of Submissions on Decision

[11] The Committee considered all written and oral submissions relating to the applications in making its decision and refused the applications.

[12] Based on the evidence, the Committee is not 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 recommends refusal of the application, highlighting that "the variances will result in development with constrained lot sizes, inadequate separation between buildings and limited amenity area." The report concludes that: "Minor Variance applications are not the

appropriate mechanisms for the proposed development. A Major Zoning By-law Amendment to add [planned unit development] as a permitted use would be more appropriate. The PUD provisions within the Zoning By-law were created for development scenarios exactly like the one before the Committee where multiple residential buildings are proposed on the same lot with a shared driveway access and internal parking setup.”

- [14] Considering the circumstances, the Committee finds that, because the proposal would result in constrained lots that are incapable of functioning independently, the requested variances are not desirable for the appropriate development or use of the land, building or structure on the property, from a planning and public interest point of view and relative to the neighbouring lands.
- [15] In addition, the Committee finds that the requested variances do not maintain the general intent and purpose of the Zoning By-law because the proposal is not compatible with existing land use patterns in the surrounding area or the type of development contemplated for the R2F subzone, and would be more appropriately considered through a Zoning By-law Amendment application.
- [16] Moreover, the Committee is not satisfied that the cumulative impact of the requested variances on abutting properties and the neighbourhood in general is minor. Failing three of the four statutory requirements, the Committee is unable to authorize the requested variances.
- [17] THE COMMITTEE OF ADJUSTMENT therefore does not authorize the requested variances.

*Absent*  
FABIAN POULIN  
VICE-CHAIR

*“Jay Baltz”*  
JAY BALTZ  
MEMBER

*“George Barrett”*  
GEORGE BARRETT  
ACTING PANEL CHAIR

*“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 **OCTOBER 27, 2023**

A handwritten signature in blue ink that reads "Michel Bellemare". The signature is written in a cursive style and is positioned above a horizontal line.

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](mailto:cofa@ottawa.ca) and/or by mail or courier to the following address:

Secretary-Treasurer, Committee of Adjustment,  
101 CentrepoinTE Drive, 4<sup>th</sup> 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](mailto: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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