

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	January 26, 2024
Panel:	2 - Suburban
File No(s):	D08-02-23/00258 & D08-02-23/A-00259
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Jose and Maria Alves
Property Address:	44 Dunham Street
Ward:	11 – Beacon Hill-Cyrville
Legal Description:	Part of Lot 112 Registered Plan 591
Zoning:	R1WW [637]
Zoning By-law:	2008-250
Hearing Date:	January 16, 2024, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owners want to subdivide their property into two separate parcels of land to create two new lots for the construction of two single detached dwellings. The existing dwelling will be demolished.
- [2] At its hearing on November 14, 2023, the Committee adjourned the applications to allow the Applicants time to revise their requested variances.

REQUESTED VARIANCES

- [3] The Owners/Applicants require the Committee's authorization for minor variances from the Zoning By-law as follows:

A-00258: 44 A Dunham Street, Part 1 on 4R Plan, proposed detached dwelling:

- a) To permit a reduced lot area of 408.9 square metres, whereas the By-law requires a minimum lot area of 555 square metres.
- b) To permit a reduced rear yard setback of 9.18 metres, whereas the By-law requires a minimum rear yard setback of 10 metres.

A-00259: 44 A Dunham Street, Part 2 on 4R Plan, future detached dwelling:

- c) To permit a reduced lot area of 407.7 square metres, whereas the By-law requires a minimum reduced lot area of 555 square metres.

PUBLIC HEARING

- [4] At the scheduled hearing on November 14, 2023, the Committee adjourned the hearing to allow the Applicants time to amend their applications and apply for an additional minor variance.
- [5] At the hearing on January 16, 2024, M. O'Connell, resident, highlighted that the French public hearing notice incorrectly states the minimum lot area requirement (450 square metres instead of 555 square metres). However, she and other residents in attendance confirmed they were not in favour of adjourning the hearing to recirculate a new public hearing notice.
- [6] Considering the circumstances, the Committee noted that the public hearing notice accurately identifies the requested variances in both English and French, and sufficiently describes the purpose and effect of the applications. Therefore, no re-circulation is warranted. With the concurrence of all parties, the applications were heard without delay.

Oral Submissions Summary

- [7] Paulo Alves, 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.
- [8] The Committee also heard oral submissions from the following individuals:
- M. O'Connell, resident, raised concerns regarding the reduction in lot size, and the retention of the tree on site.
 - B. Jetté, resident, raised concerns regarding the reduction in lot size.
 - J. Vanasse, resident, stated that the proposal was incompatible with the neighbourhood.
- [9] City Planner Cass Sclauzero highlighted that the underlying exception in the Zoning By-law for lot area for the subject site was to prevent further subdividing of narrow lots. Ms. Sclauzero noted that the lot frontages were in compliance with the Zoning By-law.
- [10] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Applications Must Satisfy Statutory Four-Part Test

[11] 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

[12] 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 revised cover letter, plans, parcel abstract, tree information report, tree replacement report, a photo of the posted sign, and a sign posting declaration.
- City Planning Report received January 11, 2024, with no concerns; received November 10, 2023, with no concerns.
- Rideau Valley Conservation Authority email received January 10, 2024, with no objections; email received November 10, 2023, with no objections.
- Hydro Ottawa email received December 21, 2023, with no concerns; email received November 8, 2023, with no concerns.
- Hydro One email received December 15, 2023, with no concerns; email received November 14, 2023, with no concerns.
- Building Code Services email received December 15, 2023, with no concerns.
- Ministry of Transportation email received December 19, 2023, with no concerns.
- S. Amid, resident, email received November 14, 2023, in opposition.
- F. J. Brunet, resident, email received November 14, 2023, in opposition.
- C. Holland, resident, email received November 14, 2023, in opposition.

Effect of Submissions on Decision

- [13] The Committee considered all written and oral submissions relating to the applications in making its decision and granted the applications.
- [14] Based on the evidence, the Committee is satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [15] The Committee notes that the City's Planning Report raises "no concerns" regarding the application, highlighting that "exception 637 is applicable to the subject property and requires a minimum lot area of 555 square metres. The exception reflects the previous Rs4 zoning under the former Gloucester Zoning By-law (1999), where the minimum lot width and area requirements were 9 metres and 555 square metres, respectively." The report also highlights that "the R1WW zone permits a minimum lot area of 450 square metres, and that the lot width on both the proposed severed and retained parcels will exceed the minimum requirement".
- [16] The Committee also notes that no compelling evidence was presented that the requested variances would result in any unacceptable adverse impact on neighbouring properties.
- [17] Considering the circumstances, the Committee finds that, because the proposed parcels will be wider than typical lots in the neighbourhood, the proposal fits well in the neighbourhood and 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.
- [18] 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.
- [19] 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.
- [20] 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.
- [21] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variances, **subject to** the location and size of the proposed construction being in accordance with the plans filed, Committee of Adjustment date stamped November 23, 2023, as they relate to the requested variances.

Absent
FABIAN POULIN
VICE-CHAIR

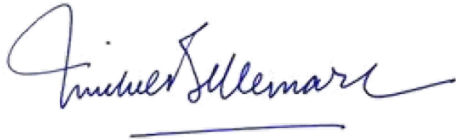
"Jay Baltz"
JAY BALTZ
MEMBER

"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 **January 26, 2024**.



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 **February 15, 2024**, 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
City of Ottawa
Ottawa.ca/CommitteeofAdjustment
cofa@ottawa.ca
613-580-2436



Comité de dérogation
Ville d'Ottawa
Ottawa.ca/Comitedederogation
cded@ottawa.ca
613-580-2436