

**DECISION
MINOR VARIANCE / PERMISSION**

Date of Decision:	January 26, 2024
Panel:	2 - Suburban
File No(s):	D08-02-23/A-00271 & D08-02-23/A-00272
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Tim Sims and Chantal Alarie
Property Address:	100 James Cummings Avenue
Ward:	7 – Bay Ward
Legal Description:	Part of Lot 11, Concession 1, Geographic Township of Nepean
Zoning:	R1E
Zoning By-law:	2008-250
Hearing Date:	January 16, 2024, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owners want to subdivide their property into two separate parcels of land to create one new lot for residential development. The existing dwelling will remain.

REQUESTED VARIANCES

- [2] The Owner/Applicant requires the Committee's authorization for minor variances from the Zoning By-law as follows:
- [3] **A-00271: 102 James Cummings Avenue, Part 1 on 4R-Draft Plan:**
- a) To permit a reduced minimum lot width of 19.47 metres, whereas the By-law requires a minimum lot width of 19.8 metres.
 - b) To permit a reduced minimum lot area of 607.4 square metres, whereas the By-law requires a minimum lot area of 930 square metres.
- [4] **A-00272: 100 James Cummings Avenue, Part 2 on 4R-Draft Plan:**

- c) To permit a reduced rear yard setback of 0.9 metres, whereas the By-law requires a minimum rear yard setback of 12 metres.
- d) To permit an increased lot coverage of 31%, whereas the By-law permits a maximum lot coverage of 25%.

PUBLIC HEARING

Oral Submissions Summary

- [5] Tim Eisner, Agent for the Applicant, asked that the City's requested condition of provisional consent regarding the noise attenuation study not be imposed as this would be captured in condition 11 when a notice is registered on title regarding noise.
- [6] Joshua Foster, an Environmental Engineer for the Applicant, believed that the stone wall at the front of the property would act as a sound barrier and negate the need for a noise study.
- [7] City Planner Shahira Jalal explained that the requested condition is the last opportunity for the City to obtain a noise attenuation study before the building permit stage and advised that condition 10 should remain. Ms. Jalal also confirmed that a noise study is required under the Official Plan.
- [8] The Committee also heard oral submissions from the following individuals:
 - M. Pourjam, resident, inquired about the servicing of the property.
- [9] Mr. Eisner confirmed that servicing connections would be at the rear of the property.
- [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 cover letter, parcel registry, plans, site sketch with tree setbacks, tree information report, a photo of the posted sign, and a sign posting declaration.
- Revised City Planning Report received January 12, 2024, with no concerns; received December 7, 2023, with no concerns.
- Rideau Valley Conservation Authority email received January 10, 2024, with no objections; received December 7, 2023, with no objections.
- Hydro Ottawa email received December 21, 2023, with no concerns; received December 5, 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.
- F. Doherty, resident, email received December 5, 2023, with no objections.
- B. and W. Ellacott, resident, email received December 5, 2023, with no objections.
- M. Pourjam, resident, email received December 6, 2023, with concerns.
- S. Mastrangelo, resident, email received December 8, 2023, with concerns.

Effect of Submissions on Decision

- [13] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [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 the "[v]ariances to permit reduced lot width, lot area and lot coverage are indeed minor in nature and will provide for appropriate development of one detached dwelling on each lot."
- [16] The Committee also notes that no compelling evidence was presented that the variances would result in any unacceptable adverse impact on neighbouring properties.

- [17] 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.
- [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:**

- a) Variances (c) and (d) applying to the existing building known municipally as 100 James Cummings Avenue and being restricted to the life of this building only.

Absent
FABIAN POULIN
VICE-CHAIR

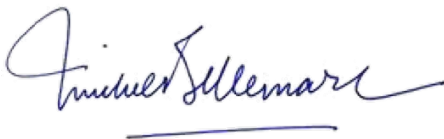
"Jay Baltz"
JAY BALTZ
MEMBER

"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.

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