

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	March 1, 2024
Panel:	1 - Urban
File No(s):	D08-02-21/A-00204
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	David and Anjali Rue
Property Address:	538 MacLaren Street
Ward:	14 - Somerset
Legal Description:	Part of Lot 22 (South MacLaren Street), Registered Plan 27293
Zoning:	R4UD [733]
Zoning By-law:	2008-250
Hearing Date:	February 21, 2024, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owners want to construct a one-storey addition in the rear and westerly side yard of the existing four-unit dwelling, as shown on plans filed with the Committee.

REQUESTED VARIANCES:

- [2] The Owners require the Committee's authorization for minor variances from the Zoning By-law as follows:
- a) To permit an addition to be set back 1.05 metres from the westerly side property line, whereas the By-law requires that additions to a building located in the Heritage Overlay to be set back at least 60 cm greater than existing side wall of the building from a side property line, or in this case an interior side yard setback of 3.34 metres.
 - b) To permit a reduced interior yard setback of 1.05 metres, whereas the By-law requires a minimum interior side yard setback of 1.5 metres.
 - c) To permit a reduced rear yard setback of 25% of the lot depth or 8.4 metres, whereas the By-law states that the minimum required rear yard setback is 30% of the lot depth, or in this case 9.9 metres.

PUBLIC HEARING

Oral Submissions Summary

- [3] Paolo Marinelli, Agent for the Applicants, provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request.
- [4] City Planner Margot Linker responded to questions from the Committee, confirming that the subject property is listed on the City's Municipal Heritage Register, however a heritage permit is not required. Ms. Linker also advised that the addition was 'subordinate' to the existing house.
- [5] City Forester Julian Alvarez-Barkham confirmed that tree protection was required for the neighbouring tree, and that the two trees at the rear of the property were to be retained.
- [6] The Committee also heard oral submissions from the following individuals:
- A. Cudowski, resident, raised concerns over the view of the addition from the street, the location of the entrance to the unit, snow removal, stormwater drainage, and reduced privacy.
 - C. Cudowski, resident, raised concerns over the addition of a fifth unit, as well as the lack of greenspace.
- [7] David Rue, one of the Owners, noted that three letters of support had been filed by area residents.
- [8] Following the public hearing, the Committee reserved its decision.

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 February 16, 2024, with no concerns.
- Rideau Valley Conservation Authority email received February 14, 2024, with no objections.
- Hydro Ottawa email received February 14, 2024, with comments.
- Ministry of Transportation email received February 14, 2024, with no comments.
- A. Cudowski, resident, email received February 9, 2024, in opposition.
- P. Byrne and D. Black, residents, email received February 16, 2024, in support.
- C. Laflamme, resident, email received February 16, 2024, in support.
- I. Wu, resident, email received February 16, 2024, in support.

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 majority of the Committee (Member Simon Coakeley dissenting for the reasons noted below) is satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [13] The majority of the Committee notes that the City's Planning Report raises "no concerns" regarding the application, highlighting that, "Heritage staff have no concerns with the proposed rear addition as it is subordinate to and distinguishable from the existing house". The report further highlights that "Staff also do not anticipate negative impacts on the pattern of massing on this section of MacLaren as there are a range of rear yard setbacks within this block and that the site is next to a corner lot condition."
- [14] The majority of the Committee also notes that no evidence was presented that the variances would result in any unacceptable adverse impact on neighbouring properties.
- [15] Considering the circumstances, the majority of 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 majority of 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.
- [17] In addition, the majority of the Committee finds that the requested variances maintain the general intent and purpose of the Zoning By-law the proposal represents orderly development on the property that is compatible with the surrounding areas.
- [18] Moreover, the majority of 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] *Member Simon Coakeley dissents, finding that because the proposed addition extends into the side yards and is visible from the street, the proposal does not maintain the general intent and purpose of the Zoning By-Law.*
- [20] 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 January 16, 2024, as they relate to the requested variances.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

"John Blatherwick"
JOHN BLATHERWICK
MEMBER

Dissent
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 **March 1, 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 **March 21, 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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