

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

<b>Date of Decision:</b>	March 1, 2024
<b>Panel:</b>	1 - Urban
<b>File No(s):</b>	D08-02-23/A-00282
<b>Application:</b>	Permission under section 45 of the <i>Planning Act</i>
<b>Owner(s)/Applicant(s):</b>	2439702 Ontario Inc.
<b>Property Address:</b>	173 Henderson Avenue
<b>Ward:</b>	12 – Rideau-Vanier
<b>Legal Description:</b>	Lot 28, East Henderson Avenue, Registered Plan 45224
<b>Zoning:</b>	R4UB [480]
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	February 21, 2024, in person and by videoconference

**APPLICANT’S PROPOSAL AND PURPOSE OF THE APPLICATION**

- [1] The Owner wants to renovate the interior of the of the existing three-unit dwelling and convert it to a seven-unit, low-rise apartment building, as shown on plans filed with the Committee. The three existing dwelling units are legal non-conforming with respect to the number of bedrooms in each unit.
- [2] At its hearing on January 17, 2024, the Committee adjourned the minor variance application to allow the Applicant time to resubmit it as a permission to change from one legal non-conforming use to another. The applicant has since submitted the revised application and wants to proceed.

**REQUESTED PERMISSION**

- [3] The Owner requires the Permission of the Committee to change the legally non-conforming use from a three-unit dwelling, containing three oversized dwelling units (two six-bedroom units and one twelve-bedroom unit) to a low-rise apartment dwelling with seven units, containing three oversized dwelling units (two six-bedroom units and one five-bedroom unit).

## PUBLIC HEARING

### Oral Submissions Summary

- [4] Chris Jalkotzy, 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. In response to questions from the Committee, Mr. Jalkotzy highlighted that a permission application was pursued as it would allow aspects of the existing lot to remain non-conforming. He also highlighted that each apartment in the existing dwelling operates on individual leases and that the proposed units will bring the dwelling closer to conformity.
- [5] The Committee also heard oral submissions from the following individuals:
- D. Collister, resident, expressed concerns over the property being developed as an unlicensed rooming house. Mr. Collister believed that the proposal should be brought into compliance and that a license to continue to operate as a rooming house should be obtained.
  - E. Celinski, resident, inquired about the removal of renovation debris and whether a building permit would be required.
- [6] City Planner, Margot Linker, confirmed that rooming houses are permitted under the Zoning By-Law, but highlighted that there can only be one rooming house per building. Also, a rooming house cannot operate in the same building as dwelling units. Additionally, Ms. Linker highlighted that the proposal includes oversized dwelling units instead of rooming houses.
- [7] Following the public hearing, the Committee reserved its decision.

## DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

### Application Must Satisfy Statutory Two-Part Test

- [8] The Committee has the power to permit an extension of a legal non-conforming use under subsection 45(2) of the *Planning Act* based upon both the desirability for development of the property in question and the impact on the surrounding area.

### Evidence

- [9] 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, and a sign posting declaration.

- City Planning Report received February 16, 2024, with no concerns; received January 17, 2024, with no concerns.
- Rideau Valley Conservation Authority email received February 14, 2024, with no objections; received January 10, 2024, with no objections.
- Hydro Ottawa email received February 14, 2024, with comments; received December 21, 2023, with comments.
- Ministry of Transportation email received February 14, 2024, with no comments; received December 21, 2023, with no comments.
- J. Finlay, resident, email received February 20, 2024, in opposition; received January 17, 2024, in opposition.
- D. Collister and J. Whiteford, residents, email received February 21, 2024, in opposition; received January 17, 2024, with concerns.

### **Effect of Submissions on Decision**

- [10] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [11] Based on the evidence, the Committee is satisfied that the requested permission meets the two-fold test relating to desirability and impact.
- [12] The Committee notes that the City’s Planning Report raises “no concerns” regarding the application, highlighting that “the removal of the 12-bedroom unit will create a building that is more in line with the zoning by-law and increase the density of the site to a density that is more generally contemplated in the current Zoning By-law and Official Plan.” The report also highlights that “since the building is not being expanded, and the lot is able to accommodate sufficient soft landscaping, bicycle parking, and waste management, there will be no additional privacy or massing impacts caused by this conversion.”
- [13] The Committee also notes that no compelling evidence was presented that the proposal would create any unacceptable impact on abutting properties or the neighbourhood in general.
- [14] Considering the circumstances, the Committee finds that, because the proposal fits well in the neighbourhood, the requested permission is, from a planning and public interest point of view, desirable for the appropriate use of the land, building or structure on the property, and relative to the neighbouring lands.
- [15] The Committee also finds that the proposal will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.

[16] THE COMMITTEE OF ADJUSTMENT therefore permits the expanded use of the dwelling, **subject to** the proposed construction being in accordance with the site plan filed, Committee of Adjustment date stamped **January 19, 2024**, and the elevations filed, Committee of Adjustment date stamped **January 19, 2024**, as they relate to the requested permission.

*"Ann M. Tremblay"*  
ANN M. TREMBLAY  
CHAIR

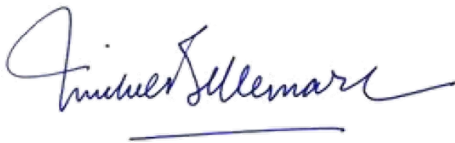
*"John Blatherwick"*  
JOHN BLATHERWICK  
MEMBER

*"Simon Coakeley"*  
SIMON COAKELEY  
MEMBER

*Declared Interest*  
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](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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