

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	February 16, 2024
Panel:	2 - Suburban
File No.:	D08-02-23/A-00307
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner/Applicant:	Jean Michel Sauve
Property Address:	1618 Botsford Street
Ward:	18 – Alta Vista
Legal Description:	Lot 953, Registered Plan 665
Zoning:	R1O
Zoning By-law:	2008-250
Hearing Date:	February 6, 2024, in person and by videoconference

APPLICANT’S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owner wants to regularize a home-based business (personal training) in the existing dwelling, as shown on the plans filed with the application.

REQUESTED VARIANCE

- [2] The Owner/Applicant requires the Committee’s authorization for a minor variance from the Zoning By-law to permit a home-based business within the existing dwelling occupying 29% (49.1 square metres) of the gross floor area of the principal dwelling unit, whereas the By-law requires that the cumulative size of the home-based businesses in a dwelling unit not exceed 25% (42.35 square metres) of the unit’s gross floor area.

PUBLIC HEARING

- [3] Prior to the hearing, the Committee received an adjournment request from R. Sullivan, recommending that matters related to a notice of violation be resolved before the Committee considers this minor variance application. The Committee heard from Murray Chown, Agent for the Applicant, who appeared along with J.F. Lalonde, the Applicant’s lawyer. Mr. Chown argued that this application is a separate matter that should proceed independently and indicated that he was opposed to an adjournment.

[4] The Committee agreed to hear the application without delay.

Oral Submissions Summary

- [5] Mr. Chown provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. Mr. Chown reviewed the zoning provisions relevant to a home-based business and explained that out of an abundance of caution the office, storage, furnace, and hot water tank space shown on the basement floor plan was included in its entirety in the calculation of the gross floor area of the business, notwithstanding that the furnace and hot water tank primarily serve the residence.
- [6] City Planner Siobhan Kelly indicated that the washroom space should also be included in the floor area of the home-based business. However, considering that additional space had been included in the gross floor area calculation that was not strictly related to the business, she indicated that she would have no concerns with proceeding without an amendment to increase the extent of the variance.
- [7] Mr. Chown highlighted that the Owner/Applicant had been advised that the business is not permitted to host large groups nor disturb neighbours, and no such event has occurred since this issue was addressed. He also clarified that the operation is normally limited to one client, occasionally two, and very rarely three or four on the property at one time.
- [8] The Committee also heard oral submissions from the following individuals:
- R. Sullivan, neighbour, noted concerns with the history of disturbances caused by the business and frequent by-law enforcement requests. He argued that, if the business has grown and requires more room to operate, a commercial space would be more appropriate.
 - M. Horton, neighbour, noted his opposition to the application, referring to the scale of the business operation, its equipment and facilities, and the adverse impacts it has had on neighbours.
- [9] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION REFUSED

Application Must Satisfy Statutory Four-Part Test

- [10] 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

[11] 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, photo of the posted sign, and a sign posting declaration.
- City Planning Report received February 2, 2024, with no concerns.
- Rideau Valley Conservation Authority email received January 31, 2024, with no objections.
- Hydro Ottawa email dated January 30, 2024, with conditions.
- Ministry of Transportation email dated February 2, 2024, with no comments.
- D. and M. Mcelheran, neighbours, email received February 4, 2024, opposed.
- R. Sullivan, neighbour, email received February 5, 2024, opposed and requesting adjournment.
- J. Lorimer, 1601 Botsford Street, email received February 5, 2024, opposed.
- I. and M. Godin, email received February 5, 2024, opposed.
- R. Carroll, email received February 5, 2024, opposed.
- M. Horton, 1617 Chaucer, email received February 5, 2024, with concerns.
- C. Helmer, email received February 5, 2024, opposed.
- R. Carroll, email received February 5, 2024, opposed.
- M. Dion-McElheran, 1610 Botsford Street, email received February 5, 2024, opposed.
- D. Clarke, 1618 Botsford, email received February 5, 2024, in support.
- A. Nash, 1621 Botsford Street, email received February 5, 2024, in support.
- A. Cross, 1622 Botsford Street, email received February 5, 2024, in support.

Effect of Submissions on Decision

- [12] The Committee considered all written and oral submissions relating to the application in making its decision and refused the application.
- [13] Based on the evidence, the Committee is not satisfied that the requested variance meets all four requirements under subsection 45(1) of the *Planning Act*.
- [14] The Committee takes note of the numerous submissions from neighbours detailing unacceptable adverse impacts caused by the operation of this home-based business, in terms of noise, traffic, and parking, among other matters. While the Committee notes that prior by-law violations are not relevant to its deliberations on this application, it finds that that the increased floor area occupied by the business would allow additional clients to be accommodated on site and likely contribute additional adverse impacts experienced by neighbours in general, contrary to the intent of the Zoning By-law.
- [15] Considering the circumstances, the Committee finds that, because the home-based business does not fit well in the area, the requested variance is not, 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 Committee also finds that the requested variance does not maintain the general intent and purpose of the Zoning By-law because the expanded home-based business does not represent an orderly use of the property that is compatible with the surrounding area.
- [17] Additionally, the Committee also finds that the requested minor variance is not minor because it would create an unacceptable adverse impact on abutting properties and the neighbourhood in general.
- [18] Failing three of the four statutory requirements, the Committee is unable to grant the application.
- [19] THE COMMITTEE OF ADJUSTMENT therefore does not authorize the requested variance.

Absent
FABIAN POULIN
VICE-CHAIR

"Jay Baltz"
JAY BALTZ
ACTING PANEL CHAIR

"George Barrett"
GEORGE BARRETT
MEMBER

"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 **FEBRUARY 16, 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 7, 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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