

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	March 15, 2024
Panel:	3 - Rural
File No(s):	D08-01-24/A-00008
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	OttawaWest Development Inc.
Property Address:	6435 Fallowfield Road
Ward:	21 – Rideau-Jock
Legal Description:	Part of Lot 21, Concession 8, Geographic Township of Goulbourn
Zoning:	RU
Zoning By-law:	2008-250
Hearing Date:	March 5, 2024, in person and by videoconference

APPLICANT’S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owner wants to subdivide the property into two separate parcels of land for residential development. It is proposed to construct a new detached dwelling on each parcel. The existing equestrian facility will remain on one parcel and the existing dwelling and detached garage will be demolished.

REQUESTED VARIANCES

- [2] The Owner/Applicant requires the Committee’s authorization for minor variances from the Zoning By-law as follows:
- a) To permit a reduced setback of 25 metres from lands zoned ME2 for a new dwelling, whereas the By-law requires a minimum setback of 150 metres from lands zoned ME2 for a new dwelling.
 - b) To permit a reduced setback of 81.35 metres from lands zoned ME3 for a new dwelling, whereas the By-law requires a minimum setback of 150 metres from lands zoned ME3 for a new dwelling.

PUBLIC HEARING

- [3] Prior to the scheduled hearing on March 5, 2024, the Committee received an adjournment request from the City's Planning, Real Estate and Economic Development Department to allow the applicant additional time to submit a revised Mineral Resource Impact Assessment
- [4] At the hearing on March 5, 2024, Benjamin Clare, Agent for the Applicant, requested to have the application heard, noting that, in his opinion, adequate information had been provided. He also highlighted that the City had requested a revised Mineral Resource Impact Assessment as a condition of approval and indicated he would have no objection to the imposition of that condition. The Committee agreed to hear the application without delay.

Oral Submissions Summary

- [5] Mr. Clare 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 City Planning staff concerns over the proximity of the proposed lots to mineral extraction zones, Mr. Clare submitted that the proposed development will not preclude or hinder existing aggregate operations, or the establishment of new ones, based on the conclusions of the technical studies provided in support of the applications. He explained that the Mineral Resource Impact Assessment and noise and hydrogeological studies also included a hypothetical future aggregate operation on the lands to south, across Fallowfield Road, further noting that the provision of a berm on the lands to the south was anticipated by the noise study. Mr. Clare also identified that there are several existing homes in the immediate vicinity of the subject property.
- [6] City Planner Luke Teeft addressed his concerns with the applications, highlighting that the proposal represents significant r reductions from the minimum setback from existing and future aggregate operations, and additional information would be required to satisfy these concerns.
- [7] Marc Steenbakkers, the Owner/Applicant, summarized the current activity at the "Kemp pit," which recently resumed operation on the property to the east. Mr. Clare noted that the Kemp pit is used for sand extraction, and that it is not a quarry that involves blasting and associated noise and vibration impacts.
- [8] Eric LaLande of the Rideau Valley Conservation Authority responded to a question from the Committee regarding the impact of the flood plain on future operations on the property to the south. He noted that the location of the flood plain would not necessarily prohibit the issuance of a pit license, but that more information would be required to determine specific impacts. Mr. Clare explained that the technical studies provided, including the noise and hydrogeological studies, assumed the greatest possible output from any future operation on the lands to the south.

[9] Mr. Clare confirmed that a previous consent application (D08-01-19/B-00251) was conditionally approved, but was allowed to lapse, as the accompanying minor variance application (D08-02-20/A-00152) had been refused and the Owner/Applicant's preference was to proceed with a new proposal, accompanied by updated studies.

[10] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION REFUSED

Application 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:

- Application and supporting documents, including cover letter, parcel registers, Lot Development Plan, Planning Rationale, Minimum Distance Separation Report, Aggregate Impact Assessment Compatibility Letter, Noise Control Feasibility Study, Revised Environmental Impact Statement, Hydrogeological Investigation, Phase I ESA, photo of the posted sign, and a sign posting declaration.
- Hydro Ottawa email received February 27, 2024, with comments.
- City Planning Report received February 29, 2024, requesting adjournment.
- Rideau Valley Conservation Authority email received March 1, 2024, with no objections.
- Ontario Septic Systems Office email received March 1, 2024, with no objections.
- Ministry of Transportation email received March 1, 2024, with no comments.

Effect of Submissions on Decision

- [13] The Committee considered all written and oral submissions relating to the application in making its decision and refused the application.
- [14] Based on the evidence, the Committee is not 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 "concerns" regarding the application, highlighting that: "[a]dditional rationale would be required to support the creation of two additional sensitive receptors within 120 metres of the active licensed operation to the east, and future potential operation to the south." The report also highlights that the creation of the lots would, undoubtedly, increase the difficulty for the processing of the future application on the ME3 lands."
- [16] Considering the circumstances, the Committee finds that the proposal would locate new development in the most constrained location on the lot, creating new sensitive receptors close to one active and one possible future pit operation, and therefore,, from a planning and public interest point of view, the variances are not desirable for the appropriate development or use of the land, building or structure on the property, and relative to the neighbouring lands.
- [17] The Committee also finds that, while there are existing dwellings in the area, the proposed new development in this location would aggravate an existing situation and would not represent orderly development that is compatible with its surroundings, contrary to the general intent and purpose of the Zoning By-Law.
- [18] Moreover, the Committee finds that insufficient evidence was presented to demonstrate that the proposal will not preclude or hinder existing or future aggregate operations on the adjacent lands, and therefore the variances do not maintain the general intent and purpose of the Official Plan.
- [19] Finally, the Committee is not satisfied that the requested variances would have no unacceptable adverse impacts on future occupants of the proposed dwelling or the adjacent Mineral Extraction zone lands.
- [20] Failing all four statutory requirements, the Committee is unable to grant the application.
- [21] THE COMMITTEE OF ADJUSTMENT therefore does not authorize the requested variances.

"William Hunter"
WILLIAM HUNTER
VICE-CHAIR

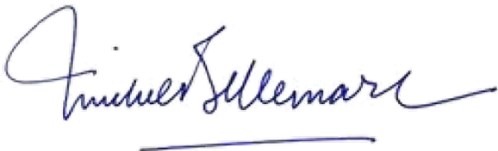
"Terence Otto"
TERENCE OTTO
MEMBER

"Beth Henderson"
BETH HENDERSON
MEMBER

"Martin Vervoort"
MARTIN VERVOORT
MEMBER

"Jocelyn Chandler"
JOCELYN CHANDLER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **March 15, 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 **April 4, 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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