

**DECISION  
MINOR VARIANCE/PERMISSION**

<b>Date of Decision:</b>	October 13, 2023
<b>Panel:</b>	1 - Urban
<b>File No(s):</b>	D08-02-23/A-00208
<b>Application:</b>	Permission under section 45 of the <i>Planning Act</i>
<b>Owner(s)/Applicant(s):</b>	JBPA Developments
<b>Property Address:</b>	107 Pretoria Avenue
<b>Ward:</b>	17 – Capital
<b>Legal Description:</b>	Lot 47, Registered plan 35403
<b>Zoning:</b>	R4UD
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	October 4, 2023, in person and by videoconference

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

- [1] The Owner wants to construct a third storey addition at the rear of its existing two-storey office building, as shown on plans filed with the Committee.

**REQUESTED PERMISSION**

- [2] The Owner requires the Permission of the Committee to expand a legal non-conforming office use in the R4UD zone, to permit the construction of a third storey addition.

**PUBLIC HEARING**

- [3] The Panel Chair administered an oath to Scott Alain, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied.

**Oral Submissions Summary**

- [4] Mr. Alain provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. Mr. Alain also responded to questions from the Committee regarding the design of the rooftop terrace, stating that it would be setback from the front of the existing building and would not overlook onto neighbouring properties.

- [5] Kevin Fagan, also representing the Applicant, confirmed that the rooftop terrace would be used as amenity space for the office tenant and that the railings surrounding the terrace would be opaque.
- [6] City Planner Margot Linker responded to questions from the Committee and confirmed that the property does have legal non-conforming rights to operate as an office use in a residential zone.
- [7] Mr. Alain further responded to concerns regarding a lack of parking and clarified that the lot has four parking spaces on site, where three are required as per the Zoning By-law.
- [8] The Committee also heard oral submissions from the following individuals:
- R. Prefasi, resident, raised concerns regarding a lack of available parking for future employees.
- [9] Mr. Alain responded to Mr. Prefasi's concerns, explaining that there are currently four parking spaces located on the subject property and that alternative parking options were available in the neighbourhood, including renting spaces on a nearby lot. Mr. Alain stated that any future tenants would be made aware of parking constraints.
- [10] Following the public hearing, the Committee reserved its decision.

## **DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED**

### **Permission: Application Must Satisfy Two-Part Test**

- [11] 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**

- [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, site plan.
  - City Planning Report received September 28, 2023, with no concerns.
  - Rideau Valley Conservation Authority email dated September 29, 2023, with no objections.

- P. Kingston, resident, email dated September 22, 2023, in opposition.
- G. Sholdice, resident, email dated October 3, 2023, in opposition.
- T. Clifford, resident, email dated October 3, 2023, with concerns.
- R. and S. Prefasi, residents, email dated October 3, 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 permission meets the two-fold test relating to desirability and impact.
- [15] The Committee notes that the City's Planning Report raises "no concerns" regarding the application. The report highlights that, "it does not appear that this addition will impact the streetscape," noting as well that, "Staff appreciate that the west elevation will have no windows in the addition, posing no additional privacy impacts to the yard to the west."
- [16] The Committee further notes that no compelling evidence was presented that the proposal would create any unacceptable impact on abutting properties or the neighbourhood in general.
- [17] Considering the circumstances, the Committee finds that because the proposal fits well within the area, 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.
- [18] The Committee also finds that the proposal will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.
- [19] THE COMMITTEE OF ADJUSTMENT therefore permits the expanded use, **subject to**
- a. The proposed construction being in accordance with the plans filed, Committee of Adjustment date stamped **August 22, 2023**.
  - b. The relief applying to the existing building known municipally as 107 Pretoria Avenue and being restricted to the life of this building only.

Absent  
ANN M. TREMBLAY  
CHAIR

*"John Blatherwick"*  
JOHN BLATHERWICK  
ACTING CHAIR

Absent  
SIMON COAKELEY  
MEMBER

*"Arto Keklikian"*  
ARTO KEKLIKIA  
MEMBER

*"Sharon Lécuyer"*  
SHARON LÉCUYER  
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 **October 13, 2023**.



Matthew Garnett  
Acting 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 **November 2, 2023**, 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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