

2023-12-07



**MINOR VARIANCE APPLICATION
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
PANEL 1**

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 102 Lower Charlotte Street
Legal Description: Part of Lot 11 (North Clarence Street), Plan 43586
File No.: D08-02-23/A-00220
Report Date: December 7, 2023
Hearing Date: December 13, 2023
Planner: Basma Alkhatib
Official Plan Designation: Downtown Core, Neighbourhood Overlay
Zoning: R4UD (Residential fourth density, subzone UD)

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **has no concerns with** the application.

DISCUSSION AND RATIONALE

Staff are satisfied that the requested minor variances meet the “four tests” as outlined in Section 45 (1) of the *Planning Act*, R.S.O. 1990 c. P.13, as amended.

The subject site is within Downtown Core Transect Policy Area shown in Schedule B1 of the Official Plan. Section 5 of the Official Plan defines Downtown Core as a mature built environment whose urban characteristics of high-density, mixed uses and sustainable transportation orientation are to be maintained and enhanced.

The subject property is a corner lot that faces Lower Charlotte Street and Clarence Street East. The provided surveys dated 1989 and 2022 show that the porch has existed there since 1989.

Although there was some confusion with the original submission documents, staff have communicated with the applicant, who clarified through a phone call that the enclosed porch was built two years ago and that they are now looking to legalize it.

The surveys show that parts of the porch and the stairs are encroaching on the City’s right of way, **which triggers the necessity of entering into Encroachment Agreement with the City.**

The subject site is within the Mature Neighbourhoods Overlay, which focuses on

appearance from the public realm, with specific attention given to the extent that front yards and corner side yards are used for soft landscaping, driveways, on-site parking, and the orientation and visibility of the front door. The Streetscape Character Analysis' (SCA) goal is to capture older neighbourhoods' distinctive character and ensure a continuation of the "look along the street" as these properties redevelop and intensify over time. The Streetscape Character Analysis evaluates three key attributes: front-facing attached garages, parking and driveways, and the location of the main entrance to the dwelling.

The enclosure of the porch impacted the street look by changing the main entrance from facing the front lot line (Lower Charlotte Avenue) to be facing the corner lot line (Clarence Street). Therefore, a Streetscape Character Analysis is required by the Zoning Bylaw.

The applicant submitted the Streetscape Character Analysis on October 30, 2023, and the result was Character A, which means the principal entranceway into the house either faces the front lot line or is part of a "permitted projection" (such as a porch) but doesn't face the front lot line. Seeing that enclosing the porch had the effect of converting it from a projection element to an external wall of the dwelling, staff requested the addition of a new minor variance for the main entrance orientation.

Staff have no concern with minor variance (a) to reduce the front yard setback to be zero meters from the front lot line, because it is an existing situation, and the porch has been there for more than 30 years.

Staff have no concern with minor variance (b) to vary from the Streetscape Character Analysis, because the existing porch is built with materials close in texture and color to the front façade which make it homogeneous and well looking. Furthermore, the neighbour across the street has the same main entrance look that faces the corner lot line.

The department has no concern with the proposal. The applicant has agreed to enter into an Encroachment Agreement with the City.

ADDITIONAL COMMENTS

Infrastructure Engineering

1. Any proposed works to be located within the road allowance requires prior written approval from the Infrastructure Services Department.
2. All trees on City property and private trees greater than 30cm in diameter in the inner urban area are protected under the Tree Protection By-law (2020-340), and plans are to be developed to allow for their retention and long-term survival. A Tree Removal Permit and compensation are required for the removal of any protected tree.

3. The surface storm water runoff including the roof water must be self-contained and directed to the City Right-of-Way, not onto abutting private properties as approved by **Planning, Real Estate and Economic Development Department**.

Planning Forestry

This appears to be an existing condition. As such, there are no tree-related concerns with the minor variance.

Right of Way Management

The Right-of-Way Management Department has **concerns** with the proposed Minor Variance Application as it appears a portion of the constructed covered front porch, veranda and stairs may be encroaching in the City boulevard (the City's Right of Way). The property owner is required to enter into a **Permanent Encroachment Agreement**. The Right-of-Way Management Department requests that the following condition be imposed:

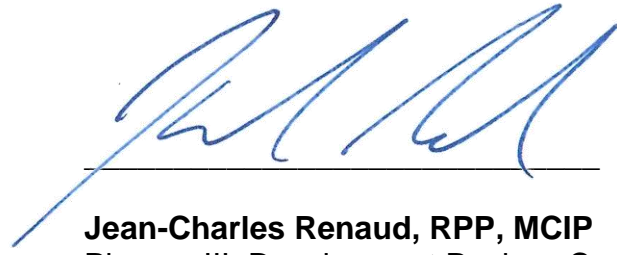
Condition 1: That the Owner(s), or any subsequent owners, if required, in the opinion (and at the sole discretion) of the Manager, Right-of-Way, Heritage, Urban Design Department or his/her designate, acknowledges, and agrees to enter into an **Encroachment Agreement** to permit the encroachment of, including, but not limited to retaining walls, fences, **porch/veranda**, stairs, ramps, appurtenances structures or structure(s) that are permanent in nature within the City's right-of-way . The Owner shall, at its expense, provide a draft reference plan to the Right-of-Way, Heritage, and Urban Design Department, as well as to the City's Surveyor for review and approval prior to its deposit at the Land Registry Office. Immediately after the registration of the **Encroachment Agreement**, the Owner shall assume maintenance and replacement responsibilities in perpetuity. The Owner(s) and its successors acknowledges and agree that this Agreement is binding and shall be drafted to the satisfaction of the Manger, Right-of-Way, Heritage, and Urban Design Department, or his/her designate, and to the City's Legal Services Department. Furthermore, the Committee requires confirmation from the **City's Legal Services Department** that it has been registered on title. **Moreover, the Owner shall be made aware that failure to receive the required approval will result in the Owner having to remove or relocate the structure(s), element(s), or feature(s) from the City's right-of-way onto private property, prior to the provisional consent being granted.**

Please contact the ROW Department at rowadmin@ottawa.ca to formally request an Encroachment Agreement.



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