

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	November 10, 2032
Panel:	2 - Suburban
File No(s):	D08-02-23/A-00188
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Hydro Ottawa Limited
Property Address:	3918 Old Richmond Road
Ward:	8 - College
Legal Description:	Lot 34, Concession 4 (Rideau Front)
Zoning:	I1B
Zoning By-law:	2008-250
Hearing Date:	October 31, 2023, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owner has constructed two electrical control buildings as part of the Bell's Corners Distribution Station, as shown on plans filed with the Committee. It has since been determined that the buildings are not in conformity with the requirements of the Zoning By-law.

REQUESTED VARIANCE

- [2] The Owner/Applicant requires the Committee's authorization for a minor variance from the Zoning By-law to permit a reduced ~~interior~~ **corner** side yard setback of 2.2 metres, whereas the By-law requires a minimum ~~interior~~ **corner** side yard setback of 7.5 metres.

PUBLIC HEARING

Oral Submissions Summary

- [3] Blain Moran, Laurence Cudlip, Michael Laplante and William Youssef, all acting as Agents for the Applicant, provided an overview of the application and responded to questions from the Committee.
- [4] Mr. Moran acknowledged the outstanding order to comply on the property regarding the construction of the electrical control buildings without a building

permit and mentioned that the requested reduced corner side yard setback would apply to both electrical control buildings. City Forester Hayley Murray stated that the municipality cannot require the Applicant to plant trees in the right-of-way as part of the application. Ms. Murray further noted that Forestry Services would be open to further discussions with the Applicant regarding tree planting in the future.

- [5] While also open to exploring options with the City's Forestry Services regarding the addition of soft landscaping, Mr. Moran stated that he could not commit to planting trees in the right-of-way or elsewhere on the site at this time because there is underground infrastructure that could impact the feasibility of doing so.
- [6] City Planner Solé Soyak stated no concerns with the application, highlighting that a sound-attenuating fence was proposed which would mitigate any potential noise impact on abutting property owners.
- [7] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Four-Part Test:

- [8] 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

- [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 a cover letter, plans, tree information, a photo of the posted sign, and a sign posting declaration.
 - City Planning Report received October 27, 2023, with no concerns.
 - City Building Code Services Order to Comply, received October 17, 2023.
 - Rideau Valley Conservation Authority email received October 26, 2023, with no objections.
 - Hydro Ottawa email received October 19, 2023, with no comments.

- Ministry of Transportation email received October 30, 2023, with no comments.
- H. Krausbar, neighbour, email received October 30, 2023, with concerns.
- B. Bolton, neighbour, email received October 30, 2023, 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] The Committee notes that the City's Planning Report raises "no concerns" regarding the application, highlighting that the requested variance "would not hinder the functionality of the lot or the neighbouring lot."
- [12] The Committee also notes that the application seeks to legalize, after the fact, two already-built structures that do not comply with zoning regulations. The Committee does not condone the practice of building first and asking for permission later. An owner who does so runs the risk, like any other applicant, of having their application denied. The additional risk if the Committee refuses to authorize a minor variance for an already-built, non-compliant structure could be the requirement to either bring it into compliance or remove it, regardless of any cost or hardship to the owner. However, whether the proposal has already been built does not factor into the Committee's decision, either negatively or favourably. The Committee must consider each application on its merits, based on the evidence and according to the four-part statutory test. The *Planning Act* does not set out a fifth test as to whether an owner has contravened municipal regulations relating to construction. Instead, it is the City's exclusive role to address construction-related concerns and enforce its own by-laws. The Committee has no jurisdiction over such matters.
- [13] The Committee further notes that no evidence was presented that the variance would result in any unacceptable adverse impacts on neighbouring properties.
- [14] Considering the circumstances, the Committee finds that, because the proposal fits well in the area, the requested variance is, 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.
- [15] The Committee also finds that the requested variance maintains the general intent and purpose of the Official Plan because the proposal respects the character of the neighbourhood.
- [16] In addition, the Committee finds that the requested variance maintains the general intent and purpose of the Zoning By-law because the proposal represents orderly development that is compatible with the surrounding area.

[17] Moreover, the Committee finds that the requested variance, is minor because it will not create any unacceptable adverse impacts on abutting properties or the neighbourhood in general.

[18] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variance, subject to the relief applying to the two existing electrical control buildings, part of the Bell's Corners Distribution Station, known municipally as 3918 Old Richmond Road and being restricted to the life of these buildings only.

"Fabian Poulin"
FABIAN POULIN
VICE-CHAIR

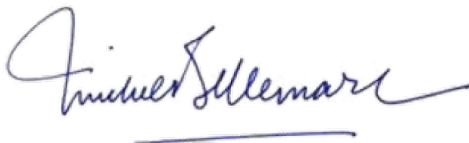
Absent
JAY BALTZ
MEMBER

"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 **November 10, 2023**



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 **November 30, 2023**, 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.

Committee of Adjustment
City of Ottawa
[Ottawa.ca/CommitteeofAdjustment](https://ottawa.ca/CommitteeofAdjustment)
cofa@ottawa.ca
613-580-2436



Comité de dérogation
Ville d'Ottawa
[Ottawa.ca/Comitedederogation](https://ottawa.ca/Comitedederogation)
cded@ottawa.ca
613-580-2436