

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	May 24, 2024
Panel:	3 - Rural
File No.:	D08-02-24/A-00095
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner/Applicant:	Mattamy (Maple Grove) Ltd.
Property Address:	753 Kinstead Private
Ward:	6 - Stittsville
Legal Description:	Part of Block 5, Registered Plan 4M-1720
Zoning:	R3YY [2796]
Zoning By-law:	2008-250
Heard:	May 14, 2024, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owner is constructing a block of twelve three-storey, back-to-back townhouse units and one of the dwelling units will not be in conformity with the Zoning By-law, as shown on plans filed with the Committee.

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 covered porch to project 0.8 metres from an interior side lot line, whereas the By-law permits a covered porch to project up to 2 metres into a required yard, but no closer than 1 metre from any lot line.
 - b) To permit a covered balcony to project 0.5 metres from an interior side lot line, whereas the By-law permits a covered porch to project up to 2 metres into a required yard, but no closer than 1 metre from any lot line.
- [3] The application also indicates that the property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

Oral Submissions Summary

- [4] Thomas Freeman and Nico Church, Agents for the Applicant, and City Planner Luke Teeft were present.
- [5] There were no objections to granting this unopposed application as part of the Panel's fast-track consent agenda.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application(s) Must Satisfy Statutory Four-Part Test

- [6] 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

- [7] 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 May 8, 2024, with no concerns.
 - Mississippi Valley Conservation Authority email received May 7, 2024, with no objections.

Effect of Submissions on Decision

- [8] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [9] Based on the evidence, the Committee is satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [10] The Committee notes that the City's Planning Report raises "no concerns" regarding the application, highlighting that "the context of the site is such that the balconies and porches will be facing an existing single-family home at 1837 Maple Grove Road and will not infringe upon the rear yard of this property."

- [11] The Committee also notes that the applications seek to legalize, after the fact, an already-built structure that does 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 statutory four-part 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.
- [12] Considering the circumstances, the Committee finds that, because the proposal fits well in the area, the requested variances are, 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.
- [13] The Committee also finds that the requested variances maintain the general intent and purpose of the Official Plan because the proposal respects the character of the neighbourhood.
- [14] In addition, the Committee finds that the requested variances maintain the general intent and purpose of the Zoning By-law because the proposal represents orderly development that is compatible with the surrounding area.
- [15] Moreover, the Committee finds that the requested variances, both individually and cumulatively, are minor because they will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.
- [16] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variances, **subject to** the location and size of the proposed construction being in accordance with the plans filed, Committee of Adjustment date stamped April 16, 2024, as they relate to 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 **May 24, 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 **June 13, 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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