

**DECISION
MINOR VARIANCE**

Date of Decision:	June 14, 2024
Panel:	1 - Urban
File No.:	D08-02-24/A-00031
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owners/Applicants:	Shu Hua Situ and Jin Wei Situ
Property Address:	6 Oak Street
Ward:	14 - Somerset
Legal Description:	Part of Lots 1, 2 and 3 on Registered Plan 82974
Zoning:	R4UB
Zoning By-law:	2008-250
Heard:	June 5, 2024, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] On March 20, 2024, the Committee adjourned the hearing of the application to allow the Applicants time to consult with neighbours.
- [2] The Applicants want to construct a five-unit, three-storey stacked dwelling. The existing dwelling and garage will be demolished.

REQUESTED VARIANCES

- [3] The Applicants require the Committee's authorization for minor variances from the Zoning By-law as follows:
 - a) To permit a reduced lot area of 215.3 square metres, whereas the By-law requires a minimum lot area of 420 square metres.
 - b) To permit a reduced lot width of 11.08 metres, whereas the By-law requires a minimum lot width of 14 metres.
 - c) To permit a reduced front yard setback of 3.84 metres, whereas the By-law requires a minimum front yard setback of 4.12 metres (average of abutting lots).

- d) To permit a reduced rear yard area of 14.7% of the lot area or 31.59 square metres, whereas the By-law requires a minimum rear yard area of 25% of the lot area or, in this case, 53.83 square metres.
- e) To permit a reduced rear yard soft landscaping area of 30 square metres, whereas the By-law requires a minimum rear yard soft landscaping area of 35 square metres.
- f) To permit a reduced rear yard setback of 16.4% of the lot depth or 3.59 metres, whereas the By-law requires a minimum required rear yard setback of 25% of the lot depth or 5.47 metres.
- g) To permit a reduced westerly interior side yard setback of 0.25 metres, whereas the By-law requires a minimum interior side yard setback of 1.5 metres.
- h) To permit a reduced easterly interior side yard setback of 1.23 metres, whereas the By-law requires a minimum interior side yard setback of 1.5 metres.
- i) To permit the balcony, above the first floor, on a lot with a depth of less than 23.5 metres, to project 1.22 metres into the rear yard, whereas the By-Law permits a balcony above the first floor, on a lot with a depth less than 23.5 metres, to project a maximum of 0 metres above the first floor.

PUBLIC HEARING

Oral Submissions Summary

- [4] Paul Robinson, Agent for the Applicants, provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request.
- [5] Mr. Robinson responded to questions from the Committee regarding functionality of the rear yard and stated that they tried to bring the proposed dwelling as close as possible to the existing footprint, while still allowing for gentle intensification. He also spoke to the public consultation undertaken by the Applicant.
- [6] City Planner Margot Linker confirmed that the department has concerns with the variances for rear yard setback, area, and soft landscaping requirements and the cumulative impact they would have due to the proposed lot size.
- [7] Planning Forester Nancy Young confirmed that the department is satisfied with the proposed new trees.
- [8] The Committee also heard oral submissions from the following individuals:

- I. Allen, resident, highlighted concerns regarding the impact of the proposed development on the character of Oak Street and the lack of consultation with area residents.
- M.P. Luu, resident, highlighted opposition to the application.
- M. Maillet, resident, highlighted the lack of consultation with area residents, concerns with the proposed dwelling size and its impact on the character of the neighbourhood.
- T.Q. Huynh, resident, highlighted the lack of vehicle and bicycle parking relative to the proposed number of units and the impact on traffic and safety.

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

DECISION AND REASONS OF THE COMMITTEE: APPLICATION REFUSED

Application(s) Must Satisfy Statutory Four-Part Test

[10] 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

[11] 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, tree information report, photo of the posted sign, and a sign posting declaration.
- City Planning Report received May 30, 2024, with concerns; received March 14, 2024, with concerns.
- Rideau Valley Conservation Authority email received May 29, 2024, with no objections, received March 12, 2024, with no objections.
- Hydro Ottawa email received May 30, 2024, with comments; received March 13, 2024, with comments.
- Building Code Services email received May 27, 2024, with no comments.

- H. Le, resident, email received June 3, 2024, opposed, email received March 18, 2024, opposed.
- M. P. Luu, P. Luu, N. Ninh, residents, email received June 3, 2024, with petition signed by 25 residents, opposed; received March 19, 2024, with petition signed by 14 residents, opposed.
- H.T. Le, H.T. Le, and Q.V. Luu, residents, email received June 4, 2024, opposed; email received March 18, 2024, opposed.
- L. Partenio, resident, phone call received June 5, 2024, with comments.
- J. Teevan, resident, email received March 18, 2024, opposed.
- I. Allen, resident, email received March 19, 2024, opposed.
- A. O'Donnell, resident, email received March 19, 2024, opposed.
- M. Maillet , resident, email received March 18, 2024, with photos.

Effect of Submissions on Decision

- [12] The Committee considered all written and oral submissions relating to the application in making its decision and refused the application.
- [13] 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*.
- [14] The Committee notes that the City's Planning Report raises "concerns" regarding the application highlighting "the cumulative impact on the functions of the site caused by the reduced lot size. It is apparent that, due to the undersized lot, the proposed development is not able to meet the rear yard setback, rear yard area, and rear yard soft landscaping requirements". The report further highlights that "[t]he proposed rear yard includes bicycle parking, stairs, and a balcony which, while permitted in the landscaped area, does take away from its functionality".
- [15] Considering the circumstances, the Committee finds that, because the proposal does not fit well in the area, the requested variances are, from a planning and public interest point of view not desirable for the appropriate development or use of the land, building or structure on the property, and relative to the neighbouring lands.
- [16] The Committee also finds that the requested variances do not maintain the general intent and purpose of the Zoning By-law because the proposal represents overdevelopment of the property that is not compatible with the surrounding area.

[17] Failing two of the four statutory requirements, the Committee is unable to authorize the requested variances.

[18] THE COMMITTEE OF ADJUSTMENT therefore does not authorize the requested variances.

"Simon Coakeley"
SIMON COAKELEY
ACTING PANEL CHAIR

"John Blatherwick"
JOHN BLATHERWICK
MEMBER

"Heather MacLean"
HEATHER MACLEAN
MEMBER

"Arto Keklikian"
ARTO KEKLIKIAN
MEMBER

Absent
SHARON LÉCUYER
MEMBER

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **June 14, 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 **July 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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