

**DECISION
MINOR VARIANCE / PERMISSION**

Date of Decision: April 26, 2024
Panel: 1 - Urban
File No.: D08-02-24/A-00065
Application: Minor Variance under section 45 of the *Planning Act*
Owners/Applicants: Matthieu Jutras and Edith L'Espérance
Property Address: 53 Sweetland Avenue
Ward: 12 – Rideau-Vanier
Legal Description: Lot 9, Registered Plan 14349
Zoning: R4UD
Zoning By-law: 2008-250
Hearing Date: April 17, 2024, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owners want to construct a one-storey addition containing an additional dwelling unit to the rear of the existing duplex dwelling. The existing one-storey workshop in the rear yard is to be demolished.

REQUESTED VARIANCES

- [2] The Owners/Applicants require the Committee's authorization for minor variances from the Zoning By-law as follows:
- a) To permit a side yard setback for an addition that is 0.36 metres greater than that of the wall of the building located closest to the side lot line, whereas the By-law states that the side yard setback of an addition must be 0.6 metres greater than that of the wall of the building where a Heritage Overlay applies.
 - b) To permit an eaves to project 0.15 metres into a side yard, whereas the By-law does not permit projections into the side yard where a Heritage Overlay applies.
 - c) To permit a reduced rear yard setback of 1.6% of the lot depth or 0.6 metres, whereas the By-law requires a minimum rear yard setback equal to 30% of the lot depth, or 11.27 metres.
 - d) To permit a reduced rear yard area of 1.63% of the lot area or 5 square metres, whereas the By-law requires a minimum rear yard area of 25% of the lot area, or 76.59 square metres.

- e) To permit a reduced northerly interior side yard setback of 0.6 metres and a southerly interior side yard setback of 0.6 metres, whereas the By-law requires a minimum interior side yard setback of 1.2 metres on one side and 0.6 metres on the other side.
- f) To permit a deck (northerly side) above the first floor and within 1.5 metres of an exterior side wall to have a transparent guard facing the interior side lot line, whereas the By-law requires a deck above the first floor and within 1.5 metres of an exterior side wall to have a 1.5 metres high opaque screen facing the interior side lot line.
- g) To permit reduced setbacks for a rooftop terrace of 0.0 metres from the exterior side walls, whereas the By-law requires the rooftop terrace to be a minimum of 1.5 metres from any exterior wall of the building.

PUBLIC HEARING

Oral Submissions Summary

- [3] Jane Thompson, Agent for the Applicants, referred to a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. Ms. Thompson responded to written comments from the neighbour to the north, who requested that the plans be revised to recess a proposed opaque screen at the north side of the addition, and to use a transparent material instead. She explained that it was the Applicants' preference to proceed with the plans on file, though she intended to continue to work with the neighbour to address his concerns.
- [4] City Planner Margot Linker indicated that the City would not support the relocation of or the use of transparent material for the proposed screen, and that this would necessitate additional variances from the Zoning By-law. She also responded to a question from the Committee, confirming that the information on file concerning the location of the existing structure to be demolished was sufficient for her review of the application.
- [5] The Committee identified an error in variance (d) in the public notice of this application. Ms. Thompson agreed that the proposed reduced rear yard area should be expressed in square metres, as follows:

To permit a reduced rear yard area of 1.63% of the lot area or 5 **square** metres, whereas the By-law requires a minimum rear yard area of 25% of the lot area, or 76.59 **square** metres.
- [6] The Committee also heard oral submissions from J. Silburt, resident, who stated that he was generally in support of the application but highlighted concerns regarding the location and materiality of the second-storey screen on the north elevation of the proposed addition, explaining that his preference was to improve

access to light in the rear yard of his property, and requested that an enclosed garbage storage solution be provided in compliance with City by-laws.

- [7] Ms. Thompson summarized the conclusions of her shadow analysis on file, which demonstrated that the proposal would reduce shadowing on the property to the north relative to existing conditions. She also indicated that an enclosed garbage storage area would be provided.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application(s) 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 cover letter, plans, tree information, photo of the posted sign, and a sign posting declaration.
- City Planning Report received April 11, 2024, with no concerns.
- Rideau Valley Conservation Authority email received April 11, 2024, with no objections.
- Hydro Ottawa email received April 10, 2024, with comments.
- J. Silburt, resident, email received April 3, 2024, with comments; received April 9, 2024, with comments; received April 17, 2024, with comments.

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] Based on the evidence, the Committee is satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.

- [12] The Committee notes that the City's Planning Report raises "no concerns" regarding the application, highlighting that the proposed addition "will have a similar impact on the abutting properties as what currently exists today." The report also indicates that "Heritage Planning staff reviewed the application and found that it generally respects the policies and guidelines of the [Heritage Conservation District]."
- [13] The Committee also notes that no compelling evidence was presented that the variances would result in any unacceptable adverse impact on neighbouring properties.
- [14] Considering the circumstances, the Committee finds that. Because 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.
- [15] 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.
- [16] 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.
- [17] 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.
- [18] 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 March 20, 2024, as they relate to the requested variances.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

"John Blatherwick"
JOHN BLATHERWICK
MEMBER

"Absent"
SIMON COAKELEY
MEMBER

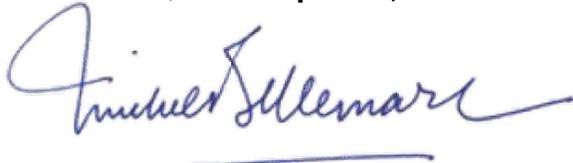
Declared interest
ARTO KEKLIKIAN
MEMBER

"Absent"
SHARON LÉCUYER
MEMBER

"William Hunter"
WILLIAM HUNTER
VICE-CHAIR

"Jay Baltz"
JAY BALZ
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **April 26, 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 **May 16, 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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