

**DECISION  
MINOR VARIANCE**

<b>Date of Decision:</b>	June 28, 2024
<b>Panel:</b>	3 - Rural
<b>File No.:</b>	D08-02-24/A-00116
<b>Application:</b>	Minor Variance under section 45 of the <i>Planning Act</i>
<b>Owners/Applicants:</b>	Tahmina Karimova and Mohamed Ghausy
<b>Property Address:</b>	205 Cranesbill Road
<b>Ward:</b>	6 – Stittsville
<b>Legal Description:</b>	Lot 3, Registered Plan 4M-1628
<b>Zoning:</b>	R3YY [2317]
<b>Zoning By-law:</b>	2008-250
<b>Heard:</b>	June 18, 2024, in person and by videoconference

**APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION**

- [1] The Owners have constructed a deck on the rear of their property, as shown on plans filed with the Committee. It has since been determined that the structure is not in conformity with the requirements of the Zoning By-Law.

**REQUESTED VARIANCES**

- [2] The Owners/Applicants require the Committee's authorization for a minor variance from the Zoning By-law to permit a deck to be located 2.15 metres from the rear lot line, whereas the By-law permits a deck to be located, in this case, a minimum of 4 metres from the rear lot line. The subject property is not the subject of any other current application under the *Planning Act*.

**PUBLIC HEARING**

**Oral Submissions Summary**

- [3] Muskan Qaseem, Agent for the Applicant, provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request.
- [4] City Planner Elizabeth King highlighted no concerns with the application, confirming that a deck structure is a permitted projection within the R3 zone. She

also highlighted that the property abuts a naturalized area to the rear and has minimal impact on surrounding properties.

- [5] The Committee also heard oral submissions from the following individuals:
- L. Levine, resident, raised concerns over the construction of the existing deck without the benefit of a building permit, its size relative to other structures in the area, its proximity to the shared property line, and its impact on sightlines and property values
  - M. Duchesne, resident, raised concerns over the construction of the existing deck, its impact on the neighbours' enjoyment of their properties, its proximity to the property line, and its impact on property values.
- [6] In response to questions from the Committee, Ms. King confirmed that the setback of the deck from the interior side lot line complies with the Zoning By-law and any Ontario Building Code deficiencies would be addressed through the building permit process.
- [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 cover letter, plans, photo of the posted sign, and a sign posting declaration.
  - City Planning Report received June 13, 2024, with no concerns.
  - Mississippi Valley Conservation Authority email received June 11, 2024, with no objections.

- Hydro Ottawa email received June 14, 2024, with no comments.
- A. Alam, resident, by phone June 5, 2024, in support.
- M. Zeman, resident, by phone June 13, 2024, with no concerns.
- F. Zeidan, resident, by phone June 13, 2024, with no concerns.
- H. Zeidan, resident, email received June 13, 2024, with no concerns.
- H. Desil, resident, email received June 17, 2024, in support.
- F. Desil, resident, email received June 17, 2024, in support.
- N. Saquib, resident, email received June 17, 2024, in support.
- C. Levine, resident, email received June 17, 2024, with concerns.
- B. and M. Oveisi, residents, email received June 17, 2024, with no concerns.
- G. Carroll, resident, email received June 17, 2024, in support.
- S. Deutschlander, resident, email received June 17, 2024, in support.
- T. Premachandran, resident, by phone June 17, 2024, in support.
- R. Sivanesan, resident, by phone June 17, 2024, in support.
- S. and Z. Okasha, residents, email received June 18, 2024, with no concerns.
- J. Malone, resident, email received June 18, 2024, in support.

### **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 variance 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 deck structure only covers a portion of the rear yard, maintaining landscape space and the rear yard abuts a naturalized area, so impacts are minimal."

- [13] The Committee also notes that the application seeks to legalize, after the fact, an already-built structure that does not comply with zoning regulations. 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 test. The Committee may authorize a minor variance if it is satisfied that all four requirements set out in subsection 45(1) of the *Planning Act* are met. 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.
- [14] Additionally, the Committee notes that no compelling evidence was presented that the variance would result in any unacceptable adverse impact on neighbouring properties.
- [15] 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.
- [16] 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.
- [17] 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.
- [18] Moreover, the Committee finds that the requested variance is minor because it will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.
- [19] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variance, **subject to** the variance applying to the existing deck structure and being restricted to the life of this structure only.

*"Jocelyn Chandler"*  
JOCELYN CHANDLER  
ACTING PANELCHAIR

*Absent*  
TERENCE OTTO  
MEMBER

*"Beth Henderson"*  
BETH HENDERSON  
MEMBER

*"Martin Vervoort"*  
MARTIN VERVOORT  
MEMBER

*Absent*  
WILLIAM HUNTER  
VICE-CHAIR

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **June 28, 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 18, 2024**, delivered by email at [cofa@ottawa.ca](mailto:cofa@ottawa.ca) and/or by mail or courier to the following address:

Secretary-Treasurer, Committee of Adjustment,  
101 CentrepoinTE Drive, 4<sup>th</sup> 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](mailto: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**  
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