

**DECISION**  
**MINOR VARIANCE / PERMISSION**

<b>Date of Decision:</b>	July 28, 2023
<b>Panel:</b>	2 - Suburban
<b>File No(s):</b>	D08-02-23/A-00133
<b>Application:</b>	Minor Variance under section 45 of the <i>Planning Act</i>
<b>Owner(s)/Applicant(s):</b>	Hanadi Dawi
<b>Property Address:</b>	18 Rothwell Drive
<b>Ward:</b>	11 – Beacon Hill-Cyrville
<b>Legal Description:</b>	Part of Lots 167 & 168, Judge’s Plan 652
<b>Zoning:</b>	R1AA
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	July 18, 2023, in person and by videoconference

**APPLICANT’S PROPOSAL AND PURPOSE OF THE APPLICATION**

- [1] The Owner wants to construct a two-storey, detached dwelling, as shown on plans filed with the Committee.

**REQUESTED VARIANCE**

- [2] The Owner requires the Committee’s authorization for a minor variance from the Zoning By-law to permit an increased building height of 14.35 metres, whereas the By-law permits a maximum building height of 8.5 metres.

**PUBLIC HEARING**

- [3] Prior to the hearing, the Committee received an adjournment request from City Planner Evode Rwagasore who explained that an Environmental Impact and Slope Study would be required to complete a full review of the application. He also stated that that City Staff’s only opportunity to request these studies would be through the minor variance application process as neither study were a requirement of the building permit process.
- [4] The Committee also heard from Chris Jalktozy, Agent for the Applicant, who requested that the Committee proceed to hear the application.

- [5] The Committee agreed to step the application down to be recalled later in the agenda.

### **Oral Submissions Summary**

- [6] Mr. Jalkotzy provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request.
- [7] Mr. Rwagasore reiterated the need to demonstrate that the development would not have a negative impact on the slope or the natural heritage feature on the site, and further requested the submission of the above-mentioned studies. Mr. Rwagasore also stated that he had no concerns with the requested increase in building height, adding that building height is measured based on the average grade of the site and this site did have a significant slope.
- [8] The Committee also heard oral submissions from the following individuals:
- I. Stepanovs, neighbour, stated his support of the application.
- [9] Following the public hearing, the Committee reserved its decision.

## **DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED**

### **Application 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 a cover letter, plans, a parcel register, tree information, a picture of the posted sign and a sign posting declaration.
  - City Planning Report received July 14, 2023, requesting an adjournment.
  - Rideau Valley Conservation Authority email dated July 11, 2023, with no objections.

- Hydro Ottawa email dated July 13, 2023, with no comments.
- Ministry of Transportation email dated July 6, 2023, with no comments.
- J. Brammer, Chair, Rothwell Heights Property Owners Association email dated July 17, 2023, with comments.
- M. Hayes and J. Howes, neighbours, email dated July 17, 2023, with concerns.

### **Effect of Submissions on Decision**

- [12] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [13] Based on the evidence, the Committee is satisfied that the requested variance meets all four requirements under subsection 45(1) of the *Planning Act*.
- [14] The Committee notes that the City's Planning Report 'requests adjournment' of the application on the basis that the Environmental Impact and Slope Study had not been received. The Report also highlights that " The proposed height elevation of 94.24 metres measured at the front wall of the building, results in the front wall of the building being 0.24 metres above the permitted maximum height. Given the minimal visual impact of the increased height on the streetscape, the requested variance is considered minor". The Committee acknowledges the planning department's request for an Environmental Impact and Slope Study, and approval of this application will be subject to the submission of these studies.
- [15] The Committee also notes that no evidence was presented that the variance would result in any unacceptable adverse impacts on neighbouring properties.
- [16] 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.
- [17] The Committee also finds that the requested variance maintains the general intent and purpose of the Official Plan because the proposed development respects the character of the neighbourhood.
- [18] 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.
- [19] 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.

[20] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variance, **subject to the following:**

1. Prior to the issuance of a building permit, the Owner/Applicant(s) shall:
  - a. Prepare and submit an Environmental Impact Study (EIS), which must be to the satisfaction of the **Development Review Manager of the East Branch within Planning, Real Estate and Economic Development Department, or his/her designate**. If the accepted report recommends specific mitigation measures or other requirements, the Owner shall enter into a Development Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the **Development Review Manager of the East Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, which is to be registered on the title of the property, which includes those recommendations. The Committee requires a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title.
  - b. Prepare and submit a slope stability report, which must be to the satisfaction of the **Development Review Manager of the East Branch within Planning, Real Estate and Economic Development Department, or his/her designate**. If the accepted report recommends specific mitigation measures or other requirements, the Owner shall enter into a Development Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the **Development Review Manager of the East Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, which is to be registered on the title of the property, which includes those recommendations. The Committee requires a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title.
2. That the location and size of the proposed construction being in accordance with the plans filed, Committee of Adjustment date stamped June 15, 2023, as they relate to the requested variance.

*"Fabian Poulin"*  
FABIAN POULIN  
VICE-CHAIR

*"Jay Baltz"*  
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 **July 28, 2023**.



Cheryl Willaims  
Acting 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 **August 17, 2023**, 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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