

**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-00134
<b>Application:</b>	Minor Variance under section 45 of the <i>Planning Act</i>
<b>Owners/Applicants:</b>	Philip Mojasam & Maryam Mojasam-Mamakan
<b>Property Address:</b>	358 Cunningham Avenue
<b>Ward:</b>	18 – Alta Vista
<b>Legal Description:</b>	Lot 55, Registered Plan 551
<b>Zoning:</b>	R1GG
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	July 18, 2023, in person and by videoconference

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

- [1] The Owners are currently constructing a new two storey detached dwelling on their property, as shown on plans filed with the Committee.

**REQUESTED VARIANCE**

- [2] The Owners require the Committee's authorization for a minor variance from the Zoning By-law as follows to permit an increased building height of 8.18 metres, whereas the By-law permits a maximum building height of 8 metres.

**PUBLIC HEARING**

- [3] Mr. Chris Jalkotzky, Agent for the Applicant and City Planner Justin Grift, were present.

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

**Applications Must Satisfy Statutory Four-Part Test**

- [4] 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**

- [5] 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, a photo of the posted sign and a sign posting declaration.
  - City Planning Report received July 14, 2023, with no concerns
  - Rideau Valley Conservation Authority email dated July 11, 2023, with no objections.
  - Hydro Ottawa email dated July 13, 2023, with no concerns.
  - Ministry of Transportation email date July 6, 2023, with no concerns

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

- [6] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [7] Based on the evidence, the Committee is satisfied that the requested variance meets all four requirements under subsection 45(1) of the *Planning Act*.
- [8] The Committee notes that the City's Planning Report raises "no concerns" regarding the application, highlighting that "Staff is of the opinion the proposed increase is minor due to it being a flat roof and is in keeping with the Secondary Plan and Official Plan. Further, the plans provided demonstrate that the dwelling respects the interior side yard setbacks, which alleviates some concerns on the height imposing onto neighboring properties."
- [9] The Committee also notes that no evidence was presented that the variance would result in any unacceptable adverse impact on neighbouring properties. The
- [10] 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.

- [11] 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.
- [12] 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 on the property that is compatible with the neighbourhood.
- [13] 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.
- [14] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variance, **subject to** the location and size of the proposed construction being in accordance with the plans filed, Committee of Adjustment date stamped June 16, 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 Williams  
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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