

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	April 26, 2024
Panel:	1 - Urban
File No.:	D08-02-24/A-00027
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner/Applicant:	Jersey Developments Inc.
Property Address:	370 Athlone
Ward:	15 - Kitchissippi
Legal Description:	Lot 75, Registered Plan 263
Zoning:	R4UB
Zoning By-law:	2008-250
Hearing Date:	April 17, 2024, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owner wants to construct a three-storey, 16-unit low rise apartment building, as shown on plans filed with the Committee. The existing detached dwelling will be demolished.

REQUESTED VARIANCES

- [2] The Owner/Applicant requires the Committee's authorization for minor variances from the Zoning By-law as follows:
- a) To permit 16 dwelling units in a low-rise apartment building, whereas the By-law permits a maximum of 12 dwelling units in a low-rise apartment building.
 - b) To permit zero parking spaces, whereas the By-law requires a minimum of two parking spaces.
 - c) To permit a reduced setback for an accessory building of 0.15 metres from the rear lot line, whereas the By-law requires a minimum setback for an accessory building of 0.6 metres from the rear lot line.
 - d) To permit a reduced interior side yard setback for an accessory building of 0.55 metres, whereas the By-law requires a minimum interior side-yard setback for an accessory building of 0.6 metres.

PUBLIC HEARING

- [3] At the scheduled hearing on March 20, 2024, the application was adjourned to allow time for the applicant to address comments raised by the City through pre-consultation for Site Plan Control. With the concurrence of all parties, the application was adjourned to April 17, 2024.
- [4] On April 17, 2024, the Committee heard from Christine McCuaig, Agent for the Applicants, regarding the possibility of a further adjournment for continued discussion with City Planning staff and to address the concerns raised in their Planning Report. Ms. McCuaig indicated that she had reviewed the Planning Report and was prepared to respond to the concerns in her presentation. The Committee therefore agreed to hear the application as scheduled.

Oral Submissions Summary

- [5] Ms. McCuaig provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. David Aston of Jersey Developments Inc., the Owner/Applicant, was also in attendance.
- [6] City Planner Margot Linker explained that, while the City was generally supportive of the proposal, it had some concerns related to a proposed external access ramp and the proximity of balconies to a waste storage area. Regarding the ramp, Ms. Linker explained that the City prefers that accessible entrance features be internalized within the building, particularly for new construction, and expressed concern that the proposed increase in dwellings units had negatively impacted these design elements.
- [7] Responding to the City's concerns, Ms. McCuaig highlighted that the proposed principal building form complies with the Zoning By-law, which does not contain provisions for the location of ramps, and that the proposal prioritizes the policy direction in the Official Plan to increase housing supply. She also explained that an accessibility consultant was contacted and advised that a ramp is preferable to a lift for access. Regarding the balconies, she explained that the proposed setback to the waste storage area is also zoning compliant, that screening would be optional for residents, and that methods for mitigating the impact of the waste storage solution would be addressed through the Site Plan Control process, including the option of providing a cooled and odour-controlled enclosure.
- [8] In response to questions from the Committee, Mr. Aston confirmed that the exterior ramp in the southerly side yard would be the sole access to three units on the ground floor, and maintenance of the ramp would be provided during the winter. Ms. McCuaig explained that the rear yard would be accessed through the northerly side yard.

[9] The Committee also heard oral submissions from T. Gray, Westboro Community Association, who indicated that the community association supports the proposal, highlighting that any impact of the reduced setbacks would be minor because the proposal abuts a commercial property at the rear. He also indicated that he had no concerns with the request to reduce parking and stated that 16 is the maximum number of units that the community would support.

[10] 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

[11] 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

[12] 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 planning rationale, plans, photo of the posted sign, and a sign posting declaration.
- City Planning Report received April 11, 2024, with concerns; received March 14, 2024, requesting an adjournment.
- Rideau Valley Conservation Authority email received April 11, 2024, with no objections; received March 12, 2024, with no objections.
- Hydro Ottawa email received April 10, 2024, with no comments; received March 13, 2024, with comments.
- Suzan Saffioti, resident, email received March 15, 2024, in opposition.

Effect of Submissions on Decision

[13] The Committee considered all written and oral submissions relating to the application in making its decision and refused the application.

[14] 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*.

- [15] The Committee notes that the City's Planning Report raises "some concerns" regarding the application, specifically concerning the exterior ramp and proximity of balconies to the waste storage area, highlighting that, "the inability to internalize these elements is arguably tied to the proposed number of units."
- [16] Based on the circumstances, the Committee finds that the proposal amounts to overdevelopment of the site, and therefore, from a planning and public interest point of view, the requested variances are not 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, because it contemplates additional density at the expense of appropriate and functional accessible entrance features, the proposal does not represent orderly development on the property and therefore does not maintain the general intent and purpose of the Zoning By-law.
- [18] Additionally, the Committee finds that insufficient evidence was presented demonstrating that the proposal would not create an unacceptable adverse impact on accessibility for tenants, and therefore the requested variances are not minor.
- [19] Failing three of the four statutory tests, the Committee is unable to grant the application.
- [20] THE COMMITTEE OF ADJUSTMENT therefore does not authorize the requested variances

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

"Absent"
JOHN BLATHERWICK
MEMBER

"Arto Keklikian"
ARTO KEKLIKIAN
MEMBER

"Absent"
SIMON COAKELEY
MEMBER

"Jay Baltz"
JAY BALTZ
MEMBER

"William Hunter"
WILLIAM HUNTER
VICE-CHAIR

"Absent"
SHARON LÉCUYER
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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