

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

<b>Date of Decision:</b>	April 12, 2024
<b>Panel:</b>	2 - Suburban
<b>File No(s):</b>	D08-02-24/A-00034
<b>Application:</b>	Minor Variance under section 45 of the <i>Planning Act</i>
<b>Owner(s)/Applicant(s):</b>	Barrhaven Conservancy Development Corporation
<b>Property Address:</b>	338 Peninsula Road
<b>Ward:</b>	3 – Barrhaven West
<b>Legal Description:</b>	Lot 134, Plan 4M-1736
<b>Zoning:</b>	R3YY [2766]
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	April 2, 2024, in person and by videoconference

**APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATION:**

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

**REQUESTED VARIANCE:**

- [2] The Owner/Applicant requires the Committee's authorization for a minor variance from the Zoning By-law to permit a reduced rear yard setback of 4.5 metres for 55% of the lot width, the total area of the rear yard must not be less than 54 square metres whereas the By-law permits a reduced rear yard setback of 4.5 metres for a maximum of 50% of the lot width, the total area of the rear yard must not be less than 54 square metres.

**PUBLIC HEARING**

**Oral Submissions Summary**

- [3] Tim Eisner and Daniel Rokin, Agents for the Applicant, provided an overview of the application, and confirmed the requested variance is to provide a design option on the subject property that was selected by potential purchasers within the new subdivision. Mr. Eisner highlighted that, despite the requested variance, the rear yard area amenity area will be larger than required under the Zoning By-law.
- [4] City Planner Penelope Horn was also present.

[5] Following the public hearing, the Committee reserved its decision.

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

### **Application Must Satisfy Statutory Four-Part Test**

[6] 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**

[7] 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, parcel register, planning rationale, plans, photo of the posted sign, and a sign posting declaration.
- City Planning Report received March 27, 2024, with no concerns.
- Rideau Valley Conservation Authority email received March 27, 2024, with no objections.
- Hydro Ottawa email received March 26, 2024, with no comments.
- Ottawa Macdonald-Cartier International Airport Authority email received March 20, 2024, with no comments.
- Ministry of Transportation email received March 22, 2024.

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

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

[9] Based on the evidence, the majority of the Committee (Members J. Baltz and J. Wright dissenting) are satisfied that the requested variance meets all four requirements under subsection 45(1) of the *Planning Act*.

[10] The Committee notes that the City's Planning Report raises "no concerns" regarding the application, highlighting that, "[t]he intent of the R3YY zone, which

are amongst others, to ensure that adequate amenity area is provided and to minimize the potential for overlook. The reduced rear yard setback still provides a rear yard which exceeds the 54 square metre requirement.”

- [11] The majority of Committee also notes that no evidence was presented that the variance would result in any unacceptable adverse impact on neighbouring properties.
- [12] Considering the circumstances, the majority of 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.
- [13] The majority of 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.
- [14] In addition, the majority of 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.
- [15] Moreover, the majority of 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.
- [16] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variance, **subject to** the location and size of the proposed construction being in accordance with the site plan filed, Committee of Adjustment date stamped February 29, 2024, and the elevations filed, Committee of Adjustment date stamped February 29, 2024, as they relate to the requested variance.

*“Fabian Poulin”*  
FABIAN POULIN  
VICE-CHAIR

*Dissent*  
JAY BALTZ  
MEMBER

*“George Barrett”*  
GEORGE BARRETT  
MEMBER

*“Heather MacLean”*  
HEATHER MACLEAN  
MEMBER

*Dissent*  
JULIANNE WRIGHT  
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa dated **April 12, 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 2, 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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