

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	April 26, 2024
Panel:	2 - Suburban
File Nos.:	D08-02-23/A-00233
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owners/Applicants:	Khalil Nassery
Property Address:	814 High Street
Ward:	7 - Bay
Legal Description:	Part of Lots 18 and 19, Registered Plan 199
Zoning:	R4N
Zoning By-law:	2008-250
Hearing Date:	April 16, 2024, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owner wants to construct an eight-unit, stacked dwelling. The existing dwelling will be demolished.
- [2] At the scheduled hearing on November 14, 2023, the Committee adjourned the application *sine die* to allow the Owner time to address concerns raised by the City Planner. The Owner subsequently revised their application.

REQUESTED VARIANCES

- [3] The Owner requires the Committee's authorization for minor variances from the Zoning By-law as follows:
 - a) To permit a reduced lot width of 17.74 metres, whereas the By-law requires a minimum lot width of 18 metres.
 - b) To permit a reduced front yard setback of 3.0 metres, whereas the By-law requires a minimum front yard setback of 4.7 metres.
 - c) To permit a reduced rear yard setback of 28.8% of the lot depth or 11.1 metres, whereas the By-law requires a minimum rear yard setback of 30% of the lot depth, or 11.5 metres.

- d) To permit a reduced ~~total rear yard soft~~ landscape area of ~~26.1 26.9%~~ (49.3 ~~171~~ square metres) of the rear yard, whereas the By-law requires a **total rear yard** landscaped area of 30% (~~183~~ **196.2** square metres) of the rear yard lot.
 - e) To permit 8 resident parking spaces, whereas the By-law requires 10 parking spaces.
 - f) To permit 1 visitor parking space, whereas the By-law requires a minimum of 2 visitor parking spaces.
- [4] The application indicates that the property is the subject of Consent Application D08-01-24/A-00032 under the *Planning Act*.

PUBLIC HEARING

- [5] At the hearing on April 16, 2024, the Committee suggested an adjournment of the application might be in order to allow the Applicant time to revise the application and planning rationale to include the criteria for consent applications. William Ritcey, Agent for the Applicant, objected to an adjournment and clarified that variance (d) was requested to permit a reduced total landscape area. The Committee agreed to hear the application without delay.

Oral Submissions Summary

- [6] Mr. Ritcey provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request.
- [7] The Committee noted that requested variance (d) should be amended to read as follows:
- d) To permit a reduced total ~~rear yard soft~~ landscape area of ~~26.1 26.9%~~ (49.3 ~~171~~ square metres) of the rear yard, whereas the By-law requires a **total rear yard** landscaped area of 30% (~~183~~ **196.2** square metres) of the rear yard lot.
- [8] With all parties concurring, the application was amended accordingly.
- [9] City Planner Samantha Gatchene confirmed she had no concerns with the application.
- [10] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED**Application 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 cover letter, plans, revised tree information report, photo of the posted sign, and a sign posting declaration.
- City Planning Report received April 12, 2024, with no concerns; received November 9, 2023, with some concerns.
- Rideau Valley Conservation Authority email received April 11, 2024, with no objections; received November 10, 2023, with no objections.
- Hydro Ottawa email received April 10, 2024, with comments; received November 8, 2023, with comments.
- Hydro One email received April 16, 2024, with no comments.
- C. Mergie and I. Marcinek, residents, email received April 16, 2024, in opposition; received November 10, 2023, in opposition.
- M. Bara-Swidarska, resident, email received November 14, 2023, 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 granted the application.

[14] Based on the evidence, the Committee is 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 “no concerns” regarding the application, highlighting that “[t]he reduced lot widths result in two appropriately sized lots for development.”
- [16] The Committee also notes that no compelling evidence was presented that the variances would result in any unacceptable adverse impact on neighbouring properties.
- [17] Considering the circumstances, the Committee finds that, because the proposal fits well in the area, the requested variances are, 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.
- [18] The Committee also finds that the requested variances maintain the general intent and purpose of the Official Plan because the proposal respects the character of the neighbourhood.
- [19] In addition, the Committee finds that the requested variances maintain the general intent and purpose of the Zoning By-law because the proposal represents orderly development that is compatible with the surrounding area.
- [20] Moreover, the Committee finds that the requested variances, both individually and cumulatively, are minor because they will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.
- [21] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variances, **subject to** the location and size of the proposed construction being in accordance with the plans filed, Committee of Adjustment date stamped February 26, 2024, as they relate to the requested variances.

“Fabian Poulin”
FABIAN POULIN
VICE-CHAIR

“Jay Baltz”
JAY BALTZ
MEMBER

“George Barrett”
GEORGE BARRETT
MEMBER

“Heather MacLean”
HEATHER MACLEAN
MEMBER

Absent
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 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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