

**DECISION
MINOR VARIANCE**

Date of Decision:	July 12, 2024
Panel:	2 - Suburban
File No.:	D08-02-24/A-00141
Application:	Minor Variance section 45 of the <i>Planning Act</i>
Applicant:	MB Groupe Canada
Property Address:	630 Montréal Road
Ward:	13 – Rideau-Rockcliffe
Legal Description:	Parts of Lots 3, 4, & 5 on Registered Plan 343
Zoning:	AM10 [2199]
Zoning By-law:	2008-250
Heard:	July 2, 2024, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Applicant wants to construct a nine-storey, mixed-use, mid-rise apartment building that will contain 56 residential units and retail space on the first floor, as shown on plans filed with the Committee. The existing one-storey building and detached garage will be demolished.

REQUESTED VARIANCES

- [2] The Applicant requires the Committee's authorization for minor variances from the Zoning By-law as follows:
- a) To permit a reduced interior side yard setback of 0.32 and 0.98 metres beyond 20 metres from the street, whereas the By-law permits an interior side yard setback of 7.5 metres.
 - b) To permit a reduced rear yard setback of 1.697 metres, whereas the By-law permits a rear yard setback of 7.5 metres.
 - c) **To permit an increased building height of 30.1 metres, whereas the Zoning By-law permits a maximum building height of 15 metres.** ~~To permit an increased building height of 30.1 metres in any area up to and including 20 metres from a property line abutting a R4 residential zone, whereas the By-law permit a maximum building height of 15 metres.~~

- d) ~~To permit an increased building height of 30.1 metres in any area over 20 metres and up to 30 metres from a property line abutting a R4 residential zone, whereas the By-law permits a maximum building height of 20 metres.~~
- e) ~~To permit an increased building height of 30.1 metres in any area outside of 30 metres from a property line abutting a R4 residential zone, whereas the By-law requires a maximum building height of 15 metres.~~

[3] The property is the subject of a Site Plan Control application (File No. D07-12-21-0189).

PUBLIC HEARING

Oral Submissions Summary

- [4] Nadia De Santi, Agent for the Applicant, provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request.
- [5] In response to questions from the Committee, Ms. De Santi and Yves Lussier, also acting as Agent for the Applicant, noted that fire access will be available from Borthwick Road as well as the other side of Montréal Road.
- [6] In response to questions from the Committee, Ms. De Santi clarified the areas of the lot to which the proposed variances applied. She noted that the proposed rear yard setback measures from the southern portion of the property to the proposed concrete wall for the underground parking. Mr. Lussier noted that the concrete wall will be 42 inches in height, and 8.85 metres from the setback of the building.
- [7] In response to questions from the Committee regarding variance (c), City Planner Margot Linker recommended that the variance be revised to replace variances (d) and (e) and to read as follows:
 - c) To permit an increased building height of 30.1 metres, whereas the Zoning By-law permits a maximum building height of 15 metres.
- [8] With all parties concurring, the variances were revised accordingly.
- [9] City Planner Penelope Horn highlighted no concerns with the application and concluded that the proposal constitutes appropriate development for the site.
- [10] The Committee also heard oral submissions from the following individuals:
 - S. and S. Pender, residents, raised concerns over the construction of the proposal, its size relative to neighbouring properties, and potential privacy issues from the unit balconies.

[11] City Planner Erin O'Connell was also present.

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

**DECISION AND REASONS OF THE COMMITTEE: APPLICATION REFUSED,
AS AMENDED**

Application Must Satisfy Statutory Four-Part Test

[13] 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

[14] 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, tree conservation report, photo of the posted sign, and a sign posting declaration.
- City Planning Report received June 28, 2024, with no concerns.
- Rideau Valley Conservation Authority email received June 28, 2024, with no objections.
- Hydro Ottawa email received July 2, 2024, with comments.
- S. and S. Pender, residents, email received June 26, 2024, in opposition.
- A. Martel, resident, email received July 3, 2024, in opposition.

Effect of Submissions on Decision

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

[16] Based on the evidence, the majority of the Committee (Member J. Wright dissenting and Member H. MacLean dissenting on the refusal variances (b) and (c) only) is not satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.

[17] While the Committee notes the City's Planning Report raises "no concerns" regarding the application, the majority of the Committee finds that insufficient evidence was presented in support of the proposal, including the desirability of the increased building height for the appropriate development or use of the land. The majority of the Committee also finds that insufficient evidence was presented to demonstrate that the proposal maintains the general intent and purpose of the Zoning By-law which is to provide a gradual transition in building height between the arterial main street zone and the abutting residential zone.

[18] Failing two of the four statutory requirements, the majority of the Committee is unable to grant the application.

[19] THE COMMITTEE OF ADJUSTMENT therefore does not authorize the requested variances.

Fabian Poulin
FABIAN POULIN
VICE-CHAIR

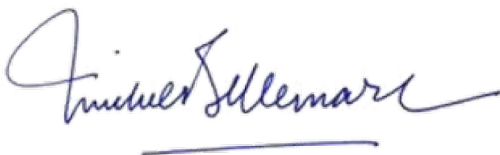
Jay Baltz
JAY BALTZ
MEMBER

George Barrett
GEORGE BARRETT
MEMBER

With noted dissent
HEATHER MACLEAN
MEMBER

Dissenting
JULIANNE WRIGHT
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **August 1, 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 **August 1, 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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