

**DECISION
MINOR VARIANCE**

Date of Decision:	July 12, 2024
Panel:	1 - Urban
File No.:	D08-02-24/A-00144
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Applicant:	Ryan Rourke
Property Address:	253 MacKay Street
Ward:	13 – Rideau-Rockcliffe
Legal Description:	Part of Lot 23 in Block 17, Registered Plan 42
Zoning:	R4UD [900]
Zoning By-law:	2008-250
Heard:	July 3, 2024, in person and by videoconference

APPLICANT’S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Applicant wants to construct additions to the existing semi-detached dwelling, including an expanded first storey and a partial third storey and rooftop terrace, as shown on plans filed with the Committee.

REQUESTED VARIANCES

- [2] The Applicant requires the Committee’s authorization for minor variances from the Zoning By-law as follows:
- a) To permit the height of the walls and the height of the roof of an addition to exceed those of the existing building, whereas the By-law permits an addition to a building in an area to which a Heritage Overlay applies only if the height of the walls and the height and slope of the roof of the addition do not exceed those of the building.
 - b) To permit a side yard setback for an addition to be 0.0 metres greater than that of the wall of the building located closest to the side lot line, whereas the By-law permits an addition to a building in area to which a Heritage Overlay applies only if the side yard setback is at least 60 cm greater than that of the wall of the building located closest to the side lot line.
 - c) To permit a rooftop addition to be located outside of the rear yard or interior yard abutting the rear yard and setback 0.9 metres from the rear lot line, and a ground-level addition in the interior yard abutting the rear yard to be setback 0.0 metres from the rear lot line, whereas the By-law permits an

addition to a building in an area to which a Heritage Overlay applies only if it is located entirely within the rear yard or in the interior yard abutting the rear yard and complies with the rear yard setback of the underlying zone, except where the building has a non-complying rear yard setback the addition may be built to that rear yard setback, but in no case may be less than 3.0 metres.

- [3] The application indicates that a Heritage Permit has been issued under the *Ontario Heritage Act* for the proposed construction. The application also indicates that the property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

Oral Submissions Summary

- [4] Jessica D'Aoust, Agent for the Applicant, provided an overview of the application and responded to questions from the Committee.
- [5] The Committee also heard oral submissions from the following individuals:
- [6] G. McEachern, New Edinburgh Community Alliance, expressed concerns over the impact of the additions on the existing heritage features of the building and the overall character of the Heritage Conservation District, and the absence of any mitigating benefit from the proposed development, such as increased housing. She submitted that additions should be confined to the rear to reduce visual impacts on the streetscape. City Planner Margot Linker was also present.
- [7] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Four-Part Test

- [8] 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

- [9] 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, slide presentation, plans, photo of the posted sign, and a sign posting declaration.
- City Planning Report received June 26, 2024, with no concerns.
- Rideau Valley Conservation Authority email received June 28, 2024, with no objections.
- Hydro Ottawa email received June 28, 2024, with comments.
- A. Baldo, resident, email received June 17, 2024, in support.

Effect of Submissions on Decision

- [10] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [11] Based on the evidence, the majority of the Committee (Members S. Coakeley and A. Keklikian dissenting, in part) is satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [12] The majority of the Committee notes that the City's Planning Report raises "no concerns" regarding the application, highlighting that: "The intent of the heritage overlay is to restrict additions to the rear yard and does not contemplate a unique through lot semi-detached dwelling form or additions above the existing building. Staff believe the addition is set back appropriately to mitigate impact to the street and [Heritage Conservation District] value."
- [13] The majority of the Committee also finds that no compelling evidence was presented that the variances would result in any unacceptable adverse impact on neighbouring properties.
- [14] Considering the circumstances, the majority of 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.
- [15] The majority of the Committee also finds that the requested variances maintain the general intent and purpose of the Official Plan because the proposal preserves the integrity and character of the Heritage Conservation District.
- [16] In addition, the majority of 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.

- [17] Moreover, the majority of 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.
- [18] 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 May 31, 2024, as they relate to the requested variances.
- [19] *Member S. Coakeley dissents, finding that variances (a) and (b) do not satisfy the statutory four-part test.*
- [20] *Member A. Keklikian dissents, finding that variance (a) does not satisfy the statutory four-part test.*

Ann M. Tremblay
ANN M. TREMBLAY
CHAIR

John Blatherwick
JOHN BLATHERWICK
MEMBER

Simon Coakeley
(with noted dissent)
SIMON COAKELEY
MEMBER

Arto Keklikian
(with noted dissent)
ARTO KEKLIKIAN
MEMBER

Sharon Lécuyer
SHARON LÉCUYER
MEMBER

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

Committee of Adjustment
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