

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	July 26, 2024
Panel:	1 - Urban
File Nos.:	D08-02-24/A-00149 & D08-02-24/A-00164 & D08-02-24/A-00165
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Applicant:	David Palmer
Property Address:	1071 Heron Road
Ward:	17 - Capital
Legal Description:	Part Lot 10, Registered Plan 527
Zoning:	R3A
Zoning By-law:	2008-250
Heard:	July 17, 2024, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Applicant wants to construct a three-storey, three-unit townhouse dwelling, as shown on plans filed with the Committee. The existing detached dwelling will be demolished.

REQUESTED VARIANCES

- [2] The Applicant requires the Committee's authorization for minor variances from the Zoning By-law as follows:

A-00149, Townhouse dwelling unit (east)

- a) To permit a reduced lot width of 5.27 metres, whereas the By-law requires a minimum lot width of 6 metres.
- b) **[Deleted]**
- c) To permit an increased building height of 11.92 metres, whereas the By-law permits a maximum building height of 10 metres.
- d) To permit a reduced front yard setback of **4.5 metres**, whereas the By-law requires a minimum front yard setback of 6.0 metres.

- e) To permit a reduced lot area of 161.17 square metres, whereas the By-law requires a minimum lot area of 180 square metres.

A-00164, Townhouse dwelling unit (middle)

- f) To permit a reduced lot width of 4.01 metres, whereas the By-law requires a minimum lot width of 6 metres.
- g) **[Deleted]**
- h) To permit an increased building height of 11.92 metres, whereas the By-law permits a maximum building height of 10 metres.
- i) To permit a reduced front yard setback of **4.5 metres**, whereas the By-law requires a minimum front yard setback of 6 metres.
- j) To permit a reduced lot area of 122.17 square metres, whereas the By-law requires a minimum lot area of 180 square metres.

A-00165, Townhouse dwelling unit (west)

- k) To permit a reduced lot width of 5.99 metres, whereas the By-law requires a minimum lot width of 6 metres.
 - l) To permit a reduced soft landscaped area of **14%** of the front yard, whereas the By-law requires a minimum soft landscaped area of 30% of the front yard.
 - m) To permit an increased building height of 11.92 metres, whereas the By-law permit a maximum building height of 10 metres.
 - n) To permit a reduced front yard setback of **4.5 metres**, whereas the By-law requires a minimum front yard setback of 6 metres.
 - o) To permit a reduced side yard setback of 0.4 metres, whereas the By-law requires a minimum side yard setback of 1.2 metres.
- [3] The applications indicate that the property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

Oral Submissions Summary

- [4] Chris Jalkotzy, 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. In his presentation, Mr. Jalkotzy characterized Heron Road as a street in transition, indicating that it is predominantly occupied by

detached dwellings but is identified in the City's new Official Plan as a future transit corridor and targeted for increased density, with buildings in the range of four to six storeys. He also explained that the site plan had been revised in response to concerns raised by the City, highlighting that the front yard setback was increased to 4.5 metres and the number of parking spaces was reduced.

- [5] Mr. Jalkotzy confirmed that, based on the revised plan, the applications should be amended as follows:

A-00149, Townhouse dwelling unit (east)

- b) ~~To permit a reduced soft landscaped area of 8% of the front yard, whereas the By-law requires a minimum soft landscaped area of 30% of the front yard.~~
[Deleted]
- d) To permit a reduced front yard setback of ~~3~~ **4.5 metres**, whereas the By-law requires a minimum front yard setback of 6.0 metres.

A-00164, Townhouse dwelling unit (middle)

- g) ~~To permit a reduced soft landscaped area of 0% of the front yard, whereas the By-law requires a minimum soft landscaped area of 30% of the front yard.~~
[Deleted]
- i) To permit a reduced front yard setback of ~~3~~ **4.5 metres**, whereas the By-law requires a minimum front yard setback of 6 metres.

A-00165, Townhouse dwelling unit (west)

- l) To permit a reduced soft landscaped area of ~~10~~ **14%** of the front yard, whereas the By-law requires a minimum soft landscaped area of 30% of the front yard.
- n) To permit a reduced front yard setback of ~~3~~ **4.5 metres**, whereas the By-law requires a minimum front yard setback of 6 metres.

- [6] Mr. Jalkotzy responded to the Committee's questions and clarified that the proposed east and middle townhouses would each contain two additional dwelling units, and the west townhouse would contain one additional dwelling unit, for a total of eight dwelling units on the property.

- [7] In response to questions regarding the requests for increased building height, Mr. Jalkotzy explained that there is a slope across the property that affects the average grade from which building height is calculated and reiterated that the Official Plan contemplates four- to six- storey buildings in this location. He also highlighted that the City right of way provides 8 metres of separation between the front lot line and Heron Road, mitigating the impact of increased building height on the streetscape.

- [8] In response to a question regarding public consultation, Mr. Jalkotzy indicated that he had contacted the Ward Councilor and the local community association, and met with abutting neighbours, and noted that no concerns were raised.
- [9] City Planner Margot Linker confirmed that she had no concerns with the applications, based on the revised plan. She highlighted that the width of the City right of way along Heron Road would mitigate the impact of increased building height and indicated that the City had no concerns with the proposed parking configuration or the adequacy of existing infrastructure to support the proposed development, which would be assessed in more detail at the building permit stage.
- [10] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS 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:
- Applications and supporting documents, with revisions, including a planning rationale, plans, tree information report, photo of the posted sign, and a sign posting declaration.
 - City Planning Report received July 12, 2024, with no concerns.
 - Rideau Valley Conservation Authority email received July 10, 2024, with no objections.
 - Hydro Ottawa email received July 10, 2024, with no comments.
 - Ontario Ministry of Transportation email received July 10, 2024, with no comments.

Effect of Submissions on Decision

- [13] The Committee considered all written and oral submissions relating to the applications in making its decision and refused the applications.
- [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] Considering the circumstances, the Committee is not satisfied by the evidence presented that the proposal, which significantly exceeds the building height of surrounding development, would fit well in the neighbourhood and that, from a planning and public interest point of view, it is desirable for the appropriate development or use of the land, building or structure on the property, and relative to the neighbouring lands.
- [16] The Committee also finds that the requested variances do not maintain the general intent and purpose of the Zoning By-law, because the proposal does not represent orderly development and is not compatible with the surround area.
- [17] Additionally, the Committee finds that the requested variances, both individually and cumulatively, are not minor and would cause an unacceptable adverse impact on abutting properties and the neighbourhood in general.
- [18] Failing three of the four statutory tests, the Committee is unable to grant the applications.
- [19] THE COMMITTEE OF ADJUSTMENT therefore does not authorize the requested variances.

Simon Coakeley
SIMON COAKELEY
ACTING PANEL CHAIR

John Blatherwick
JOHN BLATHERWICK
MEMBER

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CHAIR

Arto Keklikian
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 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 **August 15, 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
City of Ottawa
Ottawa.ca/CommitteeofAdjustment
cofa@ottawa.ca
613-580-2436



Comité de dérogation
Ville d'Ottawa
Ottawa.ca/Comitedederogation
cded@ottawa.ca
613-580-2436