

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	July 26, 2024
Panel:	1 - Urban
File Nos.:	D08-02-24/A-00145 & D08-02-24/A-00146
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Applicant:	Falsetto Homes Inc.
Property Address:	370 Princeton Avenue
Ward:	15 – Kitchissippi
Legal Description:	Lot 27 (East side Melbourne Avenue), Registered Plan 204
Zoning:	R4UA [2686] H(8.5)
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 subdivide their property into two separate parcels of land for the construction of two, three-storey, eight-unit low-rise apartment buildings, 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-00145: 547 Melbourne Avenue, Parts 1 to 4, low-rise apartment building:

- a) To permit a reduced corner side yard setback (Princeton Avenue) of 3.0 metres, whereas the By-law requires a minimum corner side yard setback of 4.5 metres.
- b) To permit a reduced southerly interior side yard setback of 1.2 metres, whereas the By-law requires a minimum interior side yard setback of 1.5 metres.
- c) To permit an increased number of dwelling units to 8, whereas the By-law permits a maximum of 6 dwelling units.

- d) To permit an increased building height of 8.8 metres, whereas the By-law permits a maximum building height of 8.5 metres.

A-00146: 549 Melbourne Avenue, Parts 5 and 6, low-rise apartment building:

- e) To permit a reduced lot width of 9.1 metres, whereas the By-law requires a minimum lot width of 10 metres.
- f) To permit a reduced lot area of 280 square metres, whereas the By-law requires a minimum lot area of 300 square metres.
- g) To permit reduced northerly and southerly interior side yard setbacks of 1.2 metres, whereas the By-law requires a minimum interior side yard setback of 1.5 metres on each side.
- h) To permit an increased number of dwelling units to 8, whereas the By-law permits a maximum of 6 dwelling units.
- i) To permit an increased building height of 8.8 metres, whereas the By-law permits a maximum building height of 8.5 metres.

- [3] The application indicates that the property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [4] On July 3, 2024, the scheduled hearing of the applications were adjourned to allow the Applicant more time to consult with an abutting neighbour regarding a boundary tree, and to consider comments from the City and area residents and revise the proposal.

Oral Submissions Summary

- [5] Arjan Soor and Murray Chown, the Agents 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.
- [6] Mr. Soor referred to the revised draft survey and site plans on file, summarizing the revisions made to both, which included relocating a walkway and ramp to preserve additional street trees and to remove the ramp from the City right of way and provide barrier-free access to accessible units at the rear. He noted that City staff concluded in their revised Planning Report that the revised design better manages site functionality.
- [7] Mr. Chown responded to questions from the Committee, addressing how these revisions respond to concerns raised by area residents, highlighting that the revised proposal addressed concerns related to tree retention by ensuring that all

existing street trees except one, which is in poor condition and recommended for removal, would be preserved.

- [8] Responding to the Committee's question, Mr. Soor, confirmed that he had consulted the Westboro Community Association to address their concerns and provided updated information about the changes. He also submitted that the proposal would neither alleviate nor generate traffic and parking issues, which residents identified as an existing concern in the area, since no parking was proposed, and noted that the proposal responds to policy direction in both the Official Plan and the Zoning By-law to locate higher levels of intensification on corner lots.
- [9] Responding to the Committee's questions, City Planner Margot Linker explained that she consulted with City engineering and infrastructure staff to confirm that there were no immediate concerns with reserve capacity of City services to support the proposed development. City Planner Erin O'Connell also confirmed that the City is aware of locations where storm sewer, sanitary and water service capacity may be an issue, and is satisfied that this proposal would have no impacts.
- [10] The Committee also heard oral submissions from the following individuals:
- H. Mitchell, Chair, Westboro Community Association, highlighted that the Community Association opposes the project and summarized the history and intent of the Westboro infill development study that resulted in the current zoning designation. She also highlighted concerns with the number and extent of the variances requested from this recent amendment to the Zoning By-law, which prohibits apartment dwellings containing more than six units, and the cumulative impacts on neighbours and parking and traffic safety in the area, as well as the inadequacy of the public consultation undertaken by the Applicant.
 - A. Cooper, resident, indicating that he represents more than 20 additional area residents, highlighted concerns with the scale and density of the proposed apartment buildings and their impacts on properties at the interior of the block, as well as traffic along Princeton Avenue. He submitted that the proposal does not maintain the intent of the Zoning By-law, establishes an undesirable precedent for future development and, with both buildings fronting on Melbourne Avenue, would negatively impact community safety. In addition, he believed that the proposal represents overdevelopment on undersized lots that would be out of character with the pattern of development in the area.
 - S. Dewar, resident, highlighted concerns with the impact of the development on his enjoyment of his property, specifically as it relates to noise and privacy considering the number of entrances and balconies proposed, and the inadequacy of the tree cover to mitigate these impacts.

- T. Gray, Westboro Community Association, highlighted concerns with the compatibility of the proposal with the pattern of front yard setbacks along the street, its impacts on the interior of the block, the inadequacy of the Applicant's evidence to justify the requested variances, and the overall functionality of the proposal and, in particular, the location of accessible dwelling units at the rear of the buildings.
- J. Jolet, resident, highlighted additional concerns with the incremental and cumulative impacts of multiple variances from the Zoning By-law on the neighbourhood in general, and with the impact of the proposal on community safety.

[11] 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

[12] 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

[13] 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 information report, parcel abstract, photo of the posted sign, and a sign posting declaration.
- City Planning Report received July 11, 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.
- Hydro One email received July 8, 2024, with no comments.
- D. Stern, resident, email received July 3, 2024, opposed.

- D. Chapman, resident, email received July 15, 2024, with comments.
- C. Campbell, resident, email received July 15, 2024, with comments.
- T. Gray, Westboro Community Association, email received July 15, 2024, with comments.
- S. Burton, resident, email received July 15, 2024, with comments.
- D. and M. Fulford, residents, email received July 15, 2024, with comments.
- S. Dewar, resident, email received July 15, 2024, with comments.
- S. Morris, resident, email received July 16, 2024, with comments.
- L. and C. St. Germain, resident, email received July 15, 2024, with comments.
- A. Tzanadamis, resident, email received July 16, 2024, opposed.
- M. Pennell & J. McKeage, residents, email received July 16, 2024, with comments.
- T. Dang and S. Chan, residents, email received July 16, 2024, with comments.
- J. Tayler and C. Khan Tayler, residents, email received July 17, 2024, with comments.
- B. Kiefl, resident, email received June 18, 2024, with comments.
- D. and M. Dulford, residents, email received June 20, 2024, opposed.
- K. Beltzner, resident, email received June 24, 2024, with comments.
- M. Pennel and J. McKeage, residents, email received June 25, 2024, with comments.
- S. Dewar, resident, email received June 25, 2024, opposed.
- J. Anglesey and S. Crabtree, residents, email received June 28, 2024, with comments.
- F. Lavack and N. Peterson, residents, email received June 30, 2024, with comments.

- M. Lunney, resident, email received July 1, 2024, with comments.
- T. Gray, Westboro Community Association, email received July 2, 2024, with comments.
- C. Cuhaci, resident, email received July 2, 2024, with comments.

Effect of Submissions on Decision

- [14] The Committee considered all written and oral submissions relating to the application in making its decision and refused the applications.
- [15] 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*.
- [16] Considering the circumstances, the Committee is not satisfied by the evidence that, from a planning and public interest point of view, the requested variances are desirable for the appropriate development or use of the land, building or structure on the property, and relative to the neighbouring lands, finding in particular that insufficient evidence was presented demonstrating that the proposed setbacks would be compatible with existing development patterns in the area.
- [17] The Committee also finds that the requested variances do not maintain the general intent and purpose of the Zoning By-law, which was recently amended to regulate development in this location, and prohibits apartment buildings containing more than six units on this lot. The proposed construction of two 8-unit apartment buildings on the lot would therefore amount to overdevelopment and be incompatible with the surrounding area.
- [18] In addition, the Committee finds that requested variances, both individually and cumulatively, are not minor and would cause an unacceptable adverse impact on abutting properties and the neighbourhood in general.
- [19] Failing three of the four statutory tests, the Committee is unable to grant the applications.
- [20] THE COMMITTEE OF ADJUSTMENT therefore does not authorize the requested variances.

Simon Coakeley
SIMON COAKELEY
ACTING PANEL CHAIR

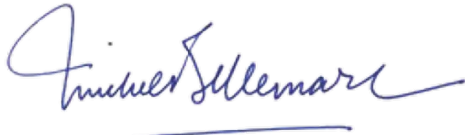
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I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **July 26, 2024**.



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.

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