

**DECISION
MINOR VARIANCE**

Date of Decision:	August 16, 2024
Panel:	2 - Suburban
File Nos.:	D08-02-24/A-00159 & D08-02-24/A-00162
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Applicants':	Tristan Joshua Philippe and Huguette Denise Rochon
Property Address:	882 and 884 Smyth Road
Ward:	18 – Alta Vista
Legal Description:	Lot 353A Registered Plan 643 and Lot 314 Registered Plan 627
Zoning:	R2F
Zoning By-law:	2008-250
Heard:	August 6, 2024, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Applicants want to subdivide their property into two separate parcels of land to establish separate ownership for each half of the existing semi-detached dwellings. It is proposed to construct a coach house on each newly created parcel.

REQUESTED VARIANCES

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

A-00159: 884 Smyth Road, Part 1 & 2 on 4R-Plan:

- a) To permit a coach house to be located 1.22 metres from the interior side lot line, whereas the By-law requires a coach house to be located 1.0 metres from an interior lot line.

A-00162: 882 Smyth Road, Part 3 & 4 on 4R-Plan:

- b) To permit a coach house to be located 1.22 meters from the interior side lot line, whereas the By-law requires a coach house to be located 1.0 metres from an interior lot line.

PUBLIC HEARING

- [3] At the outset of the hearing, the Committee called the applications forward to determine if an adjournment of the applications would be necessary to allow time for the Applicant to consult with the City's Forestry and Planning departments regarding the location of the coach house that would require revisions to the plan filed. Chris Jalkotzy, Agent for the Applicant, requested that the Committee proceed to hear the applications.
- [4] The Committee agreed to hear the applications without delay.

Oral Submissions Summary

- [5] Mr. Jalkotzy provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. He highlighted that the Official Plan calls for intensification, and that the proposal is a pleasant and sensitive way to intensify. He further highlighted that the location of the proposed development would provide privacy for neighbours while maintaining amenity space for the residents.
- [6] In response to questions from the Committee, Mr. Jalkotzy confirmed that the vinyl sheds at the rear of the property would be removed, and he did not object to that being included as a condition of provisional consent.
- [7] In response to the concerns raised by the City's Forestry department regarding the removal of a tree in the rear yard, Mr. Jalkotzy advised that regardless of the location of the proposed coach house it would have an impact on the tree.
- [8] The Applicant, Tristan Philippe, also provided a slide presentation, which is available from the Committee Coordinator upon request. Mr. Philippe advised that the location of the proposed coach house was due to the hydro easement which necessitates the minor variances. He further advised that if the coach house for 882 Smyth Road was relocated to 4 metres from the property line, it would still require the removal of the distinctive tree.
- [9] City Planner Penelope Horn was also present and advised that City Planning had concerns with the removal of distinctive trees.
- [10] Planning Forester Nancy Young expressed concerns regarding the proposed removal of the healthiest trees on the site. Ms. Young could not confirm that if the proposed coach houses met the requirement of the Zoning Bylaw the trees could be retained without further investigation by her department.
- [11] The Committee also heard oral submissions from the following individuals:
- R. Ringuette and D. Perrault, neighbours, noted concerns with the impact on property value, reduced privacy, lack of parking, and garbage accumulation.

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

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Applications Must Satisfy Statutory Four-Part Test

[1] 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

[2] 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, parcel abstract, tree information report, and a sign posting declaration.
- City Planning Report received July 31, 2024, with concerns; received July 31, 2024, with concerns.
- Rideau Valley Conservation Authority email received August 2, 2024, with no objections.
- Hydro Ottawa email received August 2, 2024, with conditions.
- Hydro One email received July 24, 2024, with no comments.
- H. Poulin, neighbour, email received July 30, 2024, opposed; received August 6, 2024, in support of tree removal.
- R. and C. Clement, neighbours, email received July 31, 2024, with comments.
- J. and J.C. Besner, residents, email received August 1, 2024, opposed.
- D. Perrault, resident, email received August 2, 2024, with comments.
- M. Ringuette, resident, email received August 2, 2024, with comments.

Effect of Submissions on Decision

- [3] The Committee considered all written and oral submissions relating to the applications in making its decision and granted the applications.
- [4] Based on the evidence, the Majority of the Committee (Member Barrett dissents on variance “b”) is satisfied that the requested variances meet all four requirements under subsection 45(1) of the Planning Act.
- [5] The Committee notes that the City’s Planning Report raises “concerns” regarding the applications, highlighting that “[a]t 882 Smyth Road, the requested variance to the interior side yard setback would result in a placement of the coach house requiring the removal of existing distinctive trees”. However, the Majority of the Committee takes note of the impact the existing Hydro easement has on the location of the proposed coach house, as well as the evidence demonstrating that, regardless of the location of the coach house, it would still have an impact on the distinctive tree.
- [6] The Majority of the Committee also notes that no compelling evidence was presented that the variances would result in any unacceptable adverse impact on neighbouring properties.
- [7] 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.
- [8] The Majority of 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 neighborhood.
- [9] In addition, the Majority Committee finds that the requested variances maintain the general intent and purpose of the Zoning By-law because the variances represent orderly development that is compatible with the surrounding area.
- [10] Moreover, the Majority 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.
- [11] 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 June 17, 2024, as they relate to the requested variances.

Absent
FABIAN POULIN
VICE-CHAIR

Jay Baltz
JAY BALTZ
ACTING PANEL CHAIR

George Barrett
With noted dissent
GEORGE BARRETT
MEMBER

Heather MacLean
HEATHER MACLEAN
MEMBER

Julianne Wright
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 16, 2024**



Matthew Garnett
Acting 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 **September 5, 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