



**MINOR VARIANCE APPLICATION
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
PANEL 1**

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 173 Henderson Avenue
Legal Description: Lot 28, East Henderson Avenue Lots, Reg Plan 45224
File No.: D08-02-23/A-00282
Report Date: January 11, 2024
Hearing Date: January 17, 2024
Planner: Margot Linker
Official Plan Designation: Downtown Core, Neighbourhood, Evolving Overlay
Central and East Downtown Core Secondary Plan
Zoning: R4UB[480]

APPLICANT'S PROPOSAL

The Owner wants to renovate the interior of the existing three-unit dwelling and convert it to a **six seven**-unit, low-rise apartment building, as shown on plans filed with the Committee. **(As amended by Planning Staff)**

REVISED APPLICATION: REQUESTED PERMISSION

The Owner requires the Permission of the Committee to change the legally non-conforming use from a Three-Unit Dwelling, with all three units containing oversized dwelling units (two six-bedroom units and one twelve-bedroom unit) to a Low-Rise Apartment Dwelling with seven units, three of which will contain oversized dwelling units (two six-bedroom units, one five-bedroom unit).

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department has no concerns with the application.

DISCUSSION AND RATIONALE

The subject site received a building permit in 2014 to develop a three-unit dwelling containing two six-bedroom units and one twelve-bedroom unit. In 2018, there was an amendment to the Dwelling Unit definition in the Zoning By-law which limited a Dwelling Unit to no more than four bedrooms. Staff believe that the existing three units are legal non-conforming with respect to the number of bedrooms.

The proposed conversion appears to not include changes to the existing two six-bedroom units. However, it is staff's opinion that adding new dwelling units should be seen as a substantial change in the nature and intensity of the use, so a permission application or minor variance should be required to address the existing six-bedroom units (Unit 2 and 3).

Staff don't believe variance d) to vary the definition of a Dwelling Unit to contain six bedrooms is appropriate and have suggested two alternative approaches for the conversion that the applicant can choose from:

1. Apply for permission for a similar and more compatible use.
2. Apply for minor variances to permit an apartment dwelling with more than one rooming house (Section 132(1) and (4)).

After discussions with the applicant's agent, the applicant has chosen to apply for permission rather than minor variance to address staff's concerns. When considering applications for permission to expand a legal non-conforming use, previous Ontario Land Tribunal cases have considered issues such as desirability for the development of the property and impact on the surrounding area.

Staff have no concerns with the permission to expand the legal non-conforming rights of oversized dwelling units into the proposed low-rise apartment building.

The proposed conversion will add additional units to the existing building by converting the existing legal non-conforming 12-bedroom unit into five smaller units. The building is zoning deficient for the requirements of a low-rise apartment building for front yard setback, rear yard setback, building height, and interior side yard setback. Since the building is not being expanded, and the lot is able to accommodate sufficient soft landscaping, bicycle parking, and waste management, there will be no additional privacy or massing impacts caused by this conversion.

As noted, this conversion will result in the removal of a 12-bedroom unit and the creation of a five-bedroom unit, a four-bedroom unit, and three studio units. While there will still be three oversized dwelling units (a unit with over four-bedrooms) in this low-rise apartment, staff believe that the removal of the 12-bedroom unit will create a building that is more in line with the zoning by-law and increase the density of the site to a density that is more generally contemplated in the current Zoning By-law and Official Plan.

ADDITIONAL COMMENTS

Transportation Engineering

1. The site is located within 300 m of the OLRT rail corridor. The City of Ottawa will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way.

2. Remove existing driveway depressed curb and reinstate with full height curb and sidewalk to City standards.

Infrastructure Engineering

1. **Planning, Real Estate and Economic Development Department** will do a complete review of grading and servicing during the building permit process.
2. Any proposed works to be located within the road allowance requires prior written approval from the Infrastructure Services Department.
3. The surface storm water runoff including the roof water must be self-contained and directed to the City Right-of-Way, not onto abutting private properties as approved by **Planning, Real Estate and Economic Development Department**.
4. Asphalt overlay would be required if three or more road-cuts proposed on City Right of way. This includes the road cut for blanking of existing services, and any other required utility cuts (ie, gas, hydro, etc.).
5. Service lateral spacing shall be as specified in City of Ottawa Standard S11.3.
6. Existing street sign to be protected and/or relocated at the owner's expense.
7. Encroachment on or alteration to any easement is not permitted without authorization from easement owner(s).

Planning Forestry

There are two existing trees in the rear yard of the subject property. One tree is protected (30 cm or greater in diameter) the other is not protected (less than 30 cm in diameter). Tree protection fencing to the City of Ottawa's standard will be installed and maintained through construction. This will prevent the trees from being damaged by equipment, machinery, materials, and the installation of the storage facilities in the rear yard (i.e., bike and garbage). The tree protection fencing location was included on the site plan and provided to the Committee of Adjustment on November 23, 2023. The Tree Protection Specification can be found here:

https://documents.ottawa.ca/sites/documents/files/tree_protection_specification_en.pdf

A tree should be planted in the front yard to contribute to the urban canopy cover goal of 40% as directed by section 4.8.2 of the Official Plan. If the walkway can be moved closer to the driveway, this would provide a better environment for tree roots in the soft scaped area of the front yard.



Margot Linker



Erin O'Connell

Planner I, Development Review, Central
Planning, Real Estate and Economic
Development Department

Planner III, Development Review, Central
Planning, Real Estate and Economic
Development Department

110 Laurier Avenue West, Ottawa ON K1P 1J1 Mail code: 01-14
110, av. Laurier Ouest, Ottawa (Ontario) K1P 1J1 Courrier interne : 01-14

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