

**DECISION
MINOR VARIANCE**

Date of Decision:	October 11, 2024
Panel:	2 - Suburban
File No.:	D08-02-24/A-00230
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Applicant:	Royal S.M.S Construction Inc.
Property Address:	25 Pennard Way
Ward:	10 – Gloucester-Southgate
Legal Description:	Part of Block 13, Registered Plan 4M-997
Zoning:	R4S [923]
Zoning By-law:	2008-250
Heard:	October 1, 2024, in person and by videoconference

APPLICANT’S PROPOSAL AND PURPOSE OF THE APPLICATION:

- [1] The Applicant has constructed a long semi-detached dwelling, as shown on plans filed with the Committee. It has since been determined that the dwelling is not in conformity with the requirements of the Zoning By-law.

REQUESTED VARIANCE

- [2] The Applicant requires the Committee’s authorization for a minor variance from the Zoning By-law to permit an increased building height of 11.12 metres, whereas the By-law permits a maximum building height of 11 metres.
- [3] The property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

Oral Submissions Summary

- [4] In response to questions from the Committee regarding the concerns of area residents, André Thériault, Agent for the Applicant, highlighted the Applicant will be consulting with the neighbours to address their inquiries. Mr. Thériault confirmed that the designs are the same as those provided for the applications submitted and approved in 2023, except for the building height.
- [5] City Planner Nivethini Jekku Einkaran highlighted no concerns with the application.

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

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Four-Part Test

[7] 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

[8] 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, photo of the posted sign, and a sign posting declaration.
- City Planning Report received September 25, 2024, with no concerns.
- Rideau Valley Conservation Authority email received September 26, 2024, with no objections.
- Hydro Ottawa email received September 27, 2024, with comments.
- G. Nuez, resident, email received October 1, 2024, in opposition.
- A. Fraser, resident, email received October 1, 2024, in opposition.
- S. and J. Northcott, residents, email received October 1, 2024, in opposition.
- R. and M. Joseph, residents, email received October 1, 2024, in opposition.

Effect of Submissions on Decision

[9] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.

[10] Based on the evidence, the Committee is satisfied that the requested variance meets all four requirements under subsection 45(1) of the *Planning Act*.

- [11] The Committee notes that the City's Planning Report raises "no concerns" regarding the application, highlighting that, "[t]his area allows for a wide range of residential building types from detached to low rise apartment dwellings not more than four storeys."
- [12] The Committee also notes that the application seeks to legalize, after the fact, an already-built structure that does not comply with zoning regulations. However, whether the proposal has already been built does not factor into the Committee's decision, either negatively or favourably. The Committee must consider each application on its merits, based on the evidence and according to the statutory test. The Committee may authorize a minor variance if it is satisfied that all four requirements set out in subsection 45(1) of the *Planning Act* are met. The *Planning Act* does not set out a fifth test as to whether an owner has contravened municipal regulations relating to construction. Instead, it is the City's exclusive role to address construction-related concerns and enforce its own by-laws. The Committee has no jurisdiction over such matters.
- [13] Additionally, the Committee also notes that no compelling evidence was presented that the variance would result in any unacceptable adverse impact on neighbouring properties.
- [14] Considering the circumstances, the Committee finds that, because the proposal fits well in the area, the requested variance is, 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 Committee also finds that the requested variance maintains the general intent and purpose of the Official Plan because the proposal respects the character of the neighbourhood.
- [16] In addition, the Committee finds that the requested variance maintains 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 Committee finds that the requested variance is minor because it will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.
- [18] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variance, **subject to** the relief being restricted to the life of this building only.

"Fabian Poulin"
FABIAN POULIN
VICE-CHAIR

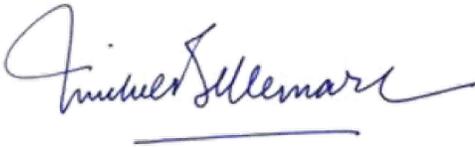
"Jay Baltz"
JAY BALTZ
MEMBER

"George Barrett"
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 **October 11, 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 **October 31, 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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