

**DECISION
MINOR VARIANCE**

Date of Decision:	October 11, 2024
Panel:	1 - Urban
File Nos.:	D08-02-24/A-00169 to D08-02-24/A-00171
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Applicants:	Fawaz Saleh and Lindsay Monroe
Property Address:	633 Edison Avenue
Ward:	15 – Kitchissippi
Legal Description:	Lot 43 (East Edison Avenue), Registered Plan 204
Zoning:	R4UA [2686] H(8.5)
Zoning By-law:	2008-250
Heard:	October 2, 2024, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Applicants wants to subdivide their property into three separate parcels of land for the construction of a detached dwelling and a semi-detached dwelling, as shown on the plans filed with the Committee. The existing dwelling and detached garage will be demolished.

REQUESTED VARIANCES

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

A-00169: 633 Edison Street, Part 1 on Draft 4R-Plan, one half of the proposed semi-detached dwelling:

- a) ~~To permit a reduced interior (north) side yard setback of 1.2 metres, whereas the By-law requires a minimum side yard setback of 1.5 metres.~~
- b) To permit a reduced lot area of 157.8 square metres, whereas the By-law requires a minimum lot area of 180 square metres.
- c) To permit a reduced rear yard landscaped buffer of 0 metres, whereas the By-law requires a rear yard landscape buffer of 4.5 metres.
- d) To permit an increased shared driveway width of 5.2 metres, whereas the By-law permits a maximum shared driveway width of 3.0 metres.

- e) To permit a reduced rear yard setback of 3.84 metres, or 20% of the lot depth, whereas the By-Law requires a minimum rear yard setback of 25% of the lot depth, or in this case, 4.069 metres.
- f) ~~To permit an increased building height of 10.7 metres, whereas the By-law permits a maximum building height of 10.0 metres.~~

A-00170: 635 Edison Street, Parts 2 & 3 on 4R-Draft Plan, one half of the proposed semi-detached dwelling:

- g) To permit an increased building height of 10.7 metres, whereas the By-law permits a maximum building height of 10.0 metres.
- h) To permit an increased shared driveway width of 5.2 metres, whereas the By-law permits a shared driveway width of 3.0 metres.
- i) To permit a reduced rear yard setback of 3.84 metres, or 20% of the lot depth, whereas the By-Law requires a minimum rear yard setback of 25% of the lot depth, or in this case 4.069 metres.

A-0071: 329 Dovercourt Avenue, Parts 4 & 5 on 4R-Draft Plan, proposed detached dwelling:

- j) To permit a reduced interior (east) side yard of 1.2 metres, whereas the By-law requires a minimum side yard of 1.5 metres.
- k) To permit a reduced lot area of 235.6 square metres, whereas the By-law requires a minimum lot area of 300 square metres.
- l) To permit an increased shared driveway width of 5.2 metres, whereas the By-law permits a maximum shared driveway width of 3.0 metres.
- m) To permit an increased building height of 10.7 metres, whereas the By-law permits a maximum building height of 10.0 metres.

PUBLIC HEARING

- [3] On August 7, 2024, the scheduled hearing of the applications was adjourned to allow the Applicants more time to consult City staff, residents, and the community association. With the concurrence of all parties, the applications were adjourned to October 2, 2024.

Oral Submissions Summary

- [4] Chris Jalkotzy, Agent for the Applicants, responded to questions from the Panel Chair and agreed to amend the applications as recommended by City Planning staff, as follows:

- a) ~~To permit a reduced interior (north) side yard setback of 1.2 metres, whereas the By-law requires a minimum side yard setback of 1.5 metres. [Deleted.]~~
- e) To permit a reduced rear yard setback of 3.84 metres, or 20% of the lot depth, whereas the By-law requires a minimum rear yard setback of 25% of the lot depth, or in this case, 4.069 metres.
- f) ~~To permit an increased building height of 10.7 metres, whereas the By-law permits a maximum building height of 10.0 metres. [Deleted.]~~
- i) To permit a reduced rear yard setback of 3.84 metres, or 20% of the lot depth, whereas the By-law requires a minimum rear yard setback of 25% of the lot depth, or in this case 4.069 metres.
- [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. In his presentation, he highlighted revisions made to the plans following the adjournment of the applications, which included increasing the northerly side yard of the semi-detached dwelling unit on Part 1. He also referred to a map of the neighbourhood and streetscape photographs to highlight other recent development in the area and submitted that the proposal compares favourably in terms of tree planting and the proposed parking configuration.
- [6] In response to a question from the Panel Chair regarding public consultation, Mr. Jalkotzy indicated that he provided the Ward Councillor and the community association with information about the applications and distributed a flyer to residents along Edison Avenue and Dovercourt Avenue.
- [7] The Committee also heard oral submissions from the following individuals:
- K. Fharas, resident, highlighted concerns about misleading and inaccurate information in the application materials, including an outdated photograph in the Applicants' presentation that did not accurately reflect the number of trees on his property. He also objected to the overall scale and density of the development and its incompatibility with the existing neighbourhood character.
 - G. Yemensky, resident, highlighted additional concerns with the accuracy of the Applicants' submissions, as well as the number and extent of the requested variances and their impact on neighbours, including on parking and traffic.
 - T. Gray, Westboro Community Association, highlighted concerns about inadequate community consultation, the cumulative impacts of the requested variances, and the importance of maintaining the intent and purpose of the Westboro Development Overlay provisions of the Zoning By-law.
- [8] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS REFUSED

Applications Must Satisfy Statutory Four-Part Test

- [9] 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

- [10] 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, tree planting plan, parcel abstract, public consultation materials, photo of the posted sign, and a sign posting declaration.
- City Planning Report received September 27, 2024, with concerns; received September 26, 2024, with concerns; received August 1, 2024, with concerns.
- Rideau Valley Conservation Authority email received September 25, 2024, with no comments; received August 2, 2024, with no comments.
- Hydro Ottawa email received September 27, 2024, with comments; received August 2, 2024, with comments.
- Hydro One email received September 25, 2024, with no comments; received July 24, 2024, with no comments.
- J. Kubacki, resident, email received October 2, 2024, opposed; received August 7, 2024, opposed.
- G. Yemensky, resident, email received October 1, 2024, opposed; received August 6, 2024, requesting an adjournment.
- J. and J. Cameron, residents, email received October 1, 2024, opposed; received August 6, 2024, requesting an adjournment.
- T. Gray, Westboro Community Association, email received October 1, 2024, opposed.

- S. Burton, resident, email received October 1, 2024, opposed.
- S. Barclay, resident, email received October 1, 2024, opposed; received August 6, 2024, opposed.
- J. Tubman, resident, email received October 1, 2024, opposed.
- B. Ross and L. Takahashi, residents, email received October 1, 2024, opposed; received August 6, 2024, requesting adjournment.
- N. Othmer, resident, email received October 1, 2024, opposed.
- J. Bailey, resident, email received October 1, 2024, opposed.
- V. Elliott, resident, email received October 1, 2024, opposed.
- F. Kharas, resident, email received October 1, 2024, opposed; received August 2, 2024, requesting adjournment; received July 30, 2024, opposed.
- M. Petrou, resident, email received August 6, 2024, opposed.
- G. Vachon, resident, email received August 6, 2024, requesting an adjournment.
- B. Kiefl, resident, email received August 6, 2024, opposed.
- S. Kharas, resident, email received August 6, 2024, requesting adjournment; received July 29, 2024, with comments; received July 22, 2024, with comments.
- J. Piper, resident, email received July 31, 2024, opposed.
- C. Grenier, resident, emails received October 1, 2024, opposed; received August 6, 2024, requesting an adjournment; comments received by phone August 1, 2024, opposed.

Effect of Submissions on Decision

- [11] The Committee considered all written and oral submissions relating to the applications in making its decision and refused the applications.
- [12] 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*.
- [13] The Committee notes that the City's Planning Report raises "some concerns" regarding the applications, highlighting that: "Staff have concerns with the variances for a 0-metre rear yard landscaped buffer and a 5.2-metre-wide shared driveway for parking spaces that are not required in the Zoning By-law. The

Westboro Development Overlay prioritizes soft landscaping whereas the proposed design would eliminate almost all opportunities for it on Part 1 (633 Edison) and Parts 2 & 3 (635 Edison). Therefore, the variance does not meet the general intent of the Zoning By-law". The report also highlights that "[s]hared driveways are intended to provide access to legal parking spaces, not to contain the parking spaces," and the proposal to do so on this site "does not meet the general intent of Zoning By-law and results in the elimination of the landscaped buffer on 2/3 of the lots."

- [14] Considering the circumstances, the Committee finds that, from a planning and public interest point of view, the requested variances are not desirable for the appropriate development or use of the land, building or structure on the property, and relative to the neighbouring lands, because the proposal amounts to overdevelopment at the expense of soft landscaping and does not fit well in the area.
- [15] The Committee also finds that the requested variances do not maintain the general intent and purpose of the Official Plan because the proposal does not respect the character of the neighbourhood.
- [16] In addition, the Committee finds that the requested variances do not maintain the general intent and purpose of the Zoning By-law because the proposal prioritizes driveways and parking and eliminates opportunities for soft landscaping on two proposed lots, and therefore does not represent orderly development.
- [17] The Committee also finds that the requested variances are not minor because they would create an unacceptable adverse impact on the neighbourhood in general.
- [18] THE COMMITTEE OF ADJUSTMENT therefore does not authorize the requested variances.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

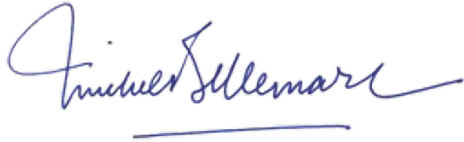
"John Blatherwick"
JOHN BLATHERWICK
MEMBER

"Simon Coakeley"
SIMON COAKELEY
MEMBER

"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 **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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