

November 12th, 2024

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Committee of Adjustment
City of Ottawa
101 Centrepointe Drive
Ottawa, ON, K2G 5K7

Attention: Michel Bellemare, Secretary - Treasurer

Dear Mr. Bellemare:

**Reference: 2610B River Road
Minor Variance/Permission Application
Our File Number: 124164**

Committee of Adjustment
Received | Reçu le

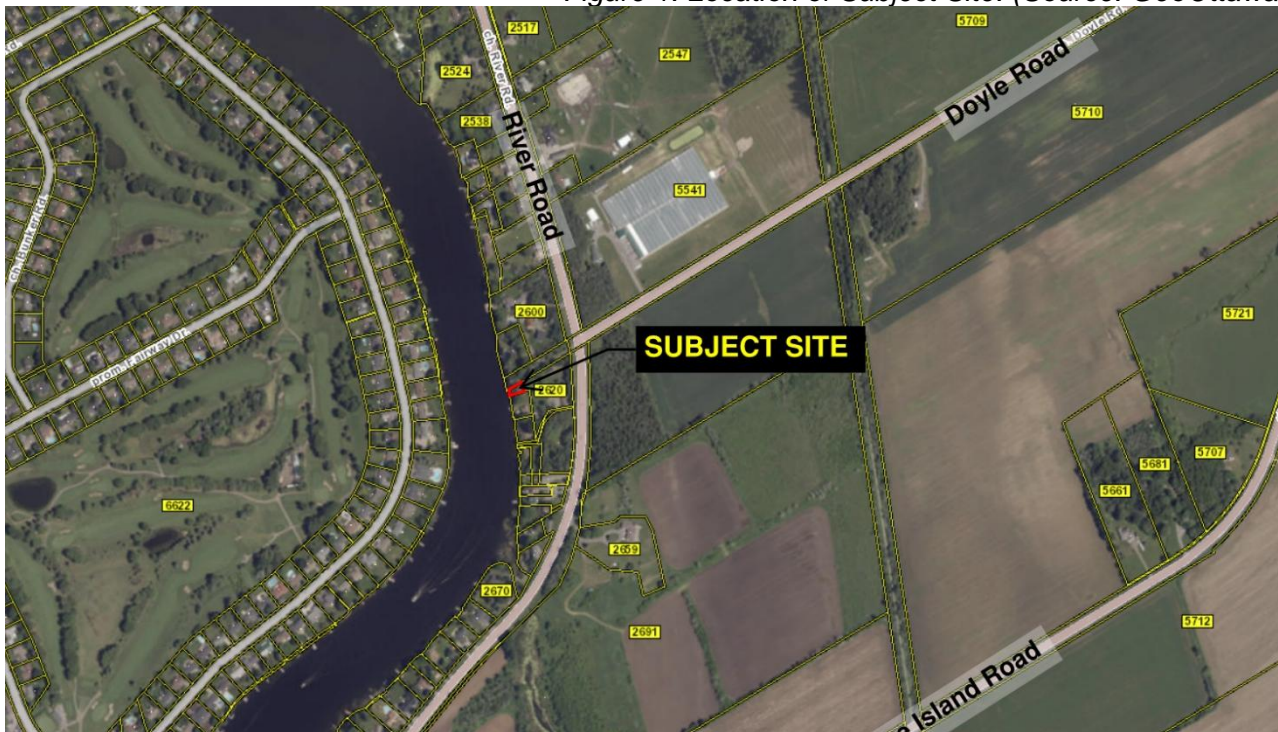
2024-11-14

City of Ottawa | Ville d'Ottawa
Comité de dérogation

Novatech has been retained by the owners of the property municipally known as 2610B River Road (the “Subject Site”) to prepare and file an application for permission and minor variances to expand the existing legal non-conforming use. The permission application facilitates the demolition of the existing legally non-conforming detached dwelling and deck and the construction of a new detached dwelling and deck in place of the existing detached dwelling. The minor variance application is to permit a reduced lot area.

This letter describes the existing conditions of the site and its surrounding context, the proposed development, and the rationale in support of the application.

Figure 1: Location of Subject Site. (Source: GeoOttawa).



Site and Context

Site

The Subject Site is located near the Village of Osgoode within Ward 20 – Osgoode in the City of Ottawa. The Subject Site is located on the east side of the Rideau River. The property does not have frontage on an improved public street. An unopened road allowance abuts the Subject Site to the north. A gravel driveway connects the property to River Road. The Subject Site has 8.4 metres of frontage along the water and a lot area of approximately 270 square metres.

The Subject Site is legally known as Part 1 on Plan 5R-9493.

Figure 2: Subject Site. (Source: GeoOttawa).



The Subject Site is designated Rural Countryside in the Rural Transect of the City of Ottawa Official Plan (Figure 3). The Subject Site is zoned RR8 – Rural Residential, Subzone 8 in the City of Ottawa Zoning By-law 2008-250 (Figure 4). A portion of the property is subject to the Floodplain Overlay.

Figure 3: OP designation. (Source: City of Ottawa Official Plan).

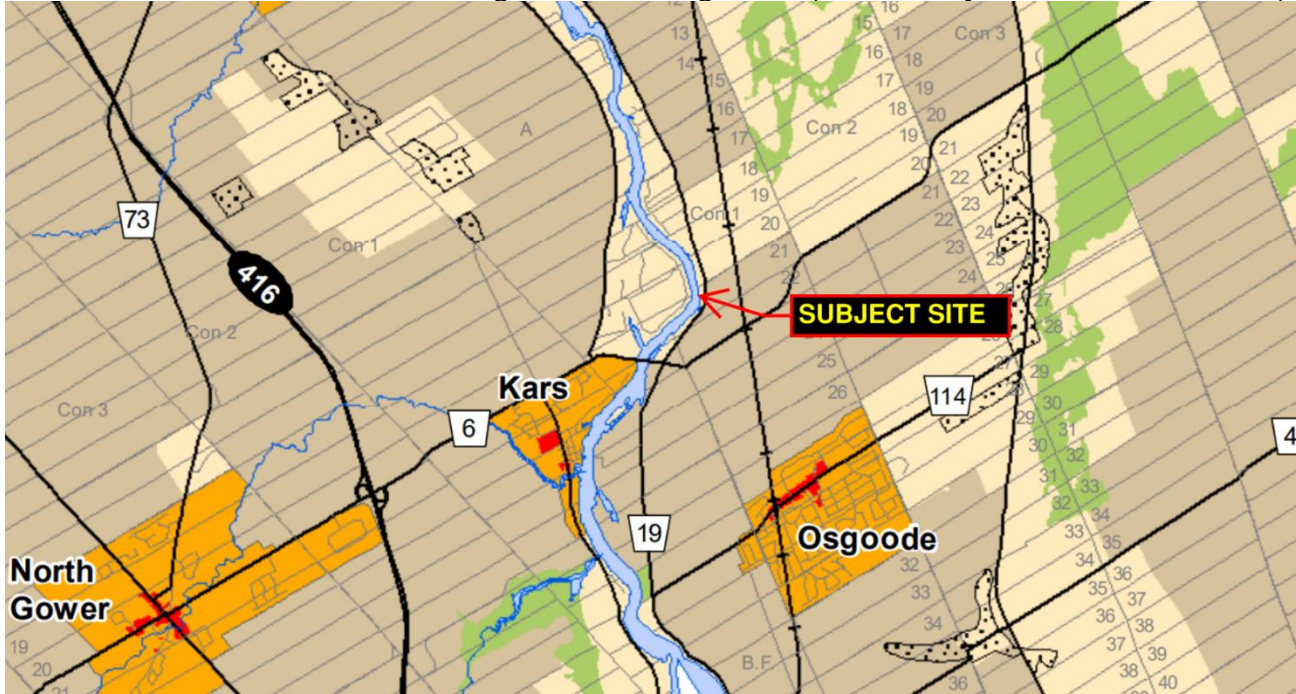
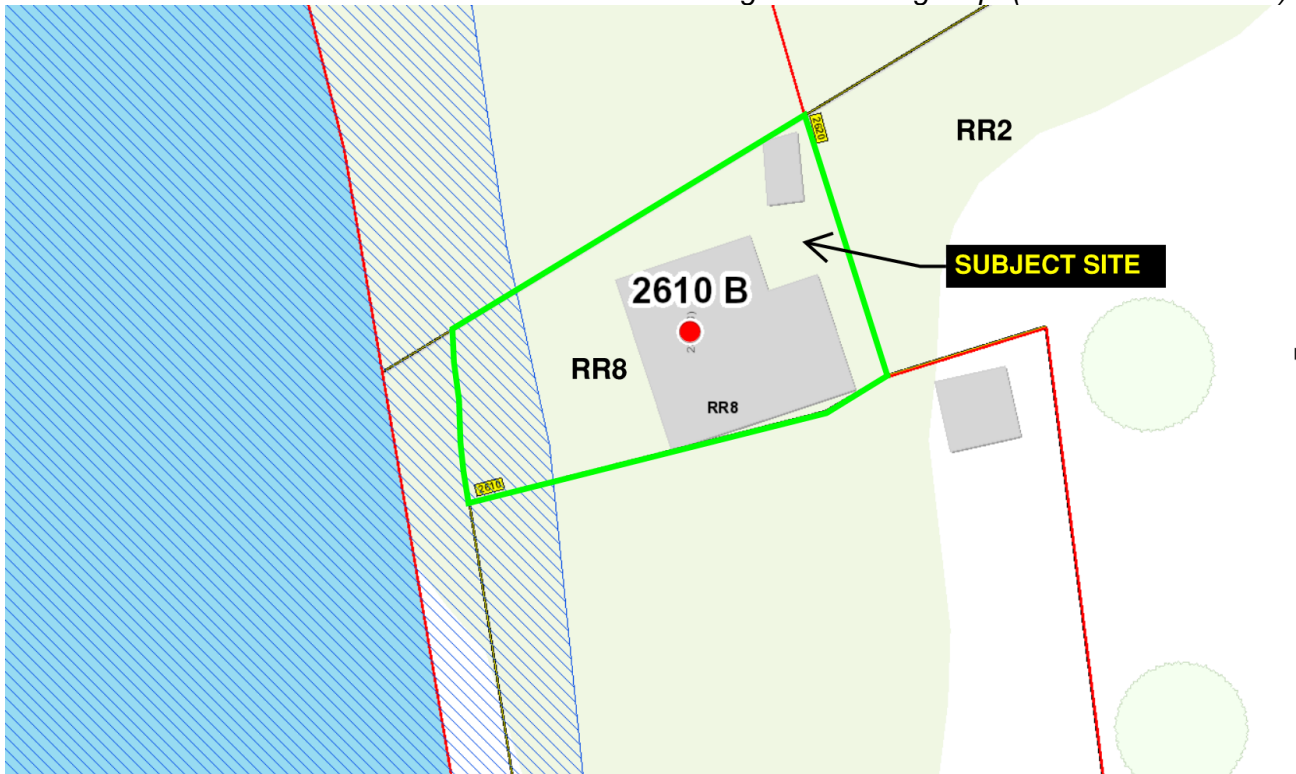
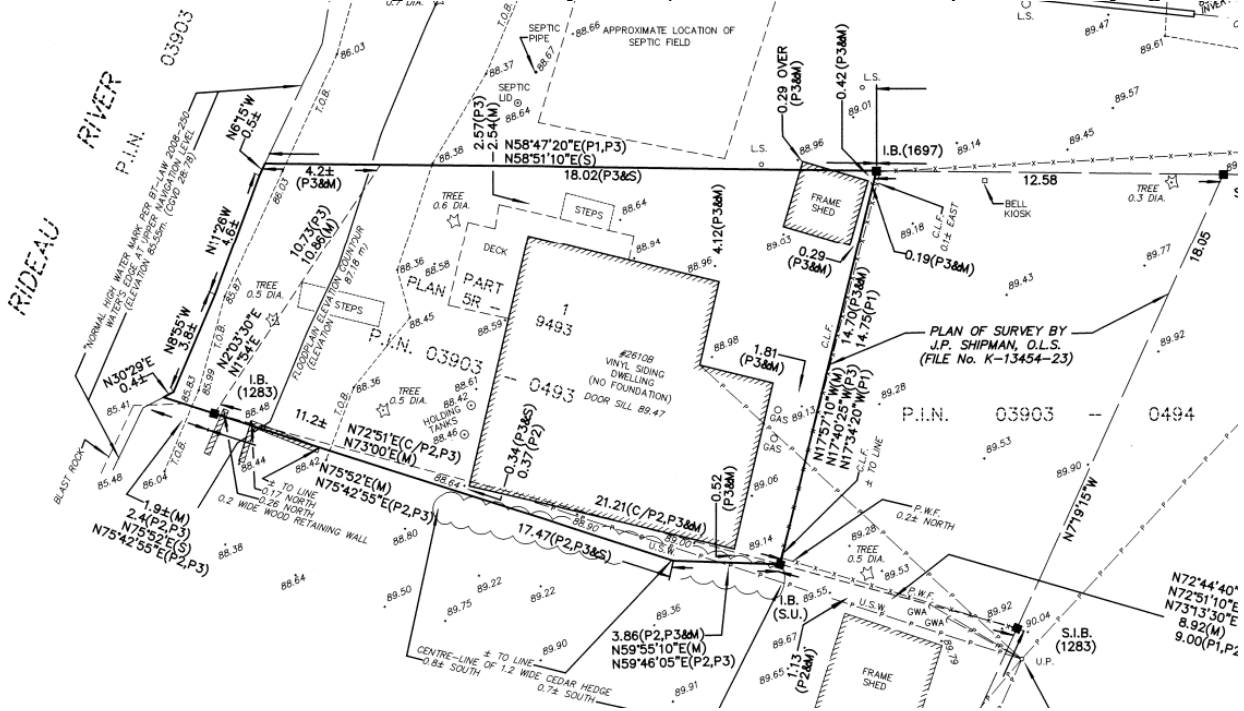


Figure 4: Zoning Map. (Source: GeoOttawa).



The Subject Site is currently developed with a legally non-conforming detached dwelling (Figure 5).

Figure 5: Survey Plan. (Source: H.A. Ken Shipman Surveying Ltd.)



The existing dwelling is legally non-conforming with respect to the minimum interior side yard setback requirement of 4.5 metres, the minimum setback from the normal high-water mark of the Rideau River of 30 metres, and the maximum lot coverage of 15%. The existing deck is legally non-conforming with respect to the setback from the normal high-water mark of the Rideau River. The existing lot is legally non-conforming with respect to the minimum lot area of 1,600 square metres and the minimum lot width of 30 metres. The existing lot is legally non-conforming as it does not have frontage on an improved public street, as required by Section 59 of the Zoning By-law. Section 59(1) states:

“No person shall develop or otherwise use any lot unless that land abuts an improved public street for a distance of at least 3.0 metres”

Relief is requested through a permission application to permit the expansion of the legally non-conforming house and deck.

A Lot Line Adjustment application is being filed concurrently on behalf of the adjacent property owner at 2620A River Road which will increase the lot area of the Subject Site. The portion of 2620A River Road to be conveyed to the owner of the Subject Site is zoned RR2, which is different from the RR8 zoning of the Subject Site.

A minor variance is requested to permit a reduced lot area following the proposed lot addition.

Surrounding Context

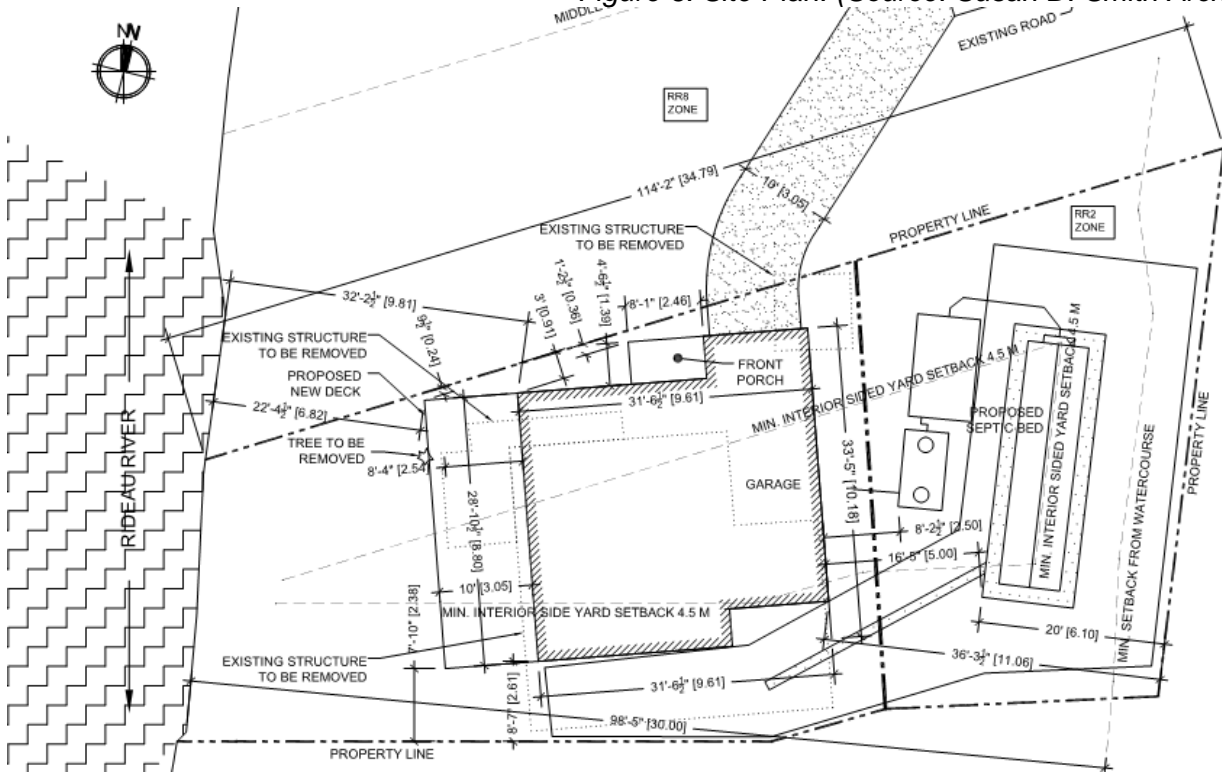
The Subject Site is adjacent to residential dwellings on waterfront lots. The adjacent property to the south is developed with a detached dwelling on a waterfront lot. The adjacent property to the east is developed with a detached dwelling. The property to the north is developed with a detached dwelling.

The Subject Site is located between the Rideau River and River Road. The lot areas of the adjacent properties are highly varied. The Subject Site is smaller than the adjacent properties. A lot line adjustment application is being submitted concurrently to add a 169 square metre portion of 2620A River Road to the Subject Site.

Proposed Development

The proposed development is to replace and expand the existing legally non-conforming detached dwelling and deck on the Subject Site (Figure 6).

Figure 6: Site Plan. (Source: Susan D. Smith Architect).



The existing detached dwelling has legally non-conforming rights with respect to minimum lot width, minimum interior side yard setbacks, maximum lot coverage, and the minimum setback from the normal high watermark of the Rideau River. The proposed dwelling will constitute a replacement and expansion of the existing legally non-conforming detached dwelling. The proposed deck constitutes an expansion of the existing legally non-conforming deck. The table below shows zoning provisions for both the existing and proposed detached dwelling and deck.

<i>Detached Dwelling</i>	Required (RR8)	Existing	Proposed
Minimum Lot Width	30 m	No lot width	No lot width
Minimum Lot Area	1,600 m ²	270 m ²	440 m ^{2*}
Minimum Interior Side Yard Setback	4.5 m	2.57 m (north) 1.8 m (east) 0.3 m (south)	0.91 m (north) 1.6 m (east) 2.61 m (south)
Maximum Lot Coverage	15%	30%	32%

Minimum Setback from High-Water Mark	30 m	9.78 m	9.81 m
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*with lot addition

<i>Deck</i>	Required (RR8)	Existing	Proposed
Minimum Setback of Uncovered Deck from Lot Line	2 m, but no closer than 1 m to the lot line	1.4 m from lot line	0.24 m from lot line
Minimum Setback from High-Water Mark	30 m	7.6 m	6.82 m

A lot line adjustment application is being submitted concurrently with the permission and minor variance applications to provide additional space so that a septic bed can be accommodated for the new dwelling. The Subject Site is zoned RR8 and the portion of the neighbouring property (2620A River Road) added to the Subject Site is zoned RR2. The minimum lot area requirement and maximum lot coverage requirements of the RR2 Zone are more restrictive than the requirements of the RR8 Zone. Relief is requested to permit a reduced lot area of 440 square metres, whereas the RR2 Zone requires a minimum lot area of 8,000 square metres.

Permission Application

The requested permission for this application is identified below:

- a) The Owner requires Permission from the Committee of Adjustment for the expansion or enlargement of the existing legally non-conforming detached dwelling.
- b) The Owner requires Permission from the Committee of Adjustment for the expansion or enlargement of the existing legally non-conforming deck.

Permission Rationale

Section 45(2) of the Planning Act permits the expansion of a legal non-conforming use. Section 45(2) of the Planning Act states:

“In addition to its powers under subsection (1), the committee, upon any such application,

(a) where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit,

(i) the enlargement or extension of the building or structure, if the use that was made of the building or structure on the day the by-law was passed, or a use permitted under subclause (ii) continued until the date of the application to the committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed, or

There are no tests set out in the Planning Act for applications under Section 45(2). The decision of *Sims et al. v. Daschko* (attached) sets out the test for expansion of a legal non-conforming use. The Ontario Municipal Board decision states that *“there must always be a prior consideration of whether what is intended is indeed desirable for the appropriate development or use of the land, building or structure. The effect of any concession made must always be weighed in the light of the impact it could have upon neighbouring properties enjoying a different classification”*.

The tests for permission to expand a legally non-conforming use are that the expansion is appropriate and desirable for the area and that there is not undue impact on neighbouring properties.

The first test for the expansion of a legally non-conforming use is that it must be desirable for the appropriate development or use of the land, building, or structure.

The proposed replacement and expansion of the legally non-conforming detached dwelling and deck on the Subject Site is desirable for the appropriate use of the land. The proposed development better accommodates the needs of the property owner. The home includes a raised deck for better floodproofing, and the development removes the existing septic holding tanks located within the 30-metre setback from the normal high-water mark. The new septic system is located further away from the water which improves upon the existing condition on the site.

The proposed expansion results in a home that is more suitable for the property owner and improves upon the existing septic system/well locations.

The expansion of the legal non-conforming use constitutes an appropriate and desirable use of the land.

The second test for the expansion of a legally non-conforming use is the impact on neighbouring properties.

The existing detached dwelling and the existing deck are legally non-conforming uses. The existing detached dwelling is legally non-conforming with respect to minimum interior side yard setbacks, maximum lot coverage, and minimum setback from the normal high-water mark. The existing deck is legally non-conforming with respect to the minimum setback from the normal high-water mark. The existing lot is legally non-conforming with respect to minimum lot width, minimum lot area, and frontage on an improved public street. The proposal constitutes an expansion of the legally non-conforming dwelling.

The expansion of the deck will not adversely impact neighbours as the adjacent property to the north is the unopened road allowance used to provide access to the property from River Road. The expansion of the deck will not impact the neighbour to the south as the neighbouring home is located approximately 22 metres from the property and itself encroaches into the high-water mark setback requirement.

The proposed dwelling is located further from the south property than the existing dwelling and has less impact on the neighbour to the south than the existing dwelling. The expansion does not have any impact to the neighbour to the north as the property is separated from the Subject Site by an unopened road allowance which provides a treed buffer between the two properties.

The expansion of the legal non-conforming use will not impact neighbouring properties.

Minor Variance Application

The requested minor variance is identified below:

- a) To permit a reduced lot area of 440 square metres, whereas the Zoning By-law requires a minimum lot area of 8,000 square metres. (Section 226, Table 226A).

The existing lot area is approximately 270 square metres. A Lot Line Adjustment application to add a portion of 2620A River Road to 2610B River Road will increase the lot area of the Subject Site to approximately 440 square metres. Since the portion of 2620A River Road to be conveyed to 2610B River Road is zoned RR2, the Subject Site will be split-zoned RR8 and RR2.

Section 33(1) states that:

“Where a lot is divided into more than one zone, each portion of the lot must be used in accordance with the provisions of the applicable zone; however, the zone boundary is not to be treated as a lot line. Where two or more regulations are equally applicable to a lot, Section 18 applies.”

Section 18 states that:

“Without limiting the generality of sections 16 or 17, where a situation arises that is not covered by a specific regulation, or where two or more regulations are equally applicable, all provisions must be complied with or, where it is not possible to comply with all the provisions applicable, the most restrictive provisions must be complied with.”

The zone boundaries are not treated as lot lines, which means that the minimum lot area requirement of the RR2 Zone and the RR8 Zone apply equally to the entire lot. Where the requirements are equally applicable, the most restrictive provision applies. In this case, the most restrictive provisions are the RR2 provisions, which requires a minimum lot area requirement of 8000 square metres.

Minor Variance Rationale

This rationale will speak to the four tests for a minor variance set out in Section 45(1) of the Planning Act. The minor variances listed above meet the four tests for minor variance.

The first test for a minor variance is that the general intent and purpose of the Official Plan is maintained.

The Subject Site is designated Rural Countryside within the Rural Transect in the City of Ottawa Official Plan. The intent of the Rural Countryside designation is to protect and enhance rural character and limit the fragmentation of rural lands.

The proposed development with the requested variance for reduced lot area protects the existing rural character of the area and does not result in further fragmentation of rural lands.

The requested variance maintains the general intent and purpose of the Official Plan.

The second test for a minor variance is that the general intent and purpose of the Zoning By-law is maintained.

The existing lot at 2610B River Road is zoned RR8 – Rural Residential Subzone 8 in the City of Ottawa Zoning By-law. The Subject Site will be split-zoned RR2 – Rural Residential Subzone 2 and RR8 – Rural Residential Subzone 8 as a result of the proposed Lot Line Adjustment application, which adds a portion of 2620A River Road (zoned RR2) to 2610B River Road (zoned RR8). The purpose of the RR Zone is to:

- (1) recognize and permit large-lot residential development in planned subdivisions and to acknowledge existing smaller lot development in areas designated as General Rural Area or Rural Natural Features in the Official Plan;
- (2) recognize clusters of existing residential development found in areas designated as Agricultural Resource Area or Greenbelt Rural in the Official Plan;

- (3) permit residential-only uses as well as related and accessory uses;
- (4) regulate development in a manner that respects both the residential character of the area and the surrounding rural context.

The provisions of the RR1 to RR3 subzones are for existing country lot developments. The provisions of the RR4 to RR12 subzones are for existing small lot size rural development in hamlets, along riverfronts and rural lot clusters, and golf course estate subdivisions.

The requested variance is to permit a reduced lot area of 440 square metres, whereas the Zoning By-law requires a minimum lot area of 8,000 square metres.

The proposed lot area of 440 square metres is larger than the existing lot area of 270 square metres. The proposed lot area provides more space to accommodate a dwelling and private services than the existing lot. The reduced lot area better meets the intent of the Zoning By-law than the existing lot area.

The requested variance meets the general intent and purpose of the Zoning By-law.

The third test for a minor variance is that the minor variance is considered suitable and desirable for the use of land.

The requested variance is suitable and desirable for the appropriate use of the land. The proposed lot area with the lot addition is 440 square metres, which is more suitable for the desired use of the land than the existing lot area of 270 square metres. The increased lot area will accommodate a detached dwelling and private services.

The requested variance is considered suitable and desirable for the appropriate use of land.

The fourth test for a minor variance is that the variance is considered minor in nature.

The requested relief for a reduced lot area of 440 square metres is minor. The reduced lot area will be larger than the existing lot area as a result of a Lot Line Adjustment application which will add a 169 square metre portion of 2620A River Road to the Subject Site. As the proposed lot area represents an increase over the existing lot area, there is no adverse impact resulting from the reduced lot area.

The variance is considered minor in nature.

Conclusion

The proposed expansion of the detached dwelling and deck at 2610B River Road meets Section 45(2) of the *Planning Act* regarding permission applications. The development is an appropriate and desirable use of land and does not generate any undue adverse impact on surrounding properties.

The requested variance for a reduced lot area of 440 square metres meets the general intent and purpose of the Official Plan and the Zoning By-law. The proposed development with the requested variance for lot area is suitable and desirable for the use of land and the requested variance is minor in nature. The requested variances meet the criteria of Section 45(1) of the *Planning Act*.

The Minor Variance/Permission applications represent good land use planning.

In support of the applications for permission, please find enclosed:

- Cover Letter (one copy)
- Complete Minor Variance/Permission Application Form (one original copy)
- Signed Minor Variance/Permission Authorization Form (one original copy)
- Application fee
- Survey Plan (one 8.5x11 copy and one 11x17 copy)
- Site Plan (one 8.5x11 copy and one 11x17 copy)
- Elevation Drawings (one 8.5x11 copy and one 11x17 copy)

Should you have any questions regarding this application, please do not hesitate to contact me.

Yours truly,

NOVATECH
Arjan Soor, M.PL
Planner