

## DECISION MINOR VARIANCE

<b>Date of Decision:</b>	March 28, 2025
<b>Panel:</b>	2 - Suburban
<b>File No.:</b>	D08-02-24/A-00273
<b>Application:</b>	Minor Variance under section 45 of the <i>Planning Act</i>
<b>Applicant:</b>	Jean Michel Sauve
<b>Property Address:</b>	1618 Botsford Street
<b>Ward:</b>	18 - Alta Vista
<b>Legal Description:</b>	Lot 953, Registered Plan 665
<b>Zoning:</b>	R1O
<b>Zoning By-law:</b>	2008-250
<b>Heard:</b>	March 18, 2025, in person and by videoconference

### APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Applicant wants to regularize the existing accessory structures on their property, as shown on the plans filed with the application.
- [2] On November 19, 2024, this application was adjourned to allow the Applicant time to revise the requested minor variances. The Applicant has since revised their application.
- [3] On March 4, 2025, the Committee adjourned the hearing of the application to allow the Applicant time to review comments by the City's Planning, Development and Business Services Department.

### REQUESTED VARIANCES

- [4] The Applicant requires the Committee's authorization for minor variances from the Zoning By-law as follows:
  - a) To permit a total of 5 accessory structures on a lot, whereas the By-law permits a maximum of 2 accessory structures.
  - b) To permit a reduced setback from the interior (north) side lot line of 0 metres for an accessory structure ("Shed 1"), whereas the By-law requires a minimum

setback from the interior side lot line for an accessory structure located in an interior side yard of 1.2 metres.

- c) To permit a reduced distance of 0.3 metres between structures ("Shed" 1 from "Shed 2"), whereas the By-law requires a minimum distance of 1.2 metres between structures on the same lot.
- d) To permit a reduced setback from the interior (north) side lot line of 0 metres for an accessory structure ("Shed 2"), whereas the By-law requires a minimum setback from the interior side lot line for an accessory structure located in a rear yard of 0.6 metres.
- e) To permit a reduced distance of 0.3 metres between structures ("Shed 2" from "Shed 1"), whereas the By-law requires a minimum distance of 1.2 metres between structures on the same lot.
- f) To permit a reduced setback from the interior (north) side lot line of 0.5 metres for a hot tub, whereas the By-law requires a minimum setback from the interior side lot line of 0.6 metres for a hot tub not equipped with walkable decking and not contained within a building.
- g) To permit a reduced setback from the interior (north) side lot line of 0.3 metres for an accessory structure ("Shed 3"), whereas the By-law requires a minimum setback from the interior side lot line for an accessory structure located in a rear yard of 0.6 metres.
- h) To permit a reduced setback from the rear lot line of 0.5 metres for an accessory structure ("Shed 3"), whereas the By-law requires a minimum setback from the rear lot line for an accessory structure located in a rear yard of 0.6 metres.
- i) To permit a reduced setback from the interior (south) side lot line of ~~0.4~~ **0.39 metres**, whereas the By-law requires a minimum interior side yard setback of 1.2 metres.
- j) To permit a reduced setback from the interior (south) side lot line of 1.9 metres for a play structure, whereas the By-law requires a minimum setback from the interior side lot line equal to the height of the play structure, in this case 4 metres.
- k) To permit an increased height of 4 metres for a play structure, whereas the By-law permits a maximum height of 3.6 metres for an accessory structure.

[5] In July 2024, the Ontario Land Tribunal authorized a minor variance to permit a home-based business to occupy an increased percentage of the gross floor area of the principal dwelling. The property is not the subject of any other current application under the *Planning Act*.

## PUBLIC HEARING

### Oral Submissions Summary

- [6] Arjan Soor, agent for the Applicant, requested that variance (i) be amended to reflect the dimension of the setback shown on the survey plan filed with the application, as follows:
- i) To permit a reduced setback from the interior (south) side lot line of ~~0.4~~ **0.39 metres**, whereas the By-law requires a minimum interior side yard setback of 1.2 metres.
- [7] Mr. Soor provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request.
- [8] Responding to the Panel's questions, Mr. Soor explained that the existing rear yard accessory structures, including the play structure and hot tub, would be used by the Owner, his family and guests or visitors to the property, as part of their personal enjoyment of the property.
- [9] Regarding the existing play structure, Mr. Soor submitted that the reference in the Zoning By-law to "children's play structures" does not preclude their use by adults, and confirmed that the play structure in question is used by both children and adults. He also clarified that, while the play structure is 4 metres at its highest point, most of the structure is 2.6 metres high.
- [10] Mr. Chown, also acting as agent for the Applicant, addressed comments in the City's Planning Report that the accessory structures are not permitted to be used by clients of the existing home-based business (JM Sauve Fitness) as per an Ontario Land Tribunal decision. He submitted that the Ontario Land Tribunal's decision did not restrict the use of the accessory structures, and only acknowledged his evidence that their use in connection with the business had ceased.
- [11] City Planner Elizabeth King summarized the City's concerns with the reduced setback of the play structure, highlighting that it does not maintain the intent of the Zoning By-law to minimize impacts on adjacent neighbours.
- [12] Following the public hearing, the Committee reserved its decision.

### DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED IN PART, AS AMENDED

#### Application Must Satisfy Statutory Four-Part Test

- [13] The Committee has the power to authorize 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

variances are minor, are 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**

[14] Evidence considered by the Committee included all 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, photo of the posted sign, and a sign posting declaration.
- City Planning Report received March 13, 2025, with concerns; received February 27, 2025, with concerns; received November 14, 2024, requesting an adjournment.
- Rideau Valley Conservation Authority email received March 17, 2025, with no objections; received February 28, 2025, with no objections; received November 14, 2024, with no objections.
- Hydro Ottawa email received March 6, 2025, with comments; received February 21, 2025, with comments; received November 15, 2024, with no comments.
- Ontario Ministry of Transportation email received March 12, 2025, with no comments; received November 5, 2024, with no comments.
- M. Horton, resident, email received March 18, 2025, with comments; received November 18, 2024, opposed.
- R. Sullivan, resident, email received March 18, 2025, opposed; received November 18, 2024, opposed.
- I. Godin, resident, email received March 18, 2025, opposed; received March 3, 2025, opposed; received November 18, 2024, opposed.
- M. Godin, resident, email received March 3, 2025, opposed; received November 18, 2024, opposed.
- D. McElheran, resident, email received March 4, 2025, opposed; received November 18, 2024, opposed.
- D. McGregor, resident, email received November 18, 2024, with comments.

- M. Dion-McElheran, resident, email received November 18, 2024, opposed.
- J. Lorimer, resident, email received November 18, 2024, opposed.
- C. Helmer, resident, email received November 18, 2024, with comments.
- B. Primeau, resident, email received November 14, 2024, with comments.

### **Effect of Submissions on Decision**

- [15] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application in part.
- [16] Based on the evidence, the Committee (Member J. Wright dissenting on variances (a), (b), (d), (g), and (i)) is satisfied that requested variances (a) to (i) meet all four requirements under subsection 45(1) of the *Planning Act*.
- [17] The Committee notes that the application seeks to legalize, after the fact, already-built structures that do not comply with zoning regulations. The Committee does not condone the practice of building first and asking for permission later. An owner who does so runs the risk, like any other applicant, of having their application denied. The additional risk if the Committee refuses to authorize a minor variance for an already-built, non-compliant structure could be the requirement to either bring it into compliance or remove it, regardless of any cost or hardship to the owner. However, whether a structure 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 tests. 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.
- [18] The Committee also notes that the City's Planning Report raises "no concerns" with the variances related to the wooden sheds and hot tub because those structures "support the residential use." The report raises "some concerns," however, with the existing play structure and its reduced setback to the side lot line, highlighting that "the intent of the setback in mitigating any impacts of height by locating the structure [an] equal distance from the property line is not maintained, given the size and scale of the structure."
- [19] Considering the circumstances, the majority of the Committee finds that, because the wooden sheds and hot tub support the residential use of the property and fit well in the area, requested variances (a) to (i) 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.

- [20] The majority of the Committee also finds that the requested variances (a) to (i) maintain the general intent and purpose of the Official Plan because the proposal respects the character of the neighbourhood.
- [21] In addition, the majority of Committee finds that the requested variances (a) to (i) maintain the general intent and purpose of the Zoning By-law because the proposal represents orderly development that is compatible with the surrounding area.
- [22] Moreover, the majority Committee finds that the requested variances (a) to (i), both individually and cumulatively, are minor because they will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.
- [23] Conversely, based on the evidence, the Committee is not satisfied that variances (j) and (k) meet the four tests under subsection 45(1) of the *Planning Act*.
- [24] **THE COMMITTEE OF ADJUSTMENT** having been asked to consider an application that has been amended from the original application, and the Committee having determined that no further notice under the *Planning Act* is required;
- [25] **THE COMMITTEE OF ADJUSTMENT ORDERS** that the application is granted in part and variances (a), (b), (c), (d), (e), (f), (g), (h), and (i) to the Zoning By-law are authorized, **subject to** the location and size of the accessory structures being in accordance with the plans filed, Committee of Adjustment date stamped January 28, 2025, as they relate to these requested variances. Variances (j) and (k) to the Zoning By-law are not authorized.

*"Fabian Poulin"*  
FABIAN POULIN  
VICE-CHAIR

*"Jay Baltz"*  
JAY BALTZ  
MEMBER

*"George Barrett"*  
GEORGE BARRETT  
MEMBER

*"Heather MacLean"*  
HEATHER MACLEAN  
MEMBER

*"Julianne Wright"*  
*(with noted dissent)*  
JULIANNE WRIGHT  
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **March 28, 2025**

*"Michel Bellemare"*

MICHEL BELLEMARE  
SECRETARY-TREASURER

## NOTICE OF RIGHT TO APPEAL

To appeal this decision to the Ontario Land Tribunal (OLT), a completed appeal form and the filing fee must be submitted via one of the below options and must be received no later than **3:00 p.m. on April 17, 2025**.

- **OLT E-FILE SERVICE** – An appeal can be filed online through the [E-File Portal](#) . First-time users will need to register for a My Ontario Account. Select [Ottawa (City): Committee of Adjustment] as the Approval Authority. To complete the appeal, fill in all the required fields and provide the filing fee by credit card.
- **BY EMAIL** - Appeal packages can be submitted by email to [cofa@ottawa.ca](mailto:cofa@ottawa.ca). The appeal form is available on the OLT website at [Forms | Ontario Land Tribunal](#). Please indicate on the appeal form that payment will be made by credit card.
- **IN PERSON** – Appeal packages can be delivered to the Secretary-Treasurer, Committee of Adjustment, 101 CentrepoinTE Drive, 4<sup>th</sup> floor, Ottawa, Ontario, K2G 5K7. The appeal form is available on the OLT website at [Forms | Ontario Land Tribunal](#). In person 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.

Please note only one of the above options needs to be completed. If your preferred method of appeal is not available at the time of filing, the appeal must be filed with one of the other two options.

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.

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.

If you have any questions about the appeal process, please visit [File an Appeal | Ontario Land Tribunal](#)

*Ce document est également offert en français.*

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