

March 23, 2026

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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:

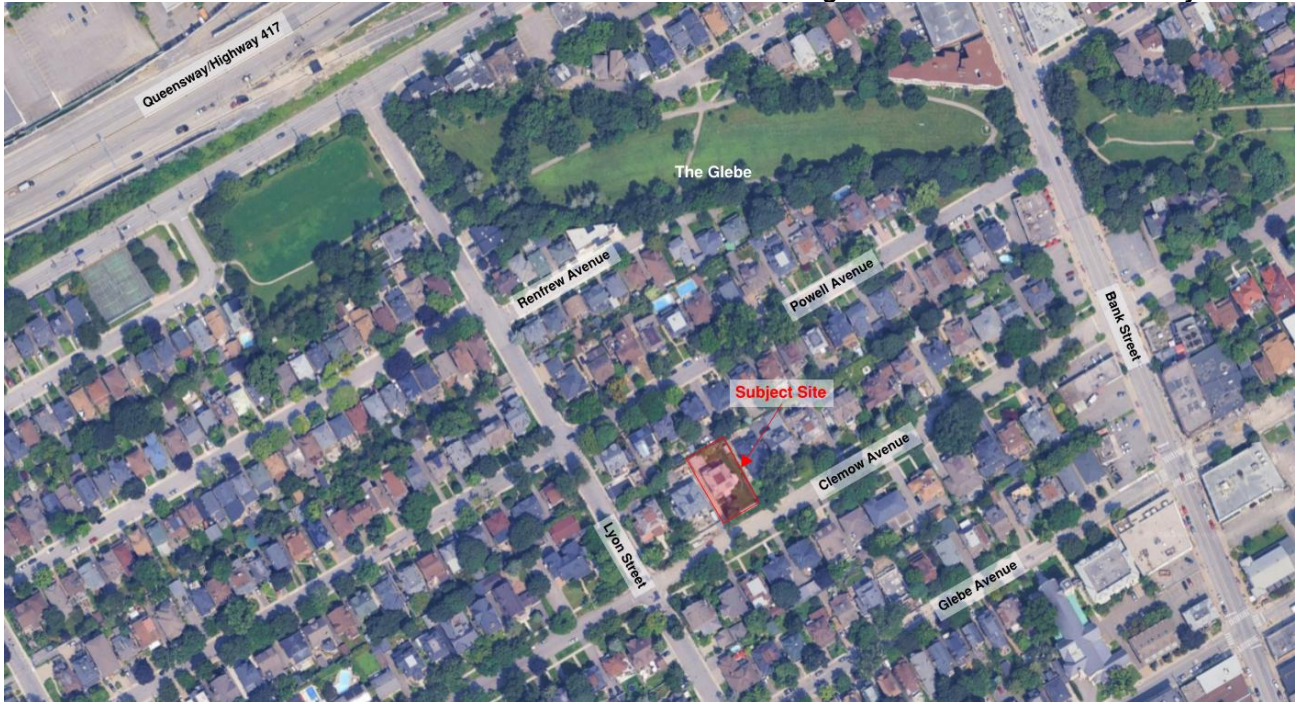
**Reference: 205 Clemow Avenue
Application for Permission
Our File No.: 126021**

Committee of Adjustment
Received | Reçu le
2026-03-24
City of Ottawa | Ville d'Ottawa
Comité de dérogation

Novatech has been retained by the owners of the property municipally known as 205 Clemow Avenue to prepare and file an application for permission to expand a legally non-complying detached dwelling. The permission application will facilitate the construction of an addition to the rear of the existing dwelling on the Subject Site. A Heritage Permit will be required for the proposed addition. The property owners have reached out to the City's Heritage staff on the proposed addition.

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 the Subject Site

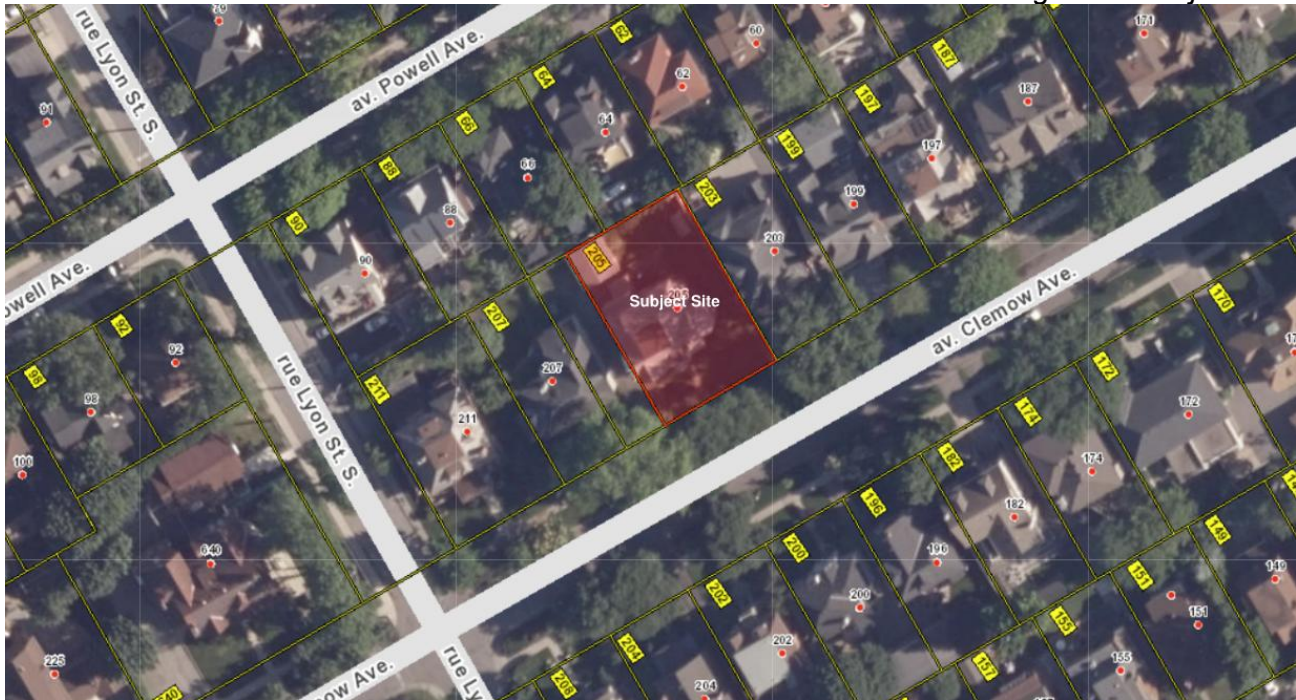


Site and Context

Site

The Subject Site is located in the Glebe neighbourhood and is within the City of Ottawa's Capital Ward (Ward 17). The Subject Site is an interior lot located on the north side of Clemow Avenue. The Subject Site is in an area bounded by the Queensway (Highway 417) to the north, Bank Street to the east, Glebe Avenue to the south, and Lyon Street to the west. The Subject Site has a frontage of approximately 21.95 metres along Clemow Avenue and a lot area of approximately 735 square metres. The Subject Site is legally known as Part of Lots 48 and 49 (North Clemow Avenue), Registered Plan 4M-8, City of Ottawa.

Figure 2: Subject Site



The Subject Site is designated Neighbourhood in the Inner Urban Transect of the City of Ottawa Official Plan (2022). The Subject Site is located within the Clemow-Monkland Driveway and Linden Terrace Heritage Conservation District. The Subject Site is zoned R1MM H(10) in the City of Ottawa Zoning By-law 2008-250. The Subject Site is zoned N2C[3109] H(10) in the City of Ottawa Zoning By-law 2026-50.

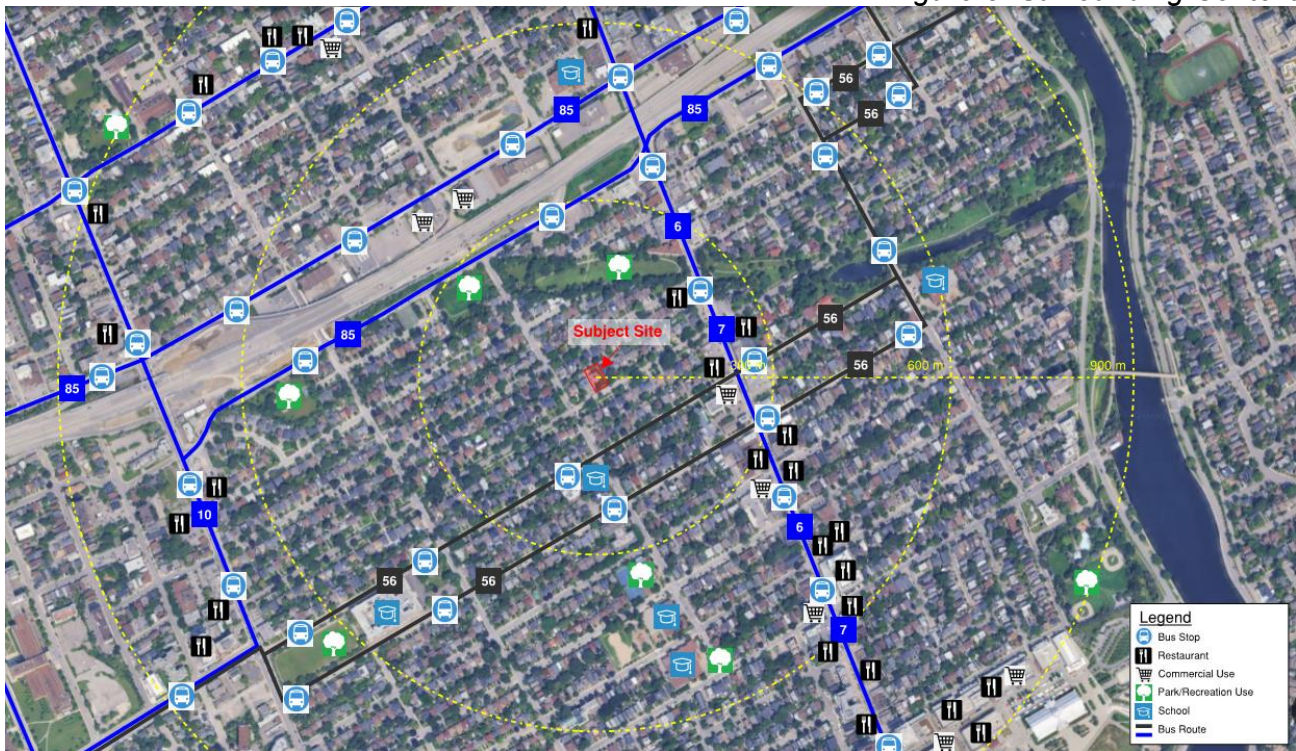
The Subject Site is currently developed with a detached dwelling. This detached dwelling is legally non-conforming with respect to the rear yard setback under Zoning By-law 2008-250. The detached dwelling fully conforms to the provisions of the new Zoning By-law 2026-50.

The new Zoning By-law 2026-50 was approved by City Council on January 28, 2026 and enacted on March 11, 2026. Following the issuance of the notice of passing, the new Zoning By-law will be subject to a 20-day appeal period. If an appeal is filed, the most restrictive provisions of both Zoning By-law 2008-250 and the new Zoning By-law 2026-50 will apply until the OLT declares the new Zoning By-law to be in effect. A permission application is required as the provisions of Zoning By-law 2008-250 apply to the Subject Site, since these provisions are the most restrictive.

Surrounding Context

The Subject Site is primarily surrounded by residential uses in a variety of built forms, including detached dwellings in closest proximity to the Subject Site and more high-density forms such as low-rise apartments and mixed-use buildings closer to Bank Street. The Subject Site is a five minute walk from a bus stop on Bank Street, which is serviced by the number 6 and 7 frequent bus routes. Within 300 metres of the Subject Site, there are primarily residential uses, with some commercial uses located along Bank Street to the east. Patterson Creek and the Patterson Creek Park are located within 300 metres of the Subject Site, as well as Chamberlain Park and Glebe Montessori School. Within 600 metres of the Subject Site, there is a greater variety of uses including a number of restaurants and commercial uses along Bank Street. There are also several parks and schools within 600 metres of the Subject Site, including Corpus Christi Elementary School, Mutchmor Public Elementary School, Glebe Collegiate Institute, First Avenue Public School, Glashan Public Elementary School, and Glebe Memorial Park. Within 900 metres of the Subject Site, there are a variety of residential and commercial uses along Bank Street and Bronson Avenue. Lansdowne is also located within 900 metres of the Subject Site.

Figure 3: Surrounding Context



Proposed Development

The permission application is required to facilitate an addition to the rear of the existing detached dwelling. The proposed addition is one storey and will include a roof terrace. The existing addition and deck to the rear of the detached dwelling will be removed. The proposed addition will have the same rear yard setback as the existing addition (proposed to be removed) and will therefore not encroach further into the rear yard than the existing dwelling. The proposed addition will constitute

an expansion of the existing legally non-conforming detached dwelling with respect to the rear yard setback.

The City of Ottawa approved a new Zoning By-law on January 28, 2026, which was enacted on March 11, 2026. Until the new Zoning By-law 2026-50 is declared in full force and effect, the most restrictive of the Zoning By-law 2008-250 provisions and the Zoning By-law 2026-50 provisions will apply.

The proposed detached dwelling will meet the minimum rear yard setback under Zoning By-law 2026-50 but does not meet the minimum rear yard setback under Zoning By-law 2008-250. As the most restrictive provision applies, a permission application is required to permit the legally non-conforming detached dwelling to be expanded.

The Subject Site is located in the Clemow-Monkland Driveway and Linden Terrace Heritage Conservation District. A Heritage Permit will be required for the proposed addition. The property owners have reached out to the City's Heritage staff on the proposed addition.

Figure 4: Site Plan Excerpt (Source: O'Keefe-Fiorenza, Feb 2026)

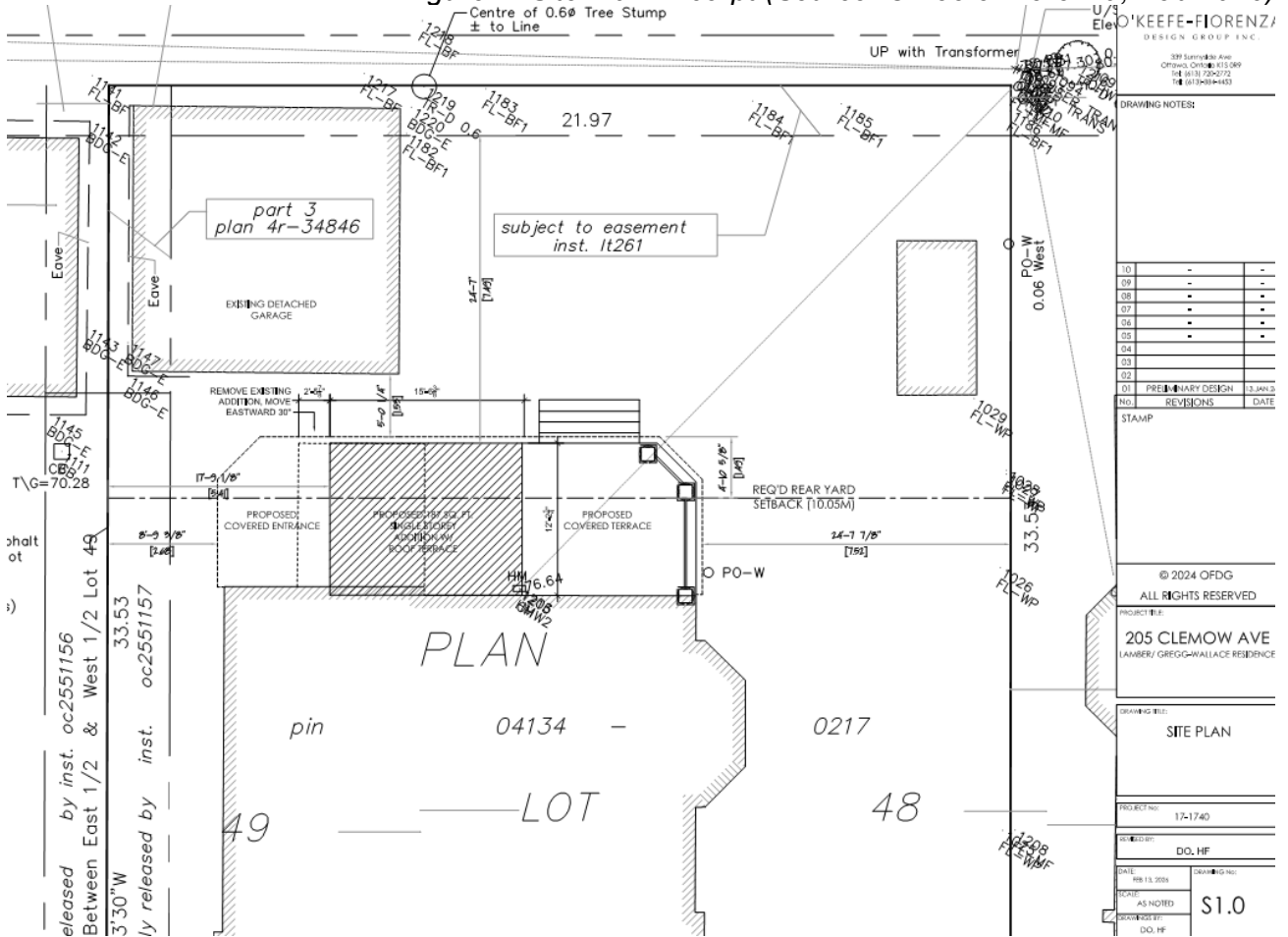


Figure 5: Rear Elevation Showing Proposed Addition (Source: O'Keefe-Fiorenza, Feb 2026)



Figure 6: Side Elevation Facing East (Source: O'Keefe-Fiorenza, Feb 2026)



Permission Application

The requested permission for this application is identified below:

- a) The Owner requires Permission from the Committee of Adjustment to enlarge or extend the existing legally non-conforming detached dwelling.

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

(ii) the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, if the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee;
or

(b) where the uses of land, buildings or structures permitted in the by-law are defined in general terms, may permit the use of any land, building or structure for any purpose that, in the opinion of the committee, conforms with the uses permitted in the by-law. R.S.O. 1990, c. P.13, s. 45 (2).”

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 expansion of the legally non-conforming detached dwelling on the Subject Site is desirable for the appropriate use of the land. The proposed addition will provide more living space

and amenity space for the owner and their family. The rooftop terrace will provide amenity space for the owners and their family. The location of the addition in the rear yard will ensure that there is no impact on the streetscape. The addition will be no closer to the rear lot line than the existing dwelling, which will ensure that the privacy of the property owners and their neighbours is maintained. Despite the expansion of the dwelling, adequate soft landscaping and amenity area will be maintained in the rear yard.

The proposed addition is located in the rear yard and is compatible with and subordinate to the rest of the detached dwelling, as per the direction of the Clemow-Monkland Drive and Linden Terrace Heritage Conservation District (HCD) Plan. The proposed addition is well designed and compatible with the scale and size of the existing dwelling and surrounding properties. Figure 7 shows the existing condition at the rear of the detached dwelling while Figure 8 shows a rendering of the proposed addition. These figures illustrate the extent of the proposed expansion and how the proposed addition complements the design of the existing detached dwelling.

Figure 7: Existing Rear Yard Condition of Detached Dwelling



Figure 8: Renderings of the Proposed Addition (Source: O’Keefe-Fiorenza, Feb 2026)



A Heritage Permit to permit the construction of the addition will be required. It is expected that a staff-delegated Heritage Permit will be required. The property owners have reached out to City Heritage Planning staff on the proposed addition.

The expansion of the legally non-complying detached dwelling is desirable for the appropriate development or use of the land, building, or structure.

The second test for expanding a legal non-complying use is the impact on neighbouring properties.

The existing detached dwelling is a legally non-conforming use as it does not conform to the minimum rear yard setback under Zoning By-law 2008-250. The existing detached dwelling will conform to the minimum rear yard setback under Zoning By-law 2026-50. As Zoning By-law 2026-50 has been enacted but is not in full force and effect, the most restrictive provisions would apply to the Subject Site, which would be the provisions of Zoning By-law 2008-250.

The construction of an addition would constitute an expansion of the existing legally non-conforming rights. Tables 1 and 2 illustrate the Zoning provisions under Zoning By-law 2008-250 and Zoning By-law 2026-50 respectively.

Table 1: Zoning Table under Zoning By-law 2008-250

Zoning Provision	Required (R1MM H(10))	Proposed
Minimum Lot Width (m)	15 m	22 m
Minimum Lot Area (m ²)	450 m ²	738.3 m ²
Minimum Front Yard Setback (m)	3 m	8.5 m
Minimum Corner Side Yard Setback (m)	3 m	N/A
Minimum Interior Side Yard Setback (m)	1.2 m	2.8 m / 6.4 m
Minimum Rear Yard Setback (m)	10.1 m	8.7 m
Maximum Building Height (m)	10 m	10 m
Minimum Aggregate Front Yard Soft Landscaping	40% of the front yard	84% of the front yard
Minimum Rear Yard Soft Landscaping	15% of rear yard	72% of rear yard

Table 2: Zoning Table under Zoning By-law 2026-50

Zoning Provision	Required (N2C[3109] H(10))	Proposed
Maximum Number of Units	11 units, maximum of 6 per building	1 unit
Maximum Building Height (m)	10 m	10 m
Minimum Lot Width (m)	10 m	22 m
Minimum Front Yard Setback (m)	4.5 m	8.5 m
Minimum Exterior Side Yard Setback (m)	3 m	N/A
Minimum Total Interior Side Yard Setback (m)	2.4 m	2.8 m / 6.4 m
Minimum Rear Yard Setback (m)	7.5 m	8.7 m
Minimum Aggregate Front Yard Soft Landscaping	40% of the front yard	84% of the front yard
Minimum Rear Yard Soft Landscaping	50% of the rear yard	72% of rear yard

The proposed addition will have a rear yard setback that is 1.4 metres less than what is required under Zoning By-law 2008-250. However, the proposed addition will not encroach any further into the rear yard than the existing detached dwelling, which provides a rear yard setback of 8.7 metres, and will be no closer to the rear neighbours than the existing building. The proposed addition is also within the footprint of the existing addition and deck in the rear yard. This means that the proposed addition will have no more impact on the neighbouring properties to the rear than the existing dwelling and deck.

The minimum required rear yard setback will also be reduced to 7.5 metres under the new Zoning By-law 2026-50. Once Zoning By-law 2026-50 is in full force and effect, the existing detached dwelling will no longer be non-complying. The proposed addition will meet the minimum required rear yard setback of 7.5 metres under the new Zoning By-law 2026-50.

In addition, the proposed addition is located entirely in the rear yard of the Subject Site and will not be visible from the street. The addition will have no impact on the streetscape. The Subject Site will have a minimal impact on the Clemow-Monkland Drive and Linden Terrace Heritage Conservation District and will remain compatible with and subordinate to the detached dwelling.

The expansion of the legally non-complying use will not impact neighbouring properties.

The proposed expansion of the legally non-complying detached dwelling meets the tests for a permission application.

Provincial Planning Statement

Section 3(5) of the Planning Act states:

“A decision of the council of a municipality, a local board, a planning board, a minister of the Crown and a ministry, board, commission or agency of the government, including the Tribunal, in respect of the exercise of any authority that affects a planning matter,

(a) shall be consistent with the policy statements issued under subsection (1) that are in effect on the date of the decision;”

A decision by the Committee of Adjustment with respect to a planning matter must be consistent with the Provincial Planning Statement (PPS). The Provincial Planning Statement provides policy direction on matters of provincial interest that are related to land use planning and development.

Policy 6 of Section 2.1 of the PPS states:

“Planning authorities should support the achievement of complete communities by:

- a) accommodating an appropriate range and mix of land uses, housing options, transportation options with multimodal access, employment, public service facilities and other institutional uses (including schools and associated child care facilities, long-term care facilities, places of worship and cemeteries), recreation, parks and open space, and other uses to meet long-term needs;*
- b) improving accessibility for people of all ages and abilities by addressing land use barriers which restrict their full participation in society; and*

- c) *improving social equity and overall quality of life for people of all ages, abilities, and incomes, including equity-deserving groups.*”

The proposed addition will support the achievement of complete communities by providing housing options that will meet the needs of the property owner and their family. The proposed addition will allow the property owners to utilize their property to accommodate the needs of their family while remaining compatible with the surrounding neighbourhood.

Section 4.6 of the PPS provides policy direction on cultural heritage and archaeology. Policy 1 of Section 4.6 states:

“Protected heritage property, which may contain built heritage resources or cultural heritage landscapes, shall be conserved.”

The Subject Site is located within the Clemow-Monkland Drive and Linden Terrace Heritage Conservation District. A Heritage Permit will be required prior to the construction of the proposed addition and is part of a separate process. The existing detached dwelling will be retained as part of the proposal. The proposed addition will respect the heritage attributes of the Heritage Conservation District and is in line with the policies and guidelines of the HCD Plan, which requires additions to be compatible with and subordinate to the primary dwelling.

The proposed permission application is consistent with the direction of the Provincial Planning Statement.

Conclusion

The proposed permission application at 205 Clemow Avenue meets the requirements for a permission under Section 45(2) of the Planning Act. The proposed addition is appropriate and desirable for the use of the land and the surrounding area as it will provide additional living space for the property owners and their family. The proposed addition has also been designed to remain compatible with the detached dwelling and surrounding properties in the Heritage Conservation District. The proposed addition will have minimal impact on neighbouring properties as it is located in the rear yard and will not be any closer to the rear lot line than the existing detached dwelling. The permission application is also consistent with the Provincial Planning Statement and will contribute to providing housing that meets the long-term needs of the property owner and their family. The permission to expand legal non-complying rights represents good land use planning.

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

- Cover Letter (one copy)
- Complete Permission Application Form (one original copy)
- 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)
- TIR Waiver Email (one copy)

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

Yours truly,

NOVATECH



Simran Soor, MCIP, RPP
Project Planner | Planning & Development

1975 CarswellOnt 1185
Ontario Municipal Board

Sims v. Daschko

1975 CarswellOnt 1185, 4 O.M.B.R. 390

Sims et al. v. Daschko

McCrae V-Chair

Judgment: April 3, 1975

Docket: None given.

Counsel: Eugene Fedak, for John Daschko

Headnote

Municipal law

A. L. McCrae, Vice-Chairman:

1 This application comes to the Board by way of an appeal by Anthony Sims, Alex Gould and Clara Zitaruk from a decision of the Committee of Adjustment of the City of Hamilton dated July 2, 1974, whereby the Committee granted an application by John Daschko for a variance from the provisions of By-law 6593 of the City of Hamilton, as amended, to permit the construction of a one-storey and a two-storey addition onto an existing bakery located at the rear of dwelling house premises known municipally as 16 Earl St., notwithstanding that this would be an extension of a non-conforming use and upon the conditions set out in the said decision.

2 In its written reasons, the Committee of Adjustment stated in part as follows:

1. The proposed addition will act as infilling for the existing bakery and would appear to co-ordinate the operations of the bakery and eliminate some of the existing unsightliness as well as the dilapidated structure;
2. The one storey addition replacing the drive shed that appears to be in existence in excess of 20 years would have a minimal effect on the sun light for the abutting properties to the north.

3 Evidence adduced before the Board was that the lands with which the Board is dealing were zoned as "D" by the by-law in force in the municipality, which would permit one and two-family residences. In 1974, an amending By-law 74-60 was passed by the municipal Council and not as yet approved by the Ontario Municipal Board, rezoning the rear portion of the lands of the applicant of the first instance from "D" to "H", which is a commercial classification, but like the "D" use does not permit bakeries. The Committee of Adjustment is of the opinion that the current zoning is that to which consideration should be given in dealing with this matter. It would appear however that there is not too much turning upon this since under both by-laws the use being made of the lands we are dealing with remains legal non-conforming. Extensions of course, of a legal non-conforming use are permitted subject to the requirements of s. 42 [of the *Planning Act*, R.S.O. 1970, c. 349] and providing that what is proposed constitutes a proper planning concept for the area which will not adversely affect the amenities of other properties lying in close proximity.

4 Alexander Gould, one of the appellants, stated that he has lived at 20 Earl St. for over 20 years and is located only two houses to the north of the subject bakery. It is his evidence that he resides in a single-family home upon which he has spent some \$7,000 in home improvements over the years. To the rear of his property he has invested some \$200 in a rose garden requiring a normal amount of sunlight. Exhibit 2 is an old photograph of his home prior to any renovation and showing an additional structure on the front, which has since been torn down. Exhibit 5 is a view of his home as renovated showing its relationship or

proximity to the home of Anthony Sims, another appellant. The witness Gould stated that he was not opposed to the expansion but only to the manner in which it was going to be accomplished. It was his opinion that the proposed extension should be located elsewhere on the property and not in such close proximity to existing residential homes. His main concern is that the extensions proposed will reduce the light to his back yard. He contends that the two-storey addition should be erected on an existing concrete block addition to the east and abutting a 12-foot alley. If this was done, it would be possible to further extend the building to a height of one storey to the west. It would appear, however, on submissions made that such a rearrangement would not be possible due to the bearing qualities of the existing concrete block addition.

5 The other appellant, Anthony Sims, was not present but was represented by his son, Alexander. He stated that his father resides at 18 Earl St. immediately adjacent to the bakery. From the back wall of his father's home to the high board fence at the rear, there is only a distance of 12 ¹/₂ ft. The only kitchen window faces to the east. On the south side of the house there is a distance of seven ft. three in. between it and the Daschko property. This is better seen on ex. 4, which shows the board fence to the rear and the mesh fence to the south delineating the Sims and Daschko lands. The one-storey addition, which will be approximately 10 ft. high and 15 ft. in width contemplated to replace the drive shed, will extend across a very large portion of the 25-foot rear width of the Sims property. This will block off a great deal of the limited exposure his father's property presently has, since he only has seven ft. three in. on the south part of 18 Earl St. suitable for that purpose. The witness stated that there is also a concern being expressed about the possible noise factor which would emanate from any addition to the existing bakery and raises the possibility that it would be possible to install other machinery in the building at a later date. Like the other appellant, he is of the opinion that any addition proposed should be located elsewhere on the Daschko property as it should be farther away from the residential users most affected. At the present time, he states, certain noise does emanate from the existing bakery.

6 Counsel for the applicant of the first instance did not call evidence to support the position of the applicant, but made submissions to the Board that the only concerns that had been expressed by the appellants had to do with a fear of loss of light and of noise. He raised the possibility that the addition proposed could quite possibly have the effect of muffling existing noise and any additional which might be created. He does not agree that there will be any adverse effects upon the adjacent properties through loss of light.

7 Applications such as this with which the Committee of Adjustment and the Board must deal are quite often, as is the case here, of a very complex nature. **While the *Planning Act* does in equity make provision for those properties which have been classed as legal non-conforming so that extensions of that use under proper circumstances might be contemplated, 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 land use classification.** Even the most recent by-law passed by the municipality does not permit bakeries within the land use classification that has been given to the subject property. It is quite clear that the homes on Earl St. were erected at a time before land use planning had been introduced to Ontario. The very minimal spacing between the homes on the street and the limitation upon lot sizes coupled with the mixing of various type of land uses in the area give eloquent testimony to this. In view of the limited residential amenities that presently apply to the lands of the appellants, it is my opinion that far greater thought planning-wise should be given to any proposed development in the immediate area than would appear to have been the case in the application before the Board. There is no planning evidence before me to support what is being sought by the owner of the bakery nor to satisfy me that the extension of the present bakery use will not adversely affect the already limited residential amenities of the neighbouring properties.

8 In all the circumstances, therefore, I am of the opinion that the appeal should succeed and the decision of the Committee of Adjustment is accordingly set aside.