



COMMITTEE OF ADJUSTMENT OF THE CITY OF OTTAWA

DECISION MINOR VARIANCE / PERMISSION (Section 45 of the *Planning Act*)

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| File No.: | D08-02-22/A-00157 |
| Owner(s): | Alexander Coco and Danielle Pham |
| Location: | 155 Fifth Avenue |
| Ward: | 17-Capital |
| Legal Description: | West 1/2 Lot 43, Block 23, Registered Plan No. 34756 |
| Zoning: | R3P[1474] |
| Zoning By-law: | 2008-250 |

Notice was given and a Public Hearing was held on **July 6 and August 3, 2022**, as required by the *Planning Act*.

PURPOSE OF THE APPLICATION:

At its hearing on July 6, 2022, the Committee adjourned this application to allow the Owners time to apply for an additional variance.

The Owners want to renovate their existing dwelling, which will include raising the rear wall of the existing addition and converting the sloped shed roof to a flat roof, as shown on plans filed with the Committee.

RELIEF REQUIRED:

The Owners require the Authority of the Committee for a Minor Variance from the Zoning By-law as follows:

- a) To permit a reduced westerly interior side yard setback of 0 metres and a total interior side yard setback of 1.524 metres, whereas the By-law requires a minimum total interior side yard setback of 1.8 metres, with no yard less than 0.6 metres.
- b) To permit eaves to be located 0 metres from the interior side lot line, whereas the By-law requires eaves to be located no closer than 0.3 metres to a lot line.

The application indicates that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING:

Prior to the Hearing on July 6, 2022, the Committee received an adjournment request from Margot Linker, of the City's Planning, Real Estate and Economic Development Department (PRED), to allow time for the applicant to address non-compliance issues by either revising their plans or applying for additional variances. At the Hearing, the Committee heard from Ms. Linker, who reiterated her request for adjournment. The Committee also heard from Cory Sequin, Agent for the Owner, who agreed with the adjournment requested by PRED. With the concurrence of all parties the application was adjourned *sine die*.

At the renewed hearing on August 3, The Panel Chair administered an oath to Reid Paxton, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied. In response to questions from the Committee, Mr. Paxton confirmed that any maintenance for the westerly side of the property could be completed via the roof. He further confirmed that no construction would extend over the lot line.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

The Committee considered any written and oral submissions relating to the application in making its Decision.

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.

Based on the evidence, the Committee is satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.

The Committee notes that the City's planning report raises "no concerns" regarding the application, highlighting that: "The westerly façade is currently legal non-complying with a setback of 0 metres from the lot line. The proposed raised rear wall is utilizing all existing exterior wall locations of the legal non-complying building. Staff are of the opinion that changing the sloped shed roof to a flat roof will have no negative impact on the abutting lots."

The Committee also notes that no evidence was presented that the variances would result in any unacceptable adverse impact on neighbouring properties.

Considering the circumstances, the Committee finds that, because the proposal fits well in the area, the requested variances 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. The Committee also finds that, because the proposal respects the character of the area, the requested variances maintain the general intent and purpose of the Official Plan. In addition, the Committee finds that the requested variances maintain the general intent and purpose of the Zoning By-law because, the proposal represents orderly development of the property that is compatible with the surrounding area. Moreover, the Committee finds that the requested variances, both individually and cumulatively, are minor because they will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.

The Committee therefore authorizes the requested variances, **subject to** the location and size of the proposed construction being in accordance with the revised plans filed, Committee of Adjustment date stamped June 27, 2022, as they relate to the requested variances.

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 **September 1, 2022**, 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 OLT 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 individuals, corporations and public bodies may appeal Decisions in respect of applications for consent to the OLT. A notice of appeal may not be filed by an unincorporated association or group. However, a Notice of Appeal may be filed in the name of an individual who is a Member of the Association or group on its behalf.

Please note that there are no provisions for the Committee of Adjustment or the OLT 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.

**DECISION SIGNATURE PAGE
PAGE DE SIGNATURE DE LA DÉCISION**

File No. / Dossier n°: D08-02-22/A-00157
Owner(s) / Propriétaire(s): Alexander Coco and Danielle Pham
Location / Emplacement: 155 Fifth Avenue

We, the undersigned, concur in the decision and the reasons set out by the Committee of Adjustment.

Nous, soussignés, souscrivons à la décision et aux motifs rendus par le Comité de dérogation.

“John Blatherwick”

**JOHN BLATHERWICK
VICE-CHAIR / VICE-PRÉSIDENT**

“Stan Wilder”

**STAN WILDER
MEMBER / MEMBRE**

“Heather MacLean”

**HEATHER MACLEAN
MEMBER / MEMBRE**

“Bonnie Oakes Charron”

**BONNIE OAKES CHARRON
MEMBER / MEMBRE**

“Michael Wildman”

**MICHAEL WILDMAN
MEMBER / MEMBRE**

I certify that this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa.

Je certifie que celle-ci est une copie conforme de la décision rendue par le Comité de dérogation de la Ville d'Ottawa.

Date of Decision / Date de la décision
August 12, 2022 / 12 août 2022



Michel Bellemare
Secretary-Treasurer / Secrétaire-trésorier