



COMMITTEE OF ADJUSTMENT OF THE CITY OF OTTAWA

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

File No.: D08-02-22/A-00066
Owner(s): Luc and Sandra Bergevin
Location: 50 Gilmour Street
Ward: 14 - Somerset
Legal Description: Part of Lot 1 (East MacDonald St.), Reg. Plan 15558
Zoning: R4UC [478]
Zoning By-law: 2008-250

Notice was given and a Public Hearing was held on **May 18, June 1, July 6, and August 3, 2022**, as required by the *Planning Act*.

PURPOSE OF THE APPLICATION:

The Owners want to construct a third storey addition on their existing two-and-a half storey detached dwelling, as shown on the plans filed with the Committee. ~~The application indicates that a terrace and access are also proposed to be constructed on the rooftop.~~

RELIEF REQUIRED:

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

- a) ~~To permit a reduced lot width of 6.40 metres, whereas the By-law requires a minimum lot width of 7.5 metres.~~
- b) ~~To permit a reduced lot area of 131.40 square metres, whereas the By-law requires a minimum lot area of 225 square metres.~~
- c) To permit a reduced front yard setback of 3.95 metres (along MacDonald St.), whereas the By-law requires a minimum front yard setback of 4.23 metres.
- d) To permit a reduced corner side yard setback of 0.05 metres (along Gilmour St.), whereas the By-law requires a minimum corner side yard setback of 0.78 metres.

- e) To permit a reduced interior side yard setback of 0.36 metres, whereas the By-law requires a minimum interior side yard setback of 0.78 metres.
- f) ~~To permit a reduced rear yard setback of 23% of the lot depth or 4.69 metres, whereas the By-law requires a minimum rear yard setback of 24% of the lot depth which, in this case, is 4.92 metres.~~
- g) ~~To permit a reduced rear yard area of 23% of the lot area or 30.47 square metres, whereas the By-law requires a minimum rear yard area of 24% of the lot area which, in this case, is 31.66 square metres.~~
- h) To permit a reduced interior yard area of 9.25 square metres, whereas s.144(6) of the By-law requires a minimum interior yard area of 9.87 square metres **(as amended)**.
- i) To permit eaves to be located 0.26 metres from the interior side lot line and 0 metres from the corner side lot line, whereas the By-law permits eaves to project no closer than 0.3 metres to a lot line.

It should be noted that, for By-law purposes, the frontage on MacDonald Street is deemed to be the front lot line for this property.

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

PUBLIC HEARING:

At the outset of the Hearing on May 18, 2022, the Committee received an adjournment request from Jessica D'Aoust, Agent for the Owners, for additional time to consult with Hydro Ottawa. With the concurrence of all parties the application was adjourned to the Hearing scheduled for June 1, 2022.

Prior to the Hearing on June 1, the Committee received correspondence from Ms. D'Aoust requesting a further adjournment to continue discussions with Hydro Ottawa. At the Hearing, Ms. D'Aoust reiterated her request for adjournment. With the concurrence of all parties the application was adjourned to the Hearing scheduled for July 6, 2022.

At the outset of the Hearing on July 6, the Committee received a request for an additional adjournment from Ms. D'Aoust. Ms. D'Aoust explained that more time was needed to consult with Hydro Ottawa. Also in attendance was Margot Linker of the City's Planning, Real Estate and Economic Development Department. With the concurrence of all parties the application was adjourned to the Hearing scheduled for August 3, 2022.

At the Hearing on August 3, the Committee called the application forward to discuss the need for an adjournment to allow the Applicant more time to consult with Hydro Ottawa. Ms. D'Aoust explained that she was comfortable proceeding with the application, based on an email correspondence she received from a Hydro Ottawa representative stating they were satisfied with the proposal. The Committee therefore stepped the application down to be recalled later in the Hearing.

Upon recall, the Panel Chair administered an oath to Ms. D'Aoust, who confirmed that the statutory notice posting requirements were satisfied.

The Committee received a presentation from Ms. D'Aoust who confirmed that the requested variances should be amended as follows:

- a) ~~To permit a reduced lot width of 6.40 metres, whereas the By-law requires a minimum lot width of 7.5 metres.~~
- b) ~~To permit a reduced lot area of 131.40 square metres, whereas the By-law requires a minimum lot area of 225 square metres.~~
- c) To permit a reduced front yard setback of 3.95 metres (along MacDonald St.), whereas the By-law requires a minimum front yard setback of 4.23 metres.
- d) To permit a reduced corner side yard setback of 0.05 metres (along Gilmour St.), whereas the By-law requires a minimum corner side yard setback of 0.78 metres.
- e) To permit a reduced interior side yard setback of 0.36 metres, whereas the By-law requires a minimum interior side yard setback of 0.78 metres.
- f) ~~To permit a reduced rear yard setback of 23% of the lot depth or 4.69 metres, whereas the By-law requires a minimum rear yard setback of 24% of the lot depth which, in this case, is 4.92 metres.~~
- g) ~~To permit a reduced rear yard area of 23% of the lot area or 30.47 square metres, whereas the By-law requires a minimum rear yard area of 24% of the lot area which, in this case, is 31.66 square metres.~~
- h) To permit a reduced interior yard area of 9.25 square metres, whereas s.144(6) of the By-law requires a minimum interior yard area of 9.87 square metres **(as amended)**.
- i) To permit eaves to be located 0.26 metres from the interior side lot line and 0 metres from the corner side lot line, whereas the By-law permits eaves to project no closer than 0.3 metres to a lot line.

With the Committee in agreement, the application was amended accordingly.

Ms. D'Aoust explained that the proposal was to regularize a non-complying situation and requested that the decision not be tied strictly to the elevation plans provided to allow for slight modification if requested by Hydro Ottawa. The Committee agreed, if the variances were approved, to generally tie them to the elevations.

**DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED
AS AMENDED**

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 addition is utilizing all existing exterior wall locations of the legal non-complying building, and the proposed rooftop terrace and access meet or exceed the provisions of the zoning by-law" and "The variance required for the proposed eaves will have minimal to no impact compared to the impact of the existing dwelling."

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 variances (c), (e), (h) and (i), **subject to** the location and size of the proposed construction being generally in accordance with the site plan filed, Committee of Adjustment date stamped April 6, 2022 and the revised elevations filed, Committee of Adjustment date stamped July 27, 2022.

Variance (d) is also authorized, **subject to** this variance applying to the existing building known municipally as 50 Gilmour Street and being restricted to the life of this building only.

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-00066
Owner(s) / Propriétaire(s): Luc and Sandra Bergevin
Location / Emplacement: 50 Gilmour Street

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