



COMMITTEE OF ADJUSTMENT OF THE CITY OF OTTAWA

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

File No.: D08-02-22/A-00156 & D08-02-22/A-00165
Owner(s): 1332710 Ontario Inc.
Location: 958 Fisher Avenue
Ward: 16-River
Legal Description: Part of Lot 127, Registered Plan 268159
Zoning: R2G[550]
Zoning By-law: 2008-250

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

PURPOSE OF THE APPLICATION:

The Owner has filed an Application for Consent (D08-01-22/B-00182) which, if approved, will divide its property into two separate parcels of land for the construction of a semi-detached dwelling with secondary dwelling units in each **principal dwelling unit**. The proposed dwellings and parcels of land will not be in conformity with the requirements of the Zoning By-law.

RELIEF REQUIRED:

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

D08-02-22/A-00156, ~~(956, 956B)~~ **956 (956 B)** Fisher Avenue (Part 1)

- a) To permit a reduced lot width of 7.37 metres, whereas the By-law requires a minimum lot width of 7.5 metres.
- b) To permit a reduced lot area of 224.64 square metres, whereas the By-law requires a minimum lot area of 225 square metres.
- c) To permit a reduced rear yard setback of 25.1% of the lot depth (7.65 metres), whereas the By-law requires a rear yard setback of 28% of the lot depth (8.53 metres).

- d) To permit an increased building height of 9.46 metres, whereas the By-law requires a maximum building height of 8 meters.

D08-02-22/A-00165, 958, (958 B) Fisher Avenue (Parts 2 and 3)

- e) To permit a reduced rear yard setback of 25.1% of the lot depth (7.65 metres), whereas the By-law requires a rear yard setback of 28% of the lot depth (8.53 metres).
- f) To permit an increased building height of 9.46 metres, whereas the By-law requires a maximum building height of 8 meters.

The Applications indicates that the Property is the subject of the above noted Consent Application under the *Planning Act*.

PUBLIC HEARING:

Prior to the Hearing, the Committee received an adjournment *sine die* request from Peter Hume, Agent for the Applicant, for the concurrent Consent Application. At the Hearing the Committee heard from Mr. Hume who asked that the Consent Application be withdrawn and subsequently confirmed that request in writing. He confirmed that the requested variances for lot width and lot area continue to be sought. The Committee therefore considers the consent application to be withdrawn.

With regards to the conditions requested by the City's Planning, Real Estate and Economic Development Department (PRED), Krista Libman, also representing the Applicant, confirmed that several of the conditions imposed by the Planning Department, would be satisfied during the Building Permit process.

In response to questions from the Committee, Siobhan Kelly, City Planner, was also in attendance and confirmed that should the applications be approved, the City requests that the following conditions be imposed, as listed in the planning report on file: the Cultural Heritage Impact Statement (condition 2), confirmation that the footings are located outside of the existing easement (condition 4), and the Development Agreement for the proposed walkway being located within the existing easement (condition 5). She further confirmed that the City has no concerns with hearing the applications as scheduled.

In response to questions from the Committee and comments provided by Ms. Kelly, Mr. Hume stated that with respect to the existing easement, the proposed walkway will be removed from the proposal. The Committee agreed to proceed with the hearing of the minor variance application later in the agenda.

Upon recall, the Chair administered an oath to Mr. Hume, who confirmed that the statutory notice posting requirements were satisfied. He provided the Committee with a presentation, including 3D Architectural renderings, photographs, an aerial plan, a draft reference plan, and a site plan to highlight the proposal's compatibility with the surrounding area.

The Committee noted that the municipal address for Part 1 should be amended to read as follows: D08-02-22/A-00156, (~~956, 956B~~) **956 (956 B)** Fisher Avenue (Part 1). Also, the Purpose of the Application should also be amended to read as follows:

The Owner has filed an Application for Consent (D08-01-22/B-00182) which, if approved, will divide its property into two separate parcels of land for the construction of a semi-detached dwelling with secondary dwelling units in each **principal dwelling unit**. The proposed dwellings and parcels of land will not be in conformity with the requirements of the Zoning By-law.

Mr. Hume concurred with the amendments.

In response to questions from the Committee, Mr. Hume confirmed that the existing easement on the subject property is for a storm and sanitary sewer. Ms. Libman advised that the existing easement agreement on title requires the Owner(s) and the City to ensure this public infrastructure is not obstructed or precludes access over the lands.

After reviewing the proposed conditions in light of the withdrawal of the consent applications and the removal of the walkway, the Committee agreed to impose a modified condition relating to noise as well as a Tree Planting Plan.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

The Committee considered any written and oral submissions relating to the applications 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 majority of the Committee (Chair A. M. Tremblay and Member J. Markovich dissenting for the reasons noted below) is satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.

The majority of the Committee notes that the City's planning report raises "no concerns" with the applications, highlighting that "the variances for lot width and area are necessary to facilitate the redevelopment of the property while maintaining the servicing easement, which runs through the southern portion of the property." With respect to the requested variances for a reduced rear yard setback, the report states that "they will not create adverse impacts on the adjacent properties." As for the requested variances relating to building height, the report states that, "[t]he upper portion of the dwelling, which features a rooftop terrace is stepped back from the second storey, which will reduce the visual impact of the additional height from the street."

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

Considering the circumstances, the majority of the Committee finds that, because the proposal fits well in the neighbourhood, 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 majority of the Committee also finds that, because the proposal respects the character of the neighbourhood and contributes appropriate infill development in the urban area, the requested variances maintain the general intent and purpose of the Official Plan. In addition, the majority of the Committee finds that the requested variances maintain the general intent and purpose of the Zoning By-law because the proposal represents orderly development and is compatible with the surrounding area. Moreover, the majority of 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 following conditions:

1. The location and size of the proposed construction being in accordance with the revised site plan filed, Committee of Adjustment date stamped July 13, 2022, and the revised elevations filed, Committee of Adjustment date stamped July 4, 2022, as they relate to the requested variances.
2. That the Owner(s) prepare and submit a tree planting plan, prepared to the satisfaction of the Development Review Manager of the South Branch within the Planning, Real Estate and Economic Development Department, or his/her designate, showing the location of one new 50mm tree to be planted on the property frontage or right-of-way following construction, to enhance the urban tree canopy and streetscape.
3. That the Owners shall design the dwelling units with the provision for adding central air conditioning at the occupant's discretion and enter into an Agreement

with the City, at the expense of the Owner, which is to be registered on title to deal with the covenants/ notices that shall run with the land and bind future owners on subsequent transfers, warning purchasers and/or tenants of expected noise levels due to the existing source of environmental noise. The following two conditions will be included in the above-noted Agreement:

Notices-on-Title respecting noise:

- i) "The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns acknowledge being advised that this dwelling unit has been fitted with a forced air heating system and the ducting, etc. was sized to accommodate central air conditioning. Installation of central air conditioning by the Purchaser/Lessee will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the City of Ottawa's and the Ministry of the Environment and Climate Change's noise criteria;" and
- ii) "The Purchaser/Lessee for himself, his heirs, executors, administrators' successors and assigns acknowledge being advised that noise levels due to increasing roadway traffic may be of concern, occasionally interfering with some activities of the dwelling occupants as the outdoor sound level exceeds the City of Ottawa's and the Ministry of the Environment and Climate Change's noise criteria."

Chair A. M. Tremblay dissents, finding that insufficient evidence was presented to demonstrate that the proposed development represents orderly development or that it is desirable for the appropriate development or use of the land, building or structure on the property, and relative to the neighbouring lands.

Member J. Markovich also dissents, finding that insufficient evidence was presented to demonstrate that the proposed development will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.

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 **August 4, 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-00156 & D08-02-22/A-00165**Owner(s) / Propriétaire(s):** 1332710 Ontario Inc.**Location / Emplacement:** 958 Fisher 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.

Dissent / Dissidente**ANN M. TREMBLAY
CHAIR / PRÉSIDENTE*****"Kathleen Willis"*****KATHLEEN WILLIS
MEMBER / MEMBRE*****"Scott Hindle"*****SCOTT HINDLE
MEMBER / MEMBRE*****"Colin White"*****COLIN WHITE
MEMBER / MEMBRE*****Dissent / Dissidente*****JULIA MARKOVICH
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*
July 15, 2022 / 15 juillet 2022**

**Michel Bellemare
Secretary-Treasurer / Secrétaire-trésorier**