



## COMMITTEE OF ADJUSTMENT OF THE CITY OF OTTAWA

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

**File No.:** D08-02-22/A-00100  
**Owner(s):** Casa Verde Construction Inc.  
**Location:** 41 Rebecca Crescent  
**Ward:** 11 - Beacon Hill-Cyrville  
**Legal Description:** Lot 112, Judge's Plan 652  
**Zoning:** R1AA  
**Zoning By-law:** 2008-250

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

#### PURPOSE OF THE APPLICATION:

At its hearing on May 18, 2022, the Committee adjourned application D08-02-22/A-00100 to allow the Owner time to identify additional variances. The Owner has submitted revised material and wishes to proceed with the application.

The Owner has filed Consent Applications (D08-01-22/B-00108 and D08-01-22/B-00109) which, if approved, will have the effect of creating two separate parcels of land for two new detached dwellings. It is proposed to create both driveways facing the same street.

#### RELIEF REQUIRED:

The Owner requires the Authority of the Committee for a Minor Variance from the Zoning By-law to permit a **front wall and driveway of a detached dwelling to face** Rebecca Crescent whereas the By-Law states where a corner lot is proposed to be severed, each of the new detached dwellings must have their front wall and driveway facing frontage on different streets whether or not that frontage is the front lot line.

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

#### PUBLIC HEARING:

The Panel Chair administered an oath to Laura McElligott, one of the Owners of the property, who confirmed that the statutory notice posting requirements were satisfied.

Ryan Poulton, Agent for the Owners, provided the Committee with a presentation, which included aerial photographs, a site plan, tree planting plan, building envelope plan, and a list of corner lot severances within the Greenbelt. He advised that the wording of the requested variance was modified in accordance with the Zoning By-law, to permit both the front wall *and* driveway to face Rebecca Crescent. It was noted that following the adjournment from May 18, 2022, a similar presentation was provided to the Rothwell Heights Property Owners Association and area residents.

The Committee also heard from Murray Chown, also representing the Owners, who emphasized that the proposed severance complies with the applicable Zoning By-law provisions, including lot width and lot area. He also stated that the Minor Variance Application is not required for the Consent Applications. Instead, the main purpose of the requested variance is to protect the mature trees. In response to comparisons made between Rothwell Heights and Rockcliffe Park, Mr. Chown pointed out that, while City Council exempted Rockcliffe Park from the alternative corner lot provisions introduced in 2015, Rothwell Heights remains subject to these new provisions.

In response to questions from the Committee, Mr. Poulton confirmed that the new development will have full City services.

The Committee heard presentations in opposition to the applications from:

- Lucie Clermont, 62 Rebecca Crescent
- Robert Batemen, 13 Massey Lane
- François Baril, 2A Delong Drive

The Committee also received 38 written submissions opposing the consent and minor variance applications from area residents, the Rothwell Heights Property Owners Association, and the Ward Councillor, as well as a petition signed by 135 individuals. In summary, concerns relate to the impact of the proposal on mature trees and the streetscape character, setting a negative precedent in the neighbourhood, and the belief that it is inappropriate to apply alternative corner lot provisions in Rothwell Heights.

## **DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED**

The Committee considered all written and oral submissions relating to the minor variance and consent 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 Committee is satisfied that the requested variance meets all four requirements under subsection 45(1) of the *Planning Act*.

The Committee notes that the City's planning report raises "no concerns" regarding both the minor variance and consent applications. The report notably highlights that: "In 2015, as part of the [Infill II zoning amendment](#) (By-law 2015-228), alternative corner lot provisions were introduced to allow for compatible intensification on certain large corner lots, 665 square metres and up, on full municipal services." The report confirms these new corner lot provisions apply to the subject property which can therefore be severed in half, with each new lot required to be no less than 49 percent of the minimum lot area required and maintain the required minimum lot width.

The report also highlights that: "It is critical to design the future development plans to minimize the impacts to protected trees outside of the building envelopes, including siting the driveways and services where there are existing gaps and lower-priority trees, as identified as 'Cs' in the Tree Information Report (TIR). Keeping the location of the existing driveway onto Rebecca rather than Combermere is supported, in order to minimize the impacts to the existing trees and the neighbourhood benefit."

The Committee also notes that the planning report refers to the following Council amendment: "When the corner lot provisions were adopted on [June 24, 2015](#) motion 14/5 directed *the City's Committee of Adjustment Planners to consider the negative impacts of corner lot severances where variances are sought to remove distinctive trees located on the property while reviewing the applications and providing comments to the Committee of Adjustment.*" The planning report also provides a helpful link to review Council's policy decision-making in this matter.

The Committee further notes that the notion that Rothwell Heights should essentially be exempted from the alternative corner lot provisions (and therefore render the minor variance application moot) runs contrary to the intent of City Council when the latter did adopt certain area exceptions to the policy. As Mr. Chown pointed out, while Council exempted Rockliffe Park from the alternative corner lot provisions introduced in 2015, the Rothwell Heights neighbourhood remains subject to this relatively new policy. Under another amendment unanimously adopted by Council—motion 14/4 (1) (ff)—other apparent geographic exceptions to the corner lot provisions do not include Rothwell Heights: "A new document, attached hereto, be added as Document 5, being Schedule XYY which relates to the area of Alta Vista, Faircrest Heights and Riverview Park excluded from the provisions of corner lot severance." The Committee can therefore find no basis to exempt Rothwell Heights from the corner lot provisions in question because Council's intent reveals otherwise.

The planning report also highlights that “permitting the front walls and driveways of both dwellings to be off Rebecca Crescent takes advantage of an existing gap where the existing driveway is. Further, there are lower-priority trees - identified as 'Cs' in the TIR - along the Rebecca Crescent frontage. The trees along Combermere Lane are identified as higher priority trees.” The report also concludes that “allowing both dwellings to front onto Rebecca Crescent allows the dwellings to be positioned in a similar way to the ones that exist in the community.” The Committee further notes that no cogent evidence was presented that the requested variance would result in any unacceptable adverse impact on abutting properties or the neighbourhood in general.

Considering the circumstances, the Committee finds that, because the proposal minimizes the impact on protected trees by not introducing a new driveway on Combermere Lane, the requested variance is, 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 the requested variance maintains the general intent and purpose of the Official Plan because the proposal maintains the character of the neighbourhood to the extent possible under the City’s infill development and intensification policies applicable in this case. In addition, the Committee finds that the requested variance maintains the general intent and purpose of the Zoning By-law because the proposal represents orderly development of the property that complies with the alternative corner lot provisions introduced in 2015, protects mature trees as much as possible, and is compatible with the surrounding area. Moreover, the Committee finds that the requested variance is minor because it will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.

The Committee therefore authorizes the requested variance, **subject to** the location and size of the proposed construction being in accordance with the site plan filed, Committee of Adjustment date stamped March 30, 2022.

#### **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](mailto:cofa@ottawa.ca) and/or by mail or courier to the following address:

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 <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](mailto: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-00100  
**Owner(s) / Propriétaire(s):** Casa Verde Construction Inc.  
**Location / Emplacement:** 41 Rebecca Crescent

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.

***“Ann M. Tremblay”***

**ANN M. TREMBLAY  
CHAIR / PRÉSIDENTE**

***“Kathleen Willis”***

**KATHLEEN WILLIS  
MEMBER / MEMBRE**

***“Scott Hindle”***

**SCOTT HINDLE  
MEMBER / MEMBRE**

***“Colin White”***

**COLIN WHITE  
MEMBER / MEMBRE**

***“Julia Markovich”***

**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**



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