



COMMITTEE OF ADJUSTMENT OF THE CITY OF OTTAWA

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

File Nos.: D08-02-22/A-00139 & D08-02-22/A-00140
Owner(s): 75 Aylen Inc.
Location: 75 Aylen Avenue
Ward: 7 - Bay
Legal Description: Lot 26 and Part Lot 27, Registered Plan 232
Zoning: R2F
Zoning By-law: 2008-250

Notice was given and a Public Hearing was held on **June 15 and July 20, 2022**, as required by the *Planning Act*.

PURPOSE OF THE APPLICATIONS:

The Owner has filed Consent Applications (D08-01-22/B-00164 to D08-01-22/B-00167) which, if approved, will have the effect of creating four separate parcels of land. It is proposed to demolish the existing dwelling and to construct two new long semi-detached dwellings, with one dwelling unit on each of the newly created parcels. The proposed parcels and development will not be in conformity with the requirements of the Zoning By-law.

RELIEF REQUIRED:

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

A-00139: (75A) & (75B) Aylen Ave, Parts 1 to 5, proposed long semi-detached dwelling

- a) To permit a reduced lot width of 9.15 metres, whereas the Zoning By-law requires a minimum lot width of 10 metres for the whole of a long semi-detached dwelling, including both dwelling units.
- b) To permit a reduced lot width of the pole portion of a flag lot of 1.5 metres (Parts 3, 4, 5), whereas the Zoning By-law requires a minimum lot width of 1.7 metres

for the pole portion of a flag lot where the lot abuts another flag lot at the side lot line.

- c) To permit a reduced total side yard setback of 0.75 metres, with a minimum yard of 0.15 metres adjacent to the carport, whereas the Zoning By-law requires a minimum total side yard setback of 3 metres, with a minimum of 1.2 metres for one side yard.

A-00140: (77A) & (77B) Aylen Ave, Parts 6 to 10, proposed long semi-detached dwelling

- d) To permit a reduced lot width of 9.15 metres, whereas the Zoning By-law requires a minimum lot width of 10 metres for the whole of a long semi-detached dwelling, including both dwelling units.
- e) To permit a reduced lot width of the pole portion of a flag lot of 1.5 metres (Parts 6, 7, 8), whereas the Zoning By-law requires a minimum lot width of 1.7 metres for a flag lot where the lot abuts another flag lot at the side lot line.
- f) To permit a reduced total side yard setback of 0.75 metres, with a minimum yard of 0.15 metres adjacent to the carport, whereas the Zoning By-law requires a minimum total side yard setback of 3 metres with a minimum of 1.2 metres for one side yard.
- g) To permit an increase in building height of 9.65 metres, whereas the Zoning By-law permits a maximum building height of 8 metres.

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

PUBLIC HEARING:

Prior to the Hearing on June 15, 2022, the Committee received an adjournment request from Deborah Belfie, Agent for the Owner, seeking additional time to consider engineering conditions requested by the City's Planning, Real Estate and Economic Development Department and to confirm there would be no impact on the site layout and building design. At the Hearing, the Committee heard from Ms. Belfie, who reiterated her request for adjournment. With the concurrence of all parties, the applications were adjourned to the Hearing scheduled for July 20.

At the renewed Hearing, the Panel Chair administered an oath to Ms. Belfie, who confirmed that the statutory notice posting requirements were satisfied. She provided the Committee with a presentation, with reference to architectural renderings, photographs, an aerial plan, a draft reference plan, a sun study plan and a site plan, and spoke to the proposal's compatibility with the surrounding area.

The Committee also heard presentations in opposition to the applications from Susan Glass of the Woodroffe North Community Association and from Michael Buzzell of 75 Aylen Avenue. The concerns raised were numerous and included the elevated grade onsite and the risk of flooding to abutting properties, the loss of privacy and sunlight due to the reduced side yard setback, sightlines to and from windows, the location of parking and its impact on Mr. Buzzell's enjoyment of his property, and the incompatibility of the proposed development with the overall character of the neighbourhood. Ms. Glass also raised concerns regarding the tree located at 71 Aylen Avenue and requested that it be protected throughout the duration of construction.

In response to questions from the Committee, Ms. Belfie indicated that water runoff would be directed to a shared driveway onsite and towards the street, rather than onto abutting properties. She also confirmed that, in accordance with Zoning By-law requirements, a 2-metre-tall fence was proposed to be constructed to enclose the carport, to reduce privacy, noise and light impacts on the abutting neighbours. It was also noted that tree protection measures would be discussed between the applicant and the neighbour, as required. Ms. Belfie also explained that the size and configuration of the easements proposed for the carport area had been considered and would allow a sufficient turning radius for vehicles to maneuver appropriately.

The Committee also heard from Nancy Young, the City's Infill Forester. In response to questions from the Committee, Ms. Young acknowledged that the tree located at 71 Aylen Avenue was not identified in the Tree Information Report. She suggested that it may have been omitted on the basis that it measures less than 30 centimetres in diameter. She also noted that the protection of this privately owned tree would be a civil matter between the Owner and the abutting neighbour.

Siobhan Kelly, the City Planner, was also in attendance.

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 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 applications, highlighting that "the size and shape of the resulting lots, including the two

flag shaped lots, are suitable for the [proposed] residential uses and necessary to establish easements and rights of way for access, drainage, and maintenance.”

The majority of the Committee also finds that no cogent 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 contributes low-rise infill development in the urban area and responds appropriately to its context, the requested variances maintain the general intent and purpose of the Official Plan. In addition, the majority of the Committee finds that, because the proposal represents orderly development on the property that is compatible with existing land use patterns, the requested variances maintain the general intent and purpose of the Zoning By-law. Moreover, the majority of the Committee finds that the requested variances, both individually and cumulatively, are minor because they will not create any undue 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 site plan filed and Committee of Adjustment date-stamped June 10, 2022, and the elevations filed and Committee of Adjustment date-stamped May 17, 2022, as they relate to the requested variances.

Chair A. M. Tremblay dissents. In her view, the proposal represents overdevelopment that is not compatible with the surrounding area and would create an unacceptable adverse impact on the abutting neighbour and 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 18, 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-00139 & D08-02-22/A-00140

Owner(s) / Propriétaire(s): 75 Aylen Inc.

Location / Emplacement: 75 Aylen 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

Absent / Absente

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 29, 2022 / 29 juillet 2022



Matthew Garnett
Acting Secretary-Treasurer /
Secrétaire-trésorier intérimaire