



COMMITTEE OF ADJUSTMENT OF THE CITY OF OTTAWA

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

File No.:	D08-02-22/A-00242
Owner:	John Joseph Wlodarczyk
Location:	4599 Mohrs Road
Ward:	5-West Carleton-March
Legal Description:	Part of Lot 19, Concession 5, Former Township of Fitzroy, Part 3 on Ref. Plan 5R-7764
Zoning:	AG
Zoning By-law:	2008-250

Notice was given and a Public Hearing was held on **September 7, 2022**, as required by the *Planning Act*.

PURPOSE OF THE APPLICATION:

At its hearing on June 1, 2022, the Committee refused Minor Variance Application D08-02-22/A-00102 for the construction of a detached dwelling on the property. The Owner has since appealed that Decision to the Ontario Land Tribunal.

The Owner has now submitted a revised application to construct a detached dwelling on the property, as shown on plans filed with the Committee.

RELIEF REQUIRED:

The Owner requires the Authority of the Committee for a Minor Variance from the Zoning By-law to permit a reduced setback of 110 metres from a Mineral Extraction (ME2) zone for a detached dwelling, whereas the By-law requires a minimum setback of 150 metres for a detached dwelling from a ME2 zone.

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, the Committee received an adjournment request from Sean Harrigan, of the City's Planning, Real Estate and Economic Development Department

(PRED), requesting a revised Mineral Resource Impact Assessment (MRIA). At the outset of the hearing, the Committee heard from Mr. Murray Chown, Agent for the Applicant, who requested that the application proceed as scheduled, as it was his opinion that they had obtained as much information as they could regarding the operations of the pits and the revised MRIA reflected that information. The Committee agreed to proceed with the application, and it was stepped down to be heard later in the hearing.

Upon recall, the Panel Chair administered an oath to John Wlodarczyk, Owner, who confirmed that the statutory notice posting requirements were satisfied.

The Committee heard a presentation from Ryan Poulton, Agent for the Applicant, who provided an overview of the new MRIA that was prepared to address the concerns from the previous application. He also drew a comparison between this application and a Zoning By-law Amendment for 6199 Dwyer Hill Road that was initiated by the City of Ottawa.

Mr. Chown indicated that despite the Ontario Land Tribunal hearing scheduled for October 2022, he felt that they had addressed the concerns relating to the pit operations to the best of their ability, and the modified proposal would not impact future operations of the mineral extraction operations. In response to questions from the Committee, he advised that a lot line adjustment to expand the lot would necessitate an acquisition of lands from an agricultural resource area.

Mr. Harrigan stated that, without the requested revised MRIA, the potential risks to the groundwater and wells, the impacts of noise, and the current and future truck routes for the mineral extraction operations in the area could not be determined. He also indicated that the development could impact the future licence for the pit operations. Mr. Harrigan also explained that the Zoning By-law Amendment, referred to in the agent's presentation, is due to different circumstances and was initiated by the City of Ottawa; it is not a fair comparison for the subject minor variance application.

John Wlodarczyk, the Owner of the property, advised the Committee that he has visited both pit sites of concern, and the pit to the north was already under water and therefore would have no bearing on the quality of the well water.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION REFUSED

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 majority of the Committee (Member M. Vervoort dissenting) is not 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 "significant concerns" regarding the application, highlighting that "the MRIA does not demonstrate that a new dwelling will not conflict with current or future mineral extraction as required by the Provincial Policy Statement and Official Plan". The report states that "the significant concerns identified in the previous application have not been addressed, particularly the concern that the report's argument is centralized around precedent when no precedent exists". It further states that "the property with the Sand and Gravel Resource Overlay currently has mineral extraction operations on site since at least the 1970s that has gradually expanded closer to Mohr's Road and the subject site, based on historical photos. The area of the Sand and Gravel Resource Overlay that is closest to the subject site remains farmland and a potential area for future aggregate operations."

Considering the evidence, the majority of the Committee finds that the Mineral Resource Impact Assessment does not adequately address the potential impact on the existing or future opportunities that may be available to the existing licenced aggregate operations. Because of the lack of evidence provided in support of the requested reduced setback through the MRIA, the majority of the Committee finds that the requested variance does not maintain the general intent and purpose of both the Official Plan and Zoning By-law. The majority further finds that insufficient evidence was presented demonstrating that the requested variance is minor, and 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 therefore does not authorize the requested variance.

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 **October 6, 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-00242
Owner(s) / Propriétaire(s): John Joseph Wlodarczyk
Location / Emplacement: 4599 Mohrs Road

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

Nous, soussignés, souscrivons à la décision et à la justification ci-devant rendues par le Comité de dérogation.

“Fabian Poulin”

**FABIAN POULIN
VICE-CHAIR / VICE-PRÉSIDENT**

“Terence Otto”

**TERENCE OTTO
MEMBER / MEMBRE**

Dissent

**MARTIN VERVOORT
MEMBER / MEMBRE**

“Steven Lewis”

**STEVEN LEWIS
MEMBER / MEMBRE**


“Jocelyn Chandler”

**JOCELYN CHANDLER
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
September 16, 2022 / 16 septembre 2022


Michel Bellemare
Secretary-Treasurer / Secrétaire-trésorier