



**COMMITTEE OF ADJUSTMENT  
FOR THE CITY OF OTTAWA**

**COMITÉ DE DÉROGATION  
POUR LA VILLE D'OTTAWA**

**DECISION/DÉCISION  
MINOR VARIANCE/PERMISSION  
DEMANDE DE DÉROGATIONS MINEURES/PERMISSION**  
(Section 45 of the *Planning Act*)  
(Article 45 de la *Loi sur l'aménagement du territoire*)

**File No./Dossier n°:** D08-02-16/A-00356  
**Owner(s)/Propriétaire(s):** SOHO Champagne (Phase 2) Inc.  
**Location/Emplacement:** 115 Champagne Avenue  
**Ward/Quartier:** 15 - Kitchissippi  
**Legal Description/  
Description officielle:** Lots 15-17, Part of Lane, Reg. Plan 131037  
**Zoning/Zonage:** R5B [1777] S260  
**Zoning By-law/ Règlement:** 2008-250

Notice was given and a Public Hearing was held on January 18, 2017, as required by the *Planning Act*.

**PURPOSE OF THE APPLICATION/OBJET DE LA DEMANDE:**

The Owner would like to add "outdoor storage" as a temporary permitted use until such time as Phase 2 of the Soho Champagne development is completed, as shown on plans filed with the Committee. The site currently contains the Sales Centre for Phase 2 of the Soho Champagne development, surface parking related to the Sales Centre, as well as storage space for Otto's BMW Sales Centre.

**RELIEF REQUIRED/DISPENSE REQUISE:**

In order to proceed, the Owner requires the Authority of the Committee for a Minor Variance from the Zoning By-law as follows:

- a) To permit "outdoor storage" as a temporary permitted use whereas the By-law does not permit outdoor storage on properties zoned R5B [1777] S260.

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

**PUBLIC HEARING/AUDIENCE PUBLIQUE:**

The Committee heard presentations made by Ms. K. Grechuta, Agent for the Owner and by Mr. A. Cohen, Solicitor for the Owner. The Committee also heard presentations in opposition to the application by Ms. K. Kennedy representing the Civic Hospital Neighbourhood Association, Mr. G. Davis, resident of 100 Champagne Avenue, and Mr. M. Michaud, representing Ashcroft Homes.

The concerns of Ms. Kennedy and Mr. Davis related primarily to the failure of the proposed temporary use to conform to the general intent and purpose of the Preston-Carling Secondary Plan, which is part of the City's Official Plan. They noted the intent for the area to develop as a pedestrian-first, transit-oriented, mixed-use area. They noted that significant impact would result from the placement of additional vehicles on the site, and were concerned with the breadth of uses that could be deemed to be "outdoor storage", as well as with the length of time that the use could continue on the property, depending on the condominium market and the developer's desire to proceed with construction.

The Committee also heard from Mr. R. Sandercott of the City's Planning, Infrastructure and Economic Development Department (PIEDD) who spoke to the objections that the City's PIEDD had with the proposal, as outlined in his written report on file.

The Committee noted from the concerns raised by area residents in the correspondence on file and from presentations made at the Hearing, that there had been an agreement made between the developer and the City, as part of the Site Plan Control approval of Phase 1 of the condominium, stating that should there be a delay in the construction of Phase 2, the site would be landscaped for the use of the residents in the area.

In response to these concerns, Mr. Cohen clarified that the terms of this Agreement were that landscaping would be required if a Building Permit had not been obtained for Phase 2 one year following the 80% reported occupancy of Phase 1. He explained that Phase 1 reached 80% occupancy in March of 2016, that the one year period had therefore not yet expired, and that in any event a Building Permit, in the form of an excavation and foundation permit, for Phase 2 had been issued, and that the developer would therefore not be required to landscape the site. Mr. Sandercott indicated that PIEDD had sought an opinion from the Legal Services Branch regarding the terms of the Agreement, but had not yet received it.

At the Hearing, the Committee heard evidence presented by Mr. Cohen that the Committee had the jurisdiction to grant a new temporary use which would continue only until the commencement of the construction of the approved permanent use, in this case a high-rise condominium. Mr. Cohen also argued that based on the case law provided, the Committee's need to have regard for the general intent and purpose of the Zoning By-law and Official Plan is broader when it is considering a temporary use.

Further to Mr. Cohen's evidence as presented, the Committee received written confirmation from the City's Legal Services Branch that it is within the Committee's jurisdiction to hear a minor variance application seeking the addition of a temporary use.

Following Mr. Cohen's presentation, the Committee heard from Ms. Grechuta regarding the four tests under the Planning Act and the appropriateness of the proposed temporary use. Ms. Grechuta submitted, with reliance on the case law, that uses specifically prohibited by the Zoning By-law and Official Plan have been permitted by the Ontario Municipal Board as a result of their temporary nature. Ms. Grechuta noted that the Applicant was not seeking to alter the underlying designation or uses, and that the proposed variance could therefore be seen as meeting the general intent and purpose of the Zoning and Official Plan under the broader test for temporary uses outlined by Mr. Cohen. Ms. Grechuta confirmed her client's intention to proceed with establishing the highest and best use for the property, a high-rise condominium, as soon as the market allows.

Ms. Grechuta noted that temporary uses are treated differently in the City's Zoning By-law, noting that they benefit from certain allowances and exemptions specifically because of their temporary status. She noted that the lot would revert to a use permitted by the zoning once the temporary period had expired. Ms. Grechuta also noted that, in her opinion, assigning a function or use to the property would be better for the neighbourhood than leaving it vacant. She noted that visually, the proposed temporary outdoor storage would look exactly like a parking lot, making reference to other parking lots that already exist in the neighbourhood.

Ms. Grechuta noted that the intensity of the proposed use is much lower than the intensity of the approved condominium, and that much more traffic would be generated by the condominium development. She also noted that with the Committee's approval of the proposed minor variance, the Site Plan Agreement that applies to the site would need to be amended before the use could be established, and that the amended Agreement would likely require screening and the appropriate grading of the site. It was Ms. Grechuta's submission that the proposed minor variance is appropriate and that it represents good planning.

A discussion of limiting the definition of outdoor storage as well as the length of the temporary use was held. It was agreed that the Committee could specify the items permitted to be stored on site, and could also determine the length of time, appropriate in its view, for the use to continue.

**DECISION AND REASONS OF THE COMMITTEE: APPLICATION REFUSED**  
**DÉCISION ET MOTIFS DU COMITÉ: DEMANDE REFUSÉE**

Having considered the evidence presented and having reviewed the plans and correspondence on file, including the letters of opposition submitted by area residents, the Committee is of the opinion that insufficient evidence has been presented to

demonstrate that the relief requested to permit “outdoor storage” as a temporary use on the property zoned R5B [1777] S260 is desirable for the appropriate development or use of the land.

The Committee was not persuaded by the argument that assigning a temporary use – the outdoor storage of vehicles – would serve the community better than leaving the lot vacant. It is the opinion of the Committee that in this instance, given the residential nature of the approved development, it would be better to leave the space vacant. Once the Soho Phase 2 sales office closes there will be no cars parking at grade on the site.

Cognizant of the evidence presented regarding the Committee’s jurisdiction to deliberate on the relief requested for a temporary use, provided that the temporary use satisfies the four tests outlined under the *Planning Act*, including the case law submitted by the Applicant’s solicitor following the close of the Hearing, the Committee finds that the approval of the variance requested would result in a temporary use that is undesirable for a property located the R5 zone and subject to the provisions of the Preston-Carling Secondary Plan. The Majority of the Committee is of the view that the proposal seeks to establish a temporary use that is too far of a departure from the approved use and that this proposal would be more appropriately addressed through a temporary Zoning By-law Amendment.

Based on the foregoing, the Committee finds that the variance requested is not desirable for the appropriate use and development of the land, and that by failing one test, the application has failed to satisfy the four tests outlined under the *Planning Act*. The application is therefore refused.

**NOTICE OF RIGHT TO APPEAL/AVIS DE DROIT D’APPEL:**

To appeal this Decision to the Ontario Municipal Board, an Appeal Form along with a certified cheque or money order payable to the Ontario Minister of Finance must be filed with the Secretary-Treasurer of the Committee of Adjustment by the **16<sup>th</sup> day of February, 2017**, delivered 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 Board’s website at [www.omb.gov.on.ca](http://www.omb.gov.on.ca). The Board has established a filing fee of \$300.00 for an appeal with an additional filing fee of \$25.00 for each secondary application. If you have any questions about the appeal process, please refer to the Board’s website or 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 Ontario Municipal Board. 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.

**NOTICE TO APPLICANT/AVIS AU RÉQUÉRANT:**

If your application has been approved, it should be noted that this Decision is not to be construed as satisfying all the requirements of Hydro Ottawa or the Building Code for the issuance of a building permit.

Applicants are advised to take note of comments received from City departments and other technical agencies like Hydro Ottawa and to consult where appropriate.

**DECISION SIGNATURE PAGE  
PAGE DE SIGNATURE DE LA DÉCISION**

**File No./Dossier n°:** D08-02-16/A-00356  
**Owner(s)/Propriétaire(s):** SOHO Champagne (Phase 2) Inc.  
**Location/Emplacement:** 115 Champagne Avenue

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.



**Helena Prockiw  
Chair/ Président**



**Dennis Carr**



**John Blatherwick**



**Stan Wilder**

**ABSENT**

**Grant Lindsay**

I, Krista Libman, Secretary-Treasurer of the Committee of Adjustment for the City of Ottawa, certify that the attached is a true copy of the Decision of the Committee with respect to the application recorded.

Je, soussignée, Krista Libman, secrétaire-trésorière du Comité de dérogation pour la Ville d'Ottawa, confirme que l'énoncé ci-joint est une copie conforme de la décision rendue par le Comité à l'égard de la demande visée.

January 27, 2017

**Date of Decision:  
Date de la décision:**



**Krista Libman  
Secretary-Treasurer/  
Secrétaire-trésorière**