



COMMITTEE OF ADJUSTMENT OF THE CITY OF OTTAWA

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

Date of Decision:	October 28, 2022
File No.:	D08-02-22/A-00117
Owner:	Adrian Besharat
Location:	1842 Kingsdale Avenue
Ward:	10-Gloucester-Southgate
Legal Description:	Lots 968 to 973, Registered Plan 326
Zoning:	R1WW
Zoning By-law:	2008-250

Notice was given and a Public Hearing was held on **October 19, 2022**, as required by the *Planning Act*.

PURPOSE OF THE APPLICATION

The Owner has filed a Consent Application (D08-01-22/B-00135) which, if approved, will have the effect of creating three separate parcels of land for the construction of two new detached dwellings. The existing detached dwelling is to remain.

RELIEF REQUIRED

The Owner requires the Authority of the Committee for a Minor Variance from the Zoning By-law to permit front yard parking for the existing detached dwelling, whereas the Zoning By-law does not permit front yard parking.

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

PUBLIC HEARING

The Chair administered an oath to Adrian Besharat, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied.

The Committee asked the Mr. Besharat to confirm that there is already an existing driveway which services the property. Mr. Besharat confirmed this to be the case, and explained that the minor variance is to relocate the driveway from the side of the

property, where it is compliant, to the front of the property, as front-yard parking is not permitted by the Zoning By-law in this area.

Siobhan Kelly, from the City's Planning, Real Estate and Economic Development Department, was also in attendance. She confirmed that parking is required in this location. Also, Ms. Kelly explained that the proposed severance results in the removal of the existing garage and the relocation of the existing driveway, thus creating the illegal front-yard parking condition. Ms. Kelly acknowledged that front-yard parking is an existing condition for a number of properties in the area and that there would be no impact to the streetscape if the proposed minor variance were approved.

The Committee asked Ms. Kelly if maintaining the parking in its existing location would preclude intensification on the lot on the eastern side. Ms. Kelly confirmed that maintaining the parking in its existing location would result in the applicant not being able to sever the additional lot.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

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 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 "concerns" regarding the application, citing the By-law's intent to "ensure vehicles and parking elements on a property are secondary to the dwelling, as well as to ensure adequate soft landscaping within the front yard." The planning report states that the "proposed double-wide driveway limits the availability of these amenity areas". However, the report highlights that "legal front yard parking is an existing condition associated with many dwellings" and, in this case, "is not out of character for the neighbourhood".

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

Considering the circumstances, the Committee finds that, because the proposal fits well in the area, 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,

because the proposal respects the character of the area, the requested variance maintains the general intent and purpose of the Official Plan. 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 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 plans filed, Committee of Adjustment date stamped September 16, 2022, as they relate to 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 **November 17, 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-00117
Owner / Propriétaire: Adrian Besharat
Location / Emplacement: 1842 Kingsdale 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.

“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**

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
October 28, 2022 / 28 octobre 2022



Michel Bellemare
Secretary-Treasurer / Secrétaire-trésorier