

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

Date of Decision:	November 25, 2022
File No.:	D08-02-22/A-00276
Owner:	Nadezhda Solovyova
Location:	284 Churchill Avenue
Ward:	15 - Kitchissippi
Legal Description:	Lot 345, Plan 4M-28
Zoning:	R3E
Zoning By-law:	2008-250
Hearing Date:	November 16, 2022

PURPOSE OF THE APPLICATION

- [1] In June 2022, the Committee refused a Minor Variance Application (D08-02-21/A-00213) for the construction of a semi-detached dwelling on this property. The Owner has since appealed the Committee's Decision to the Ontario Land Tribunal.
- [2] The Owner has revised her plans and now wants to proceed with a new application to demolish the existing two-storey detached dwelling for the construction of a semi-detached dwelling. The proposed semi-detached dwelling will not be in conformity with the requirements of the Zoning By-law.

RELIEF REQUIRED

- [3] The Owner requires the Authority of the Committee for Minor Variances from the Zoning By-law as follows:
- [4] 284 Churchill Avenue North, the northerly half of the proposed semi-detached dwelling:
 - a) To permit a reduced lot width of 7.61 metres, whereas the By-law requires a minimum lot width of 9 metres.
 - b) To permit a reduced lot area of 231 square metres, whereas the By-law requires a minimum lot area of 270 square metres.

- c) To permit a front-facing garage, whereas the Zoning By-Law does not permit a front facing-garage based on the conclusions of a Streetscape Character Analysis.
- [5] 286 Churchill Avenue North, the southerly half of the proposed semi-detached dwelling:
- a) To permit a reduced lot width of 7.61 metres, whereas the By-law requires a minimum lot width of 9 metres.
 - b) To permit a reduced lot area of 231 square metres, whereas the By-law requires a minimum lot area of 270 square metres.
 - c) To permit a front-facing garage, whereas the Zoning By-Law does not permit a front facing-garage based on the conclusions of a Streetscape Character Analysis.
- [6] The application indicates that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [7] The Panel Chair administered an oath to Chris Jalkotzy, Agent for the Owner, who confirmed that the statutory notice posting requirements were satisfied.
- [8] In response to a question from the Committee regarding the extent to which this application differed from the previous application that was refused by the Committee, Craig Hamilton of the City's Planning, Real Estate and Economic Development Department indicated that in his opinion, there were significant changes in the plans filed, although he acknowledged that the requested variances were essentially the same.
- [9] The Committee heard a presentation from Mr. Jalkotzy, who referred to the site plan and elevations on file, with particular emphasis on the revisions made since the previous application, which included:
- Reducing the amount of retaining walls by 70% and reducing their height.
 - Moving the front doors toward the garages to make them more visible from the street.
 - Reducing the distance to the rear doors to the second dwelling unit.
 - Changing the slope of the driveways to bring them in the range of what is permitted by the Private Approach By-law.
 - Adjusting the height of the front-facing garages and raising the entrances by adjusted the floor heights inside the building.
- [10] Mr. Jalkotzy also referred to building envelope renderings to demonstrate the proposed construction within its context. He also presented a location plan

highlighting each property in the broader neighbourhood that features front-facing garages or carports.

- [11] The Committee also heard from Patricia Le Saux of the Westboro Beach Community Association, who indicated that she was not opposed to the application.
- [12] Tran Truong of 288 Churchill Avenue also addressed the Committee and indicated that the revisions reflected in the application were positive, though she maintained some concerns with the proposed front-facing garages and their compatibility with the streetscape, as well as the provision of fencing and landscaping.
- [13] Maureen Dougan of 290 Churchill also indicated that the revisions had addressed a number of her previous concerns, especially as they related to the retention of the existing tree at the front of the property, though she indicated she would defer to the Committee as to whether the changes were significant enough to warrant approval of the application.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION REFUSED

- [14] The Committee considered any written and oral submissions relating to the application in making its Decision, including the written submissions from neighbours and the Westboro Beach Community Association.
- [15] 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.
- [16] Based on the evidence, the Committee is not satisfied that the application is sufficiently changed from the prior application nor that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [17] The Committee notes that its decisions are final and that the doctrine of *res judicata* (a matter already adjudicated or decided) aims to preserve the integrity of adjudicative processes to reduce uncertainty and inconsistency in results. The Committee also notes that the Ontario Land Tribunal and jurisprudence have held that the doctrine of *res judicata* is not at issue where the details of an application are sufficiently changed from a prior application.
- [18] Additionally, the Committee notes the Applicant's efforts to continue consulting with area residents and the community association.
- [19] Moreover, the Committee notes that the City maintains "some concerns" with the application, concluding in its Planning Report that the proposed front-facing

garages “do not fully meet the intent of the Official Plan and the Zoning By-law, and are not desirable for the appropriate development of the property due to the impact to the streetscape”.

- [20] Considering the circumstances, the Committee finds that the details of the application are not sufficiently changed from the previous one, and so its prior decision and reasons stand. Therefore, the Committee finds that the requested variances are not desirable for the appropriate use of the land, building or structure on the property, and relative to the neighbouring lands, because the proposed front-facing attached garage would have a negative impact on the streetscape character.
- [21] The Committee also finds that the requested variances do not maintain the general intent and purpose of the Official Plan because the proposed development does not respect the character of the neighbourhood.
- [22] In addition, the Committee finds that that the requested variances do not maintain the general intent and purpose of the Zoning By-law because the proposal does not represent orderly development of the property that is compatible with the surrounding area.
- [23] Moreover, the Committee finds that the requested variances, both individually and cumulatively, are not minor because they would create an unacceptable adverse impact on abutting properties and the neighbourhood in general.
- [24] THE COMMITTEE OF ADJUSTMENT therefore does not authorize the requested variances.

“John Blatherwick”
JOHN BLATHERWICK
VICE-CHAIR

“Stan Wilder”
STAN WILDER
MEMBER

“Heather MacLean”
HEATHER MACLEAN
MEMBER

“Bonnie Oakes Charron”
BONNIE OAKES CHARRON
MEMBER

“Michael Wildman”
MICHAEL WILDMAN
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **November 25, 2022**.



Michel Bellemare
Secretary-Treasurer

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 **December 15, 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 Ontario Land Tribunal 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 Ontario Land Tribunal. 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.

There are no provisions for the Committee of Adjustment or the Ontario Land Tribunal 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.

Ce document est également offert en français.

Committee of Adjustment | Comité de dérogation

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