

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

Date of Decision:	January 20, 2023
File No(s):	D08-02-22/A-00314
Owner(s):	Darren and Kari Whatley
Location:	8 Rupert Street
Ward:	17 - Capital
Legal Description:	Part of Lot 2, Registered Plan 57
Zoning:	R3Q[1474]
Zoning By-law:	2008-250
Hearing Date:	January 11, 2023

PURPOSE OF THE APPLICATION

- [1] The Owners want to renovate the existing detached garage, as shown on plans filed with Committee.

RELIEF REQUIRED

- [2] The Owner requires the Authority of the Committee for Minor Variances from the Zoning By-law as follows:
- a) To permit a reduced rear yard setback of 0.23 metres for the detached garage, whereas the By-law requires a minimum rear yard setback of 0.6 metres.
 - b) To permit a reduced side yard setback of 0.13 metres for the detached garage, whereas the By-law requires a minimum side yard setback of 1.2 metres.
 - c) To permit an increased building height of 3.71 metres for the detached garage, whereas the By-law permits a maximum building height of 3.6 metres.
- [3] The application indicates that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [4] The Chair administered an oath to Nickolas Semanyk, Agent for the Applicants, who confirmed that the statutory notice posting requirements were satisfied.
- [5] The Committee inquired about the City's Building Code Services' order to comply. Mr. Semanyk explained the garage shed was in poor condition and rebuilt without a permit. With the footprint and location of the new structure the same as the old garage, Mr. Semanyk confirmed that all the original buildings had existed for at least fifty years. He also confirmed that the structure will be used as a workshop and the water line is for hydronic heating.
- [6] The Chair noted that, considering the type of use, the garage was really an accessory structure and that a condition be imposed for the renovated structure remaining as a non-residential structure. Mr. Semanyk confirmed that he accepted the condition.
- [7] Kari and Darren Whatley, Owners of the property, Bruce Black, also representing the Applicants, and City Planner Adrian van Wyk were also present.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

- [8] The Committee considered all written and oral submissions relating to the application in making its Decision.
- [9] 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.
- [10] Based on the evidence, the Committee is satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [11] The Committee notes that the City's Planning Report raises "no concerns" regarding the application, highlighting that "the proposal is believed to be minor in nature as the new building will be rebuilt in the same location and generally the same footprint as what is existing. It may be considered desirable for its intended use, being located at the rear of the lot and generally out of view of the public realm, as is typical of many detached garages in this neighbourhood."
- [12] The Committee also notes that no cogent evidence was presented that the variances would result in any unacceptable adverse impact on neighbouring properties.

- [13] Considering the circumstances, the Committee finds that, because the proposal integrates well with its surroundings, 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.
- [14] The Committee also finds that the requested variances maintain the general intent and purpose of the Official Plan because the proposal respects the character of the neighbourhood.
- [15] In addition, the Committee finds that the requested variances maintain the general intent and purpose of the Zoning By-law because the proposal represents orderly development of the property that maintains the existing footprint and setback and is compatible with the surrounding area.
- [16] Moreover, the Committee finds that the requested variances, both individually and cumulatively, are minor because they will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.
- [17] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variances, **subject to** the location, size and use of the proposed construction being in accordance with the plans filed, Committee of Adjustment date stamped November 1, 2022, and restricted to the life and use of the accessory structure (storage and workshop) remaining a non-residential use.

"John Blatherwick"
JOHN BLATHERWICK
VICE-CHAIR

Absent
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 **January 20, 2023**.



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 **February 9, 2023**, 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 the applicant, the Minister or a specified person or public body that has an interest in the matter may appeal the decision to the Ontario Land Tribunal. A “specified person” does not include an individual or a community association.

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
City of Ottawa
Ottawa.ca/CommitteeofAdjustment
cofa@ottawa.ca
613-580-2436



Comité de dérogation
Ville d'Ottawa
Ottawa.ca/Comitedederogation
cded@ottawa.ca
613-580-2436