

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

Date of Decision:	January 20, 2023
File No(s):	D08-02-22/A-00272 & D08-01-22/A-00273
Owner(s):	Mohamed Mostafa Real Estate Investment Inc.
Location:	124 Granton Avenue
Ward:	8 - College
Legal Description:	Lots 2263, 2264 and 2265, Reg. Plan No. 375
Zoning:	R1FF[632]
Zoning By-law:	2008-250
Hearing Date:	January 11, 2023

PURPOSE OF THE APPLICATION

- [1] The Owner has filed Consent Applications (D08-01-22/B-00287 and D08-01-22/B-00288) which, if approved, will have the effect of creating two separate parcels of land for the construction of two new detached dwellings. The existing detached dwelling will be demolished.

RELIEF REQUIRED

- [2] The Owner requires the Authority of the Committee for Minor Variances from the Zoning By-law as follows:

D08-02-22/A-00272: 124 Granton Avenue, Part 1, proposed detached dwelling

- a) To permit a reduced lot width of 14.1 metres, whereas the By-law requires a minimum lot width of 19.5 metres.
- b) To permit a reduced lot area of 450.4 square metres, whereas the By-law requires a minimum lot area of 600 square metres.
- c) To permit a 5.5 metre double-wide driveway, whereas the By-law does not permit a double-wide driveway on lots less than 15 metres in width.

D08-02-22/A-00273: 122 Granton Avenue, Part 2, proposed detached dwelling

- d) To permit a reduced lot width of 13.3 metres, whereas the By-law requires a minimum lot width of 19.5 metres.
 - e) To permit a reduced lot area of 387.1 square metres, whereas the By-law requires a minimum lot area of 600 square metres.
 - f) To permit a 5.5 metre double-wide driveway, whereas the By-law does not permit a double-wide driveway on lots less than 15 metres in width.
- [3] The application indicates that the Zoning By-law allows for the purposes of calculating minimum lot area the owner of the lots on Plan 375 may utilize a portion of the lane not exceeding 1.6 metres in depth. In this case those portions are shown as Parts 3 and 4 on the Draft 4R-plan.
- [4] The applications indicate that the Property is the subject of the above-noted Consent Applications under the *Planning Act*.

PUBLIC HEARING

- [5] At the outset of the hearing, the Chair called on Cass Sclauzero of the City's Planning, Real Estate and Economic Development Department to speak to the City's position on the appropriateness of new development in this community, considering the findings of the "City View and Lakeview Drainage Study: Existing Conditions Report," commissioned by the City and prepared by Robinson Consultants Inc. In response to questions from the Committee, Ms. Sclauzero explained that, according to the study, the predominant cause of drainage problems in the City View area relates to blocked culverts and ditches resulting from a lack of maintenance and deliberate modifications. She also explained that, where ditch reinstatement was necessary, it would be required through the building permit process, and recent revisions to the City's Ditch Alteration Policy would help to prevent further unauthorized alterations.
- [6] The Committee therefore agreed to proceed with the applications, which were stepped down to be recalled later in the hearing.
- [7] Upon recall, the Chair administered an oath to Simran Soor, Agent for the Owner, who confirmed that the statutory notice posting requirements were satisfied. Ms. Soor appeared along with Adam Thompson, also representing the Owner.
- [8] In response to a question from the Committee regarding the appropriateness of additional hard surfaces on undersized lots, Ms. Soor noted that the lot width identified for Part 1 is impacted by the irregular shape of the lot, and that a double-wide driveway is permitted as of right on lots measuring 15 metres in width. She explained that it was the Owner's preference to provide double-wide driveways and that, as proposed, they would occupy 39 percent and 41 percent of the lot widths,

respectively, whereas a driveway of this size on a 15-metre-wide lot would occupy 37 percent of the lot width. It was her submission that these incremental differences were minor.

- [9] The Committee heard a presentation from Ms. Wilson and Jill Prot of the City View Community Association. Ms. Wilson and Ms. Prot highlighted objections to the continued development of undersized lots throughout the community, the impact of the proposal on drainage and the inadequacy of existing municipal services, and the proposal's visual impact on the streetscape due to the increased driveway widths and the limited space available for tree planting.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS REFUSED

- [10] The Committee considered all written and oral submissions relating to the application in making its Decision.
- [11] 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.
- [12] Based on the evidence, the majority of the Committee (Member K. Willis dissenting and Member S. Hindle dissenting in part, for reasons noted below) is not satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [13] The Committee notes that the City's Planning Report raises "no concerns" regarding the requested reductions to lot width and areas. However, the report also highlights that: "Staff have concerns with the proposed double-wide driveways. Given the reduced lot widths of 13.31 metres wide, a double-wide driveway at 5.5 metres wide occupies nearly half of the lot width. The intent of the provisions limiting driveway width, in conjunction with the provisions requiring a minimum aggregated soft landscaped area in the front yard, is to reduce the visual impact of driveways and cars parked in driveways in mature neighbourhoods within the greenbelt."
- [14] Considering the circumstances, the majority of the Committee finds that the proposal is not in keeping with the lot and development pattern in the area and therefore the requested variances are not desirable for the appropriate development or use of the land, building or structure on the property, and relative to the neighbouring lands.
- [15] The majority of the Committee also finds that the requested variances do not maintain the general intent and purpose of the Official because the proposal does not respect the character of the area.

- [16] In addition, the majority of the Committee finds that the requested variances do not represent orderly development and therefore do not maintain the general intent and purpose of the Zoning By-law, including as it relates to the minimization of driveways in mature neighbourhoods.
- [17] Moreover, the majority of the Committee finds that the requested variances, which contemplate undersized lots with increased impervious surfaces, are not minor and would result in unacceptable adverse impacts on neighbouring properties by exacerbating existing drainage issues.
- [18] THE COMMITTEE OF ADJUSTMENT therefore does not authorize the requested variances.
- [19] *Member S. Hindle dissents on the refusal of variances (a), (b), (d) and (e) noting that similar lot widths and areas are found throughout the neighbourhood.*
- [20] *Member K. Willis dissents on the refusal of the applications, noting similar lot widths and areas are found throughout the neighbourhood, and in this case, the increased driveway width's impact on the streetscape is mitigated by the subject site's location at the end of the street.*

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

Dissenting
KATHLEEN WILLIS
MEMBER

With Noted Dissent
SCOTT HINDLE
MEMBER

"Colin White"
COLIN WHITE
MEMBER

"Julia Markovich"
JULIA MARKOVICH
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.

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