

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

Date of Decision:	February 10, 2023
File No(s):	D08-02-22/A-00332 & D08-02-22/A-00333
Owner(s):	Jeff & Colleen Westeinde, Mark MacDonald and Kathy Coxon
Location:	41 & 43 Hampton Avenue
Ward:	15 – Kitchissippi
Legal Description:	Lot 2794, Registered Plan 4M-47
Zoning:	R3K
Zoning By-law:	2008-250
Hearing Date:	February 1, 2023

PURPOSE OF THE APPLICATION

- [1] The Owners want to construct two three-storey semi-detached dwellings, as shown on plans filed with the Committee. The existing detached dwelling is to be demolished.

RELIEF REQUIRED

- [2] The Owners require the Authority of the Committee for Minor Variances from the Zoning By-law as follows:
- [3] A-00332: 41 Hampton Avenue, one half of the proposed semi detached dwelling.
- a) To permit a front-facing garage, whereas the By-law does not permit a front-facing garage based on the conclusions of a Streetscape Character Analysis
- [4] A-00333: 43 Hampton Avenue, one half of the proposed semi detached dwelling.
- b) To permit a front-facing garage, whereas the By-law does not permit a front-facing garage based on the conclusions of a Streetscape Character Analysis
- [5] The applications indicate that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [6] The Panel Chair administered an oath to Paul Cooper, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied.
- [7] Mr. Cooper provided the Committee with a presentation that included photographs of the context along Hampton Avenue and a streetscape rendering of the proposal. In response to questions from the Committee, Mr. Cooper stated that the proposal was the preferred option over previously approved plans that featured a cantilevered carport. The Chair acknowledged the four letters of support submitted by area residents.
- [8] City Planners Basma Alkhatib and Erin O'Connell were also present. Ms. Alkhatib summarized the concerns outlined in her written report on file, noting that the dominant characteristic along Hampton Avenue reflected residential dwellings without front-facing garages. The proposal therefore does not conform to the intent of the Zoning By-law.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

- [9] The Committee considered all written and oral submissions relating to the application in making its Decision.
- [10] 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.
- [11] Based on the evidence, the majority of the Committee (Member B. Oakes Charron dissenting for the reasons noted below) is satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [12] The Committee notes that the City's Planning Report raises "concerns" regarding the applications, highlighting that: "As the subject site is in the Mature Neighbourhoods Overlay, attached garages and carports are prohibited on the front face of a dwelling unit where the Streetscape Character Analysis determines that the dominant character is the absence of attached garages and carports." However, the evidence revealed that homes with attached garages are characteristic of the area, and even preferred by neighbours.
- [13] The majority of the Committee also notes that no evidence was presented that the variances would result in any unacceptable adverse impact on neighbouring properties.

- [14] Considering the circumstances, the majority of the Committee finds that, because the proposal integrates well with the existing streetscape, the requested variances are, from a planning and public interest point of view, desirable for the appropriate use of the land, building or structure on the property, and relative to the neighbouring lands.
- [15] The majority of 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 and contributes to appropriate infill development in the urban area.
- [16] 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 on the property that is compatible with the neighbourhood.
- [17] Moreover, the majority of 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.
- [18] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variances, **subject to** the location and size of the proposed construction being in accordance with the plans filed, Committee of Adjustment date stamped December 9, 2022, as they relate to the requested variances.

"John Blatherwick"
JOHN BLATHERWICK
VICE-CHAIR

Absent
STAN WILDER
MEMBER

"Heather MacLean"
HEATHER MACLEAN
MEMBER

Dissenting
BONNIE OAKES CHARRON
MEMBER

Absent
MICHAEL WILDMAN
MEMBER

"Colin White"
COLIN WHITE
MEMBER

Member B. Oakes Charron dissents, finding that the proposed front facing garages are not in keeping with the intent of the Zoning By-law.

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **February 10, 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 **March 2, 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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