

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

Date of Decision:	March 10, 2023
File No(s):	D08-02-22/A-00318
Owner(s):	Christopher & Kenneth Hayman
Location:	214 Pretoria
Ward:	17 – Capital
Legal Description:	Lot 2, South of Pretoria Avenue, Registered Plan 44376
Zoning:	R4UD
Zoning By-law:	2008-250
Hearing Date:	March 1, 2023

PURPOSE OF THE APPLICATION

- [1] The Owners want to convert the existing triplex into a four-unit dwelling, as shown on plans filed with the Committee.

RELIEF REQUIRED

- [2] The Owners require the Authority of the Committee for Minor Variances from the Zoning By-law as follows:
- a) To permit a reduced soft landscaping area of 0 square metres, whereas the By-law requires a minimum soft landscaping area of 35 square metres.
 - b) To permit motor vehicle parking on a lot of 339.19 square metres, whereas the By-law requires a lot of 450 square metres or greater to permit motor vehicle parking.
 - c) To permit a reduced westerly interior side yard setback of 0.93 metres whereas the By-law requires a minimum interior side yard setback of 1.5 metres.
 - d) To permit an increased driveway width of 3.25 metres, whereas the By-law requires a maximum driveway width of 3 metres.

- e) To permit a landscaped strip of 0 metre separating the driveway from an interior side lot line, whereas the By-law states any driveway, other than a shared driveway, must be separated from any interior side lot line by a landscaped strip not less than 0.15 metre in width.
- f) To permit a reduced soft landscaping aggregated rectangular area of 0 square metres, whereas the By-law requires a soft landscaping aggregated rectangular area of at least 25 square metres.

[3] The application indicates that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

[4] At the Hearing on February 15, 2023, the Panel Chair administered an oath to Christopher Hayman, one of the Owners of the property, who confirmed that the statutory notice posting requirements were satisfied.

[5] Mr. Hayman gave the Committee a brief presentation.

[6] City Planner Margot Linker voiced concerns with the three existing parking spaces in the rear yard. She stated the City would prefer the removal of all the parking spaces, or at least two of the parking spaces, in favour of soft landscaping and additional space for vehicle turning movements. When questioned by the Committee, Mr. Hayman agreed to adjourn the application to discuss the parking arrangement further with Ms. Linker. With the concurrence of all parties, the application was adjourned to the Hearing scheduled for March 1, 2023.

[7] At the Hearing on March 1, 2023, the Panel Chair administered an oath to Mr. Hayman, who confirmed that the statutory notice posting requirements were satisfied. In response to questions from the Committee, he confirmed that the parking at the rear of the property was established in 2011 as a requirement under the Zoning By-law for the triplex. Mr. Hayman also confirmed that the parking was functional.

[8] Ms. Linker clarified that amenity space is not required in the zone but that there are requirements for soft landscaping and open area that are provided on the rooftop. Ms. Linker highlighted the City's concerns about the lack of space for tree planting.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION REFUSED

[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 Committee is not 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 application, highlighting that: "Staff do not believe the provision of the parking spaces at the expense of providing the required on-site soft landscaping meets the intent of the Zoning By-law or Official Plan." The evidence revealed that "[parking] would not be required for this development" and that "it is being provided at the expense of the opportunity to provide on-site soft landscaping."
- [13] Considering the circumstances, the Committee finds that, because the proposal does not fit well in the area and does not balance the need for greenspace with functional uses of the rear yard, the requested variances are not, 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 do not maintain the general intent and purpose of the Official Plan, including the specific purpose of policy 9(d) of subsection 11.5, because the proposal prioritizes motor vehicle parking spaces at the expense of providing the required soft landscaping. Failing two of the statutory four tests, the application is refused.
- [15] 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 **March 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 30, 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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