

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	April 14, 2023
File No(s):	D08-02-23/A-00040
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Eric Einagel
Property Address:	667 Churchill Avenue
Ward:	15 - Kitchissippi
Legal Description:	Lot 27, Registered Plan 460
Zoning:	R3S
Zoning By-law:	2008-250
Hearing Date:	April 5, 2023

APPLICANT(S)' PROPOSAL AND PURPOSE OF THE APPLICATION(S)

- [1] The Owner wants to construct a semi-detached dwelling with secondary dwelling units, as shown on plans filed with the Committee. The existing detached dwelling is to be demolished.

REQUESTED VARIANCE(S)

- [2] The Owner requires the Authority of the Committee for Minor Variances from the Zoning By-law as follows:
- a) To permit a reduced interior yard of 19.4% of the lot width (2.92 metres), whereas the By-law requires a minimum interior yard of 30% of the lot width (4.53 metres).
 - b) To permit an attached garage for each semi-detached dwelling unit, whereas the By-law (Section 140, (8) (a)) states that an attached garage facing the front lot line or side lot line is permitted or prohibited according to the dominant pattern of garages. In this case, a Streetscape Character Analysis determined that attached garages are not the dominant pattern.
 - c) To permit a front-facing attached garage for each semi-detached dwelling unit, whereas the By-law (Section 139, (3) (c)) does not permit front-facing attached garages based on the conclusions of a Streetscape Character Analysis.

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

PUBLIC HEARING

- [4] Prior to the Hearing on March 15, 2023, the Committee received an adjournment request from Purshotama Kapoor, of 669 Churchill Crescent, to allow additional time for consultation with the Applicant. On March 15, 2023, the Committee heard from Kul Kapoor, of 79 Belleview Drive, representing Ms. Kapoor, who reiterated the adjournment request. The Committee also heard from Luc Lavoie, Agent for the Applicant, who stated that he was not in support of the adjournment and requested that the hearing of the application proceed as scheduled. After further discussion, the Committee agreed to adjourn the application to April 5, 2023.
- [5] At the Hearing on April 5, 2023, the Panel Chair administered an oath to Mr. Lavoie, who confirmed that the statutory notice posting requirements were satisfied.

Oral Submissions Summary

- [1] Mr. Lavoie and Jasmine Paoloni, also representing the Applicant, provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. Ms. Paoloni highlighted a map showing properties with a front-facing attached garage. She said that, because the subject property is a corner lot, the scope of the Streetscape Character Analysis is reduced to only 11 properties rather than all 21 properties on Westhill Avenue. This results in front-facing attached garages as not the dominant streetscape character. However, Ms. Paoloni noted that 314 Westhill Avenue is subject to Consent Applications (D08-01-22/B-00272 and D08-01-22/B-00273, dated October 14, 2022), which once finalized will result in two additional properties with a front-facing attached garage and would then eliminate the need for requested variances because front-facing attached garage would be the dominate pattern of the streetscape. Ms. Paoloni acknowledged the concerns raised by the City Planner and the City Forester regarding the amenity space. She believed there is ample amenity space provided and opportunities for tree planting in various locations.
- [2] Ms. Paoloni referred to the Tree Replacement Plan and advised that trees #6 and #7 will deal with privacy concerns raised by the neighbour to the south.
- [3] In response to questions from the Committee, Mr. Lavoie confirmed that a sandwich wood fence would be installed for maximum privacy. He also confirmed that the L-shaped conceptual design, as noted in the Planning Report, would reduce the footprint of the building, and allow for only two bedrooms rather than three.
- [6] The Committee also heard oral submissions from the following individuals:

- Ms. Kapoor noted the Applicant and the Agent made efforts to address her concerns regarding privacy by relocating windows and planting two new trees.
- Mr. Kapoor, of 79 Belleview Drive, noted his concerns relating to the health of the existing trees.

- [7] City Planner Margot Linker summarized her concerns outlined in her report, highlighting that the requested variances from the streetscape character provisions would deviate from the intent of the Zoning By-law to preserve the dominant character of the neighbourhood and that the reduced interior yard area does not provide sufficient space for large tree planting.
- [8] In response to questions from the Committee, Ms. Linker confirmed that vehicle parking is not required by the Zoning By-law.
- [9] City Infill Forester Nancy Young expressed continued concerns regarding the reduced interior yard area. She advised that the proposal would not allow large tree plantings to enhance the urban tree canopy and that tree growth would be hindered by the narrow space. Ms. Young indicated there is limited opportunity to plant trees in the front yard because of overhead hydro wires. She recommended a redesigned proposal to maintain the required interior yard depth to allow the planting of a large tree.
- [10] Following the public hearing, the Committee reserved its decision and advised that a written one with reasons would be issued within ten days.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION REFUSED

Application Must Satisfy Statutory Four-Part Test

- [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.

Evidence

- [12] Evidence considered by the Committee included all oral submissions made at the hearing, as highlighted above, and the following written submissions held on file with the Secretary-Treasurer and available from the Committee Coordinator upon request:
- Application and supporting documents, including cover letter, plans, tree information, tree replacement plan, and a streetscape character analysis form.

- City Planning Report received March 31, 2023, with concerns.
- Rideau Valley Conservation Authority dated March 24, 2023, with no objections.
- Hydro Ottawa dated March 29, 2023, with comments.
- Ministry of Transportation dated March 7, 2023, with no comments.
- Purshotama Kapoor, email dated March 15, 2023, with concerns.
- Purshotama Kapoor, email dated April 3, 2023, with no objections.
- Tim Gray, email dated March 13, 2023, with concerns.

Effect of Submissions on Decision

- [13] The Committee considered all written and oral submissions relating to the application in making its decision and refused the application.
- [14] 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*.
- [15] The Committee notes that the City’s Planning Report raises “concerns” regarding the application, highlighting that “[n]ew homes with attached front-facing garages do not fit in with neighbouring dwellings with the first floor being primarily comprised of liveable space, and without front-facing garages or carports visible from the street.” With regards to the reduced interior yard area, the report also highlights “Section 4.8.2 of the Official Plan aims to grow and enhance urban canopy cover. The requested minor variance for a reduced interior rear yard setback will impact the ability to plant new large-growing trees on site to replace the lost canopy cover, and as such, this minor variance is not supported.”
- [16] Considering the circumstances, the Committee finds that, because the proposal does not fit well in the area, 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.
- [17] The Committee also finds that the requested variances do not maintain the general intent and purpose of the Official Plan because the proposal does not maintain the built form characteristic of the Evolving Neighbourhood Overlay in Schedule B2 within the Inner Urban Transect on Schedule A and does not conform to the policies under section 4.8.2 stating that growth, development and intensification shall maintain the urban forest canopy and its ecosystem services.
- [18] In addition, the Committee finds 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 on the property that is compatible with the

streetscape character and surrounding area and does not address tree protection to a sufficient degree.

[19] Failing three of the four statutory tests, the Committee is unable to grant the application.

[20] THE COMMITTEE OF ADJUSTMENT therefore does not authorize the requested variances.

"John Blatherwick"
JOHN BLATHERWICK
VICE-CHAIR

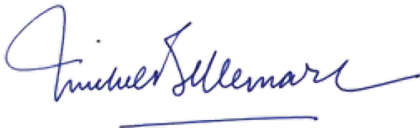
"Stan Wilder"
STAN WILDER
MEMBER

"Heather MacLean"
HEATHER MACLEAN
MEMBER

Absent
BONNIE OAKES CHARRON
MEMBER

Absent
MICHAEL WILDMAN
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **April 14, 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 **May 4, 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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