

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	May 12, 2023
File No(s):	D08-02-23/A-00065
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Dino Scarcella
Property Address:	2243 Lawn Avenue
Ward:	7 - Bay
Legal Description:	Part of Lot 16, Registered Plan 461
Zoning:	R2F
Zoning By-law:	2008-250
Hearing Date:	May 3, 2023

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owner wants to construct an accessory structure (detached garage), as shown on plans filed with the Committee. The existing garage will be demolished.

REQUESTED VARIANCES

- [2] The Owner requires the Authority of the Committee for Minor Variances from the Zoning By-law as follows:
- a) To permit an increased cumulative floor area of 157 square metres for an accessory structure whereas the By-law permits the aggregate of all accessory buildings not to exceed a lot coverage of 50% of the yard in which they are located, with a maximum cumulative floor area of 55 square metres.
 - b) To permit an increased building height of 5.9 metres for an accessory structure, whereas the By-law permits a maximum height of 3.6 metres for an accessory structure.
- [3] The application indicates that the property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [4] The Acting Panel Chair administered an oath to Alessandro Ferrante, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied.

Oral Submissions Summary

- [5] Mr. Ferrante provided a slide presentation that included site plans, elevations and photographs of the property, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. In response to questions from the Committee, Mr. Ferrante highlighted the neighbouring property at 2242 Midway Avenue has a similar-sized garage. He also highlighted that the proposed structure would not obstruct the neighbour's views because there are no windows along that side of the property. Additionally, Mr. Ferrante explained that the increased building height reflects the size of the garage door to accommodate a motorhome.
- [6] City Planner Alex Gatien responded to Committee's questions, confirming that the application was reviewed based on the proposed accessory structure as it relates to the principal dwelling and that alternatives were not considered.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION REFUSED

Applications Must Satisfy Statutory Four-Part Test

- [7] 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

- [8] 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 planning rationale, plans, and tree information.
 - City Planning Report received April 28, 2023, with concerns
 - Rideau Valley Conservation Authority email dated April 26, 2023, with no objections

- Hydro Ottawa email dated April 27, 2023, with no comments
- Gordon and Debbie Weima, 2237 Lawn Street, email dated May 1, 2023, with concerns

Effect of Submissions on Decision

- [9] The Committee considered all written and oral submissions relating to the application in making its decision and refused the application.
- [10] Based on the evidence, the majority of the Committee (Acting Chair S. Hindle dissenting on the refusal of variance (a)) is not 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 "concerns" regarding the application, highlighting that "the proposed garage does not meet the intent of the Zoning By-law for accessory buildings, which are intended to be accessory to a principal use."
- [12] Considering the circumstances, the majority of the Committee finds that, because the proposal does not fit well in the area, the requested variances are, from a planning and public interest point of view, not desirable for the appropriate development or use of the land, building or structure on the property, and relative to the neighbouring lands.
- [13] The majority of 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 respect the character of the neighbourhood.
- [14] In addition, the majority of the Committee finds that the requested variance does not meet the general intent and purpose of the Zoning By-law, because the proposal does not represent orderly development of the property that is compatible with the surrounding area.
- [15] Moreover, the majority of the Committee finds that the requested variances are not minor because they would create an unacceptable adverse impact on abutting properties and the neighbourhood in general.
- [16] THE COMMITTEE OF ADJUSTMENT therefore does not authorize the requested variances.

Absent
ANN M. TREMBLAY
CHAIR

"Kathleen Willis"
KATHLEEN WILLIS
MEMBER

"Scott Hindle"
SCOTT HINDLE
ACTING CHAIR

Absent
COLIN WHITE
MEMBER

Absent
JULIA MARKOVICH
MEMBER

"Stan Wilder"
STAN WILDER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **May 12, 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 **June 1, 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