

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	May 26, 2023
File No(s):	D08-02-23/A-00049
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Thomas Finlay
Property Address:	578 Wavell Avenue
Ward:	7 - Bay
Legal Description:	Lot 931, Plan M-29
Zoning:	R1O
Zoning By-law:	2008-250
Hearing Date:	May 17, 2023

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

- [1] At the hearing on April 5, 2023, the Committee adjourned the hearing of the application *sine die* to allow the Owner time to submit revised plans and apply for additional relief.
- [2] The Owner wants to construct a new two-storey addition to the rear of the existing detached dwelling, and regularize a legally non-conforming interior side yard setback for the existing detached garage, as shown on plans filed with the Committee.

REQUESTED VARIANCE(S)

- [3] The Owner requires the Authority of the Committee for the following Minor Variances from the Zoning By-law:
 - a) To permit a reduced distance between the principal building and the existing detached garage of 0.39 metres, whereas the By-laws requires a minimum distance from a principal building to any other building located on the same lot of 1.2 metres.
 - b) To permit a reduced interior side yard setback (existing detached garage) of 0.2 metres, whereas the By-law requires a minimum interior side yard setback of 1.2 metres.

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

PUBLIC HEARING

- [5] Prior to the scheduled hearing on April 5, 2023, the Committee received an adjournment request from City Planner Cass Sclauzero to allow time for the Applicant to revise their application and requested variances. The Committee heard from Caleb Miller, Agent for the Applicant, who agreed with the adjournment. With the concurrence of all parties, the application was adjourned *sine die*.
- [6] Before the hearing on May 17, 2023, the Committee received correspondence from Ms. Sclauzero again requesting an adjournment of the application to allow time for the Applicant to provide an updated Tree Information Report. However, Ms. Sclauzero subsequently withdrew the adjournment request after receiving a revised Tree Information Report from the Applicant.
- [7] At the hearing on May 17, 2023, the Panel Chair administered an oath to Ryan Poulton, also acting as Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied.

Oral Submissions Summary

- [8] Mr. Poulton responded to questions from the Committee, confirming that a revised Tree Information Report was submitted to the City Planner and the City's Infill Forester to address their concerns.
- [9] Ms. Sclauzero was also present.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Four-Part Test

- [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.

Evidence

- [11] 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, and tree information, with revisions.
- City Planner email dated May 15, 2023, with no concerns and withdrawing the adjournment request
- City Planning Report received May 12, 2023, with an adjournment request; received March 31, 2023, with an adjournment request
- Rideau Valley Conservation Authority email dated May 10, 2023, with no objections; dated March 23, 2023, with no objections
- Hydro Ottawa email dated May 10, 2023, with comments; dated March 29, 2023, with comments

Effect of Submissions on Decision

- [12] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [13] Based on the evidence, the Committee is satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [14] The Committee notes that the City's Planning Report raises "no concerns with the requested variances to regularize the interior side yard setback and separation distance from the dwelling relate to the existing legally non-complying accessory building."
- [15] The Committee also notes that no evidence was presented that the requested variances would result in any unacceptable adverse impact on neighbouring properties.
- [16] Considering the circumstances, the Committee finds that, because the proposal fits well in the area, the requested variances are, 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 because the proposal respects the character of the neighbourhood, the requested variances maintain the general intent and purpose of the Official Plan.
- [18] 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.
- [19] Moreover, 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.

[20] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variances, **subject to** the location and size of the proposed construction being in accordance with the site plan filed, Committee of Adjustment date stamped April 21, 2023, as they relate to the requested variances.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

"Kathleen Willis"
KATHLEEN WILLIS
MEMBER

"Scott Hindle"
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 **May 26, 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 15, 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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