

DECISION
MINOR VARIANCE / PERMISSION

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| Date of Decision: | May 26, 2023 |
| File No(s): | D08-02-23/A-00088 |
| Application: | Minor Variance under section 45 of the <i>Planning Act</i> |
| Owner(s)/Applicant(s): | Greg, Jerzy and Eugenia Skotnicki |
| Property Address: | 255 Hinchey Avenue |
| Ward: | 15 - Kitchissippi |
| Legal Description: | Lot 177, Registered Plan 88291 |
| Zoning: | R4UB |
| Zoning By-law: | 2008-250 |
| Hearing Date: | May 17, 2023 |

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owners want to construct a three-storey duplex dwelling. The existing dwelling will be demolished.

REQUESTED VARIANCES

- [2] The Owners require the Authority of the Committee for Minor Variances from the Zoning By-law as follows:
- a) To permit a front-facing garage, whereas the By-law does not permit a front-facing garage where the predominant pattern is not a front facing garage based on the conclusions of a Streetscape Character Analysis.
 - b) ~~To permit a balcony projection of 1.5 metres into the rear yard on a lot with a depth of 29.26 metres, whereas the By-law permits a balcony to project 1.2 metres into the rear yard on a lot with a depth of 30.5 metres or less.~~
 - c) To permit an open stairway to project to 3.71 metres into the rear yard, whereas the By-law requires that stairways must not project more than 1.5 metres into the rear yard.
 - d) To permit a reduced front yard setback of 2.64 metres, whereas the By-law requires a minimum font yard setback of 3.16 metres.

- e) To permit a reduced rear yard setback of 8.25 metres (**28% of the lot depth**), whereas the Bylaw states the rear yard line that abuts the interior side lot line of an abutting lot, the minimum rear yard setback is equal to the minimum interior side yard setback of the abutting lot, in this case 8.77 metres (**30% of the lot depth**).

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

PUBLIC HEARING

- [4] The Panel Chair administered an oath to Chris Jalkotzy, Agent for the Applicants, who confirmed that the statutory notice posting requirements were satisfied.

Oral Submissions Summary

- [5] Mr. Jalkotzy provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. Mr. Jalkotzy highlighted that, stating that in 2021, the Committee heard a similar proposal for a duplex with a front-facing garage. The application was granted in part, with the variance for the front-facing garage not authorized. Mr. Jalkotzy further explained that the Applicants redesigned the proposed duplex to address concerns relating to the impact of the front-facing garage on the streetscape, and in his opinion, this project represented sensitive infill development.
- [6] In response to questions from the Committee, Mr. Jalkotzy confirmed that several design changes had been implemented to mitigate the impact of the front-facing garage on the streetscape. The design features include setting the garage further back from the front wall and the articulation of the front façade through the projection of a 'box-bay' window on the second and third floors and a covered porch extending the full width of the building.
- [7] The Committee noted that, as highlighted in the Planning Report, variance (b) is not required if variance (e) is approved because the balcony projection would be measured from the new rear yard setback and therefore be compliant with the Zoning By-law. The Planning Report also highlights amended wording of variance (e) as follows:
 - e) To permit a reduced rear yard setback of 8.25 metres (**28% of the lot depth**), whereas the Bylaw states the rear yard line that abuts the interior side lot line of an abutting lot, the minimum rear yard setback is equal to the minimum interior side yard setback of the abutting lot, in this case 8.77 metres (**30% of the lot depth**).
- [8] City Planner Margot Linker raised some concerns with the application, noting that front-facing attached garages are not the dominant streetscape character along Hinchey Avenue. She further confirmed that parking is not required.

- [9] 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 GRANTED AS AMENDED

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 any 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 a planning rationale, plans, tree information and a petition of support signed by two area residents.
- City Planning Report, received May 12, 2023, with some concerns
- Rideau Valley Conservation Authority, email dated May 15, 2023, with no objections
- Hydro Ottawa, email dated May 15, 2023, with no concerns

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 "some concerns" regarding the applications, stating that "[s]ince the absence of front-facing attached garages and carports is the dominant character of Hinchey Avenue, the addition of front-facing attached garages may lead to the streetscape gradually being dominated by an auto centric-design". However, the Committee also notes that the garage's door would be setback from the front wall of the duplex and the front façade would be further articulated with the addition of the covered porch and the 'box-bay' window and mitigate any negative impact on abutting and adjacent

properties. The Committee also notes the additional attempts to address previous concerns raised by area residents and the community association.

- [15] The Committee also notes that no evidence was presented that the 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 neighbourhood, 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 the requested variances maintain the general intent and purpose of the Official Plan because the proposal respects the character of the neighbourhood and contributes mild intensification in an area within the Inner Urban Transect.
- [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 surrounding area.
- [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 plans filed, Committee of Adjustment date stamped April 4, 2023, as they relate to the requested variances.


"John Blatherwick"
JOHN BLATHERWICK
VICE-CHAIR

"Stan Wilder"
STAN WILDER
MEMBER

"Heather MacLean"
HEATHER MACLEAN
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 **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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