

**DECISION**  
**MINOR VARIANCE / PERMISSION**

<b>Date of Decision:</b>	November 24, 2023
<b>Panel:</b>	1 - Urban
<b>File No.:</b>	D08-02-23/A-00209
<b>Application:</b>	Minor Variance under section 45 of the <i>Planning Act</i>
<b>Owner/Applicant:</b>	John Falbo
<b>Property Address:</b>	23 Strathcona Avenue
<b>Ward:</b>	17 - Capital
<b>Legal Description:</b>	Lot 24, Registered Plan 53786
<b>Zoning:</b>	R3P [1473]
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	November 15, 2023, in person and by videoconference

**APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATION**

- [1] On October 18<sup>th</sup>, 2023, the Committee adjourned the application *sine die* to allow the applicant time to revise the application to add a minor variance. The Applicant has since revised the application to include the additional minor variance and wants to proceed with the application.
- [2] The Owner wants to construct a three-storey detached dwelling, as shown on plans filed with the application. The existing dwelling will be demolished.

**REQUESTED VARIANCES**

The Applicant requires the Committee's authorization for minor variances from the Zoning By-law as follows:

- a) To permit a front-facing attached garage, whereas the By-law states that a front facing garage is not permitted as per the outcome of the Streetscape Character Analysis.
- b) To permit a driveway (3 metres wide), whereas the By-law states that a driveway is not permitted as per the outcome of the Streetscape Character Analysis.

- c) To permit the entrance of the attached garage to be set back 0.3 metres from the front edge of the porch, whereas the By-Law states the entrance to the garage must be set back at least 0.6 metres further from the applicable lot line than the front edge of the porch.
- d) To permit an increased front yard setback of 3.62 metres, whereas the By-Law permits a maximum front yard setback of 3 metres.

## **PUBLIC HEARING**

### **Oral Submissions Summary**

- [3] At the scheduled hearing on October 18, 2023, the Committee received a request for an adjournment from the City Planner to allow the Applicant to revise the application. With the concurrence of all parties the application was adjourned *sine die*.
- [4] On November 15, 2023, John Falbo, the Applicant, provided an overview of the application and responded to questions from the Committee. He stated that he believed the proposed garage is consistent with the streetscape. Mr. Falbo highlighted, and he had collected signatures from neighbours in support of of proposed garage.
- [5] Alex Bouterakos, Agent for the Applicant, provided images of the streetscape. He highlighted that, in his view, a detached garage with a driveway in the side yard would not maintain the character of the neighbourhood.
- [6] City Planner Margot Linker highlighted that the City would have preferred to have a greater setback for the garage to reduce the visual impact, and make it less dominant.
- [7] Following the public hearing, the Committee reserved its decision.

## **DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED, IN PART**

### **Application Must Satisfy Statutory Four-Part Test**

- [8] 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**

- [9] 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:
- Original and updated Application and supporting documents, including cover letter and appendices, plans, tree information, streetscape analysis, photo of the posted sign, and a sign posting declaration.
  - City Planning Report received November 9, 2023, with some concerns; received on October 13, 2023, with an adjournment request.
  - Rideau Valley Conservation Authority email received November 10, 2023, with no objections; received October 12, 2023, with no objections.
  - Hydro Ottawa email received October 5, 2023, with no concerns.
  - Ministry of Transportation received dated October 10, 2023, with no concerns.
  - E. de Lint, resident, email received October 10, 2023, opposed.

### **Effect of Submissions on Decision**

- [10] The Committee notes that the City's Planning Report raises "some concerns" regarding the application.
- [11] Considering the circumstances, the Committee finds that, because the proposed front yard setback fits well in the neighbourhood, requested variance (d) is, from a planning and public interest point of view, desirable for the appropriate use of the land, building or structure on the property, and relative to the neighbouring lands.
- [12] The Committee also finds that requested variance (d) maintains the general intent and purpose of the Official Plan because the proposed front yard setback respects the character of the neighbourhood.
- [13] In addition, the Committee finds that the requested variance (d) maintains the general intent and purpose of the Zoning By-law because the proposed front yard setback represents orderly development that is compatible with the neighbourhood.
- [14] Moreover, the Committee finds that requested variance (d) is minor, because it will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.

[15] Conversely, based on the evidence, the majority of the Committee (Member Blatherwick and Member Lécuyer dissenting on the refusal of variance (b)) is not satisfied that proposed variances (a), (b) and (c) meet all four requirements under subsection 45(1) of the Planning Act. While the applicant and agent highlighted that in their opinion the proposed variances met all four requirements, the Committee does not feel sufficient visual planning evidence was provided.

[16] The majority of the Committee finds that requested variances (a), (b) and (c) do not maintain the general intent and purpose of the Official Plan because the proposal does not respect the character of the neighbourhood.

[17] In addition, the majority of the Committee finds that the requested variances (a), (b) and (c) do 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.

[18] Failing two of the four statutory requirements, the Committee is unable to grant the application for variances (a), (b) and (c).

[19] THE COMMITTEE OF ADJUSTMENT therefore authorizes requested variance (d). Requested variances (a), (b), and (c) are not authorized.

*"Ann M. Tremblay"*  
ANN M. TREMBLAY  
CHAIR

*"John Blatherwick"*  
JOHN BLATHERWICK  
MEMBER

*"Simon Coakeley"*  
SIMON COAKELEY  
MEMBER

*"Arto Keklikian"*  
ARTO KEKLIKIAN  
MEMBER

*"Sharon Lécuyer"*  
SHARON LÉCUYER  
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **NOVEMBER 24, 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 **DECEMBER 14, 2023**, delivered by email at [cofa@ottawa.ca](mailto:cofa@ottawa.ca) and/or by mail or courier to the following address:

Secretary-Treasurer, Committee of Adjustment,  
101 CentrepoinTE Drive, 4<sup>th</sup> 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](mailto: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**  
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