

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	December 22, 2023
Panel:	1 - Urban
File No(s):	D08-02-23/A-00127 & D08-02-23/A-00128
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	13394450 Canada Inc.
Property Address:	516 Tweedsmuir Avenue
Ward:	15 - Kitchissippi
Legal Description:	Lot 57 Registered Plan 272
Zoning:	R3R [2687] H(8.5)
Zoning By-law:	2008-250
Hearing Date:	December 13, 2023, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owner wants to construct a new two-storey semi-detached dwelling, with two additional (secondary) dwelling units to each principal dwelling unit (6 units in total). The existing dwelling will be demolished.
- [2] On July 4, 2023, the Committee adjourned these applications to allow the Applicant time to revise their proposal and requested variances. The Applicant has submitted revised documents and now wants to proceed with the applications.

REQUESTED VARIANCES

- [3] The Owner/Applicant requires the Committee's authorization for minor variances from the Zoning By-law as follows:

A-00127:516 (A, B, & C) Tweedsmuir Avenue: Unit 1

- a) To permit a parking space in the front yard, whereas the By-law states that no parking may be established in a required and provided front yard.
- b) To permit a walkway to extend to the right of way on a lot less than 10 metres in width where a driveway is provided, whereas the By-law states that a walkway may not extend to the right of way on a lot less than 10 metres in width where a driveway is provided.

- c) To permit a basement-level entrance that leads to a secondary dwelling unit, whereas the By-law states that the doorway entrance that leads to a secondary dwelling unit is limited to locations on the ground floor only, except where building and fire codes dictate otherwise.
- d) To permit a reduced rear yard of 28% of the lot depth, or 8.72 metres, whereas the By-law states that, for lots greater than 25 metres in lot depth, the minimum rear yard is 30% of the lot depth, or 9.17 metres in this case.

A-00128:518 (A, B, & C) Tweedsmuir Avenue: Unit 2

- e) To permit a parking space in the front yard, whereas the By-law states that no parking may be established in a required and provided front yard.
- f) To permit a walkway to extend to the right of way on a lot less than 10 metres in width where a driveway is provided, whereas the By-law states that a walkway may not extend to the right of way on a lot less than 10 metres in width where a driveway is provided.
- g) To permit a walkway extending from the right of way to be separated from a driveway by 0 metres of soft landscaping, whereas the By-law requires a walkway extending from the right-of-way to be separated from any driveway by at least 0.6 metres of soft landscaping.
- h) To permit a basement-level entrance that leads to a secondary dwelling unit, whereas the By-law states that the doorway entrance that leads to a secondary dwelling unit is limited to locations on the ground floor only, except where building and fire codes dictate otherwise.
- i) To permit a reduced rear yard of 28% of the lot depth, or 8.72 metres, whereas the By-law states that, for lots greater than 25 metres in lot depth, the minimum rear yard is 30% of the lot depth, or 9.17 metres in this case.

PUBLIC HEARING

Oral Submissions Summary

- [4] Rosaline Hill, Agent for the Applicant, provided an overview of the application and responded to questions from the Committee. In response to comments from City Planner Margot Linker that variances (c) and (f) may not be required due to recent amendments to the Zoning By-law, Ms. Hill indicated that it was her preference to retain these variance requests in an abundance of caution.
- [5] In response to questions from the Committee, Ms. Hill submitted that privacy screening is not necessary for the proposed balconies due to the location of existing trees and structures that would obstruct views to neighbouring properties, and summarized the consultation that was undertaken prior to submitting the application and the feedback she received from neighbours. She also referred the

Committee to a map highlighting existing driveway and parking conditions in the immediate area.

[6] City Planner Margot Linker explained that parking is permitted on the property but cannot be located in a front yard, except within a driveway leading to a legal parking space in the side or rear yard, and could not include a front facing garage.

[7] The Committee also heard oral submissions from the following individuals:

- S. Beckta, neighbour, who stated that the proposal does not fit with the character of the neighbourhood, and highlighted concerns regarding snow removal, preservation of trees, garbage storage, privacy, and increased on-street parking and pedestrian safety. Mr. Beckta also addressed the existing driveway and parking conditions on the street and submitted that most residents have legal parking spaces in the side or rear yard and park their vehicles a significant distance from the street edge. He further submitted that the proposed rear balconies were not presented in previous consultation with neighbours.
- T. Gray, Westboro Community Association, who raised additional concerns regarding the proposed front yard parking.

[8] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS REFUSED

Applications Must Satisfy Statutory Four-Part Test:

[9] 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

[10] 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:

- Applications and supporting documents, including a cover letter, plans, a tree information report, a photo of the posted sign, and a sign posting declaration.
- City Planning Report received December 7, 2023, with concerns; received June 29, 2023, requesting adjournment.

- Rideau Valley Conservation Authority email dated December 7, 2023, with no objections; received July 4, 2023, with no objections.
- Hydro Ottawa email dated December 6, 2023, with comments; received June 20, 2023, with comments.
- C. T. Den, neighbour, email dated July 4, 2023, with concerns.

Effect of Submissions on Decision

- [11] The Committee considered all written and oral submissions relating to the applications in making its decision and refused the applications.
- [12] Based on the evidence, the majority of the Committee (*Member S. Lécuyer dissenting*) is not satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [13] The Committee notes that the City's Planning Report raises "concerns" regarding the application, specifically the proposed front yard parking spaces. The report highlights that the Official Plan policy direction for this area includes "an emphasis on the built-form relationship with the public realm, and limiting parking while ensuring that where it is provided, it is concealed from the street." The report also notes that "front yard parking has been prohibited through the urban area since 1980."
- [14] Considering the circumstance, the majority of the Committee finds that, because the proposal does not fit well in the area, the requested variances are not desirable for the appropriate development or use of the land, building or structure on the property, from a planning and public interest point of view.
- [15] The majority of the Committee also finds that the requested variances do not maintain the general intent and purpose of the Official Plan, which provides clear policy direction on the prohibition of front yard parking in the urban area.
- [16] In addition, the majority of the Committee finds that the requested variances do not maintain the general intent and purpose of the Zoning By-law because the proposal is not compatible with the surrounding area and the Tweedsmuir Avenue streetscape in particular.
- [17] Moreover, the majority of the Committee is not satisfied that sufficient evidence was presented that the requested variances are minor and will not cause unacceptable adverse impacts on the privacy of neighbours or the public realm in general.
- [18] Failing all four statutory requirements, the Committee is unable to authorize the requested variances.

[19] *Member S. Lécuyer dissents, finding that the proposal provides desirable housing in the urban area that is generally compatible with the surrounding context.*

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

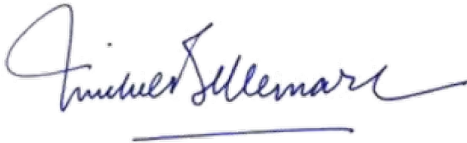
"John Blatherwick"
JOHN BLATHERWICK
MEMBER

"Simon Coakeley"
SIMON COAKELEY
MEMBER

"Arto Keklikian"
ARTO KEKLIKIAN
MEMBER

Dissenting
SHARON LÉCUYER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **December 22, 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 **January 11, 2024**, 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