

DECISION
MINOR VARIANCE / PERMISSION

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| Date of Decision: | February 16, 2024 |
| Panel: | 1 - Urban |
| File No(s): | D08-02-23/A-00302 & D08-02-23/A-00303 |
| Application: | Minor Variance under section 45 of the <i>Planning Act</i> |
| Owner(s)/Applicant(s): | Danny Ibrahim |
| Property Address: | 577 Melbourne Avenue |
| Ward: | 15 - Kitchissippi |
| Legal Description: | Lot 32 (East Melbourne Avenue) Registered Plan 204 |
| Zoning: | R3R [2687] H(8.5) |
| Zoning By-law: | 2008-250 |
| Hearing Date: | February 7, 2024, in person and by videoconference |

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owner wants to construct two, two-storey detached dwellings with front facing garages, one on each of the newly created lots, as shown on the plans filed with the applications.
- [2] At its hearing on September 20, 2023, the Committee granted consent application (D08- 01-23/B-00156) which severed 577 Melbourne Avenue into two separate parcels. At that same hearing, the Committee refused minor variance applications (D08-02-23/A-00142 & D08-02-23/A-00143).
- [3] The Owner has since revised their plans and wants to proceed with two new minor variance applications.
- [4] The applications indicate that the Property is not the subject of any other current application under the *Planning Act*.

REQUESTED VARIANCES

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

A-00302: 577 A Melbourne, Part 1 on 4R-Draft Plan

- a) To permit a reduced rear yard setback of 7.5 metres, whereas the By-law requires a minimum rear yard setback of 8.6 metres.
- b) To permit a reduced interior side yard setback (south) of 1.2 metres, whereas the By-law requires a minimum interior side yard setback of 1.5 metres.
- c) To permit a front facing garage, whereas the By-law does not permit a front facing garage based on the conclusion of a Streetscape Character Analysis.

A-00303: 577 B Melbourne, Part 2 on 4R-Draft Plan

- d) To permit a reduced rear yard setback of 7.5 metres, whereas the By-law requires a minimum rear yard setback of 8.6 metres.
- e) To permit a reduced interior side yard setback (north) of 1.2 metres, whereas the By-law requires a minimum interior side yard setback of 1.5 metres.
- f) To permit a front facing garage, whereas the By-law does not permit a front facing garage based on the conclusion of a Streetscape Character Analysis.

PUBLIC HEARING

Oral Submissions Summary

- [6] Jacob Bolduc and Evan Saunders, Agents for the Applicant, provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. Mr. Bolduc explained the design changes which had been undertaken since the original application in September of 2023. He further provided a detailed analysis demonstrating examples of properties in the neighbourhood which featured front-facing attached garages. In response to questions from the Committee, Mr. Bolduc explained that the proposed curved driveway was to protect a tree.
- [7] In response to questions from the Committee, City Planner, Margot Linker, confirmed that only properties that front onto Melbourne Avenue were included in the Streetscape Character Analysis, revealing that front-facing attached garages are not the dominant characteristic along the street.
- [8] The Committee also heard oral submissions from the following individual:
 - T. Gray, Westboro Community Association, noted that the community association was opposed to the original proposal, but is now in support of the new applications.

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

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Applications 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 cover letter, streetscape analysis report, site photos, plans, tree information report, photo of the posted sign, and a sign posting declaration.
- Hydro Ottawa email received January 30, 2024, with no concerns.
- Rideau Valley Conservation Authority email received January 31, 2024, with no objections.
- City Planning Report received February 1, 2024, with concerns; revised report received February 6, 2024, with concerns.
- Ministry of Transportation email received February 2, 2024, with no comments.
- M. Nowlan, resident, email received February 5, 2024, in opposition.

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 applications.

[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 "concerns" regarding the applications, highlighting that, "[t]he dominant character of the street is no

attached front-facing garage, single-wide driveway, and main entrance facing the street. Front-facing garages often push the livable floor area of the dwelling upwards and/or towards the rear yard, resulting in a break of character for the street.” However, the Committee also takes note of the Applicant’s efforts to reduce the impact of the front-facing attached garages, as well as the contextual evidence demonstrating other examples of front-facing attached garages in the neighbourhood.

- [15] The majority of the Committee also notes that no compelling evidence was presented that the variances would result in any unacceptable adverse impact on neighbouring properties.
- [16] Considering the circumstances, the majority of the Committee (Member Simon Coakeley dissenting for the reasons noted below) finds that, because the grade of the property reduces the impact of the front-facing garage and because the proposal fits well in the neighbourhood that includes several examples of front-facing garages, 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 majority 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.
- [18] In addition, the majority of the Committee finds that the requested variances maintain the general intent and purpose of the Zoning By-law the proposal represents orderly development on the property that is compatible with the surrounding areas.
- [19] Moreover, the majority of 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] Member Simon Coakeley dissents, finding that front-facing attached garages do not maintain the general intent and purpose of the Zoning By-Law.
- [21] 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 December 18, 2023, as they relate to the requested variances.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

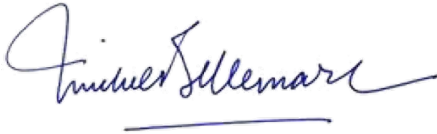
"John Blatherwick"
JOHN BLATHERWICK
MEMBER

DISSENT
SIMON COAKELEY
MEMBER

Absent
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 **February 16, 2024**.



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 **March 7, 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.

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