

2024-02-02



**MINOR VARIANCE APPLICATION
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
PANEL 1**

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 582 Mariposa Avenue
Legal Description: Lot 104 and Part of Lots 101, 102 and 103, Registered Plan M-46
File No.: D08-02-23/A-00308
Report Date: February 2, 2024
Hearing Date: February 7, 2024
Planner: Cass Schlauzero
Official Plan Designation: Inner Urban Transect, Neighbourhood
Zoning: R1B[1259]

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **requests an adjournment of** the application.

DISCUSSION AND RATIONALE

Staff have reviewed the subject minor variance application against the “four tests” as outlined in Section 45 (1) of the *Planning Act*, R.S.O. 1990 c. P.13, as amended. Staff are not satisfied that the requested minor variance(s) meet(s) the “four tests” with respect to desirability of the requested variances and maintaining the intent of both the Zoning By-law and Official Plan. Staff recommend that the application be adjourned to allow the applicant the opportunity to revise their plans following further consultation with Development Review, Heritage, Forestry and Right-of-Way Management staff.

The two existing driveways on the subject property appear to enjoy legal non-conforming rights with respect to their respective widths and cumulative width as measured at the lot line. Exception 1259 to the Zoning By-law limits the width of a single vehicular access to 3.05 metres as measured at the lot line and limits the cumulative width of all vehicular accesses on a lot to 6.1 metres.

The proposed site plan shows that the existing semi-circular driveway is 12.99 metres wide and that the second existing driveway is 3.79 metres wide, each exceeding the permitted width of a single vehicular access and also exceeding the permitted cumulative width by 10.68 metres.

The application proposes to remove the 3.79-metre driveway and install a new driveway measuring 4.25 metres wide across the front lot line abutting Old Lakeview Avenue, though the notice requests a variance to permit an increased driveway width of 4.5 metres and a maximum cumulative vehicular access width of 17.5 metres.

Staff are not supportive of the application given that the requested variances would result in a situation moving farther from zoning compliance. However, if the variances are granted, staff recommend that they be amended to reflect the exact individual and cumulative widths per the site plan, and to specify that the width be measured at the lot line in keeping with the wording of Exception 1259.

The requested variances are also not in keeping with Official Plan policies related to tree conservation, maintenance of the urban forest canopy, and prioritizing retention of existing trees. Policy 4.8.2 states that the Committee may refuse a development application where it deems tree loss to be avoidable.

Policy 4.5.2 of the Official Plan requires that development applications on a designated heritage property be compatible by ensuring compliance with the attributes of the applicable Heritage Conservation District (HCD) Plan. The Rockcliffe Park HCD Plan specifically states that narrowing driveway widths to comply with the Zoning By-law is encouraged when the opportunity arises, including when driveways are moved as a result of an addition.

ADDITIONAL COMMENTS

The applicant has not provided evidence that the existing driveways enjoy legal non-complying rights; specifically, with respect to the semi-circular driveway being located in the front yard and not leading to a permitted parking space, and with respect to the individual and cumulative widths of both driveways as measured at the lot line. Prior to any recirculation of the subject application, staff request that the applicant provide evidence that legal non-complying rights exist for one or both driveways.

Staff also request that the applicant revise their total gross floor area (GFA) and floor space index (FSI) calculations if it is determined that more than half of the floor to ceiling height of the basement is above **grade** rather than above **existing average grade**, based on the definition of **basement** under Section 54 of the Zoning By-law and given that the subject property is not within Area A of Schedule 348 to the by-law. Exception 1259 limits the FSI to a maximum of 0.375.

Heritage Planning Branch

Heritage Planning staff find that the application for minor variances at 582 Mariposa Avenue is premature. The plans submitted with the application package do not provide enough information to determine if a heritage permit can be issued by staff through delegated authority or if Council approval is needed. Heritage Planning staff encourage adjournment to allow for heritage review of the overall project, to meet with the applicant and to determine the processes required.

582 Mariposa Avenue is recognized as a Grade I property in the Rockcliffe Park Heritage Conservation District (HCD). Grade I properties contribute to the cultural heritage value of the HCD through their landscaped setting, architecture and environment.

The Rockcliffe Park HCD Plan aims to provide clear guidance on how to conserve the cultural heritage value of the HCD. Policy 1 in Section 4.5.2 of the Official Plan ensures that development applications are compatible by respecting and conserving the cultural heritage value and attributes of the HCD as defined by the HCD Plan. The HCD Plan outlines a framework for protecting and preserving the HCD's attributes, including its driveways, landscape features and lighting, as outlined in 7.3.2 Conservation and Maintenance and in 7.4.3 Landscape Guidelines – New Buildings and Additions.

Specifically, the HCD Plan recognizes the dominance of soft landscaping over hard landscaping and the informal landscape character (simple walkways, driveways, stone retaining walls and flowerbeds) as heritage attributes.

The HCD Plan provides guidance related to moving a driveway because of an addition, including the following:

- The establishment of new driveways to supplement existing driveways will not be permitted. If a driveway must be moved because of an addition, the new driveway will be established in conformity with these Guidelines, the Zoning By-law, and the Private Approach By-law.
- The existing landscaped character of a lot will be preserved, when new buildings and additions are constructed.
- Setbacks, topography and existing grades, trees, pathways and special features, such as stone walls and front walks shall be preserved.

The HCD Plan provides general guidance related to driveways, including:

- Driveway design that minimizes the amount of asphalt and other paving materials is encouraged.
- Narrowing driveway widths to comply with the Zoning By-law is encouraged when the opportunity arises.

When considering the impact of the requested variances, staff have concerns about the potential impact of cumulative driveway widths, including a new supplemental driveway, on the informal landscape character of the HCD. Heritage staff are also concerned that the introduction of additional hardscape will impact the dominance of softscape and the green setting of the property.

If variances are granted, the Ontario Heritage Act requires the applicant to obtain a heritage permit prior to undertaking alterations to the property.

Infrastructure Engineering

110 Laurier Avenue West, Ottawa ON K1P 1J1

Mail code: 01-14

110, av. Laurier Ouest, Ottawa (Ontario) K1P 1J1

Courrier interne : 01-14

Visit us: Ottawa.ca/planning

Visitez-nous : Ottawa.ca/urbanisme

1. Planning, Real Estate and Economic Development Department will do a complete review of grading and servicing during the building permit process.
2. At the time of building permit application, a grading/servicing plan prepared by a Professional Engineer, Ontario Land surveyor or a Certified Engineering Technologist will be required.
3. Any proposed works to be located within the road allowance requires prior written approval from the Infrastructure Services Department.
4. All trees on City property and private trees greater than 30cm in diameter in the inner urban area are protected under the Tree Protection By-law (2020-340), and plans are to be developed to allow for their retention and long-term survival. A Tree Removal Permit and compensation are required for the removal of any protected tree.
5. The surface storm water runoff including the roof water must be self-contained and directed to the City Right-of-Way, not onto abutting private properties as approved by Planning, Real Estate and Economic Development Department.
6. A private approach permit is required for any access off of the City street.
7. Existing grading and drainage patterns must not be altered.
8. Encroachment on or alteration to any easement is not permitted without authorization from easement owner(s).

Planning Forestry

The Tree Information Report (TIR) notes that only three trees will require removal to accommodate the new driveway; however, there are several additional and significant trees (40, 42, 47 and 63) on City and private property with a large portion of their Critical Root Zones impacted by the area of excavation. Adjournment is recommended to consider other options with fewer impacts to the existing trees and heritage landscape, and to provide more detail in the TIR explaining how the impacts to additional trees will be mitigated. If the minor variance is approved as-is, a more detailed TIR will be required with the building permit to accurately determine the tree permit and compensation requirements.

Right-of-Way Management

The Right-of-Way Management Department has **concerns** with the proposed Minor Variance Application. If the Committee is inclined to approve the requested variance to establish the new entrance on Old Lakeview Avenue, the owner shall be made aware that a private approach that conforms with the Private Approach By-law (2003-447) can be established on the property. The proposed private approach intersects the roadway at an angle of approximately 54 degrees, whereas it is not permitted to be less than 70 degrees per Section 17 of the By-law.

The angle of the proposed private approach should be clearly marked on the site plan.

Transportation Engineering

Per Section 17 of the Private Approach By-Law, “the centerline of a private approach shall intersect the centreline of the roadway as nearly as practicable at a right angle, but in no case shall the acute angle between the centre line of the private approach and the centreline of the roadway be less than 70 degrees.” Please adjust driveway to comply with this section of the Private Approach By-Law.



Cass Schlauzero
Planner I, Development Review, East
Planning, Real Estate and Economic
Development Department



Erin O'Connell
Planner III, Development Review, Central
Planning, Real Estate and Economic
Development Department