

DECISION
MINOR VARIANCE / PERMISSION

Date of Decision:	April 12, 2024
Panel:	2 - Suburban
File No.:	D08-02-24/A-00047
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owners/Applicants:	Katy Marie Lisa Shearer and Sandy Thomas Shearer
Property Address:	182 Daniel Avenue
Ward:	15 - Kitchissippi
Legal Description:	Part of Lot 13 (West Side Daniel Avenue), Registered Plan 219
Zoning:	R1P [2159]
Zoning By-law:	2008-250
Hearing Date:	April 3, 2024, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owners want to construct a two-storey detached dwelling with a front-facing attached garage, as shown on the plans filed with the application. The existing dwelling will be demolished.

REQUESTED VARIANCE

- [2] The Owners/Applicants require the Committee's authorization for a minor variance from the Zoning By-law as follows:
- a) To permit a front-facing attached garage, whereas the By-law does not permit a front-facing garage based on the conclusions of a Streetscape Character Analysis.

PUBLIC HEARING

Oral Submissions Summary

- [3] Mike Segreto, Agent for the Applicants, provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. He highlighted that, while most of the development on this block does not feature attached garages, there are existing garages on the two neighbouring lots and on two more lots immediately across Daniel Avenue. Mr.

Segreto also referred to the Tree Information Report filed with the application, noting that an existing spruce tree in the front yard would be retained, while the critical root zone of a mature bur oak tree in the rear yard falls within the permitted building footprint on the lot, and it would therefore be removed. He explained that alternate building designs had been considered to preserve the tree but did not meet the Applicants' needs, and the option of eliminating the garage in favour of rear yard parking was not supported by the community. Mr. Segreto also highlighted that several letters of support had been signed by area residents.

- [4] Responding to the Panel's questions regarding the proposed garage, Mr. Segreto confirmed that it would be located closer to the front lot line than the existing front-facing garage on the property but would be in line with the neighbouring dwellings.
- [5] The Committee also heard oral submissions from H. Pearl, Chair, Champlain Park Community Association, who noted that the community association supports the proposed front-facing attached garage because it is preferable to alternatives that require more hard surfaces and structures in the rear yard that would exacerbate drainage and flood issues. She also addressed the adverse impacts of rear yard parking on neighbours and highlighted the public benefit of retaining greenspace and existing vegetation and mature trees.
- [6] City Planning Forester Nancy Young responded to the Committee's questions regarding the existing bur oak tree, highlighting that it appears to be in excellent condition. She emphasized the significance of this tree and submitted that further work should be done to consider alternative building designs to preserve the tree prior to the issuance of a building permit.
- [7] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION REFUSED

Application(s) 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.
- [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:
- Application and supporting documents, including a cover letter, plans, photo of the posted sign, and a sign posting declaration.

- City Planning email received April 3, 2024, withdrawing adjournment request and with concerns.
- City Planning Report received March 27, 2024, requesting adjournment.
- Rideau Valley Conservation Authority email received March 27, 2024, with no objections.
- Hydro Ottawa email received March 27, 2024, with comments.
- Ontario Ministry of Transportation email received March 22, 2024, with no comments.
- Ottawa MacDonal-Cartier International Airport Authority email received March 20, 2024, with no comments.
- H. Pearl, Champlain Community Association, email received March 28, 2024, with comments.
- A. Smith, resident, email received April 1, 2024, objecting.
- Letters of support signed by 7 area residents, received March 26, 2024.

Effect of Submissions on Decision

- [10] The Committee considered all written and oral submissions relating to the application in making its decision and refused the application.
- [11] Based on the evidence, the Committee is not satisfied that the requested variance meets all four requirements under subsection 45(1) of the *Planning Act*.
- [12] The Committee notes that the City's Planning Report raises "some concerns" regarding the application, highlighting that "the proposed front-facing attached garage may render the principal entrance of less importance and may contribute to the dominance of the automobile within this neighbourhood."
- [13] The Committee further notes the concerns raised by the City's Planning Forester regarding the impact of the proposal on the significant bur oak tree at the rear of the property, and the evidence presented that there may be opportunities to redesign the proposed dwelling to retain the tree. The Committee is also mindful of the City's Official Plan, which states that "the Committee of Adjustment may refuse a development application where it deems the loss of a tree avoidable."
- [14] Based on the circumstances, the Committee finds that no compelling argument was presented that the requested variance is sufficiently desirable, from a planning and public interest point of view, to override the public interest in retaining the

significant mature tree on the property or maintaining the established pattern of development along the street.

- [15] The Committee also finds that, in the absence of conclusive evidence to the contrary, the removal of the tree is avoidable in this instance, and therefore the requested variance fails to maintain the general intent and purpose of the Official Plan.
- [16] In addition, the Committee finds that insufficient evidence was presented to support a deviation from the conclusions of the Streetscape Character Analysis, and therefore the requested variance does not represent orderly development and fails to maintain the general intent and purpose of the Zoning By-law.
- [17] Finally, the Committee finds that the imposition of the front-facing attached garage on the street and the removal of the tree at the rear would cause unacceptable adverse impacts on the neighbourhood, and therefore the requested variance is not minor.
- [18] Failing all four statutory tests, the Committee is unable to grant the application.
- [19] THE COMMITTEE OF ADJUSTMENT therefore does not authorize the requested variance.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

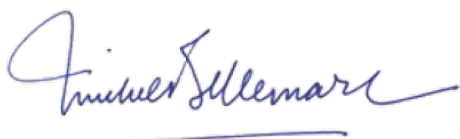
"John Blatherwick"
JOHN BLATHERWICK
MEMBER

"Simon Coakeley"
SIMON COAKELEY
MEMBER

"Arto Keklikian"
ARTO KEKLIKIAN
MEMBER

Absent
SHARON LÉCUYER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **April 12, 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 **May 2, 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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