

2024-05-09



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

PLANNING, DEVELOPMENT AND BUILDING SERVICES DEPARTMENT

Site Address: 80 Fourth Avenue
Legal Description: Part of Lot 31 (South of Fourth Avenue), Registered Plan 35085
File No.: D08-02-24/A-00088
Report Date: May 08, 2024
Hearing Date: May15, 2024
Planner: Penelope Horn
Official Plan Designation: Inner Urban, Neighbourhood Designation, Evolving Neighbourhood Overlay
Zoning: R3Q[1474]

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **has some concerns with** the minor variance request as Staff is not satisfied it meets policy 4.2.1.3 of the Official Plan.

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”.

The subject site is within the Inner Urban Transect Policy Area on Schedule A and is designated Neighbourhood with an Evolving Neighbourhood Overlay on Schedule B2 in the Official Plan. The intended pattern of development in the Inner Urban Transect is urban, exhibiting the characteristics outlined in Table 6 of the Official Plan. The Neighbourhood designation allows low-rise development in an efficient form that is compatible with existing development patterns.

The Official Plan in Subsection 4.2.1 enables greater flexibility and an adequate supply and diversity of housing options throughout the city. Policy 4.2.1.3 states that Accessory Dwelling units as provided by the Planning Act, including coach houses, are recognized as key components of the affordable housing stock. However, the Official Plan indicates that minor variance applications to increase the height of a coach house to two storeys

within the urban area will be subject to considerations identified in Subsection 4.2.1, Policy 3 e). These considerations are as follows:

- i) The proponent can demonstrate that the privacy of the adjoining properties is maintained;*
- ii) The siting and scale of the coach house does not negatively impact abutting properties; and*
- iii) Distinctive trees and plantings are preserved on the subject property.*

Privacy concerns have been mitigated through the placement of windows. However, this proposal would require the removal of a distinctive tree and significant injury to a mature tree on an abutting property, a negative impact. Injury to the neighbouring tree will likely be exacerbated by the minor variance sought to increase the maximum height. As a result, staff is of the opinion that the requested variance does not meet the intent of the Official Plan.

ADDITIONAL COMMENTS

Infrastructure Engineering

- The Planning, Development and Building Services Department will do a complete review of grading and servicing during the building permit process.
- At the time of building permit application, a grading/servicing plan prepared by a Professional Engineer, Ontario Land surveyor or a Certified Engineering Technologist may be required.
- Any proposed works to be located within the road allowance requires prior written approval from the Infrastructure Services Department.
- 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, Development and Building Services Department.
- A private approach permit is required for any access off of the City street.
- Existing grading and drainage patterns must not be altered.
- Note regarding Coach Houses:
 - Ensure the servicing trench is identified from the main dwelling to the coach house on the grading or servicing plan.

Planning Forestry

- The current proposal would require the removal of one large private tree on the subject property (tree 3), and significant injury of one distinctive tree (tree 4) in the rear yard of 82 Fourth Ave. A distinctive tree permit would be required, and the owner of the adjacent tree must consent to the tree permit application.

- Removal of the healthy, mature tree in the rear yard in favour of the proposed coach house would result in a significant loss of canopy, loss of good quality planting space, and unsatisfactory replacement.
- The proposal runs counter to Official Plan §4.8.2, Policy 3) which states that intensification shall maintain the urban forest canopy and its ecosystem services by preserving and providing space for mature, healthy trees on private and public property, including through the provision of adequate volumes of high-quality soil.
- As per Official Plan §4.8.2 Policy 3) c) Planning and development decisions, including Committee of Adjustment decisions, shall have regard for short-term, long-term, and cumulative impacts on the urban forest at the neighbourhood and urban-wide scale; and d) When considering impacts on individual trees, planning and development decisions, including Committee of Adjustment decisions, shall give priority to the retention and protection of large, healthy trees over replacement plantings and compensation.

Given that tree 3 is outside the as-of-right building footprint and co-exists with an existing garage, alternative designs using the existing footprint should be considered that would allow for its retention, and reduced injury to tree 4.




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