

**DECISION
MINOR VARIANCE**

Date of Decision:	May 24, 2024
Panel:	1 - Urban
File No.:	D08-02-24/A-00094
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner/Applicant:	Ibukunoluwa Ajila
Property Address:	113 Northwestern Avenue
Ward:	15 – Kitchissippi
Legal Description:	Part of Lot 45, Registered Plan 331
Zoning:	R2D [2159]
Zoning By-law:	2008-250
Heard:	May 15, 2024, in person and by videoconference

APPLICANT’S PROPOSAL AND PURPOSE OF THE APPLICATION:

- [1] The Owner/Applicant wants to construct a two-storey detached dwelling, as shown on plans filed with the Committee. The existing detached dwelling has been demolished.

REQUESTED VARIANCES:

- [2] The Applicant requires the Committee’s authorization for minor variances from the Zoning By-law as follows:
- a) To permit a double width driveway (single width at the street that flares to double width), whereas the By-law does not permit a double width driveway based on the conclusions of a Streetscape Character Analysis.
 - b) To permit a double width attached garage, whereas the By-law only permits a single attached garage.
 - c) To permit a balcony above the first floor with no opaque screening, whereas the By-law requires a 1.5-metre-high opaque screen facing the interior lot line on balconies above the first floor.
- [3] The application indicates that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [4] Prior to the hearing, the Committee received an adjournment request from the Champlain Park Community Association to allow the Applicant time to consult with the community association.
- [5] At the hearing, the Committee heard from H. Pearl, representing the Champlain Park Community Association, who reiterated her request for an adjournment.
- [6] City Forester Nancy Young stated she supported the adjournment, although she recognized that tree retention was not directly related to the requested variances. Ms. Young added that the tree permits required prior to the removal of the rear yard trees would be withheld until Forestry's concerns had been addressed.
- [7] Bria Aird and Micheal Pranger, Agents for the Applicant, objected to the adjournment request, noting that the community association's concerns were not related to the requested variances. Ms. Aird also added that a two-week adjournment would not be enough time to resolve the tree retention issues in the rear yard and acknowledged the comment about the tree permits.
- [8] The Committee also heard from T. Gray, resident, who expressed concerns that an additional variance could be required to address the proposed cantilevered overhang. City Planner Penelope Horn confirmed an additional variance was not required.
- [9] The Committee agreed to hear the application without delay.

Oral Submissions Summary

- [10] Ms. Aird and Mr. Pranger provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request.
- [11] Ms. Horn expressed concerns over the proposed double-wide driveway, noting that it is not permitted in accordance with the Streetscape Character Analysis. Ms. Horn confirmed that the subject lot is located within the Inner Urban Transect, which seeks to limit the appearance of parking and reduce parking where appropriate.
- [12] In response to questions from the Committee, Ms. Young confirmed that staff would prefer the decision be tied generally to the plans on file, to allow flexibility with the rear yard landscape.
- [13] Mr. Pranger confirmed that the proposed double-wide garage would be clad with same material that was proposed for the front wall of the dwelling. In his opinion, this would act as a mitigation measure by reducing the visibility of the garage from the street.
- [14] The Committee also heard oral submissions from the following individuals:

- Ms. Pearl, who expressed concerns that the proposal does not meet the intent of the Official Plan as it increases the dominance of automobiles. She further noted that the subject property is located within a 15-minute neighbourhood and does not necessitate automotive use.
- Mr. Gray, who expressed concerns that the proposal is not in character with the neighbourhood, noting that only one property in the neighbourhood features a double-wide garage. Mr. Gray also highlighted that the proposal would not provide additional residential density.

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

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED IN PART

Application Must Satisfy Statutory Four-Part Test

[16] 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

[17] 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, plans, tree information report, streetscape character analysis form, streetscape character analysis, photo of the posted sign, and a sign posting declaration.
- City Planning Report received May 9, 2024, with some concerns.
- Rideau Valley Conservation Authority email received May 10, 2024, with no objections.
- Ontario Ministry of Transportation email received May 3, 2024, with no comments.
- P. Joynt, resident, email received May 3, 2024, in support.
- H. Pearl, Champlain Park Community Association, email received May 9, 2024, and May 13, 2024, requesting an adjournment.

- T. Gray, resident, email received May 13, 2024, with concerns.

Effect of Submissions on Decision

- [18] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application in part.
- [19] Based on the evidence, the Committee is satisfied that variance (c) meets all four requirements under subsection 45(1) of the *Planning Act*.
- [20] The Committee notes that the City's Planning Report raises "some concerns" regarding the application, highlighting that "[t]he proposed double wide driveway and garage would result in a principal entrance that is less prominent." The report also highlights that "these changes could be reflected in future developments that are subject to Streetscape Character Analysis, eventually changing the dominant streetscape character towards a more auto-centric landscape." Additionally, the report highlights 'no concerns' with the exclusion of the 1.5 metre opaque privacy screen given the location of the balcony.
- [21] The Committee also notes that no evidence was presented that the variance (c) would result in any unacceptable adverse impact on neighbouring properties.
- [22] Considering the circumstances, the Committee finds that, because the proposed dwelling fits well in the area, variance (c) is, 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.
- [23] The Committee also finds that variance (c) maintains the general intent and purpose of the Official Plan because the proposed dwelling respects the character of the neighbourhood.
- [24] In addition, the Committee finds that variance (c) maintains the general intent and purpose of the Zoning By-law because the proposed dwelling represents orderly development on the property that is compatible with the neighbourhood.
- [25] Moreover, the Committee finds that variance (c) is minor because it will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.
- [26] Conversely, based on the evidence, the majority of the Committee (Member William Hunter dissenting) is not satisfied that variances (a) and (b) (relating to a flared double width driveway and garage) meet all four requirements under subsection 45(1) of the *Planning Act*.
- [27] Specifically, the majority of the Committee finds insufficient evidence was presented that variances (a) and (b) are desirable from a planning and public interest point of view, to override the public interest of retaining the established pattern of development along the street.

- [28] The majority of the Committee also finds that variances (a) and (b) do not maintain the general intent and purpose of the Official Plan because the proposal maximizes visual dominance of the automobile on the streetscape and is not compatible with the intent of the Inner Urban Transect Policy Area.
- [29] In addition, the majority of the Committee finds that insufficient evidence was presented that variances (a) and (b) maintain the general intent and purpose of the Zoning By-law despite the conclusions of the Streetscape Character Analysis.
- [30] Moreover, the majority of the Committee finds that variances (a) and (b) are not minor because they would create an unacceptable adverse impact on the neighbourhood.
- [31] THE COMMITTEE OF ADJUSTMENT therefore authorizes variance (c) **subject to** the location and size of the proposed construction being in accordance with the plans filed, Committee of Adjustment date stamped April 16, 2024, as they relate to variance (c).
- [32] THE COMMITTEE OF ADJUSTMENT does not authorize variances (a) and (b).

"Simon Coakeley"
SIMON COAKELEY
ACTING PANEL CHAIR

"John Blatherwick"
JOHN BLATHERWICK
MEMBER

Absent
SANN M. TREMBLAY
CHAIR

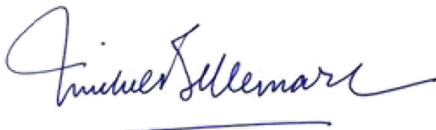
"Arto Keklikian"
ARTO KEKLIKIAN
MEMBER

Absent
SHARON LÉCUYER
MEMBER

With Noted Dissent
WILLIAM HUNTER
VICE-CHAIR

"Jay Baltz"
JAY BALTZ
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **May 15, 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 **June 13, 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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