

2023-09-14



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

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 577 Melbourne Avenue
Legal Description: Lot 32 (East Melbourne Avenue) Registered Plan 204
File No.: D08-01-23/B-00156, D08-02-23/A-00142 & A-00143
Report Date: September 14, 2023
Hearing Date: September 20, 2023
Planner: Margot Linker
Official Plan Designation: Inner Urban Transect, Neighbourhood
Zoning: R3R[2687] H(8.5) (Residential Third Density, Subzone R,
Urban Exception 2687, Maximum Building Height 8.5 Metres)

DEPARTMENT COMMENTS

The Planning, Real Estate, and Economic Development Department **has concerns with** the applications.

DISCUSSION AND RATIONALE

Regarding the requested Consent:

Section 53 (12) of the *Planning Act*, R.S.O. 1990, c .P.13, as amended, permits the criteria for the subdivision of land listed in Section 51 (24) to be considered when determining whether provisional consent may be granted by a committee of adjustment. With respect to the criteria listed in Section 51 (24), staff have no concerns with the proposed consent.

Regarding the requested Minor Variances:

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.

The subject site is located within the Inner Urban Transect Policy Area and designated Neighbourhood in Schedules A and B2 in the Official Plan, and is located approximately 650 metres from a Transit Priority Corridor and less than one kilometre from the future Kichi Sibi O-Train Station on Schedule C2. Within the Inner Urban Transect, maintaining or enhancing unbroken curb space for short-term, visitor and permit-zone street parking and other common purposes, and front yard space for trees and intensive landscaping, is given priority over private approaches. Driveways for new development that lead to

parking should be designed to minimize the impact on the public realm. Neighbourhoods are planned to maintain a low-rise character with form-based regulation having regard for local context and character of existing development as well as appropriate interfaces with the public realm. The Official Plan notes that a characteristic of urban built form is that there is either no automobile parking, or limited parking that is concealed from the street and not forming an integral part of a building, such as a front facing garage (Table 6).

The subject site is zoned R3R[2687] H(8.5) (Residential Third Density, Subzone R, Urban Exception 2687, Maximum Building Height 8.5 Metres), which permits a mix of residential building forms ranging from detached to townhouse dwellings and regulates development in a manner that is compatible with existing land use patterns.

Variations for garage, driveway and walkway:

Staff have concerns with the requested double wide driveway and attached garage. The Streetscape Character Analysis is an objective count of building elements (garages, driveways, and main entrances) within the vicinity of the subject site and is intended to encourage development to maintain the character with the existing homes on the street. The dominant character of the street is no attached front-facing garage, single-wide driveway, and main entrance facing the street. The primary consideration in whether or not a development is compatible with the streetscape character is the immediate surrounding context, as defined by the lots that are analyzed within the Streetscape Character Analysis.

A 0.6 metre soft landscaped area between the driveway and walkway is required by the Zoning By-law to ensure that the walkway is not used to be driven or parked on. Staff have concerns with the reduced soft landscaping between the driveway and walkway to 0 metres, as it appears that this will accommodate the autocentric-focused design and be used as an extension of the driveway.

Section 139, Table 139(3) in the Zoning By-law prohibits double-wide driveways on lots with street frontages of 10.06 metres. It appears that the driveway (including the part of the walkway that appears to be used for vehicle purposes) will occupy approximately half of the width of the front yard. The intent of the provisions limiting driveway width, in conjunction with the provisions requiring a minimum aggregated front yard, is to reduce the visual impact of driveways and cars parked in driveways in mature neighbourhoods within the greenbelt. Infill development within the Westboro Overlay should prioritize soft landscaping first, rather than prioritizing parking.

As noted above, the Official Plan notes that a characteristic of urban built form is limited parking that is concealed from the street and not forming an integral part of a building, such as a front facing garage (Table 6). Front-facing attached 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. These infill developments enhance the dominance of the automobile on the streetscape and render the principal entranceway less importance than the car's storage in neighbourhoods where housing was predominantly built prior to

the mass commercialization of the automobile. Since the dominant character of the street is no front facing attached garages, staff have concerns regarding the compatibility with the existing built form. In addition, since the direction of the Official Plan for this area is to become more urban, including prioritizing the built-form relationship with the public realm through emphasizing front entrances and windows, staff have concerns with these variances.

Another implication of granting the requested variances from the Streetscape Character Analysis requirements in support of this application is that the permission of front-facing attached garages would have an affect on future Streetscape Character Analysis results for other properties. This could have the effect of changing the dominant streetscape character, resulting in front-facing attached garages where no front-facing attached garage existed prior. Thus, this could have the effect of changing the zoning permissions on this street, which is not the intent of the Zoning By-law.

Variances for interior side yard and rear yard setbacks:

The need for interior side yard and rear yard variances appears to be to accommodate a design oriented around a front-facing attached garage, where such a feature is not a dominant pattern according to the Streetscape Character Analysis outcome. Staff are concerned about how “minor” the cumulative impact is. Staff recommend redesigning the single detached dwellings to provide a single-wide driveway that leads to parking in the interior side yard, rear yard, or detached garage in the rear yard, which will eliminate at least four variances for each proposed property.

If the Minor Variances for attached front-facing garages and double wide driveways are authorized, Staff have some concerns with the interior side yard setback variances. Larger interior side yard setbacks are normally required for larger multi-unit buildings to accommodate waste bin movement, movement to bicycle parking, and an increased access to the rear yard through the interior side yard, and 0.9 metres is generally large enough to provide access to the rear yard and maintenance of the wall for a single detached dwelling. However, the intent of the Zoning By-law requiring a 1.5 metre setback for all dwelling types is to harmonize development standards between different dwelling types within the same context. This will ensure that contextual design is the key focus of the zoning regulations. The proposed development deviates from this intent.

Staff have no concerns with the requested reduced rear yard setback. It appears on the elevations that the windows facing the interior side lot lines will be concentrated generally towards the centre of the building, causing no additional privacy issues on the abutting lots to the north and south from the reduced setback. The proposed rear yard setbacks align with the abutting lot's (571 & 573 Melbourne) rear yard setbacks. It appears that the building depth is still appropriate and not significantly out of scale with the existing context, and that rear yard soft landscaping requirements are still met.

Staff have no concern with the land division or land development; however, when considering the requested variances, Staff are concerned about the potential cumulative impact of a design that is not compatible with the existing context.

ADDITIONAL COMMENTS

Infrastructure Engineering

1. **Planning, Real Estate and Economic Development Department** will do a complete review of grading and servicing during the building permit process.
2. Any proposed works to be located within the road allowance requires prior written approval from the Infrastructure Services Department.
3. 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**.
4. Existing grading and drainage patterns must not be altered.
5. Existing services are to be blanked at the owner's expense.
6. Asphalt overlay would be required if three or more road-cuts proposed on City Right of way. This includes the road cut for blanking of existing services, and any other required utility cuts (ie, gas, hydro, etc.).
7. A report addressing the stability of slopes, prepared by a qualified geotechnical engineer licensed in the Province of Ontario, should be provided wherever a site has slopes (existing or proposed) steeper than 5 horizontal to 1 vertical and/or more than 2 metres in height.
8. Service lateral spacing shall be as specified in City of Ottawa Standard S11.3.
9. In accordance with the Sewer Connection By-Law a minimum spacing of 1.0m is required between service laterals and the foundation face.
10. Existing street sign to be relocated at the owner's expense.

Planning Forestry

The Tree Information Report identifies 7 trees. There are two City owned maples in the right of way (tree #s 1 and 2). Tree #1 is a 92 cm sugar maple that has reached maturity. The trees health and structure are slowly declining. There is a wound present on the tree and there is a dynamic structural support system installed in the canopy to reduce tension on the tree as its limbs sway. Based on the condition of the tree and the design proposed, retention of this tree is not recommended. Compensation will be required. Contact the Infill Forestry Inspector to discuss removal and compensation for this tree (forestry@ottawa.ca).

The retention solution proposed for tree #2, a 33 cm sugar maple in good condition, is not suitable. The International Society of Arboriculture's best management practices for Managing Trees in Construction states that no linear cuts should take place in the static root zone of a retained tree as this would risk instability (Static root zone is the tree diameter times a factor of 3). The static root zone for tree #2 is 1.00m from the edge of the trunk. The current plan shows excavation for a walkway within 30 cm of the tree. Removing the walkway as shown on the site plan would reduce excavation around this City owned tree. Section 4.8.2 of the Official Plan policy 6 states that the City and the Committee of Adjustment may refuse a development application where it deems the loss of a tree avoidable. The applicant's agent has been asked to provide a retention solution

for this tree. If updated plans can not be provided before the September 20th, 2023, hearing an adjournment will be requested.

Tree #4 requires removal because it is within the as of right building footprint. An infill tree removal permit application must be submitted through the City of Ottawa website. Compensation planting or cash in lieu (\$400.00) for trees that cannot be planted will be required.

The TIR notes tree # 5 requires removal because of fiber cable lines. This is not relevant to the application at hand. It is recommended that Tree Protection Fencing be installed around tree 5 to prevent any damage from equipment access and material storage through the construction process. The City of Ottawa's Tree Protection Specification can be found here: [Tree Protection Specification](#)

Right of Way Management

The Right-of-Way Management Department has no concerns with the proposed Consent & Minor Variance Applications. However, the Owner shall be made aware that a private approach permit is required to construct each of the newly created private approaches. Only requesting 3m driveway width in the ROW portion so no issue. If the minor variance is not approved and they are limited to a single garage and 3m wide driveway – they are still only requesting a 3m private approach.

CONDITIONS

If approved, the Planning, Real Estate and Economic Development Department requests that the Committee of Adjustment impose the following condition(s) on the application(s):

1. That the Owner(s) provide evidence that payment has been made to the City of Ottawa for cash-in-lieu of the conveyance of land for park or other public recreational purposes, plus applicable appraisal costs. The value of land otherwise required to be conveyed shall be determined by the City of Ottawa in accordance with the provisions of By-Law No. 2022-280, as amended. Information regarding the appraisal process can be obtained by contacting the Planner.
2. That the Owner(s), prior to the issuance of a building permit, shall enter into a Development Agreement or a Letter of Undertaking (LOU) with the City of Ottawa, at the expense of the Owner/Applicant(s), and to the satisfaction of the General Manager of the Planning, Real Estate, and Economic Development Department, or his/her designate. A development agreement is to be registered on Title of the property (where applicable), which will include the:
 - a. The Owners agree to provide a revised site plan and tree information report to the satisfaction of the General Manager of the Planning, Real Estate and Economic Development Department, or his/her designate. This report shall be prepared by an Arborist, identifying all trees protected under the City's Tree Protection by-law, and meeting the standards of the City's Tree

- Information Report Guidelines, including specific mitigation measures where work is proposed within the Critical Root Zone of a protected tree.
- b. The Owner(s) agree to provide securities for a period of 2 years following the completion of construction, which is equivalent to the value of the tree to be protected (trees # 2 as identified in the TIR dated March 8, 2023 prepared by Trillium Tree Experts). The Owner(s) agree that the security shall be returned to the owner only upon the City having received a report from an arborist or appropriate professional confirming for tree # 2, that they are in good health and condition, and remain structurally stable. The Owner(s) acknowledge and agree that if, in the opinion of the City Forester and/or the Development Review Manager of the relevant Branch within Planning, Real Estate, and Economic Development, the report indicates that tree # 2 is declining and must be removed, the Security for that tree, will be forfeited.
 - c. That the Owner(s) agree that the location of the proposed structures, including the driveways, retaining walls, services, projections, etc. shown on the Grading & Servicing Plan, will be determined based on the least impact to protected trees and tree cover. The Owner(s) further acknowledges and agrees that this review may result in relocation of these structures and agrees to revise their plans accordingly to the satisfaction of the Development Review Manager of the South Branch within the Planning, Real Estate and Economic Development Department, or his/her designate.
3. That the Owner(s) provide proof to the satisfaction of **the Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, to be confirmed in writing from the Department to the Committee, that the existing dwelling/building has been removed.
 4. That the Owner(s) provide evidence to the satisfaction of **the Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, to be confirmed in writing from the Department to the Committee, that the accessory structure has been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law.
 5. That the Owner(s) shall provide evidence that a grading and drainage plan, prepared by a qualified Civil Engineer licensed in the Province of Ontario, an Ontario Land Surveyor or a Certified Engineering Technologist, has been submitted to the satisfaction of the **Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate** to be confirmed in writing from the Department to the Committee. The grading and drainage plan shall delineate existing and proposed grades for both the severed and retained properties, to the satisfaction of the **Development Review Manager of the Select Branch within**

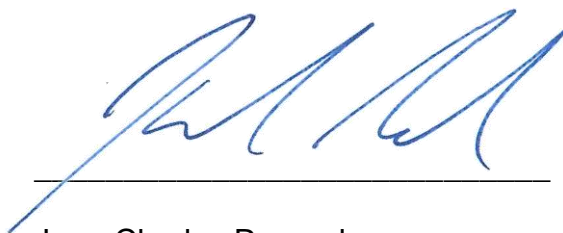
Planning, Real Estate and Economic Development Department, or his/her designate.

6. That the Owner(s) provide a servicing plan or other evidence, to the satisfaction of the **Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, to be confirmed in writing from the Department to the Committee, that each existing building and/or unit on the severed and retained parcels has its own independent water, sanitary and sewer connection, as appropriate, that are directly connected to City infrastructure and do not cross the proposed severance line.
7. That the Owner(s) enter into a Development Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the **Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, to require that an asphalt overlay will be installed, at the Owner(s) expense, on Melbourne Avenue, fronting the subject lands, over the entire public driving surface area within the limits of the overlay, if the approved Site Servicing Plan shows three or more cuts within the pavement surface. The overlay must be carried out to the satisfaction of the **Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate**. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.

If the **Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate** determines that a Development Agreement requiring an asphalt overlay is no longer necessary, this condition shall be deemed as fulfilled.



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