

**DECISION
MINOR VARIANCE / PERMISSION**

Date of Decision:	January 26, 2024
Panel:	2 - Suburban
File No(s):	D08-02-23/A-00283
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Mohamed Mostafa Real Estate Investment Inc.
Property Address:	124 Granton Avenue
Ward:	8 - College
Legal Description:	Lots 2263, 2264 & 2265, Registered Plan 375
Zoning:	R1FF [632]
Zoning By-law:	2008-250
Hearing Date:	January 16, 2024, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] At its hearings in January 2023, the Committee refused a consent and minor variance applications. The decisions of the Committee of Adjustment were appealed to the Ontario Land Tribunal and granted.
- [2] The Owner now wants to establish easements to accommodate a shared driveway, as shown on plans filed with the Committee.

REQUESTED VARIANCE

- [3] The Owner/Applicant requires the Committee's authorization for a minor variance from the Zoning By-law to permit a driveway to be located between the front wall of a building and the street whereas the By-law does not permit a part of the driveway to be located between the front wall and the street.

PUBLIC HEARING

Oral Submissions Summary

- [4] In response to questions from the Committee, Simran Soor, Agent for the Applicant, confirmed she had no concerns with the City's requested conditions regarding the associated consent applications.

- [5] City Planner Samantha Gatchene confirmed she had no concerns with the application.
- [6] The Committee also heard oral submissions from the following individuals:
- N. Wilson, co-president of the City View Community Association, expressed concerns that the Ontario Land Tribunal decision was not being read in its entirety, and that the application before the Committee was not for the previous variances. She also expressed concerns regarding the rear parking, noting it's incongruity with the character of the neighbourhood, reduction of soft landscaping, and potential for significant flooding and drainage issues. Ms. Wilson further stated that the approved plans submitted to the Ontario Land Tribunal featuring a double driveway would be preferable.
 - J. Prot, co-president of the City View Community Association, highlighted that rear yard parking is not featured on any other property in the area and would be incompatible with the neighbourhood. Ms. Prot further noted that a double driveway would be preferable as it would provide additional soft landscaping and opportunity for drainage.
- [7] Ms. Gatchene advised that as the property is not subject to a mature neighbourhood overlay, rear yard parking is permitted. Ms. Gatchene also noted that any concerns regarding drainage would be addressed through the requested stormwater condition of the associated consent applications.
- [8] Ms. Soor addressed the concerns raised and noted that while several lots in the area did have rear yard parking, and that the requested minor variance is not for a rear yard parking variance. She further confirmed that the rear lane at the back of the property was not travelable.
- [9] In response to questions from the Committee, Murray Chown, acting Agent for the Applicant, highlighted that the severances approved by the Ontario Land Tribunal have not been finalized as they are awaiting demolition of the existing dwelling. He also highlighted a recent amendment has been made to the Zoning By-law that establishes a maximum percentage rear yard area that can be occupied by parking spaces and a minimum percentage of rear yard area for soft landscaping.
- [10] City Forester Nancy Young responded to questions from the Committee regarding canopy coverage, highlighting that, although landscaping would be reduced in the rear yard, there would be additional tree planting opportunities in the front yard.
- [11] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED**Application Must Satisfy Statutory Four-Part Test**

[12] 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

[13] 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, parcel abstract, tree information report, a photo of the posted sign, and a sign posting declaration.
- City Planning Report received January 11, 2024, with no concerns.
- Rideau Valley Conservation Authority email received January 10, 2024, with no objections.
- Hydro Ottawa email received December 21, 2023, with no concerns.
- Hydro one email received December 15, 2023, with no concerns.
- Building Code Services email received December 15, 2023, with no concerns.
- Ministry of Transportation email received December 19, 2023, with no concerns.
- J. Prot & N. Wilson, City View Community Association, email received January 15, 2024, in opposition.
- M. Mihailovic, resident, email received January 15, 2024, in opposition.

Effect of Submissions on Decision

[14] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.

- [15] Based on the evidence, the Committee is satisfied that the requested variance meets all four requirements under subsection 45(1) of the *Planning Act*.
- [16] The Committee notes that the City's Planning Report raises "no concerns" regarding the application, highlighting that while "The intent of this zoning provision is to prevent illegal front yard parking on the driveway. Due to the 3.0 metre shared driveway and the proposed easements, it is highly unlikely that front yard parking would be possible." And that "The minor variance requested is related directly to the ability to retain the existing City tree, by curving the shared driveway partially in front of one unit."
- [17] The Committee also notes that no compelling evidence was presented that the variance would result in any unacceptable adverse impact on neighbouring properties.
- [18] Considering the circumstances, the Committee finds that, because the proposal fits well in the area, the requested variance 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.
- [19] The Committee also finds that the requested variance maintains the general intent and purpose of the Official Plan because the proposal respects the character of the neighbourhood.
- [20] In addition, the Committee finds that the requested variance maintains the general intent and purpose of the Zoning By-law because the proposal represents orderly development on the property that is compatible with the surrounding area.
- [21] Moreover, the Committee finds that the requested variance, both individually and cumulatively, is minor because it will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.
- [22] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variance, **subject to** the location and size of the proposed construction being in accordance with the plans filed, Committee of Adjustment date stamped November 21, 2023, as they relate to the requested variance.

Absent
FABIAN POULIN
VICE-CHAIR

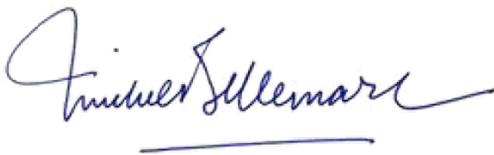
"Jay Baltz"
JAY BALTZ
MEMBER

"George Barrett"
GEORGE BARRETT
ACTING PANEL CHAIR

"Heather MacLean"
HEATHER MACLEAN
MEMBER

"Julianne Wright"
JULIANNE WRIGHT
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **January 26, 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 **February 15, 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.

Committee of Adjustment
City of Ottawa
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