

**DECISION
MINOR VARIANCE**

| | |
|---------------------------|--|
| Date of Decision: | September 27, 2024 |
| Panel: | 3 - Rural |
| File No.: | D08-02-24/A-00221 |
| Application: | Minor Variance under section 45 of the <i>Planning Act</i> |
| Applicants: | William and Avril Van Aert |
| Property Address: | 394 Allbirch Road |
| Ward: | 5 – West Carleton-March |
| Legal Description: | Part of Lot 83, Registered Plan 782 |
| Zoning: | V1H[350r] |
| Zoning By-law: | 2008-250 |
| Heard: | September 17, 2024, in person and by videoconference |

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Applicants wants to construct a new detached garage on their property, as shown on plans filed with the application.

REQUESTED VARIANCES

- [2] The Applicants require the Committee's authorization for minor variances from the Zoning By-law as follows:
- a) To permit an increased cumulative floor area for an accessory building of 76 square metres, whereas the By-law permits a maximum cumulative floor area for accessory buildings of 55 square metres.
 - b) To permit a reduced setback for an accessory building from the front lot line of 5.6 metres, whereas the By-law requires a minimum setback for an accessory building from the front lot line of 9 metres.
 - c) To permit a reduced setback for an accessory building from the side lot line of 3.5 metres, whereas the By-law requires a minimum setback for an accessory building from the side lot line of 9 metres.
- [3] The property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

Oral Submissions Summary

- [4] R. Rogers-Stewart, Agent for the Applicant, provided a brief overview of the application.
- [5] City Planner Luke Teeft expressed concerns regarding the “sea cans” identified on the site plan and currently located in the City right of way and encouraged the Applicant to either obtain a temporary construction permit or remove them. He highlighted no concerns with the requested variances.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Four-Part Test

- [6] 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

- [7] 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, neighbour’s letter of support, photo of the posted sign, and a sign posting declaration.
 - City Planning Report received September 12, 2024, with some concerns; received September 11, 2024, requesting adjournment.
 - Mississippi Valley Conservation Authority email received September 10, 2024, with no objections.
 - Hydro Ottawa email received September 16, 2024, with no comments.
 - Ontario Ministry of Transportation email received September 9, 2024, with no comments.

Effect of Submissions on Decision

- [8] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [9] Based on the evidence, the Committee is satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [10] The Committee notes that the City's Planning Report raises "some concerns" regarding the existing "sea cans" that encroach on the City right of way. However, regarding the proposed detached garage, the report highlights that, "the chosen site minimizes the potential impacts on trees and avoids the septic bed within the interior side yard."
- [11] The Committee also notes that no evidence was presented that the variances would result in any unacceptable adverse impact on neighbouring properties.
- [12] Considering the circumstances, the Committee finds that, because the proposal fits well in the area, the requested variances are, 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.
- [13] The Committee also finds that the requested variances maintain the general intent and purpose of the Official Plan because the proposal respects the character of the neighbourhood.
- [14] In addition, the Committee finds that the requested variances maintain the general intent and purpose of the Zoning By-law because the proposal represents orderly development that is compatible with the surrounding area.
- [15] Moreover, the Committee finds that the requested variances, both individually and cumulatively, are minor because they will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.
- [16] THE COMMITTEE OF ADJUSTMENT therefore authorizes the requested variances, **subject to** the location and size of the proposed construction being in accordance with the plans filed, Committee of Adjustment date stamped July 15, 2024, as they relate to the requested variances.

Terrence Otto
TERRENCE OTTO
VICE-CHAIR

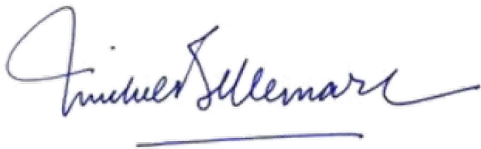
Gary Duncan
GARY DUNCAN
MEMBER

Beth Henderson
BETH HENDERSON
MEMBER

Martin Vervoort
MARTIN VERVOORT
MEMBER

Jocelyn Chandler
JOCELYN CHANDLER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **September 27, 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 **October 17, 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
Ottawa.ca/CommitteeofAdjustment
cofa@ottawa.ca
613-580-2436



Comité de dérogation
Ville d'Ottawa
Ottawa.ca/Comitedederogation
cded@ottawa.ca
613-580-2436