

DECISION MINOR VARIANCE

Date of Decision:	January 24, 2025
Panel:	1 - Urban
File No.:	D08-02-24/A-00290
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Applicants:	Photis Loizides and Dana Kaminskie
Property Address:	166 Faraday Street
Ward:	15 - Kitchissippi
Legal Description:	Lot 2355, Registered Plan M-48
Zoning:	R31
Zoning By-law:	2008-250
Hearing Date:	January 15, 2025, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Applicants want to construct a two-storey detached dwelling with a front facing attached garage, as shown on plans filed with the Committee. The existing dwelling will be demolished.

REQUESTED VARIANCE

- [2] The Applicants require the Committee's authorization for a minor variance from the Zoning By-law to permit a front facing attached garage, whereas the By-law does not permit a front-facing garage, based on the conclusions of a Streetscape Character Analysis.

PUBLIC HEARING

Oral Submissions Summary

- [3] Simran Soor, agent for the Applicants, and City Planner Penelope Horn were present.
- [4] Murray Chown, also acting as agent for the Applicant, responded to questions from the Panel regarding the letters of support submitted along with the application.

- [5] Following the hearing, and despite having announced a result at its conclusion, the Panel subsequently extended its deliberations on all the written and oral evidence presented -- including the Applicant's presentation slides -- in order to arrive at its final written decision.

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 all 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, letters of support, plans, tree information, and a sign posting declaration.
 - City Planning Report received January 10, 2025, with concerns; received January 9, 2025, with concerns.
 - Rideau Valley Conservation Authority email dated January 9, 2025, with no concerns.
 - Hydro Ottawa email dated January 13, 2025, with no concerns.
 - Ontario Ministry of Transportation email dated December 24, 2024, with no concerns.
 - Ottawa Carleton District School Board email dated January 9, 2025, with comments.
 - S. Hanna, neighbour, email dated January 15, 2024, with 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 Majority of the Committee (Member Coakeley dissenting for the reasons noted below) is satisfied that the requested variance meets all four requirements under subsection 45(1) of the *Planning Act*.
- [10] The Committee notes that the City's Planning Report raises "concerns" regarding the application, highlighting that the "proposed attached garage renders the principal entrance of less importance and may contribute to the dominance of the automobile within this neighbourhood."
- [11] The Majority of the Committee also notes that no compelling evidence was presented that the requested variance would result in any unacceptable adverse impact on neighbouring properties.
- [12] Considering the circumstances, the Majority of the Committee finds that, because the proposal fits well in the area, as highlighted by the support of neighbours, 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.
- [13] The Majority of 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.
- [14] In addition, the Majority of the Committee finds that the requested variance maintains the general intent and purpose of the Zoning By-law because the proposal represents orderly development that is compatible with the surrounding area, and that the addition of a front facing attached garage will have minimal impact on the public realm, despite the conclusions of the Streetscape Character Analysis.
- [15] Moreover, the Majority of the Committee finds that the requested variance is minor because it will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.
- [16] *Member S. Coakeley dissents, finding that, at the hearing on this matter, the Applicant's representative raised a concern that they had not been given a full opportunity to present arguments on behalf of their client. The right to be heard is a fundamental element of natural justice, one that ought not be restricted by rigid adherence to procedures. In the hearing of this application, the Applicant's representative was advised at the outset that a presentation was not required. Although there were questions asked by the Panel, no discussion ensued. Since the Applicant ultimately was not provided with an opportunity to*

present the application to the Committee, it is possible that an observer could be of the opinion that the 'right to be heard' was consequently denied. Member Coakeley finds that natural justice in this case would best be ensured by adjourning the hearing and have it set down for re-hearing de novo by another panel, even if there is no clear statutory authority or ability under the Committee's Rules of Practice and Procedure to do so. With regard to the substantive issue before the Committee—whether to allow a front-facing garage which is not permitted under the streetscape analysis—Member Coakeley finds that the material before the Panel failed to make a compelling argument why a front-facing garage was justified in this instance. The evidence did not establish that there was no alternative to a front-facing garage or that the alternatives were worse from a planning perspective than the front-facing garage (for example removal of mature trees); the only adverse impact identified in the material was a reduction in soft landscaping. Second, even if one expands the streetscape analysis to include the full block on which the proposed construction would take place, approximately two-thirds of the lots do not have front-facing garages; clearly the predominant streetscape being protected by the bylaw does not include front-facing garages.

[17] **THE COMMITTEE OF ADJUSTMENT ORDERS** that the application is granted and the variance is authorized.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

"John Blatherwick"
JOHN BLATHERWICK
MEMBER

Absent
ARTO KEKLIKIAN
MEMBER

Dissent
SIMON COAKELEY
MEMBER

Declared interest
SHARON LÉCUYER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **January 24, 2025**



Michel Bellemare
Secretary-Treasurer

NOTICE OF RIGHT TO APPEAL

To appeal this decision to the Ontario Land Tribunal (OLT), a completed appeal form and the filing fee must be submitted via one of the below options and must be received no later than **3:00 p.m. on February 13, 2025**.

- **OLT E-FILE SERVICE** – An appeal can be filed online through the [E-File Portal](#) . First-time users will need to register for a My Ontario Account. Select [Ottawa (City): Committee of Adjustment] as the Approval Authority. To complete the appeal, fill in all the required fields and provide the filing fee by credit card.
- **BY EMAIL** - Appeal packages can be submitted by email to cofa@ottawa.ca. The appeal form is available on the OLT website at [Forms | Ontario Land Tribunal](#). Please indicate on the appeal form that payment will be made by credit card.
- **IN PERSON** – Appeal packages can be delivered to the Secretary-Treasurer, Committee of Adjustment, 101 CentrepoinTE Drive, 4th floor, Ottawa, Ontario, K2G 5K7. The appeal form is available on the OLT website at [Forms | Ontario Land Tribunal](#). In person 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.

Please note only one of the above options needs to be completed. If your preferred method of appeal is not available at the time of filing, the appeal must be filed with one of the other two options.

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.

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.

If you have any questions about the appeal process, please visit [File an Appeal | Ontario Land Tribunal](#)

Ce document est également offert en français.

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