

**DECISION  
MINOR VARIANCE**

<b>Date of Decision:</b>	December 20, 2024
<b>Panel:</b>	1 - Urban
<b>File No.:</b>	D08-02-24/A-00283
<b>Application:</b>	Minor Variance under section 45 of the <i>Planning Act</i>
<b>Applicant:</b>	Zahra Kiani Falavarjani
<b>Property Address:</b>	28 Gwynne Avenue
<b>Ward:</b>	15 - Kitchissippi
<b>Legal Description:</b>	Part of Lots 2 & 3 (West Gwynne Avenue), Registered Plan 111
<b>Zoning:</b>	R1QQ
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	December 11, 2024, in person and by videoconference

**APPLICANT’S PROPOSAL AND PURPOSE OF THE APPLICATION**

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

**REQUESTED VARIANCE**

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

**PUBLIC HEARING**

**Oral Submissions Summary**

[3] Jacques Hamel, agent for the Applicant, provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request.

- [4] Mr. Hamel provided an overview of the Streetscape Character Analysis undertaken by his office compared to the version of the analysis completed by the City's Planning Services.
- [5] In response to questions from the Committee, Mr. Hamel advised that they had looked at several options for providing either a detached or an attached garage. However, it was his opinion that a garage at the rear of the property would increase the amount of hard surface and affect the tree canopy and therefore a front facing garage would have the least impact.
- [6] City Forester Nancy Young confirmed that the large tree in the rear yard would limit how close to the rear lot line the garage could be located, however she was not consulted on any options for moving the garage from the front of the dwelling and in her opinion, there could be a more optimal position.
- [7] City Planner Penelope Horn confirmed that the formula for creating a Streetscape Character Analysis is generally based off the lot pattern of the neighbourhood, but also subjectively takes intricacies such as the subject lot's location into consideration.
- [8] Following the public hearing, the Committee reserved its decision.

## **DECISION AND REASONS OF THE COMMITTEE: APPLICATION REFUSED**

### **Application(s) Must Satisfy Statutory Four-Part Test**

- [9] 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**

- [10] 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:
- Applications and supporting documents, including cover letter, plans, tree information, photo of the posted sign, and a sign posting declaration.
  - City Planning Report received December 5, 2024, with concerns.

- Rideau Valley Conservation Authority email dated December 6, 2024, with no objections.
- Hydro Ottawa email dated December 6, 2024, with no comments.
- Ontario Ministry of Transportation email dated November 22, 2024, with no comments.

### **Effect of Submissions on Decision**

- [11] The Committee considered all written and oral submissions relating to the application in making its decision and refused the application.
- [12] Based on the evidence, the Committee is not satisfied that the requested variance meets all four requirements under subsection 45(1) of the *Planning Act*.
- [13] The Committee notes that the City's Planning Report raises "some concerns" regarding the application, highlighting that "the Official Plan prioritizes the built-form relationship with the public realm through emphasis on front entrances and windows". The report also highlights that "[w]hile staff appreciate that the proposed garage is set back from the front lot line, it still renders the principal entrance of less importance and may contribute to the dominance of the automobile within this neighbourhood".
- [14] The Committee also notes that no compelling evidence was presented that the variance would result in any unacceptable adverse impact on neighbouring properties. The Committee further notes that insufficient evidence was provided that options for the location of the garage were sufficiently examined.
- [15] Considering the circumstances, the Committee finds that, because the proposal does not fit well in the area, the requested variance is, from a planning and public interest point of view, not desirable for the appropriate development or use of the land, building or structure on the property, and relative to the neighbouring lands.
- [16] In addition, the Committee finds that the requested variance does not maintain the general intent and purpose of the Zoning By-law because the proposal does not represent orderly development that is compatible with the surrounding area.
- [17] Failing two of the four statutory tests, the Committee is unable to grant the application.
- [18] THE COMMITTEE OF ADJUSTMENT therefore does not authorize the requested variance.

*"Ann M. Tremblay"*  
ANN M. TREMBLAY  
CHAIR

*"John Blatherwick"*  
JOHN BLATHERWICK  
MEMBER

*"Simon Coakeley"*  
SIMON COAKELEY  
MEMBER

*"Arto Keklikian"*  
ARTO KEKLIKIAN  
MEMBER

*"Sharon Lécuyer"*  
SHARON LÉCUYER  
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **December 20, 2024**



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 January 9, 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](mailto: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, 4<sup>th</sup> 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.*

**Committee of Adjustment**  
City of Ottawa  
[Ottawa.ca/CommitteeofAdjustment](http://Ottawa.ca/CommitteeofAdjustment)  
[cofa@ottawa.ca](mailto:cofa@ottawa.ca)  
613-580-2436



**Comité de dérogation**  
Ville d'Ottawa  
[Ottawa.ca/Comitedederogation](http://Ottawa.ca/Comitedederogation)  
[cded@ottawa.ca](mailto:cded@ottawa.ca)  
613-580-2436