



COMMITTEE OF ADJUSTMENT OF THE CITY OF OTTAWA

DECISION MINOR VARIANCE / PERMISSION (Section 45 of the *Planning Act*)

File Nos.: D08-02-22/A-00111, D08-02-22/A-00112
Owner(s): 2606394 Ontario Inc.
Location: 422 Hartleigh Avenue
Ward: 7-Bay
Legal Description: Part of Lot 90, Registered Plan 305
Zoning: R2F
Zoning By-law: 2008-250

Notice was given and a Public Hearing was held on **June 1 and July 6, 2022**, as required by the *Planning Act*.

PURPOSE OF THE APPLICATIONS:

At its hearing on June 1, 2022, the Committee adjourned applications D08-02-22/A-00111 & D08-02-22/A-00112 to allow the Owner time to identify additional variances. The Owner has submitted revised material and wishes to proceed with the application.

The Owner has filed Consent Applications (D08-01-22/B-00124 and D08-01-22/B-00125) which, if approved, will have the effect of creating two separate parcels of land that will not be in conformity with the requirements of the Zoning By-law. It is proposed to demolish the existing dwelling and to construct a new semi-detached dwelling, with one dwelling unit on each of the newly created parcels.

RELIEF REQUIRED:

The Owner requires the Authority of the Committee for Minor Variances from the Zoning By-law as follows:

A-00111: 422 Hartleigh Avenue, Part 1 proposed semi-detached dwelling

- a) To permit a reduced lot area of 232 square metres, whereas the By-law requires a minimum lot area of 270 square metres.
- b) To permit a reduced lot width of 7.62 metres, whereas the By-law requires a minimum lot width of 9.0 metres.

- c) To permit a reduced side yard setback of 1.2 metres, where as By-law requires a minimum side yard setback of 1.5 metres. **(NEW)**

A-00112: 424 Hartleigh Avenue, Part 2 proposed semi-detached dwelling

- d) To permit a reduced lot area of 232 square metres, whereas the By-law requires a minimum lot area of 270 square metres.
- e) To permit a reduced lot width of 7.62 metres, whereas the By-law requires a minimum lot width of 9.0 metres.
- f) To permit a reduced side yard setback of 1.2 metres, where as By-law requires a minimum side yard setback of 1.5 metres. **(NEW)**

The Applications indicate that the Property is the subject of the above noted Consent Applications under the *Planning Act*.

PUBLIC HEARING:

At the outset of the Hearing on July 6, 2022, the Committee called the applications forward to consider an adjournment to allow the Applicant more time to consult with the City Planner. The Committee heard from Paul Cooper, Agent for the Applicant, who confirmed that consultation did occur with City staff prior to the Public Hearing scheduled on June 1, 2022, regarding the retention of an existing mature tree (tree #1 on the tree planting plan). He also requested that the applications proceed as scheduled.

Siobhan Kelly, the City Planner, confirmed that the department is not requesting for the application to be adjourned but the department continues to have concerns with the proposed applications. She indicated that there is a possibility to develop the lots with an alternative driveway without having to remove tree #1. Nonetheless, should the Committee approve the applications with the parking configuration proposed resulting tree #1 being removed, a tree planting plan showing locations of compensated trees condition shall be imposed. The Committee therefore stepped the applications down to be recalled later in the Public Hearing.

Upon recall, the Panel Chair administered an oath to Mr. Cooper, who confirmed that the statutory notice posting requirements were satisfied.

In response to questions from the Committee, Mr. Cooper explained that there were other options for consideration which would have retained tree #1 however the proposal was not supported by the Planning Department.

Ms. Kelly indicated that the alternative proposal featured a front-facing carport/garage which would have required additional variances from the Mature Neighbourhood Overlay, and applications that try to vary from the mature neighbourhoods, the department would not support the requested variances. She confirmed that the

department has some concerns with the applications, nonetheless the City Infill Forester is in support of compensation for the removal of tree #1.

With regards to the conditions requested by Bell Canada, Mr. Cooper questioned the need for the easement condition. The Committee explained that the condition would allow Bell Canada to have access to the property to maintain overhead wires.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

The Committee considered any written and oral submissions relating to the application in making its Decision.

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.

Based on the evidence, the Committee is satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.

The Committee notes the City's Planning Report raises "concerns with the applications due to impacts to protected trees." The Committee also notes that the City Infill Forester is in support of compensation for the removal of tree #1 and that proposed condition 3 includes the preparation of a tree planting plan for all permitted tree removals. Additionally, the report highlights: "The proposed development conforms with the provisions of the Mature Neighbourhoods Overlay and is compatible with existing development as it maintains the low-rise character of the neighbourhood, while introducing a housing type planned for the Inner Urban Transect."

The Committee also notes that no evidence was presented that the variances would result in any unacceptable adverse impact on neighbouring properties.

Considering the circumstances, the Committee finds that, because the proposal fits well in the neighbourhood, 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. 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. 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. 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.

The Committee therefore authorizes the requested variances (c) and (f), **subject to** the location and size of the proposed construction being in accordance with the revised site plan filed, Committee of Adjustment date stamped May 24, 2022, and the elevations filed, Committee of Adjustment date stamped April 27, 2022.

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 **August 4, 2022**, 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 OLT 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 individuals, corporations and public bodies may appeal Decisions in respect of applications for consent to the OLT. A notice of appeal may not be filed by an unincorporated association or group. However, a Notice of Appeal may be filed in the name of an individual who is a Member of the Association or group on its behalf.

Please note that there are no provisions for the Committee of Adjustment or the OLT 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.

**DECISION SIGNATURE PAGE
PAGE DE SIGNATURE DE LA DÉCISION****File No. / Dossier n°:** D08-02-22/A-00111, D08-02-22/A-00112**Owner(s) / Propriétaire(s):** 2606394 Ontario Inc.**Location / Emplacement:** 422 Hartleigh Avenue

We, the undersigned, concur in the decision and the reasons set out by the Committee of Adjustment.

Nous, soussignés, souscrivons à la décision et aux motifs rendus par le Comité de dérogation.

“Ann M. Tremblay”**ANN M. TREMBLAY
CHAIR / PRÉSIDENTE*****“Kathleen Willis”*****KATHLEEN WILLIS
MEMBER / MEMBRE*****“Scott Hindle”*****SCOTT HINDLE
MEMBER / MEMBRE*****“Colin White”*****COLIN WHITE
MEMBER / MEMBRE*****“Julia Markovich”*****JULIA MARKOVICH
MEMBER / MEMBRE**

I certify that this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa.

Je certifie que celle-ci est une copie conforme de la décision rendue par le Comité de dérogation de la Ville d'Ottawa.

***Date of Decision / Date de la décision*
July 15, 2022 / 15 juillet 2022**

**Michel Bellemare
Secretary-Treasurer / Secrétaire-trésorier**