

REPORT

PLANNING AND DEVELOPMENT COUNCIL MEETING

MEETING DATE: JANUARY 15, 2018

FROM: Legal Department

DATE: November 23, 2017

SUBJECT: OMB Appeal - CAV A/192/2017 - 1198 Cynthia Lane

LOCATION: 1198 Cynthia Lane

WARD: 3

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RECOMMENDATION:

1. That the appeal to the Ontario Municipal Board of Committee of Adjustment Decision CAV A/192/2017, 1198 Cynthia Lane, be confirmed.
2. That if Council confirms the Appeal, then the Town Solicitor or his designate be authorized to pursue this appeal of COA Decision CAV A/192/2017 in accordance with the position set out in Appendix C attached to the Legal Department report dated November 23, 2017.
3. That if pursuant to clause 1 above this appeal is continued, then in consultation with the Director of Planning or his designate the Town Solicitor or his designate be authorized to negotiate a proposed settlement of the Appeal either before or at the Board Hearing in a manner that addresses the issues and concerns identified in Appendix C attached to the Legal Department report dated November 23, 2017.

KEY FACTS:

The following are key points for consideration with respect to this report:

- The owners of 1198 Cynthia Lane wish to construct a new two-storey detached dwelling to replace the existing one-storey dwelling.
- The applicant is requesting relief from By-law 2014-014 to permit three variances to increase the residential floor area ratio, increase the lot coverage, and increase the height.
- Planning Staff recommended to the Committee denial of the Applicant's variances, as the proposal would result in a dwelling that does not maintain or protect the character of the neighbourhood.
- The Committee of Adjustment approved the requested variances despite the Town Planning advice to the contrary.

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- The Town Solicitor appealed the decision to the OMB on behalf of the Town pending Council confirmation as per the “Standing Instructions” of Council.

BACKGROUND:

On October 20, 2017, the owners of 1198 Cynthia Lane, Oakville, applied to the Committee of Adjustment for three variances. The owner desired to build a new two-storey dwelling to replace the existing one-storey dwelling with an increase in the maximum residential floor area ratio from 41% to 48.1%, a maximum lot coverage from 35% to 36.1% and to permit a maximum height from 9.0 to 9.6m. Staff advised against the approval of the application but the Committee of Adjustment approved the application. The Decision of the Committee is attached as Appendix B to this Report. The Location Map for the particular lands concerned is attached as Appendix A to this Report.

Planning staff (see Appendix C) had indicated that in its opinion the requested variances would not be in keeping with all four tests needed for approval of a minor variance:

1. Is it minor;
2. Is it desirable for the appropriate development of the lands or area;
3. Is it in keeping with the general intent and purpose of the Town Official Plan; and
4. Is it in keeping with the general intent and purpose of the zoning by-law.

COMMENT/OPTIONS:

The Planning Staff Report in Schedule C to this Report points out that the subject property is located on the north side of Cynthia Lane, west of Morrison Road. The character of the neighbourhood consists of modest one-storey dwellings closer to Morrison Road from the 1950's, and then changes to two-storey dwellings westerly towards Chamberlain Lane from the 1970's. The blending together of both 1950's and 1970's styles of development contribute to the scale and character of the neighbourhood as a whole today. Planning Staff indicate that the Official Plan directs that new development in stable residential areas shall protect the character of the neighbourhood. The proposed development will introduce a massing and scale that will have a negative impact on the character of the neighbourhood and the abutting properties. Further, the proposed dwelling has not been designed to incorporate appropriate transitions to adjacent properties and reduce the visual impact of the building from the street or the surrounding properties.

Planning Staff therefore concluded that the requested variances do not meet the four tests for a minor variance, as the proposal would result in a dwelling that does not maintain or protect the character of the neighbourhood.

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There are two options available to Council in dealing with this matter. One is to confirm the appeal, instruct staff to seek an OMB Decision allowing the Town appeal and dismissing the variance application, and allowing staff to negotiate a settlement in keeping with staff's advice respecting the proposal. The alternative option is to withdraw the appeal and confirm the COA Decision.

CONSIDERATIONS:**(A) PUBLIC**

This matter may be considered in public.

(B) FINANCIAL

Staff time in preparing the appeal and this report. The additional cost to the Town would be further cost in the Legal and Planning Departments in processing the Appeal to the OMB.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

The Commissioner Community Development has reviewed this report.

(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS

This report addresses the corporate strategic goal to:

- be accountable in everything we do

(E) COMMUNITY SUSTAINABILITY

The issue impacts the pillar of economic sustainability through the appropriate use of internal and external resources.

APPENDICES:

Appendix A – Location Map

Appendix B – Decision of the Committee of Adjustment CAV A/192/2017

Appendix C – Planning Staff Report to the Committee

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