



Hamilton

COMMITTEE OF ADJUSTMENT

City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5

Telephone (905) 546-2424, ext. 4221

E-mail: cofa@hamilton.ca

NOTICE OF DECISION
Minor Variance

APPLICATION NO.:	HM/A-24:39	SUBJECT PROPERTY:	10 Robins Avenue, Hamilton
ZONE:	"R1a" (Low Density Residential – Small Lot)	ZONING BY-LAW:	Zoning By-law City of Hamilton 05-200, as Amended

APPLICANTS: Owners: K. Shaikh & A. Maqbool
Applicant: Pamir Rafiq

The following variances are **GRANTED AS AMENDED WITH CONDITIONS:**

1. A minimum setback of 3.0 metres shall be permitted to the front lot line, instead of the minimum 4.0 metre setback required; [as per Section 15.2.2.1(c) and amending By-law No. 24-051, not final and binding];
2. A minimum setback of 0.80 metres shall be permitted to the southerly interior side lot line, instead of the minimum 0.9 metre setback required [as per Section 15.2.2.1(d)].
3. A maximum building height of 10.60 metres shall be permitted, instead of the maximum permitted building of 10.5 metres;
4. An eave or gutter shall be permitted to project 0.80 metres into the required northerly interior side yard, 0.65 metres into the required rear yard, and shall be permitted to project the full width of the southerly interior side yard and be as close as 0.0 metres lot line, instead of the maximum 0.6 metre projection permitted; [as per Section 4.6(a)]
5. One (1) parking space shall be permitted, instead of the two (2) parking spaces required [as per Section 5.5(c)].

Notes:

- i. Please note that the submitted application indicates that the proposed development contains two dwelling units; note that a Dwelling Unit is defined as "a room or suite of rooms used or intended to be used by one or more persons living together as one household, in which cooking and sanitary facilities are provided for the exclusive use of the household, and to which an independent entrance is provided from outside the building or from a common interior hallway, vestibule or stairway". Based on the floor plans provided, it appears only one set of cooking facilities are being proposed within the basement level. However, as the submitted application indicates two dwelling units are being proposed, the proposed development has been reviewed as a Single Detached Dwelling with an Additional Dwelling Unit, as indicated in the application. Should the use be other than a Single Detached Dwelling with an Additional Dwelling Unit additional variances may be required.

- ii. Be advised that By-law No. 24-051 was recently approved, which modified sections of the “R1a” Zone regulations, including Section 15.2.2.1(c) applicable to the minimum setback from the front lot line. Note that the approved regulation establishes a minimum setback of 4.0 metres from the front lot line, unless the lot is identified on Figure 36 of Schedule “F” – Special Figures that a building may be erected within 10 percent of the average setback from the front lot line of the two adjacent dwellings. The subject lot is identified on Figure 36 of Schedule “F” – Special Figures, however, insufficient information was provided to confirm compliance. Therefore, a variance to the approved regulation has been added i.e. Variance No.1, which was not indicated in the applicants submission materials.
- iii. Please note that Section 15.2.2.1(h)(i) as per amending By-law No. 24-051, indicates a minimum landscaped area of 30% shall be provided. Insufficient information was provided to confirm compliance. Additional variances may be required if compliance with Section 15.2.2.1(h)(i) cannot be achieved.
- iv. Should the variance requested to Section 15.2.2.1(d) to permit a minimum southerly side yard of 0.80 metres, the proposed eaves/troughs shall be permitted to project a maximum of 0.4 metres into the side yard. Therefore, a variance to Section 4.6(a) for the southerly side yard has been included as the eaves/troughs are indicated to extend the full width of the southerly side yard i.e. 0.80 metres.
- v. Please note that Section 4.35(a) indicates that on a lot containing a single detached dwelling, a minimum of 50% landscaped area shall be provided in the front yard. Insufficient information was provided to confirm compliance. Additional variances may be required if compliance with Section 4.35(a) cannot be achieved.
- vi. Please note that the submitted Site Plan indicates one (1) parking space is to be provided in an attached garage. However, the Floor Plan drawings do not appear to indicate an attached garage is being proposed. Please note that Section 5.1(b)(viii) indicates that for a dwelling with an attached garage, the finished floor level of the garage shall be a minimum 0.3 metres above grade. Insufficient information was provided to confirm compliance. Additional variances may be required if compliance with Section 5.1(b)(viii) cannot be achieved. Further, variance No. 5 has been written as requested by the applicant, as it is unclear if a parking space is being proposed within an attached garage.
- vii. Be advised that By-law No. 24-052 was recently approved which repealed and replaced Section 5: Parking, of Hamilton Zoning By-law No. 05-200. As By-law No. 24-052 is not yet final, at present, all proposed development is reviewed under both the existing and proposed Zoning By-laws regulations with the more restrictive zoning regulations being applied. Therefore, Variance No.6, which was not indicated in the applicants submission materials, was added to Section 5.7.4(a) as per amending By-law No. 24-052, as the Site Plan indicates one (1) parking space is being provided on the lot.

THE DECISION OF THE COMMITTEE IS:

That the variances, as set out above, are **GRANTED AS AMENDED WITH CONDITIONS** for the following reasons:

1. The Committee, having regard to the evidence, is of the opinion that the relief granted is of a minor nature.
2. The relief granted is desirable for the appropriate development of the land and building and is consistent with the general intent and purpose of the By-laws and the Official Plans as referred to in Section 45 of The Planning Act, 1990.
3. The Committee, having regard to the evidence, is satisfied that there will be no adverse impact on any of the neighbouring lands.
4. The submissions made regarding this matter affected the decision by supporting the granting of the application.

That the said application be **GRANTED** subject to the following conditions:

1. That the owner ensure that the proposed eaves or gutters do not encroach onto the abutting properties, to the satisfaction of the Director of Planning and Chief Planner.
2. That the owner submits and receives approval of a Tree Protection Plan including the review fee as per the Schedule of Rates and Fees, to the satisfaction of the Manager of Heritage and Urban Design. The Tree Protection Plan is to be prepared by a qualified tree management professional (i.e., certified arborist, registered professional forester or landscape architect) in accordance with the City's Council adopted Tree Protection Guidelines (revised October 2010).
3. That the owner submits and receives approval of a Landscape Plan that shows the location of compensation trees to the satisfaction of the Manager of Heritage and Urban Design.

DATED AT HAMILTON, June 11, 2024.

D. Smith (Chairman)

D. Lord

N. Lauwers

S. Rybarczyk

M. Switzer

NOTES:

1. THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO LAND TRIBUNAL (OLT) MAY BE FILED IS **July 2, 2024 at 4:30pm**. A Notice of Appeal must be filed with the Secretary-Treasurer of the Committee of Adjustment, must set out the reasons for the appeal and must be accompanied by the applicable fee. See Appeal Information – Minor Variances for more information.
2. **This Decision is not final and binding unless otherwise noted and must not be acted upon until the period of appeal has expired.**
3. The Decision does not release any persons from the necessity of observing the requirements of building regulations, the license by-law, or any other by-law of the City of Hamilton.



Hamilton

COMMITTEE OF ADJUSTMENT

City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5

Telephone (905) 546-2424, ext. 4221

E-mail: cofa@hamilton.ca

APPEAL INFORMATION – MINOR VARIANCES

1. Who may file an appeal of the Decision of the Committee of Adjustment?

Please note neighbours and other interested parties not defined are no longer eligible to file Planning Act Section 45(12) appeals. See [Bill 23, More Homes Built Faster Act, 2022](#) for more information.

Planning Act Section 45(12) appeals may be filed by the applicant, the Minister of Municipal Affairs and Housing, a “specified person” (as defined by Planning Act 1(1)), and a “public body that has an interest in the matter” (as defined by Planning Act 1(1)).

2. When must an appeal be received to be considered?

Planning Act Section 45(12) appeals must be received no later than the end of business on the last date of appeal listed on the Notice of Decision. The last date of appeal is 20 days from the date of the Decision. Please see Notice of Decision for exact date and time.

3. Where must the appeal be filed to be considered?

Planning Act Section 45(12) appeals must be received in one of the following formats:

Hardcopy: at City Hall and addressed to the Secretary-Treasurer of the Committee of Adjustment, Hamilton City Hall, 5th Floor, 71 Main Street West, Hamilton, ON, L8P 4Y5. Do not address appeals to any other departments or locations. Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of second-hand mailing will be time barred and of no effect.

Electronic copy: by email delivered to cofa@hamilton.ca. Do not address appeals to any other departments or locations. Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of incorrectly addressed emails will be time barred and of no effect. If the information submitted will include large file sizes not able to be sent in one email, please contact cofa@hamilton.ca in advance to request a file sharing link.

E-file Portal: By filing an appeal through the OLT E-file Portal at <https://olt.gov.on.ca/e-file-service/> to Hamilton (City) – Committee of Adjustment and Consent Authority (select appropriate approval body as outlined on the Notice of Decision). Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of incorrectly chosen approval authority will be time barred and of no effect.

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 appeal, the appeal must be filed with one of the other two

options. Appeals received after the date of appeal as a result of one of the methods being unavailable will be time barred and of no effect.

4. What information must be submitted for the appeal to be considered?

Planning Act Section 45(12) appeals must include:

- Notice of appeal, the Ontario Land Tribunal (OLT) Appeal Form, this can be found by contacting Committee of Adjustment staff at the 5th floor of City Hall or at the OLT website <https://olt.gov.on.ca/appeals-process/forms/>, a cover letter, etc. may also be submitted if there is not sufficient room in the form;
- Filing fee, the fee is currently \$400 (subject to change) and must be paid as outlined on the OLT Appeal Form or OLT E-file Portal;
- All other information as required by the Appeal Form.