

**Local Planning Appeal Tribunal**  
Tribunal d'appel de l'aménagement  
local



**ISSUE DATE:** November 05, 2020

**CASE NO(S):** PL200288

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

**PROCEEDING COMMENCED UNDER** subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	M & P Schae fle
Subject:	Minor Variance
Variance from By-law No.:	150-85
Property Address/Description:	7 West Cove
Municipality:	City of Cambridge
Municipal File No.:	A-66/19
LPAT Case No.:	PL200288
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LPAT Case Name:	Schae fle v. Cambridge (City)

**Heard:** October 29, 2020 via video hearing

**APPEARANCES:**

**Parties**

**Counsel**

Michelle and Patrick Schae fle

Self-represented

City of Cambridge

not in attendance

**MEMORANDUM OF ORAL DECISION DELIVERED BY WILLIAM R.  
MIDDLETON AND ORDER OF THE TRIBUNAL**

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[1] The Local Planning Appeal Tribunal (“Tribunal” ) convened a video hearing (“VH”) on October 29, 2020 to consider the appeal of City of Cambridge (“City”) Committee of Adjustment (“Committee”) decision dated March 11, 2020 (“Decision”) refusing the application by the Appellants for a single variance under the City Zoning By-law No. 150-85 (“ZBL”) to permit a secondary dwelling unit at the Appellants’ property municipally known as 7 West Cove in the City (“Subject Property”).

[2] Specifically, the variance sought by the Appellants, and supported and recommended for approval by the City’s planning staff, was to:

Seek relief from Section 3.1.2.8 (d) of the City of Cambridge Zoning By-Law 150-85 to permit a secondary dwelling unit with a floor area of 48% of the total floor area of the principal dwelling unit, whereas the Zoning By-Law permits a maximum floor area of 40%

[3] The material before the Tribunal was the Appellants’ Document Book comprising 13 tabs and 161 pages. It included two City staff planning reports from Ms. Rachel Greene, a planner employed by the City who also served as Secretary-Treasurer to the City’s Committee. A summons to Ms. Greene was issued by the Tribunal at the request of the Appellants. The City did not file any material opposing the appeal and was not represented by counsel or otherwise at the VH.

[4] Ms. Greene appeared before the Tribunal solely as a potential expert witness and was not representing the City in this appeal. She has a post-graduate Master’s degree in planning from the University of Calgary and is a registered professional planner. She has been employed as such with the City since 2018 and in 2019 became the Secretary-Treasurer of the Committee. She was qualified by the Tribunal at the VH as an expert to provide opinion evidence on land use planning matters.

[5] Ms. Greene’s unchallenged expert testimony was as follows:

- (a) There were two hearings before the Committee to consider the Appellants' application: December 11, 2019 and March 11, 2020. She delivered reports recommending approval of the application prior to both events;
- (b) The application proposed to create a one-bedroom secondary dwelling unit within the footprint of the existing house. The application met the minimum frontage, lot area, and parking requirements for a secondary dwelling unit under the City's ZBL;
- (c) The Subject Property is designated as Low/Medium Density in the City's Official Plan and zoned R4 Residential in the ZBL. This zone permits a single detached dwelling, accessory uses, and secondary dwelling units;
- (d) The secondary dwelling unit has a proposed floor area of approximately 48% of the total floor area of the principal dwelling whereas the ZBL permits a maximum of 40%. However, the floor area calculation in the ZBL does not account for shared areas such as the utility room. If such areas were not included in the calculation the proposed floor area would only be 41%. Additionally, if this dwelling were a full two-storey house (also permitted in the R4 zone) then the floor area variance would not be required at all;
- (e) The purpose of the 40% maximum floor area ZBL requirement is to ensure that the secondary dwelling unit is not the predominant use in the dwelling. In this case, the Applicants' intent was to maintain the primary use of a single detached home with an additional subordinate dwelling unit. The appearance of a single detached home is maintained from the streetscape and the secondary unit is therefore subordinate in nature;
- (f) The condition for granting the Applicants' requesting variance should be that the resultant renovations of the Subject Property be limited to the

construction of two bedrooms; conducted in accordance with the floor plans submitted with the Appellants' application; with all work to be done in accordance with the requisite renovation / building permits obtained from the City;

- (g) All other regulations for a secondary dwelling unit can be met. Therefore, subject to the proposed condition (see (f) above), the minor variance meets the general intent and purpose of the Growth Plan for the Greater Golden Horseshoe, 2019 ("Growth Plan") as now reflected in the City's Official Plan and also in the ZBL is minor in nature; is desirable for the appropriate development of the property which will result in an additional dwelling unit; and will have no negative impacts on the surrounding neighbourhood; and
- (h) The upper tier Region of Waterloo had no concerns or comments on the Appellants' application.

[6] Ms. Schaeffe on behalf of the Appellants essentially repeated the history of their application and the feedback from and recommendations made by Ms. Greene to the Committee and the Appellants' general puzzlement as to why their application was refused. She stated that the Applicants were certainly agreeable to the conditions described by Ms. Greene. Relying on Ms. Greene's stated conclusions in her planning reports to the Committee on two occasions and her *viva voce* evidence at the VH, Ms. Schaeffe presented her understanding of how the four tests in subsection 45(1) of the *Planning Act*, R.S.O. 1990, c. P13 ("Act") had been met in these circumstances.

[7] The Tribunal accepted the uncontradicted oral and written evidence of Ms. Greene as described in paragraph [5] above. Taking into account that evidence and upon consideration of the provisions of section 2 of the Act and of subsection 45(1) of the Act; of the City's Official Plan and its ZBL and of the Growth Plan, the Tribunal

determined that the Applicant's proposed variance is reasonable, represents good planning, is in the public interest and that this appeal should therefore be allowed.

[8] The Tribunal therefore Orders as follows:

1. The variance sought by the Applicants under the City of Cambridge Zoning By-Law No. 150-85 to permit a secondary dwelling unit at the property municipally known as 7 West Cove in the City of Cambridge with a floor area of 48% of the total floor area of the principal dwelling unit ("Variance") shall be authorized subject to the conditions set out in Order 2. below;
2. The Variance shall be restricted to the construction of a two-bedroom unit in accordance with the floor plans and other details submitted by the Applicants with their application to the City dated November 26, 2019 and shall also be subject to the requirements imposed under all building / renovation permits reasonably required by the City in respect of such construction;
3. The determination of whether the conditions described in Order 2 above have been satisfied shall be made by the City of Cambridge, acting reasonably. The Tribunal may be spoken to if any issues arise with respect to the clearance of these conditions.

[9] It is so Ordered

*"William R. Middleton"*

WILLIAM R. MIDDLETON  
MEMBER

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**Local Planning Appeal Tribunal**

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