



300 Dufferin Avenue
P.O. Box 5035
London, ON
N6A 4L9

**NOTICE OF DECISION
LONDON COMMITTEE OF ADJUSTMENT SUBMISSION NO.: A.088/18**

July 17, 2018

OWNER:

Joel McLean
602 Queens Street
London, ON N6B 1Y8

AGENT:

Gerald Gallacher
358 Talbot Street
London, ON N6A 2R6

WARD: 13

LOCATION:

44 Bathurst Street, PLAN NIL PT LOTS 19 & 20 PR 33R13667 PART 1, on the north side of Bathurst Street east of Ridout Street North.

At its meeting on **Monday, July 16, 2018**, the London Committee of Adjustment **GRANTED** the requested Minor Variance **SUBJECT** to the following **CONDITIONS**:

1. The parking area shall be maintained as accessory parking for the exclusive use of the buildings located at 345-359 Ridout Street, 45 King Street, and 52 York Street. This lot shall not be used as a commercial parking lot, as defined in the Zoning By-law.
2. Site plan approval shall be obtained for the accessory parking area.

NOTE(S):

- The diagram submitted with this application (herein as Figure 1) does not consider the ultimate road widening on Ridout Street, nor the required daylight triangle at the intersection of Ridout and Bathurst Streets. Based on those necessities, the submitted plan does not likely represent the site as it will ultimately be developed. This site is subject to site plan approval and the inclusion of said diagram in this report shall not imply approval of the site layout, notwithstanding the (potential) approval of the variances.
- The owner shall install and maintain a minimum 1.83 meter chain link fence on the mutual property line to support public safety and ensure vehicles and pedestrians do not cross into the right-of-way.
- CN Rail shall be provided a copy of the site grading plan to ensure that the development of this site will not increase the flow of water onto the CN right-of-way.
- The granting of minor variance(s) or permissions does not preclude the responsibility of the applicant or landowner from complying with other regulations and/or obtaining other approvals which may be required, by any level of government, and agencies thereof, including, but not limited to, the Tree Protection By-law.

PURPOSE: To permit an accessory parking lot.

VARIANCES REQUESTED:

1. To permit a minimum of 4% landscape open space, whereas 15% is required.
2. To permit a parking area 0.0m from any required road allowance, whereas 3.0 m is required.

REASON: In all the circumstances, the Committee is of the opinion that the variance requested is minor and is desirable for the appropriate development of the land and is in keeping with the general intent and purpose of the By-law and Official Plan.

“Agrees with staff accessible parking and AODA need to be respected, why separate site? Giant area and parking.”

APPEAL PERIOD


This permission is not final until the expiration of a statutory appeal period of twenty (20) days from the date the decision is signed, being **4:30 p.m. on Monday, August 6, 2018**, during which

any objector may file with the Secretary - Treasurer an appeal against this decision of the London Committee of Adjustment.

Any appeal must set out the reasons for the appeal and must be accompanied by the \$300.00 fee prescribed by the Local Planning Appeal Tribunal Act in the form of a **certified cheque or money order** made payable to the Minister of Finance and **must** be accompanied by an **Appellant Form (A1)** found on the LPAT website: <http://elto.gov.on.ca/lpat/> or from the Office of the Secretary - Treasurer of the Committee of Adjustment. A copy of the regulations governing appeals is enclosed. If you have any questions regarding the LPAT process, please contact the ELTO Citizen Liaison Office toll free at 1-866-448-2248, or in person at 655 Bay Street, Suite 1500, Toronto.

Note: The *Planning Act* provides for appeals to be filed by "persons". As groups or associations, such as residents or ratepayers groups which do not have incorporated status, may not be considered "persons" for purposes of the Act, groups wishing to appeal this decision should do so in the name or names of individual group members, and not in the name of the group.

Please ensure that all conditions are cleared prior to applying for a Building Permit. Contact the undersigned if information is required.


Mark Smith, Secretary - Treasurer
London Committee of Adjustment
/sf
The Corporation of the City of London
Phone: 519-661-2489 ext. 7019
www.london.ca

APPEALS TO THE LOCAL PLANNING APPEAL TRIBUNAL, VARIANCES
SECTION 45. PLANNING ACT.R.S.O.1990, c.P.13

The following extracts from section 45 of the Planning Act outline the appeal process for appealing variance decisions made by the Committee of Adjustment.

Appeal to L.P.A.T.

45 (12) The applicant, the Minister or any other person or public body who has an interest in the matter may within 20 days of the making of the decision appeal to the Tribunal against the decision of the committee by filing with the secretary-treasurer of the committee a notice of appeal setting out the objection to the decision and the reasons in support of the objection accompanied by payment to the secretary-treasurer of the fee charged by the Tribunal under the *Local Planning Appeal Tribunal Act, 2017* as payable on an appeal from a committee of adjustment to the Tribunal. 2017, c. 23, Sched. 5, s. 98 (3).

Note: The fee for an appeal is \$300.00 and \$25.00 for a related appeal and should be in the form of a **certified cheque or money order** made payable to the Minister of Finance of Ontario.

45 (13) On receiving a notice of appeal filed under subsection (12), the secretary-treasurer of the committee shall promptly forward to the Tribunal, by registered mail, (a) the notice of appeal; (b) the amount of the fee mentioned in subsection (12);(c) all documents filed with the committee relating to the matter appealed from;(d) such other documents as may be required by the Tribunal; and (e) any other prescribed information and material. 2017, c. 23, Sched. 5, s. 98 (3).

Exception

45 (13.1) Despite subsection (13), if all appeals under subsection (12) are withdrawn within 15 days after the last day for filing a notice of appeal, the secretary-treasurer is not required to forward the materials described under subsection (13) to the Tribunal. 1999, c. 12, Sched. M, s. 26; 2017, c. 23, Sched. 5, s. 98 (4).

Decision final

45 (13.2) If all appeals under subsection (12) are withdrawn within 15 days after the last day for filing a notice of appeal, the decision of the committee is final and binding and the secretary-treasurer of the committee shall notify the applicant and file a certified copy of the decision with the clerk of the municipality. 1999, c. 12, Sched. M, s. 26.

Where no appeal

45 (14) If within such 20 days no notice of appeal is given, the decision of the committee is final and binding, and the secretary-treasurer shall notify the applicant and shall file a certified copy of the decision with the clerk of the municipality. R.S.O. 1990, c. P.13, s. 45 (14); 1994, c. 23, s. 26 (3).



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London
CANADA

Where appeals withdrawn

45 (15) Where all appeals to the Tribunal are withdrawn, the decision of the committee is final and binding and the Tribunal shall notify the secretary-treasurer of the committee who in turn shall notify the applicant and file a certified copy of the decision with the clerk of the municipality. 2017, c. 23, Sched. 5, s. 98 (5).

Hearing

45 (16) On an appeal to the Tribunal, the Tribunal shall, except as provided in subsections (15) and (17), hold a hearing of which notice shall be given to the applicant, the appellant, the secretary-treasurer of the committee and to such other persons or public bodies and in such manner as the Tribunal may determine. 2017, c. 23, Sched. 5, s. 98 (5).

Dismissal without hearing

45 (17) Despite the *Statutory Powers Procedure Act* and subsection (16), the Tribunal may dismiss all or part of an appeal without holding a hearing, on its own initiative or on the motion of any party, if,

(a) it is of the opinion that,

- (i) the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the Tribunal could allow all or part of the appeal,
- (ii) the appeal is not made in good faith or is frivolous or vexatious,
- (iii) the appeal is made only for the purpose of delay, or
- (iv) the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process;

(b) the appellant has not provided written reasons for the appeal;

(c) the appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017*; or

(d) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal. 2017, c. 23, Sched. 5, s. 98 (5).

Representation

45 (17.1) Before dismissing all or part of an appeal, the Tribunal shall notify the appellant and give the appellant the opportunity to make representation on the proposed dismissal but this subsection does not apply if the appellant has not complied with a request made under clause (17) (d). 2000, c. 26, Sched. K, s. 5 (3); 2017, c. 23, Sched. 5, s. 80.

Dismissal

45 (17.2) The Tribunal may dismiss all or part of an appeal after holding a hearing or without holding a hearing on the motion under subsection (17), as it considers appropriate. 2017, c. 23, Sched. 5, s. 98 (5).

Powers of L.P.A.T.

45 (18) The Tribunal may dismiss the appeal and may make any decision that the committee could have made on the original application. R.S.O. 1990, c. P.13, s. 45 (18); 2017, c. 23, Sched. 5, s. 80.

Amended application

45 (18.1) On an appeal, the Tribunal may make a decision on an application which has been amended from the original application if, before issuing its order, written notice is given to the persons and public bodies who received notice of the original application under subsection (5) and to other persons and agencies prescribed under that subsection. 1993, c. 26, s. 56; 1994, c. 23, s. 26 (7); 2017, c. 23, Sched. 5, s. 80.

Exception

45 (18.1.1) The Tribunal is not required to give notice under subsection (18.1) if, in its opinion, the amendment to the original application is minor. 2017, c. 23, Sched. 5, s. 98 (5).

Notice of intent

45 (18.2) Any person or public body who receives notice under subsection (18.1) may, not later than thirty days after the day that written notice was given, notify the Tribunal of an intention to appear at the hearing or the resumption of the hearing, as the case may be. 1993, c. 26, s. 56; 1994, c. 23, s. 26 (8); 2017, c. 23, Sched. 5, s. 98 (6).

Order

45 (18.3) If, after the expiry of the time period in subsection (18.2), no notice of intent has been received, the Tribunal may issue its order. 1993, c. 26, s. 56; 2017, c. 23, Sched. 5, s. 98 (6).

Hearing

45 (18.4) If a notice of intent is received, the Tribunal may hold a hearing or resume the hearing on the amended application or it may issue its order without holding a hearing or resuming the hearing. 1996, c. 4, s. 25 (2); 2017, c. 23, Sched. 5, s. 98 (6).

Notice of decision