

# COMMITTEE OF ADJUSTMENT

Meeting #12

MINUTES

July 10, 2024

**MEETING:** Held on Wednesday July 10, 2024, virtually via Zoom Video Conferencing Technology at 5:30 P.M.

**PRESENT:**

J. Riddell	- Chair
V. Tinti	- Vice Chair
N. Leblovic	- Member
F. Capuano	- Member
E. Westerhof	- Member
E. Shacklette	- Secretary-Treasurer
C. Kabel	- Committee Clerk
J. O'Reilly	- Supervisor of Site Plan Review
M. Gasic	- Planner, Site Plan Review

**ABSENT:** None

**1. DECLARATION OF INTEREST:**

**2. ADDENDUMS:**

**3. REQUEST FOR DEFERRALS:**

**4. CONSENT ITEMS:**

HEARING NO.	FILE NO. 540-02-	ADDRESS
4.1)	A-027/24	Re: 1317 Fisher Ave., Burlington Ward 3 Pages 2-4

**5. REGULAR ITEMS:**

HEARING NO.	FILE NO. 540-02-	ADDRESS
4.2)	A-037/24	Re: 4355 Fairview St., Burlington Ward 4 Pages 5-8
5.1)	A-022/24	Re: 4751 Palladium Way,

**6. OTHER BUSINESS:**

**6.1** Correspondence

**6.2** Items for Discussion

**6.3** Date of Next Meeting

**6.4** Approval of Minutes from the previous Committee of Adjustment meeting

**7. ADJOURNMENT:**

**COMMITTEE OF ADJUSTMENT**

Meeting #12

**Minutes**July 10, 2024

---

Chair called the Committee of Adjustment meeting no. 12 to order at 5:30 pm.

Secretary Treasurer provided introductory remarks; Committee Clerk advised of housekeeping items.

1. **DECLARATION OF INTEREST:** None
2. **ADDENDUMS:** None
3. **DEFERRALS:** None
4. **CONSENT ITEMS:**

Secretary Treasurer invited the public if they wished to speak to an item on the Consent Agenda; None

Chair invited the Committee Members if they wished to pull an item from the Consent Agenda; None

*Items in the minutes are not represented in chronological order, as per the agenda, but in the order that the Item was heard.*

COMMITTEE OF ADJUSTMENT

Meeting #12

Minutes

July 10, 2024

**HEARING NO. 4.1 - FILE NO. 540-02-A-027/24**

APPLICANTS Michael Deley and Rachel Tremblay

PROPERTY: 1317 Fisher Ave.,  
PLAN 496 LOT 3,  
City of Burlington, Regional Municipality of Halton.

HAVING REVIEWED an application by the Owners of the above-described property, for a Minor Variance to the requirements of the Zoning By-Law 2020, as amended, as follows:

- 1. To permit a front yard of 5.7 m instead of the minimum required 6.85 m (7.5 m – 0.65 m encroachment) for a proposed unroofed porch.

<b>PRESENT:</b>	Michael Deley, Rachel Tremblay – Owners Albany Building Products Ltd – Agent
<b>MATERIALS:</b>	Staff reports containing advice of Planning Department – (Committee of Adjustment, Zoning, Site Planning, and Building) Site Engineering, and Transportation Services.
<b>EVIDENCE:</b>	None
<b>HEARING:</b>	Started at approximately 5:37 pm

This application was placed onto the Consent Agenda for the following reasons: There was no public opposition as a result of the public notice, staff and agencies supported the application, and there were no requests to delegate to this matter.

Chair asked the Committee for a Motion. Member Capuano moved for approval with condition; Member Westerhof seconded.

Chair turned to Committee for Comments; None.

There was no public opposition as a result of the public notice, staff and agencies supported the application, and there were no requests to delegate to this matter; Committee, having reviewed this information, considered that the application met the four tests of the *Planning Act* for similar reasons as the staff report in the agenda.

Chair called a vote; Members unanimously supported the application and therefore the decision was carried; application was approved, and the decision was now in the 20-day appeal period. The Secretary Treasurer will mail a copy of the decision within 10 days of this meeting.

**DECISION 540-02-A-027/2024:**

**COMMITTEE OF ADJUSTMENT**

Meeting #12

**Minutes**

July 10, 2024

---

Having regard for the requirements of Section 45 Sub-section (1) of the *Planning Act*, RSO. 1990, c. P.13, as amended;

And after having fully considered as part of their deliberations and final decision on this matter any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision, and any and all oral submission related to this application that were made at the public hearing held under the *Planning Act*;

**Committee members unanimously supported the application, therefore;**

The Committee **GRANTS** the application under **File 540-02-A-027/2024** at **1317 Fisher Avenue, Burlington:**

1. To permit a front yard of 5.7 m instead of the minimum required 6.85 m (7.5 m – 0.65 m encroachment) for a proposed unroofed porch.

The reasons for the Committee’s decision are that:

1. The general intent and purpose of the Official Plan **will** be maintained.
2. The general intent and purpose of the zoning by-law **will** be maintained.
3. The requested variance **is** desirable for the appropriate development or use of the property.
4. The requested variance **is** minor.

In addition to satisfying the four tests, the Committee’s rationale for supporting the application include: the proposed porch fit in esthetically and in terms of size with the range and variety of other porches found along Fisher Avenue; the porch was considered a small and minor addition to an existing dwelling.

**CONDITIONS:**

The decision of the subject minor variance application is subject to the conditions below. Where applicable, conditions as listed below must be fulfilled within the time period specified which period begins from the last date of appeal. Any time period given is a maximum period only and cannot be extended.

This variance is for the life and repair of the single detached residential use only; any construction associated with this approval shall be substantially in accordance with the plans submitted in support of the application.

**COMMITTEE OF ADJUSTMENT**

Meeting #12

**Minutes**

July 10, 2024

---

The following conditions must be satisfied within 2 years:

1. The Applicant shall apply for a Pre-Building Approval application.

The Applicant is advised of the following notes:

1. A tree permit will be required for any and all work within the minimum tree protection zone in accordance with the City's Public and Private Tree By-laws.
2. Please ensure the proposed sidewalk connecting the porch and driveway is outside of the minimum tree protection zone of the front yard Public Tree.
3. A building permit is required for all building construction.

The decision of the Committee is subject to a 20-day appeal period that starts today. The Secretary-Treasurer will mail a copy of the decision within 10 days of this meeting.

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**COMMITTEE OF ADJUSTMENT**

Meeting #12

**Minutes**

July 10, 2024

**5. REGULAR ITEMS:**

**HEARING NO. 4.2 - FILE NO. 540-02-A-037/24**

**APPLICANT:** Fairview Property Holdings Inc.

**PROPERTY:** 4355 Fairview St.,  
 PLAN 1496 PT BLK A RP 20R1209 PART 1,  
 City of Burlington, Regional Municipality of Halton.

TO HEAR AND DETERMINE an application by the Owners of the above-described property, for Permission under Zoning By-Law 2020, as amended:

1. To permit the enlargement or extension of a legal non-conforming use under Section 45 (2) of the Planning Act, to include four storage silos.

<b>PRESENT:</b>	Fairview Property Holdings Inc. – Owner Maurizio Rogato - Blackthorn Development Corp. – Agent
<b>MATERIALS:</b>	Staff reports containing advice of Planning Department – (Committee of Adjustment, Zoning, Site Planning, and Building) Site Engineering, and Transportation Services.
<b>EVIDENCE:</b>	Letters of Opposition from Fady Barsom of 4336 Fairview St and Darshani Phillips of 4340 Fairview St.; a no objection letter from Metrolinx and previous comments from Metrolinx dated September 26, 2023 as referenced in their no objection letter.
<b>HEARING:</b>	Started at approximately 5:39 pm

**Discussion:**

Chair noted pertinent details outlined in the application and on the plans and evidence received.

Maurizio Rogato of Blackthorn Development Corp appeared on behalf of the owners and provided evidence in support of the application.

No one appeared before the Committee in support or opposition to the request.

Chair asked if any Members had any questions:

## COMMITTEE OF ADJUSTMENT

Meeting #12

Minutes

July 10, 2024

---

N. Leblovic, F. Capuano, E. Westerhof and Chair asked questions of the agent and staff.

**Comments from Committee:**

Chair asked Members if they had comments on the application:

E. Westerhof supported the application as noted for the following reasons: concurred with the evidence in application, planning report and the site inspection; was satisfied the application met the requirements of a 45(2)(a)(i), the expansion of legal non-conforming use.

V. Tinti reviewed this application under Section 45(2)(a)(i) which is specifically for the expansion and extension of a legal non-conforming use and supported the application as noted for the following reasons: agreed with staff report; satisfied with agent comments; met the requirements for the expansion of a legal non-conforming use.

N. Leblovic supported the application as noted for the following reasons: concurred with colleagues; felt the application met the tests of Section (45)(2) of the *Planning Act*.

F. Capuano supported the application as noted for the following reasons: Concurred with colleagues; agreed with staff report; felt the application met the tests of Section 45(2) of the *Planning Act*.

Chair reviewed this application under Section 45(2)(a)(i) of the *Planning Act* and supported the application as noted for the following reasons: concurred with staff report; there would be no adverse impacts on neighbourhood; the proposal was desirable for the development of the land.

Chair asked the Committee to consider an amended Motion to insert **(a)(i)** after the words "Section 45 Subsection (2)" of the requested permission to reference Section 45(2)(a)(i) of the *Planning Act*. Member Tinti moved for an amended motion; Chair seconded.

The amended motion read as follows:

To approve the application to permit the enlargement or extension of a legal non-conforming use under Section 45(2)(a)(i) of the Planning Act, to include four storage silos."

Members unanimously supported the amended motion.

Chair asked the Committee for a Motion to approve the application as amended. Member Westerhof moved for approval with condition; Member Tinti seconded.

**COMMITTEE OF ADJUSTMENT**

Meeting #12

Minutes

July 10, 2024

Committee members voted unanimously on the amended motion that the permission application met the requirements of Section 45(2)(a)(i) of the *Planning Act* for similar reasons as the staff reports in the agenda and evidence presented at the hearing.

Chair read the decision; advised of the conditions and 20-day appeal period.

**DECISION 540-02-A-037/2024:**

Having regard for the requirements of Section 45 Sub-section (2)(a)(i) of the *Planning Act*, RSO. 1990, c. P.13, as amended;

And after having fully considered as part of their deliberations and final decision on this matter any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision, and any and all oral submission related to this application that were made at the public hearing held under the *Planning Act*;

**Committee members unanimously supported the application, therefore;**

The Committee **GRANTS** the application under **File 540-02-A-034/2024 as amended at 4355 Fairview Street, Burlington:**

1. To permit the enlargement or extension of a legal non-conforming use under Section 45 (2)(a)(i) of the *Planning Act*, to include four storage silos.

The Committee, in its opinion, finds that:

1. on the day the zoning by-law was passed, the property **WAS** lawfully used for a purpose prohibited by the zoning by-law;
2. the use that was made of the building or structure on the day the zoning by-law was passed, **HAS** continued until the date of the application to the Committee.

The Committee felt that the permission application **WAS** desirable and appropriate for the use of the land, building or structure; and **DID NOT** create adverse impacts to the subject property, adjacent properties or surrounding streetscape; Committee felt the permission application **DID** meet the criteria of the *Planning Act* for the same reasons noted in the Planning comments entered into evidence.

**CONDITIONS:**

The decision of the subject permission application is subject to the conditions below. Where applicable, conditions as listed below must be fulfilled within the time period specified which period begins from the last date of appeal. Any time period given is a maximum period only and cannot be extended.

COMMITTEE OF ADJUSTMENT

Meeting #12

Minutes

July 10, 2024

This permission is for the life and repair of the existing manufacturing use only; any construction associated with this approval shall be substantially in accordance with the plans submitted in support of the application.

The following conditions must be satisfied within 2 years:

- 1. The Applicant shall apply for a Zoning Clearance Certificate.

The Applicant is advised of the following notes:

- 1. A tree permit will be required for any and all work around regulated trees in accordance with the City's Tree By-laws.
- 2. A Building Permit is required for all building construction.
- 3. **Warning:** Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. There may be alterations to or expansions of the rail or other transit facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand or alter their operations, which expansion or alteration may affect the environment of the occupants in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual lots, blocks or units.

The decision of the Committee is subject to a 20-day appeal period that starts today. The Secretary-Treasurer will mail a copy of the decision within 10 days of this meeting.

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**COMMITTEE OF ADJUSTMENT**

Meeting #12

**Minutes**

July 10, 2024

**HEARING NO. 5.1 - FILE NO. 540-02-A-022/24**

**APPLICANT:** Rabi Holding Inc

**PROPERTY:** 4751 Palladium Way,  
REG PLAN M1245 BLOCK 10 RP 20R22128 PART 29,  
City of Burlington, Regional Municipality of Halton.

4761 Palladium Way,  
REG PLAN M1245 BLOCK 9 RP 20R22128 PARTS 26 TO 28,  
City of Burlington, Regional Municipality of Halton.

TO HEAR AND DETERMINE an application by the Owners of the above-described property, for a Minor Variance to the requirements of the Zoning By-Law 2020, as amended, as follows:

1. To permit a 5.9 m yard abutting a street having a deemed width of 26 m or greater (Palladium Way) instead of the minimum required 15 m for a proposed industrial building.
2. To permit 54 parking spaces instead of the minimum required 79 parking spaces.

<b>PRESENT:</b>	Rabi Holding Inc – Owner Nekisha Narine of Leeswood Construction – Agent
<b>MATERIALS:</b>	Staff reports containing advice of Planning Department – (Committee of Adjustment, Zoning, Site Planning, and Building) Site Engineering, and Transportation Services.
<b>EVIDENCE:</b>	None
<b>HEARING:</b>	Started at approximately 6:15 pm

**Discussion:**

Chair noted pertinent details outlined in the application and on the plans and evidence received.

Nekisha Narine of Leeswood Construction appeared on behalf of the owners and provided evidence in support of the application.

No one appeared before the Committee in support or opposition to the request.

## COMMITTEE OF ADJUSTMENT

Meeting #12

Minutes

July 10, 2024

---

Chair asked if any Members had any questions:

N. Leblovic, F. Capuano, E. Westerhof and Chair asked questions of the agent and staff.

**Comments from Committee:**

Chair asked Members if they had comments on the application:

E. Westerhof supported the application with a condition that the reduced parking be tied to the use as noted for the following reasons: the application met the 4 tests of a minor variance under the *Planning Act*.

V. Tinti supported the application with a condition of the reduced parking being tied to the use as noted for the following reasons: felt the application met the 4 tests of a minor variance under the *Planning Act*.

N. Leblovic supported the application with the condition to either restrict the number of employees permitted or tie the variance for reduced parking to the specific use being proposed, as noted for the following reasons: felt the application met the 4 tests of a minor variance under the *Planning Act*.

F. Capuano supported the application with the condition to either restrict the number of employees permitted or tie the variance for reduced parking to the proposed use, as noted for the following reasons: felt the application met the 4 tests of a minor variance under the *Planning Act*.

Chair supported the application with the condition to tie the variance for reduced parking to the proposed use, as noted for the following reasons: felt the application would then meet the 4 tests of a minor variance under the *Planning Act*.

Based on the aforementioned comments, Chair requested the following additional condition be added to the decision:

“The parking variance is valid only with respect to the manufacturing of food flexible packaging and ancillary office use and shall become null and void if there is a change of use on the property, at which time the new use shall either comply with the requirements of the Zoning Bylaw or submit a new application to the Committee of Adjustment requesting permission for minor variances to permit reduced parking rates.”

Chair asked the Committee for a Motion. Member Leblovic moved for approval with conditions; Member Capuano seconded.

## COMMITTEE OF ADJUSTMENT

Meeting #12

Minutes

July 10, 2024

---

Committee members voted unanimously that the variance application met the four tests of the *Planning Act* for similar reasons as the staff reports in the agenda and evidence presented at the hearing.

Chair read the decision; advised of the conditions and 20-day appeal period.

**DECISION 540-02-A-022/2024:**

Having regard for the requirements of Section 45 Sub-section (1) of the *Planning Act*, RSO. 1990, c. P.13, as amended;

And after having fully considered as part of their deliberations and final decision on this matter any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision, and any and all oral submission related to this application that were made at the public hearing held under the *Planning Act*;

**Committee members unanimously supported the application, therefore;**

The Committee **GRANTS** the application under **File 540-02-A-022/2024** at **4571 and 4561 Palladium Way, Burlington:**

1. To permit a 5.9 m yard abutting a street having a deemed width of 26 m or greater (Palladium Way) instead of the minimum required 15 m for a proposed industrial building.
2. To permit 54 parking spaces instead of the minimum required 79 parking spaces.

The reasons for the Committee's decision are that:

1. The general intent and purpose of the Official Plan **will** be maintained.
2. The general intent and purpose of the zoning by-law **will** be maintained.
3. The requested variances **are** desirable for the appropriate development or use of the property.
4. The requested variances **are** minor.

In addition to satisfying the four tests, the Committee's rationale for supporting the application include: helped to support the City's Official Plan objective to maintain and expand manufacturing uses; helped reduce dependence on single occupancy vehicle use and encouraged alternate transportation options; the building design and landscaping enhanced the streetscape.

**COMMITTEE OF ADJUSTMENT**

Meeting #12

**Minutes**

July 10, 2024

---

**CONDITIONS:**

The decision of the subject minor variance application is subject to the conditions below. Where applicable, conditions as listed below must be fulfilled within the time period specified which period begins from the last date of appeal. Any time period given is a maximum period only and cannot be extended.

These variances are for the life and repair of the Business Corridor Industrial use only; any construction associated with this approval shall be substantially in accordance with the plans submitted in support of the application.

The parking variance is valid only with respect to the manufacturing of food flexible packaging and ancillary office use and shall become null and void if there is a change of use on the property, at which time the new use shall either comply with the requirements of the Zoning Bylaw or submit a new application to the Committee of Adjustment requesting permission for minor variances to permit reduced parking rates.

The following condition must be satisfied within 2 years:

1. The Applicant shall obtain a Zoning Clearance Certificate and a Building Permit.

The Applicant is advised of the following notes:

1. A tree permit may be required for any and all work around regulated trees in accordance with the City's Public and Private Tree By-laws.
2. A building permit is required for all building construction.

The decision of the Committee is subject to a 20-day appeal period that starts today. The Secretary-Treasurer will mail a copy of the decision within 10 days of this meeting.

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COMMITTEE OF ADJUSTMENT

Meeting #12

Minutes

July 10, 2024

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**6. OTHER BUSINESS:**

**6.1 Correspondence:**

Copies of Minutes for Meeting No. on June 26, 2024

**6.2 Items for Discussion:**

**6.3 Date of Next Meeting:**

Wednesday July 24, 2024 at 1:00 p.m., Virtual Meeting via Zoom Video Conferencing Technology.

**6.4 Approval of Minutes:**

After conferring with the Members, the Chair directed the minutes of June 26, 2024 to be approved as distributed.

**7. ADJOURNMENT:**

The meeting was adjourned at 7:28 p.m.

CERTIFIED CORRECT



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E. Shacklette  
Secretary-Treasurer

CONFIRMED



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J. Riddell  
Chair