



**COMMITTEE OF ADJUSTMENT  
OF THE CITY OF OTTAWA**

**DECISION  
CONSENT**

(Section 53 of the *Planning Act*)

**Date of Decision:** October 28, 2022  
**File Nos.:** D08-01-22/B-00240 to D08-01-22/B-00242  
**Owner:** A&B Bulat Homes Ltd.  
**Location:** 1357-1361 Kitchener Avenue  
**Ward:** 16-River  
**Legal Description:** Lot 9 and Part of Goderich Street (formerly Grace Street), Registered Plan 322  
**Zoning:** R1S  
**Zoning By-law:** 2008-250

Notice was given and a Public Hearing was held on **October 19, 2022**, as required by the *Planning Act*.

**PURPOSE OF THE APPLICATIONS**

The Owner wants to subdivide their property into three separate parcels of land for the construction of three new two-storey detached dwellings. The existing property consists of two vacant lots at 1357 and 1361 Kitchener Avenue. It is proposed to subdivide these lots to create a third lot, with each of the proposed new dwellings on each of the newly created parcels.

**CONSENT IS REQUIRED FOR THE FOLLOWING**

The Owner requires the consent of the Committee for Conveyances. The property is shown as Parts 1 to 14 on Draft 4R-Plan filed with the applications, and the separate parcels will be as follows:

File No.	Frontage	Depth	Area	Part Nos.	Municipal Address
B-00240	12.1 m	43.05 m	516.7 sq. m	1, 3 and 4	1357 Kitchener Ave. (one proposed detached dwelling)

File No.	Frontage	Depth	Area	Part Nos.	Municipal Address
B-00241	12.1 m	43.02 m	515.5 sq. m	2, 5, 6, 7, 8, 9, 10, and 11	1359 Kitchener Ave. (one proposed detached dwelling)
B-00242	2.28 m	43.99	500.7 sq. m	12, 13 and 14	1361 Kitchener Ave. (one proposed detached dwelling)

Approval of these applications will have the effect of creating three separate parcels of land along with the proposed development will not be in conformity with the requirements of the Zoning By-law and therefore, Minor Variance Applications (D08-02-22/A-00233 to D08-02-22/A-00235) have been filed and will be heard concurrently with these applications.

The applications indicate that there is an existing easement over Parts 4, 6, 9, 11 and 13 as in Instrument Number OC1515327 for utilities.

## **PUBLIC HEARING**

Prior to the Hearing on September 7, 2022, the Committee received an adjournment request from Siobhan Kelly, of the City's Planning, Real Estate and Economic Development Department, on the basis that additional variances are required, or plans were to be revised to demonstrate compliance.

At the Hearing, the Committee heard from Michael Segreto, Agent for the Applicant, who confirmed that they would revise the plans on file to comply with the requirements of the Zoning By-law.

With the concurrence of all parties the application was adjourned to the Hearing scheduled for October 19, 2022.

At the renewed hearing on October 19, the Chair administered an oath to Michael Segreto, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied.

Regarding the concurrent minor variance application, Mr. Segreto advised that the rationale for the additional driveway width was to allow a second car to be parked in the driveway, rather than on the road.

Also in attendance was Siobhan Kelly, from the City's Planning, Real Estate and Economic Development Department.

## **DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED**

The Committee considered any written and oral submissions relating to the applications in making its Decision.

Under the *Planning Act*, the Committee has the power to grant a consent if it is satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality. Also, the Committee must be satisfied that an application is consistent with the Provincial Policy Statement and has regard for matters of provincial interest under section 2 of the Act, as well as the following criteria set out in subsection 51(24):

**Criteria**

(24) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

- (a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;
- (b) whether the proposed subdivision is premature or in the public interest;
- (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- (d) the suitability of the land for the purposes for which it is to be subdivided;
  - (d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;
- (e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;
- (f) the dimensions and shapes of the proposed lots;
- (g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;
- (h) conservation of natural resources and flood control;
- (i) the adequacy of utilities and municipal services;

- (j) the adequacy of school sites;
- (k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;
- (l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and
- (m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the *City of Toronto Act, 2006*. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4); 2016, c. 25, Sched. 4, s. 8 (2).

The Committee notes that the City's planning report raises "no concerns" regarding the consent applications.

Based on the evidence, the Committee is satisfied that the proposal is consistent with the Provincial Policy Statement that promotes efficient land use and development as well as intensification and redevelopment within built-up areas, based on local conditions. The Committee is also satisfied that the proposal has adequate regard to matters of provincial interest, including the orderly development of safe and healthy communities; the appropriate location of growth and development; and the protection of public health and safety. Additionally, the Committee is satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality. Moreover, the Committee is satisfied that the proposal has adequate regard for the criteria specified under subsection 51(24) of the *Planning Act* and is in the public interest.

The Committee therefore grants the provisional consent, subject to the following conditions, **which must be fulfilled within a two-year period from the date of this Decision:**

1. That the Owner(s) provide evidence that payment has been made to the City of Ottawa for cash-in-lieu of the conveyance of land for park or other public recreational purposes, plus applicable appraisal costs. The value of land otherwise required to be conveyed shall be determined by the City of Ottawa in accordance with the provisions of By-Law No. 2009-95, as amended. Information regarding the appraisal process can be obtained by contacting the Planner.
2. That the Owner(s) provide evidence to the satisfaction of the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate, confirming the discharge of the restrictive covenants registered on title.

3. The Owner shall enter into an Agreement with the City through a Development Agreement or Letter of Undertaking, at the expense of the Owner(s) and to the satisfaction of the Development Review Manager of South Branch within Planning, Real Estate and Economic Development Department, or his/her designate, agreeing to prepare and implement the tree planting plan and to provide securities in the amount of \$400 per tree for a period of 1 year from the issuance of the final occupancy permit. Compensation for any trees which cannot be planted on site will be paid to Forestry Services with the tree permit application. The Owner agrees that the security shall be returned to the original payee only upon the City having received a report from an arborist or appropriate professional confirming that all replacement trees are in good health; any of the replacement trees which have died or are in poor condition must be replaced.
4. That the Owner(s) provide evidence (servicing plan), to the satisfaction of the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate, to be confirmed in writing from the Department to the Committee, that both the severed and retained parcels have their own independent water, sanitary and sewer connection, as appropriate, and that these services do not cross the proposed severance line and are connected directly to City infrastructure. If they do cross the proposed severance line, or they are not independent, the Owner(s) will be required to relocate or construct new services from the city sewers and/or watermain at his/her own costs.

In the case of a vacant parcel being developed, the Owner(s) shall provide evidence (servicing plan), to the satisfaction of the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate, to be confirmed in writing from the Department to the Committee, that the parcel has access to sufficient services with adequate capacity.

5. That the Owner(s) enter into an Infrastructure Agreement with the City of Ottawa to extend the municipal services on Kitchener Ave at his/her own costs and post the necessary securities for the work on the City Right-of-Way to the satisfaction of the City's Planning, Real Estate and Economic Development Department's Infrastructural Approvals Branch and to the satisfaction of City Legal Services. The Owner(s) must also receive the approval of the Ontario Ministry of the Environment Conservation and Parks for the extension of the municipal services. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.

If the Development Review Manager within Planning, Real Estate and Economic Development Department, or his/her designate determines that an Infrastructure Agreement to extend the municipal services is no longer necessary, this condition shall be deemed as fulfilled.

6. The Owner(s) shall prepare a noise attenuation study (or noise and vibration attenuation study if applicable) in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate. The Owner(s) shall enter into an agreement with the City that requires the Owner to implement any noise control (and vibration if applicable) attenuation measures recommended in the approved study. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.
7. That the Owner(s) enter into an Agreement with the City, at the expense of the Owner(s), which is to be registered on the Title of the property, to deal with the following covenant/notice that shall run with the land and bind future owners on subsequent transfers:

“The property is located next to lands that have an active railway line now, or may have one in the future, and may therefore be subjected to noise, vibration, and other activities associated with this use.”

The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.

8. That the Owner(s) shall provide evidence that a grading and drainage plan, prepared by a qualified Civil Engineer licensed in the Province of Ontario, an Ontario Land Surveyor, or a Certified Engineering Technologist, has been submitted to the satisfaction of the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate. to be confirmed in writing from the Department to the Committee. The grading and drainage plan shall delineate existing and proposed grades for both the severed and retained properties, to the satisfaction of the Development Review Manager of the East Branch within Planning, Real Estate and Economic Development Department, or his/her designate.
9. That the Owner(s) enter into a Development Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate, to require that an asphalt overlay will be installed, at the Owner(s) expense, on Kitchener Ave., fronting the subject lands, over the entire public driving surface area within the limits of the overlay, if the approved Site Servicing Plan shows three or more cuts within the pavement surface. The overlay must be carried out to the satisfaction of the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.

If the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate determines that a Development Agreement requiring an asphalt overlay is no longer necessary, this condition shall be deemed as fulfilled.

10. That the Owner(s) provide evidence that the accompanying Minor Variance Applications (D08-02-22/A-00233 to D08-02-22/A-00235) have been approved, with all levels of appeal exhausted.
11. That the Owner(s) file with the Committee a copy of the registered Reference Plan prepared by an Ontario Land Surveyor registered in the Province of Ontario, and signed by the Registrar, **confirming the frontage and area of the severed land. If the Registered Plan does not indicate the lot area, a letter from the Surveyor confirming the area is required.** The Registered Reference Plan must conform substantially to the Draft Reference Plan filed with the Application for Consent.
12. That upon completion of the above conditions, and **within the two-year period outlined above**, the Owner(s) file with the Committee, the “electronic registration in preparation documents” for a Conveyance for which the Consent is required.

**The Consent lapses two years from the date of this Decision.**

All technical studies must be submitted to Planning, Real Estate and Economic Development Department a minimum of **40 working days** prior to lapsing date of the consent. Should a Development Agreement be required, such request should be initiated **15 working days** prior to lapsing date of the consent and should include all required documentation including the approved technical studies.

Please note that if a major change to a condition or conditions is requested, you will be entitled to receive Notice of the changes only if you have made a written request to be notified.

**NOTICE OF RIGHT TO APPEAL**

To appeal this decision to the Ontario Land Tribunal (OLT), a completed appeal form along with payment must be received by the Secretary-Treasurer of the Committee of Adjustment by **November 17, 2022**, delivered by email at [cofa@ottawa.ca](mailto:cofa@ottawa.ca) and/or by mail or courier to the following address:

Secretary-Treasurer, Committee of Adjustment,  
101 CentrepoinTE Drive, 4<sup>th</sup> floor, Ottawa, Ontario, K2G 5K7

The Appeal Form is available on the OLT website at <https://olt.gov.on.ca/>. The OLT has established a filing fee of \$400.00 per type of application with an additional filing fee of \$25.00 for each secondary application. Payment can be made by certified cheque or

money order made payable to the Ontario Minister of Finance, or by credit card. Please indicate on the Appeal Form if you wish to pay by credit card. If you have any questions about the appeal process, please contact the Committee of Adjustment office by calling 613-580-2436 or by email at [cofa@ottawa.ca](mailto:cofa@ottawa.ca).

Only individuals, corporations and public bodies may appeal Decisions in respect of applications for consent to the OLT. A notice of appeal may not be filed by an unincorporated association or group. However, a Notice of Appeal may be filed in the name of an individual who is a Member of the Association or group on its behalf.

Please note that there are no provisions for the Committee of Adjustment or the OLT to extend the statutory deadline to file an appeal. If the deadline is not met, the OLT does not have the authority to hold a hearing to consider your appeal.

### **NOTICE TO APPLICANT**

Applicants are advised to take note of comments received from City departments and other technical agencies like Hydro Ottawa and to consult where appropriate.



**DECISION SIGNATURE PAGE  
PAGE DE SIGNATURE DE LA DÉCISION**

**File Nos. / Dossiers n°:** D08-01-22/B-00240-D08-01-22/B-00242  
**Owner / Propriétaire:** A&B Bulat Homes Ltd.  
**Location / Emplacement:** 1357-1361 Kitchener Avenue

We, the undersigned, concur in the decision and the reasons set out by the Committee of Adjustment.

Nous, soussignés, souscrivons à la décision et aux motifs rendus par le Comité de dérogation.

***“Ann M. Tremblay”***

**ANN M. TREMBLAY  
CHAIR / PRÉSIDENTE**

***“Kathleen Willis”***

**KATHLEEN WILLIS  
MEMBER / MEMBRE**

***“Scott Hindle”***

**SCOTT HINDLE  
MEMBER / MEMBRE**

***“Colin White”***

**COLIN WHITE  
MEMBER / MEMBRE**


***Absent / Absente***

**JULIA MARKOVICH  
MEMBER / MEMBRE**

I certify that this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa.

Je certifie que celle-ci est une copie conforme de la décision rendue par le Comité de dérogation de la Ville d'Ottawa.

***Date of Decision / Date de la décision***  
**October 28, 2022 / 28 octobre 2022**

  
**Michel Bellemare**  
**Secretary-Treasurer / Secrétaire-trésorier**