

**DECISION
CONSENT/SEVERANCE**

Date of Decision	September 15, 2023
Panel:	2 - Suburban
File No(s):	D08-01-23/B-00106 & D08-01-23/B-00108
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Intek Building Inc.
Property Address:	304 Olmstead Street & 206 Lévis Avenue
Ward:	12 – Rideau-Vanier
Legal Description:	Lots 33 and 34, Registered Plan 121
Zoning:	R4UA and R4UA-c
Zoning By-law:	2008-250
Hearing Date:	September 5, 2023, in person and by videoconference

APPLICANT’S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owner wants to convey a portion of its property (Part of Lot 33) to the adjacent parcel (Lot 34). It is proposed to create two new parcels of land with new two, three-storey semi-detached dwellings, all with secondary dwelling units, on each newly created parcel. A three-storey detached dwelling, with secondary dwelling unit, is proposed to be constructed on the retained land. The two existing detached dwellings will be demolished.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Committee’s consent to convey and sever. The property is shown as Parts 1 to 6 on a Draft 4R-Plan filed with the applications and the separate parcels will be as follows:

File Nos.	Frontage	Depth	Area	Part Nos.	Municipal Address
B-00106	6.645 m	10.19 m	202.8 sq. m	2 & 3	To be conveyed to 306 & 304 Olmstead (lot line adjustment)
B-00107	13.62 m	23.48 m	319.6 sq. m	3 & 5	306, (306 B) Olmstead Street (proposed semi- detached dwelling with secondary dwelling units)

File Nos.	Frontage	Depth	Area	Part Nos.	Municipal Address
B-00108	10.91 m	23.48 m	397.1 sq. m	2, 4 & 6	304, (304B) Olmstead Street (proposed semi-detached dwelling with secondary dwelling units)

- [3] The retained lands, shown as Part 1 on the draft 4R-Plan, will be a frontage of 10.19 metres, a lot depth, of 30.51 metres, and a lot area of 311 square metres. This parcel will contain a new detached dwelling and will be known municipally as 206 Levis Avenue.
- [4] Approval of these applications will have the effect of creating separate parcels of land. Two of the proposed developments will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance applications (23/A-00090 & D08-02-23/A-00091) have been filed and will be heard concurrently with this these applications.

PUBLIC HEARING

- [5] Prior to the scheduled hearing on June 6, 2023, the Committee received an adjournment request from City Planner Cass Scлаuzero, on the basis that additional variances were required. The Committee also received an adjournment request from residents M. Hadwen and J.Greenwood, both requesting additional time to consult with the Applicant, area residents, and the City's Heritage Planner.
- [6] At the hearing on June 6, 2023, the Committee heard from Christoph Jalkotzy, Agent for the Applicant, who was in agreement with the adjournment request.
- [7] Mr. Hadwen was also present and concurred with the adjournment *sine die* request.
- [8] With the concurrence of all parties, the applications were adjourned *sine die*.

Oral Submissions Summary

- [9] At the hearing on September 5, 2023, Chris Jalkotzy, agent for the applicant, provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. Mr. Jalkotzy provided an overview of the application and responded to questions from the Committee, confirming that while the variances for the driveways were applied for in an abundance of caution, they were not required.
- [10] The Committee also heard oral submissions from the following individual:

- M. Hadwen, resident, expressed concerns regarding the heritage status of the existing dwelling and impact of that status on community interest.

[11] City Planner Cass Sclauzero confirmed that due to the proposed lot widths the driveways comply with the Zoning By-law and are not required.

[12] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Applications Must Satisfy Statutory Tests

[13] 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).

Evidence

[14] Evidence considered by the Committee included all oral submissions made at the hearing, as highlighted above, and the following written submissions held on file with the Secretary-Treasurer and available from the Committee Coordinator upon request:

- Application and supporting documents, including cover letter, plans, TIR, tree replacement plans, and a sign posting declaration.
- City Planning Report received August 31, 2023, with no concerns; received June 1, 2023, requesting an adjournment *sine die*.
- Rideau Valley Conservation Authority email dated September 1, 2023, with no objections; dated May 31, 2023, with no objections.
- Hydro Ottawa email dated September 1, 2023, with no objections; dated May 31, 2023, with comments.
- Ottawa International Airport Authority email dated August 23, 2023, with no comments.
- C. Greenshields President, Vanier Community Association email dated August 31, 2023, in opposition to the application.

- Councillor Stéphanie Plante, Ward 12, email dated September 4, 2023, with comments.
- M. Hadwen, resident, email dated May 27, 2023, requesting adjournment.
- J. Greenwood, resident, email dated June 2, 2023, requesting adjournment.
- K. Walsh, resident, email dated May 31, 2023, in support.

Effect of Submissions on Decision

- [15] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [16] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications.
- [17] 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.
- [18] THE COMMITTEE OF ADJUSTMENT 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 the accompanying Minor Variance Applications (D08-02-23/A-0090 & D08-02-23/A0091) have been approved, with all levels of appeal exhausted.
 2. 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. 2022-280, as amended. Information regarding the appraisal process can be obtained by contacting the Planner.

3. That the Owner(s) provide proof to the satisfaction of the **Chief Building Official, or his/her designate**, that the existing dwelling/buildings have been removed.
4. That the Owner(s) provide evidence to the satisfaction of the **Chief Building Official, or his/her designate**, that the accessory structure has been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law.
5. That the Owner(s) provide a servicing plan or other evidence, to the satisfaction of **the Development Review Manager of the Central 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 each existing building and/or unit on the severed and retained parcels has its own independent water, sanitary and sewer connection, as appropriate, that are directly connected to City infrastructure and do not cross the proposed severance line.
6. 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 **Central Manager of the Central 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 Central Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate**.
7. That the Owner(s) convey a 5m x 5m corner sight triangle located at the intersection of Lévis Avenue and Olmstead Street to the City, with all costs to be borne by the Owner(s), to the satisfaction of **the Surveys and Mapping Branch of the City**. This area will be free of all structures, plantings, etc. and will allow a proper sighting distance for motorists when performing turning movements within the intersection. The Committee must receive written confirmation from **City Legal Services** that the transfer of the lands to the City has been registered.
8. 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 **Central Manager of the Central 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 Lévis Avenue and Olmstead Street, 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 **Central Manager of the Central 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 Central Manager of the Central 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.

9. The Owner(s) shall:

- a. Prepare a noise attenuation study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of the Central Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate. The Owner(s) shall also enter into an agreement with the City that requires the Owner to implement any noise control attenuation measures recommended in the approved study. The Agreement will also deal with any covenants/notices recommended in the approved study, that shall be registered on the land title and bind future owners on subsequent transfers, warning purchasers and/or tenants of expected noise levels due to the existing source of environmental noise. The Agreement shall be to the satisfaction of the Central Manager of the **Central 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;

or

- b. Design the dwelling units with the provision for adding central air conditioning at the occupant's discretion and enter into an Agreement with the City, at the expense of the Owner, which is to be registered on title to deal with the covenants/ notices that shall run with the land and bind future owners on subsequent transfers, warning purchasers and/or tenants of expected noise levels due to the existing source of environmental noise. The following two conditions will be included in the above-noted Agreement:

Notices-on-Title respecting noise:

- i. "The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns acknowledges being advised that this dwelling unit has been fitted with a forced air heating system and the ducting, etc. was sized to accommodate central air conditioning. Installation of central air conditioning by the

Purchaser/Lessee will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the City of Ottawa's and the Ministry of the Environment and Climate Change's noise criteria;" and

- ii. "The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns acknowledges being advised that noise levels due to increasing roadway traffic may be of concern, occasionally interfering with some activities of the dwelling occupants as the outdoor sound level exceeds the City of Ottawa's and the Ministry of the Environment and Climate Change's noise criteria."

The Owner(s) agrees that the location of the proposed structures, including the driveways, retaining walls, services, projections, etc. shown on the Grading & Servicing Plan will be determined based on the least impact to protected trees and future trees. The Owner(s) further acknowledges and agrees that this review may result in relocation of these structures and agrees to revise their plans accordingly to the satisfaction of the **Development Review Manager of the Central Branch within the Planning, Real Estate and Economic Development Department, or his/her designate.**

- 10. 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.
- 11. 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.

"Fabian Poulin"
FABIAN POULIN
VICE-CHAIR

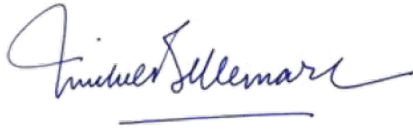
Absent
JAY BALTZ
MEMBER

"George Barrett"
GEORGE BARRETT
MEMBER

"Heather MacLean"
HEATHER MACLEAN
MEMBER

"Julianne Wright"
JULIANNE WRIGHT
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **September 15, 2023**.



Michel Bellemare
Secretary-Treasurer

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 **October 5, 2023**, delivered by email at cofa@ottawa.ca and/or by mail or courier to the following address:

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

The Appeal Form is available on the OLT website at <https://olt.gov.on.ca/>. The Ontario Land Tribunal 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.

Only the applicant, the Minister or a specified person or public body that has an interest in the matter may appeal the decision to the Ontario Land Tribunal. A "specified person" does not include an individual or a community association.

There are no provisions for the Committee of Adjustment or the Ontario Land Tribunal 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.

If a major change to condition(s) is requested, you will be entitled to receive Notice of the changes only if you have made a written request to be notified.

NOTICE TO APPLICANT(S)

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.

Ce document est également offert en français.

Committee of Adjustment
City of Ottawa
Ottawa.ca/CommitteeofAdjustment
cofa@ottawa.ca
613-580-2436



Comité de dérogation
Ville d'Ottawa
Ottawa.ca/Comitedederogation
cded@ottawa.ca
613-580-2436