

**DECISION
CONSENT/SEVERANCE**

Date of Decision:	January 26, 2024
Panel:	2 - Suburban
File No(s):	D08-01-23/B-00305 & D08-01-23/B-00306
Application:	Minor Variance under section 45 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Mohamed Mostafa Real Estate Investment Inc.
Property Address:	124 Granton Avenue
Ward:	8 - College
Legal Description:	Lots 2263, 2264 & 2265, Registered Plan 375
Zoning:	R1FF [632]
Zoning By-law:	2008-250
Hearing Date:	January 16, 2024, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] At its hearings in January 2023, the Committee refused consent and minor variance applications. The decisions of the Committee of Adjustment were appealed to the Ontario Land Tribunal and granted.
- [2] The Owner now wants to establish easements to accommodate a shared driveway, as shown on plans filed with the Committee.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [3] The Owner requires the Committee's consent to grant easements/ right of ways. The property is shown as Parts 1 to 5 on a draft 4R-Plan filed with the applications and the requested easements are as follows:
- Over part 2 in favour of part 3, 4 & 5 for vehicular and pedestrian access.
 - Over part 3 in favour of parts 1 & 2 for vehicular and pedestrian access.

PUBLIC HEARING

- [4] In response to questions from the Committee, Simran Soor, Agent for the Applicant, confirmed she had no concerns with the City's requested conditions.

- [5] City Planner Samantha Gatchene confirmed she had no concerns with the applications.
- [6] The Committee also heard oral submissions from the following individuals:
- N. Wilson, co-president of the City View Community Association, expressed concerns that the Ontario Land Tribunal decision was not being read in its entirety, and that the applications before the Committee were not for the previous variances. She also expressed concerns regarding the rear parking, noting it's incongruency with the character of the neighbourhood, reduction of soft landscaping, and potential for significant flooding and drainage issues. Ms. Wilson further stated that the approved plans submitted to the Ontario Land Tribunal featuring a double driveway would be preferable.
 - J. Prot, co-president of the City View Community Association, highlighted that rear yard parking is not featured on any other property in the area and would be incompatible with the neighbourhood. Ms. Prot also noted that a double driveway would be preferable as it would provide additional soft landscaping and opportunity for drainage.
- [7] Ms. Gatchene advised that as the property is not subject to a mature neighbourhood overlay rear yard parking is permitted. Ms. Gatchene also noted that any concerns regarding drainage would be addressed through the requested stormwater condition.
- [8] Ms. Soor addressed the concerns raised and noted that several lots in the area did have rear yard parking, and that the requested minor variance is not for a rear yard parking variance. She further confirmed that the rear lane at the back of the property was not travelable.
- [9] In response to questions from the Committee, Murray Chown, acting Agent for the Applicant, highlighted that the severances approved by the Ontario Land Tribunal have not been finalized as they are awaiting demolition of the existing dwelling. He also highlighted a recent amendment has been made to the Zoning By-law that establishes a maximum percentage rear yard area that can be occupied by parking spaces, and a minimum percentage of rear yard area for soft landscaping.
- [10] City Forester Nancy Young responded to questions from the Committee regarding canopy coverage, highlighting that, although landscaping would be reduced in the rear yard, there would be additional tree planting opportunities in the front yard.
- [11] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Applications Must Satisfy Statutory Tests

- [12] 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

[13] 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:

- Applications and supporting documents, including cover letter, plans, parcel abstract, tree information report, a photo of the posted sign, and a sign posting declaration.
- City Planning Report received January 11, 2024, with no concerns.
- Rideau Valley Conservation Authority email received January 10, 2024, with no objections.
- Hydro Ottawa email received December 21, 2023, with no concerns.
- Hydro one email received December 15, 2023, with no concerns.
- Building Code Services email received December 15, 2023, with no concerns.
- Ministry of Transportation email received December 19, 2023, with no concerns.
- J. Prot & N. Wilson, City View Community Association, email received January 15, 2024, in opposition.
- M. Mihailovic, resident, email received January 15, 2024, in opposition.

Effect of Submissions on Decision

[14] The Committee considered all written and oral submissions relating to the application in making its decision and granted the applications.

[15] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications.

[16] 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.

[17] 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 Owners provide evidence that the accompanying Minor Variance application (D08-02-23/A-00283) has been approved, with all levels of appeal exhausted.
2. That the Owner(s) enter into a Joint Use, Maintenance and Operating Agreement, at the expense of the Owner(s), setting forth the obligations between the Owner(s) and the proposed future owners.

The Owner shall ensure that the Agreement is binding upon all the unit owners and successors in title and shall be to the satisfaction of the **Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, and **City Legal Services**. The Committee requires written confirmation that the Agreement is satisfactory to the **Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, and is satisfactory to **City Legal Services**, as well as a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title.

3. That the Owner(s) submit a Stormwater Management Brief prepared by a Professional Civil Engineer licensed in the Province of Ontario, demonstrating a design for controlling post-development stormwater peak flows to pre-development peak flows for all stormwater events up to the 100 year storm event, to the satisfaction of the **Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, to be confirmed in writing from the Department to the Committee.

If the Stormwater Management Brief includes infiltration techniques, the Owner(s) must submit a supporting Geotechnical Brief prepared by a Professional Civil Engineer licensed in the Province of Ontario, for approval by

the Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate.

The Owner(s) acknowledges and agrees to enter into a Development Agreement with the City to construct the required stormwater system, including posting required securities. A copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title, shall be forwarded to the Committee of Adjustment.

If applicable, the Owner(s) shall obtain an Environmental Compliance Approval from the Ontario Ministry of Environment, Conservation and Parks.

The owners acknowledge and agree that should the stormwater management system cross property lines or access to the system be over multiple properties, that the owner will seek approval of the Committee to grant easement(s) for access and maintenance of the stormwater system or register a Joint Use and Maintenance Agreement on title of the properties, all at the owner(s) costs.

4. 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.
5. 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 an Easement for which the Consent is required.

Absent
FABIAN POULIN
VICE-CHAIR

“Jay Baltz”
JAY BALTZ
MEMBER

“George Barrett”
GEORGE BARRETT
ACTING PANEL CHAIR

“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 **January 26, 2024**.



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 **February 15, 2024**, 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