

## DECISION CONSENT/SEVERANCE

<b>Date of Decision</b>	December 22, 2023
<b>Panel:</b>	1 - Urban
<b>File No(s):</b>	D08-01-23/B-00255 & D08-01-23/B-00256
<b>Application:</b>	Consent under Section 53 of the <i>Planning Act</i>
<b>Owner(s)/Applicant(s):</b>	Mehrzad Ziai, Mehran Frohar, Ninava Ltd. and Henga Ottawa Realty Inc.
<b>Property Address:</b>	674 de l'Église Street
<b>Ward:</b>	12 – Rideau – Vanier
<b>Legal Description:</b>	Lot 59, Part of Lots 58 and 60, Registered Plan 334
<b>Zoning:</b>	R4UA
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	December 12, 2023, in person and by videoconference

### APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owners want to subdivide their property into two separate parcels of land to construct two, 8-unit low-rise apartment buildings, with one building on each parcel, as shown on plans filed with the Committee.
- [2] In September 2022, the Committee granted Consent Applications (D08-01-22/B-00205-00206) and Minor Variance Applications (D08-02-22/A-00187-00188) to subdivide the property into two parcels for the construction of two three-unit dwellings, the Owners have since revised their plans and want to proceed with this new proposal.

### CONSENT IS REQUIRED FOR THE FOLLOWING

- [3] The Owners/Applicants require the Committee's consent to sever land and for grants of easements/rights-of-way. The property is shown as Parts 1 to 4 on a draft 4R plan filed with the applications, and the separate parcels will be as follows:

*Figure 1 - Proposed parcels*

File No.	Frontage	Depth	Area	Parts	Municipal Address
B-00255	9.6 m	30.48 m	293.7 sq.m	3 and 4	674 de l'Église

File No.	Frontage	Depth	Area	Parts	Municipal Address
B-00256	9.61 m	30.48 m	292.9 sq. m	1 and 2	676 de l'Église

[4] It is proposed to establish easements/rights-of-way as follows:

- Easement over Part 2 in favour of Parts 3 and 4 for access.
- Easement over Part 3 in favour of Parts 1 and 2 for access.

[5] Approval of these applications will have the effect of creating separate parcels of land. The parcels and proposed low-rise apartment buildings will not be in conformity with the requirements of the Zoning By-law and therefore, Minor Variance Applications (D08-02-23/A-00248-249) have been filed and will be heard concurrently with these applications.

## **PUBLIC HEARING**

### **Oral Submissions Summary**

[6] Paul Robinson, Agent for the Applicant, provided an overview of the application and responded to questions from the Committee, and noted that the standard wording of the City's requested condition for a Joint Use and Maintenance agreement includes elements that are not present on site. The Panel Chair confirmed the Committee's expectation that the City would not require the agreement to address elements that are unnecessary or do not exist.

[7] City Planner Margot Linker confirmed that the application meets the requirements of the Official Plan policies, and that sufficient soft landscaping is proposed.

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

### **Applications Must Satisfy Statutory Tests**

[8] 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**

[9] 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 a cover letter, plans, a tree information report, a parcel register, a letter of authorization, a photo of the posted sign, and a sign posting declaration.
- City Planning Report received December 11, 2023, with no concerns; received December 7, 2023, with no concerns.
- Rideau Valley Conservation Authority email dated December 7, 2023, with no objections.
- Hydro Ottawa email dated December 6, 2023, with comments.
- Hydro One email dated December 5, 2023, with no comments.
- K. Walsh, neighbour, email dated November 28, 2023, in support.
- J. and A. Tereszko, neighbours, email dated December 11, 2023, with concerns.

#### **Effect of Submissions on Decision**

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

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

[12] 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.

[13] 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-00248 & D08-02-23/A-00249) 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. The owners agree to provide a revised site and/or grading plan with the driveways, services, walkways, and grading situated to reduce any excavation within the Critical Root Zones of protected trees and/or to provide sufficient soil volume to plant new trees, to the satisfaction of the Development Review Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or his/her designate.
4. The Owner/Applicant(s) shall prepare and submit a tree planting plan, prepared to the satisfaction of the Development Review Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or his/her designate, showing the location(s) of the specified number of compensation trees (50mm caliper) required under the Tree Protection By-law, assuming that all proposed tree removals are permitted. The majority of these trees should be located within the Right of Way.
5. The Owner, or any subsequent owners, at its expense acknowledges and agrees to obtain a private approach permit to remove the now redundant approach from the property and reinstate the curb to full height. In addition, the removal shall be completed in accordance with and shall comply with the City's Private Approach By-Law, being By-law No. 2003-447, as amended, and shall be subject to approval of the Right-of-Way, Heritage, and Urban Design Department. Furthermore, any works required to be done by the Owner(s) on the City Road allowances shall be according to the specifications and by-laws of the City. The Owner, or its contractor, shall be required to obtain all the necessary permits for road cuts prior to the disruption of the City Road allowance and it is further understood and agreed that the aforementioned cuts shall be reinstated to the satisfaction of the Director, Infrastructure Services.
6. That the Owner(s) provide proof 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 the existing dwelling/building has been removed.

7. That the Owner(s) provide 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 the existing structure straddling the proposed severance line has been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law.
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 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. The grading and drainage plan shall delineate existing and proposed grades for both the severed and retained properties, to the satisfaction of Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate.
9. That the Owner(s) provide evidence to the satisfaction of both the Chief Building Official and Development Review Manager, Planning, Real Estate and Economic Development Department, or designates, that both severed and retained parcels have their own independent water, sanitary and storm connection as appropriate, and that these services do not cross the proposed severance line and are connected directly to City infrastructure. Further, the Owner(s) shall comply to 7.1.5.4(1) of the Ontario Building Code, O. Reg. 332/12 as amended. If necessary, a plumbing permit shall be obtained from Building Code Services for any required alterations.
10. That the Owner(s) enter into a Development Agreement with the City, at the expense of the Owner(s) and to the satisfaction of Development Review 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 l'Église 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 Development Review 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 Development Review 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.

11. That the Owner(s) enter into a Joint Use, Maintenance and Common Element Agreement at the expense of the Owner(s), setting forth the obligations between the Owner(s) and the proposed future owners.

*The Joint Use, Maintenance and Common Elements Agreement shall set forth the joint use and maintenance of all common elements including, but not limited to, the common party walls, common structural elements such as roof, footings, soffits, foundations, common areas, common driveways and common landscaping.*

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 Development Review Manager of the Central 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 Development Review Manager of the Central 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.

12. 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.
13. 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 the Conveyances and Grants of Easement/Right of Way for which the Consent is required.

*“Ann M. Tremblay”*  
ANN M. TREMBLAY  
CHAIR

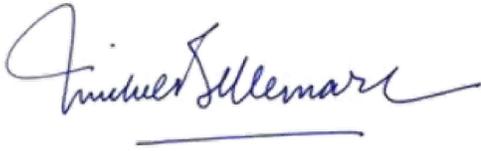
*“John Blatherwick”*  
JOHN BLATHERWICK  
MEMBER

*“Simon Coakeley”*  
SIMON COAKELEY  
MEMBER

*“Arto Keklikian”*  
ARTO KEKLIKIAN  
MEMBER

*“Sharon Lécuyer”*  
SHARON LÉCUYER  
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **December 22, 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 **January 11, 2024**, 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 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](mailto: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](http://Ottawa.ca/CommitteeofAdjustment)  
[cofa@ottawa.ca](mailto:cofa@ottawa.ca)  
613-580-2436



**Comité de dérogation**  
Ville d'Ottawa  
[Ottawa.ca/Comitedederogation](http://Ottawa.ca/Comitedederogation)  
[cded@ottawa.ca](mailto:cded@ottawa.ca)  
613-580-2436