

## DECISION CONSENT/SEVERANCE

<b>Date of Decision</b>	May 24, 2024
<b>Panel:</b>	1 - Urban
<b>File Nos.:</b>	D08-01-24/B-00062 to D08-01-24/B-00064
<b>Application:</b>	Consent under Section 53 of the <i>Planning Act</i>
<b>Owner/Applicant:</b>	1942037 Ontario Inc.
<b>Property Address:</b>	282 Loretta Avenue
<b>Ward:</b>	15 – Kitchissippi
<b>Legal Description:</b>	Lot 11 (West Loretta Avenue), Registered Plan 146
<b>Zoning:</b>	R2R
<b>Zoning By-law:</b>	2008-250
<b>Heard:</b>	May 15, 2024, in person and by videoconference

### APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owner/Applicant wants to subdivide their property into three separate parcels of land for the construction of three detached dwellings. The existing dwelling will be demolished.

### CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Applicant requires the Committee's consent to sever land, grants of easements/rights of way and a joint use maintenance agreement. 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:

**Table 1 Proposed Parcels**

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00062	6.10 m	42.68m	259.9 sq. m	1	280 Loretta Avenue
B-00063	6.10 m	42.68 m	260.5 sq. m	2, 3 & 4	282 Loretta Avenue
B-00064	6.09 m	42.68 m	260.8 sq m	5 & 6	284 Loretta Avenue

- [3] It is proposed to establish easements/rights-of way as follows:
- Easement over Part 2 in favour of Part 1 for access and maintenance.
  - Easement over Part 4 in favour of Parts 5 and 6 for access and maintenance.
  - Easement over Part 5 in favour of Parts 2, 3 & 4 for access and maintenance.
- [4] Approval of these applications will have the effect of creating separate parcels of land which, along with the proposed development, will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance applications (File Nos.D08-02-24/A-00083 to D08-02-24/A-0085) have been filed and will be heard concurrently with these applications.
- [5] Except for the above-noted minor variances, the application indicates that the Property is not the subject of any other current application under the *Planning Act*.

## **PUBLIC HEARING**

### **Oral Submissions Summary**

- [6] Anthony Bruni, 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. Bruni explained that the requested height variance is necessary due to the slope of the lot. He noted that if the lot were flat, the height would be in conformity with the Zoning By-Law.
- [7] In response to questions from the Committee, Mr. Bruni confirmed that the Streetscape Character Analysis does not permit driveways from the street nor front facing attached garages, and provided evidence of existing front yard parking in the neighbourhood. He highlighted that the existing dwelling features a retaining wall, steps and hard landscaping used for parking. Mr. Bruni stated that the proposal would improve the existing condition and add greenspace to the front yard.
- [8] City Planner Margot Linker confirmed no concerns with the applications.

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

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

- [9] 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**

[10] 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, parcel abstract, tree information report, photo of the posted sign, and a sign posting declaration.
- City Planning Report received May 9, 2024, with no concerns.
- Rideau Valley Conservation Authority email received May 10, 2024, with no objections.
- Hydro One email received May 13, 2024, with no comments.
- Ontario Ministry of Transportation email received May 3, 2024, with no comments.
- M. Parizeau, resident, email received May 7, 2024, in support.
- M. Girard, resident, email received May 14, 2024, in opposition.

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

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

[12] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications, subject to the requested conditions agreed to by the Applicant's agent.

[13] 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.

[14] 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 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 Owner/Applicant(s) shall prepare and submit a tree planting plan, prepared to the satisfaction of the Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or their designate(s), showing the location(s), species or ultimate size of the specified number of compensation trees (50 mm caliper) required under the Tree Protection By-law, assuming that all proposed tree removals are permitted.
4. That the Owner(s) provide proof to the satisfaction of the Development Review Manager of the Relevant Branch within Planning, Development and Building Services Department, or his/her designate, to be confirmed in writing from the Department to the Committee, that the existing dwelling/building has been removed.
5. That the Owner(s) provide evidence to the satisfaction of the Development Review Manager of the Relevant Branch within Planning, Development and Building Services Department, or his/her designate, to be confirmed in writing from the Department to the Committee, that the accessory structure has been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law.
6. That the Owner(s) provide evidence to the satisfaction of both the Chief Building Official and Development Review Manager, Planning, Development and Building Services 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.

7. 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 Relevant Manager of the Relevant Branch within Planning, Development and Building Services 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 Relevant Manager of the Relevant Branch within Planning, Development and Building Services Department, or his/her designate.
8. That the Owner(s) enter into a Joint Use, Maintenance and Common Elements 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 Relevant Manager of the Relevant Branch within Planning, Development and Building Services Department, or his/her designate, and City Legal Services. The Committee requires written confirmation that the Agreement is satisfactory to Relevant Manager of the Relevant Branch within Planning, Development and Building Services 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.

If the Relevant Manager of the Relevant Branch within Planning, Development and Building Services Department, or his/her designate determines that the Easement Agreement satisfies the above and a Joint Use, Maintenance and Common Elements Agreement is no longer necessary, this condition shall be deemed as fulfilled.

8. The Owner(s) shall prepare a noise attenuation study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of Relevant Manager of the Relevant Branch within Planning, Development and Building Services 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.

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 Relevant Manager of the Relevant Branch within Planning, Development and Building Services Department, or his/her designate, to require that an asphalt overlay will be installed, at the Owner(s) expense, on Loretta 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 Relevant Manager of the Relevant Branch within Planning, Development and Building Services 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 Relevant Manager of the Relevant Branch within Planning, Development and Building Services 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 provide a Slope Stability Report prepared by a Professional Geotechnical Engineer currently licensed in the Province of Ontario, that is satisfactory to Development Review Manager of the Relevant Branch within Planning, Development and Building Services Department, demonstrating that all parcels to be created by this application are, or can be made, suitable for residential purposes.
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 the conveyance, grant of easements/rights of way and the joint use maintenance agreement for which the Consent is required.

*“Simon Coakeley”*

SIMON COAKELEY  
ACTING PANEL CHAIR

*"John Blatherwick"*  
JOHN BLATHERWICK  
MEMBER

*Absent*  
ANN. M. TREMBLAY  
CHAIR

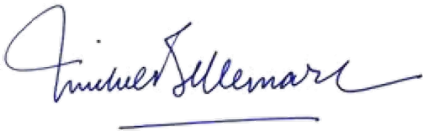
*"Arto Keklikian"*  
ARTO KEKLIKIAN  
MEMBER

*Absent*  
SHARON LÉCUYER  
MEMBER

*"William Hunter"*  
WILLIAM HUNTER  
VICE-CHAIR

*"Jay Baltz"*  
JAY BALTZ  
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **May 24, 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 **June 13, 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**

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**  
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