

**DECISION
CONSENT/SEVERANCE**

Date of Decision	June 14, 2024
Panel:	2 - Suburban
File Nos.:	D08-01-24/B-00083 to D08-01-24/B-00086
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner/Applicant:	1384662 Ontario Inc.
Property Address:	786 McKellar Avenue
Ward:	7 - Bay
Legal Description:	Lot 13, Registered Plan M-98
Zoning:	R3A
Zoning By-law:	2008-250
Heard:	June 4, 2024, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Applicant wants to subdivide their property into four separate parcels of land to construct four townhouse dwellings each with an additional dwelling unit. The existing three-unit dwelling will be demolished.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Applicant requires the Committee's consent to sever land and to grant Easements/Rights-of-Way. The property is shown as Parts 1-8 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-00083	11 m	22.07 m	228.5 sq. m	1 & 5	780 McKellar Avenue
B-00084	6.13 m	19.59 m	118.2 sq. m	2 & 6	782 McKellar Avenue
B-00085	6.13 m	18.51 m	111.7 sq. m	3 & 7	784 McKellar Avenue

B-00086	6.43 m	17.41 m	130.6 sq. m	4 & 8	786 McKeller Avenue
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[3] It is proposed to establish the following easements:

- Over Part 5 in favor of Parts 2, 3, 4, 6, 7 & 8 for access.
- Over Part 6 in favor of Parts 3, 4, 7, & 8 for access.
- Over Part 7 in favor of Parts 4 & 8 for access.

[4] Approval of these applications will have the effect of creating separate parcels of land, which along with the proposed will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance applications (D08-02-24/A-00106 to D08-02-24/A-00109) have been filed and will be heard concurrently with this these applications.

PUBLIC HEARING

Oral Submissions Summary

[5] Simran Soor and Murray Chown, Agents of 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.

[6] Ms. Soor confirmed that the columns supporting the front balconies were considered permitted projections under the Zoning By-law. Brandon Lawrence, project architect, confirmed that the columns projected roughly 508 mm into the front yard.

[7] The Committee also heard oral submissions from the following individuals:

- L. King, resident, highlighted concerns about the setback of the proposed building in relation to her property and the proposed building height.

[8] City Planner Penelope Horn confirmed she had no concerns with the applications.

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

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Application(s) Must Satisfy Statutory Tests

[10] 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

[11] 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, revised tree information report, parcel abstract, photo of the posted sign, and a sign posting declaration.
- City Planning Report received May 30, 2024, with no concerns.
- Rideau Valley Conservation Authority email received May 29, 2024, with no objections.
- Hydro Ottawa email received May 30, 2024, with comments.
- L. King, resident, letter received May 31, 2024, with comments.

Effect of Submissions on Decision

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

[13] 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.

[14] 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.

[15] 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 (D08-02-24/A-00106 to D08-02-24/A-00109) 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 one new 50 mm tree to be planted in the ROW or frontage of each lot following construction, to enhance the urban tree canopy.
4. That the Owner(s) provide proof to the satisfaction of the **Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, or their 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 both the **Chief Building Official** and the **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.
6. That the Owner(s) enter into an Infrastructure Agreement with the City of Ottawa to extend the municipal services on McKellar Avenue at their own costs and post the necessary securities for the work on the City Right-of-Way to the satisfaction of the **City's Planning, Development and Building Services Department's Infrastructure 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.

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

8. That the Owner 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; "The property is located next to lands that have an existing source of environmental noise (arterial road, highway, airport, etc) and may therefore be subject to noise and other activities associated with that use" The Agreement shall be to the satisfaction of the **Manager of Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate**. 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) 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 **Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, or their 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 Manager of Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate.
10. That the Owner convey a 3m x 3m corner sight triangle located at the intersection of McKellar Avenue and Bromley Road 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.

11. 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 **Manager of Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate**, to require that an asphalt overlay will be installed, at the Owner(s) expense, on McKellar 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 Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, or their 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 Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate determines that a Development Agreement requiring an asphalt overlay is no longer necessary, this condition shall be deemed as fulfilled.
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 conveyance and the grant of Easements/Rights-of-Way for which the consent is required.

“Fabian Poulin”
FABIAN POULIN
VICE-CHAIR

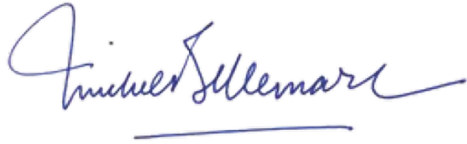
“Jay Baltz”
JAY BALTZ
MEMBER

“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 **June 14, 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 **July 4, 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 the Planning, Development and Building Services 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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