

DECISION CONSENT/SEVERANCE

Date of Decision	April 26, 2024
Panel:	1 - Urban
File No.:	D08-01-24/B-00045
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner/Applicant:	VIKA Land Development
Property Address:	255 MacKay Street
Ward:	13 – Rideau-Rockcliffe
Legal Description:	Part of Lots 23 & 24, Registered Plan 42
Zoning:	R4UD [2502]
Zoning By-law:	2008-250
Hearing Date:	April 17, 2024, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owner wants to subdivide their property into two separate parcels of land to create one new lot for future residential development. The existing dwelling will remain on the other lot.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Committee's consent to sever the land.
- [3] The land to be severed is shown as Parts 2 and 3 on the Draft Reference Plan filed with the applications, will have a frontage of 13.91 metres on Avon Lane, to a depth of 18.63 metres, and will contain a lot area of 257 square metres. This parcel will be known municipally as 186 Avon Lane.
- [4] The land to be retained is shown as Parts 1 and 4 on the Draft Reference Plan, will have a frontage of 21.52 metres on MacKay Street, to an irregular depth of 28.62 metres, and will contain a lot area of 603.5 square metres. This parcel will contain the existing dwelling known municipally as 255 MacKay Street.
- [5] Approval of this application will have the effect of creating two separate parcels of land. The existing dwelling on the retained land will not be in conformity with the requirements of the Zoning By-law and therefore, a minor variance application (File No D08-02-24/A-00062) has been filed and will be heard concurrently with this application.

- [6] The application indicates that the property is subject to an existing easement/right-of-way over Parts 3 and 4.

PUBLIC HEARING

Oral Submissions Summary

- [7] Alain Scott, 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.
- [8] The Committee also heard oral submissions from Gail McEachern of the New Edinburgh Community Alliance, who highlighted that the community supports the proposed severance of this unique lot, provided that it does not establish a precedent for further severances of through-lots on MacKay Street and that no front yard parking space is proposed for the existing dwelling.
- [9] Mr. Scott confirmed that front yard parking was not proposed and would not be permitted by the Zoning By-law.
- [10] City Planner Margot Linker was also present.
- [11] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application(s) 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:

- Application and supporting documents, including cover letter, plans, Heritage Impact Assessment, photo of the posted sign, and a sign posting declaration.
- City Planning Report received April 11, 2024, with no concerns.
- Rideau Valley Conservation Authority email received April 11, 2024, with no objections.
- Hydro Ottawa email received April 10, 2024, with comments.
- Hydro One email received April 16, 2024, with no comments.
- J. Amado, resident, email received April 16, 2024, with concerns.
- Gail McEachern, New Edinburgh Community Alliance, email received April 17, 2024, in support.

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 application.

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

[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 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.

2. 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.
3. That the Owner(s) provide a servicing plan or other evidence, to the satisfaction of the Development Review Manager of the Relevant 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.
4. That the Owner(s) enter into an Infrastructure Agreement with the City of Ottawa to extend the municipal services on MacKay Street at his/her own costs and post the necessary securities for the work on the City Right-of-Way to the satisfaction of the **City's Planning, Real Estate and Economic Development Department's Infrastructural 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.
5. That the Owner(s) provide evidence to the satisfaction of **the Development Review Manager of the Relevant 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.
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 **Relevant Manager of the Relevant 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 **Relevant Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate.**

7. That the Owner(s) satisfy the **Chief Building Official, or designate**, by providing design drawings or other documentation prepared by a qualified designer, that as a result of the proposed severance the existing building on [Part 1 on Draft 4R PLAN] shall comply with the Ontario Building Code, O. Reg. 332/12 as amended, in regards to the limiting distance along the [south] property line. If necessary, a building permit shall be obtained from Building Code Services for any required alterations.
8. The Owner/Applicant(s) shall prepare and submit a tree planting plan, **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/ultimate size of one new 50 mm tree to be planted in the right-of-way of each lot following construction, to enhance the urban tree canopy and streetscape.
9. That the Owner(s) satisfy the requirements of Hydro Ottawa with respect to the relocation of the existing overhead services or grant an easement as required, the consent to which is hereby granted.
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 the conveyance for which the consent is required.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

"John Blatherwick"
JOHN BLATHERWICK
MEMBER

"Absent"
SIMON COAKELEY
MEMBER

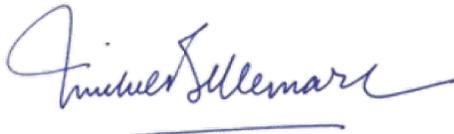
"Arto Keklikian"
ARTO KEKLIKIAN
MEMBER

"Absent"
SHARON LÉCUYER
MEMBER

"William Hunter"
WILLIAM HUNTER
VICE-CHAIR

"Jay Baltz"
JAY BALZ
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **April 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 **May 16, 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
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