

## DECISION CONSENT/SEVERANCE

<b>Date of Decision</b>	April 26, 2024
<b>Panel:</b>	1 - Urban
<b>File Nos.:</b>	D08-01-24/B-00046 & D08-01-24/B-00047
<b>Application:</b>	Consent under Section 53 of the <i>Planning Act</i>
<b>Owners/Applicants:</b>	Allan and Annette Bateman
<b>Property Address:</b>	112 Queen Elizabeth Driveway, 8 McLeod Street
<b>Ward:</b>	14 - Somerset
<b>Legal Description:</b>	Part of Lot 56, Registered Plan M-3
<b>Zoning:</b>	R4UC [478]
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	April 17, 2024, 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 for the construction of two detached dwellings. The existing building will be demolished.
- [2] On October 6, 2021, the Committee conditionally approved consent applications (D08-01-21/B-00249-250) to subdivide this property. Because the conditions were not fulfilled within the statutory timeline, the Owners are now re-applying.

### CONSENT IS REQUIRED FOR THE FOLLOWING

- [3] The Owners require the Committee's consent to sever the land and for a maintenance and joint use agreement and grants of easements/rights of way.
- [4] The property is shown as Parts 1 to 5 on the 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-00046	15.98 m	17.94 m	220.16 sq. m	4 & 5	112 Queen Elizabeth Driveway (proposed detached dwelling)

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00047	12.22 m	12.38 m	151.34 sq. m	1, 2 & 3	8 McLeod Street (proposed detached dwelling)

- [5] It is proposed to create reciprocal easements/rights of way for a shared laneway and internal car court over Parts 2, 3 and 4 on the Draft 4R-Plan, accessed from McLeod Street, and a service easement over Part 2 in favour of Parts 4 and 5.
- [6] The applications indicate that the property is not the subject of any other current application under the *Planning Act*.

## PUBLIC HEARING

### Oral Submissions Summary

- [7] Jennifer Adams, Agent for the Applicants, responded to questions from the Committee, confirming her agreement with the revised conditions.
- [8] City Planner Margot Linker and City Planning Forester Nancy Young were also present.

## DECISION AND REASONS OF THE COMMITTEE: APPLICATION(S) GRANTED

### Application(s) 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:

- Applications and supporting documents, including cover letter, plans, tree information, photo of the posted sign, and a sign posting declaration.
- City Planning Report received April 17, 2024, with no concerns and revised conditions; received April 11, 2024, with no concerns.

- Rideau Valley Conservation Authority email received April 11, 2024, with no objections.
- Hydro Ottawa email received April 11, 2024, with no comments.
- National Capital Commission email received April 15, 2024, with comments.
- Ontario Ministry of Transportation email received April 16, 2024, with no concerns.

### **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.
- [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 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. As the property is located adjacent to 6 McLeod Street, a property designated under Part IV of the *Ontario Heritage Act*:
    - a. That the Owner(s) provide a Heritage Impact Assessment, 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, that outlines the mitigation measures that will be undertaken to avoid or limit any potential adverse impact on the heritage value of the adjacent designated cultural heritage resource.

- b. That the Owner(s) provide to the Development Review Manager, Planning, Real Estate and Economic Development Department, or designates, the construction practice for the purpose of removing rock.

If the Owner(s) propose blasting, that the Owner(s) provide the Development Review Manager, Planning, Real Estate and Economic Development Department, or designates, a pre-blast survey prepared as per F-1201, at the Owner(s) expense for all buildings, utilities, structures, water wells, and facilities likely to be affected by the blast and those within 75 m of the location where explosives are to be used. The standard inspection procedure shall include the provision of an explanatory letter to the owner or occupant and owner with a formal request for permission to carry out an inspection.

If the Owner(s) propose hoe ramming, that the Owner(s) provide the Development Review Manager, Planning, Real Estate and Economic Development Department, or designates, a pre-construction survey at the Owner(s) expense for all buildings, utilities, structures, water wells, and facilities likely to be affected by the blast and those within 75 m of the location where explosives are to be used. The standard inspection procedure shall include the provision of an explanatory letter to the owner or occupant and owner with a formal request for permission to carry out an inspection.

3. That the Owner(s) provide proof 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 dwelling/building has been removed.
4. 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.
5. 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.

If they do cross or do not connect directly or are not independent, and there is sufficient justification for the service locations to remain, the Owner(s) must obtain Ontario Ministry of the Environment and Conservation and Parks (Environmental Compliance Approval – ECA), must obtain the approval of the Committee to grant easement(s) as required for access and maintenance of the services, and must register a Joint Use and Maintenance Agreement, between the Owners of the services, on the title of the property, all at his/her own costs.

6. 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 Joint Use, Maintenance and Operating Agreement shall set forth the joint use and maintenance of all common elements including, but not limited to, the common driveways, common landscaping, and common servicing.

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 applicable **Manager of the applicable 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 **applicable Manager of the applicable 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.

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, 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**.

8. That the Owner/Applicant(s) enter into a Development Agreement or a Letter of Undertaking (LOU) with the City of Ottawa, at the expense of the Owner/Applicant(s), and to the satisfaction of the Manager of the relevant branch within Planning, Real Estate, and Economic Development Department, others designate(s). A development agreement is to be registered on Title of the property (where applicable). The agreement will include the mitigation measures outlined in the approved Tree Information Report v2.0, prepared by Dendron Forestry Services, dated October 1, 2021, the associated security for tree protection, and assurance that the fencing, soil removal and any works within the CRZ of tree #2 will be approved and supervised by an ISA-certified arborist, to be confirmed in a letter of attestation to the City Forester once this work is complete. The security, which will be based on the value of the NCC tree to be protected (Tree 2) shall be retained for 2 years following issuance of an occupancy permit, and thereafter returned to the owner only upon the City having received a report from an arborist appropriate professional confirming that the identified tree is healthy, retainable, and remains structurally stable. The Owner(s) acknowledge(s) and agree(s) that if, in the opinion of the City Forester and/or the Manager of the relevant Branch within Planning, Real Estate, and Economic Development, the report indicates that tree # 2 is declining and must be removed, the Security for that tree, in its entirety, will be forfeited and paid, by the City, to the NCC.
9. The Owners agree that the location of proposed structures such as driveways, patios, retaining walls, projections, etc. located on a Grading Plan, will be determined by the General Manager of the Planning, Infrastructure and Economic Development Department, or his/her designate, based on the least impact distinctive trees and tree cover. The Owner(s) further acknowledges and agrees that this review may result in relocation or redesign of these structures and agrees to revise their plans accordingly to the satisfaction of the General Manager of the Planning, Infrastructure and Economic Development Department, or his/her designate.
10. 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 on the property frontage or right-of-way of the retained lot following construction, to enhance the urban tree canopy and streetscape.
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 conveyances, joint use and maintenance agreement and easements/rights of way for which the consent is required.

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

*“John Blatherwick”*  
JOHN BLATHERWICK  
MEMBER

*“Absent”*  
SIMON COAKELEY  
MEMBER

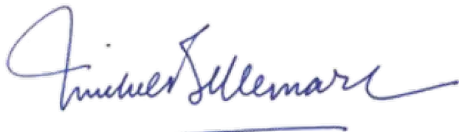
*“Arto Keklikian”*  
ARTO KEKLIKIAN  
MEMBER

*“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](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)  
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