

**DECISION
CONSENT/SEVERANCE**

Date of Decision	April 26, 2024
Panel:	2 - Suburban
File Nos.:	D08-01-23/B-00244
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owners/Applicants:	Helmand Home Inc.
Property Address:	820 High Street
Ward:	7 – Bay
Legal Description:	Lot 19, Registered Plan 199
Zoning:	R4N
Zoning By-law:	2008-250
Hearing Date:	April 16, 2024, in person and by videoconference

APPLICANT’S PROPOSAL AND PURPOSE OF THE APPLICATION:

- [1] The Owner wants to convey a portion of its property to the abutting property owner to the north, known municipally as 814 High Street and to construct an eight-unit, stacked dwelling. The existing dwelling will be demolished.
- [2] At the scheduled hearing on November 14, 2023, the Committee adjourned the application *sine die* to allow the Applicant time to address concerns raised by the City’s Planner. The Owner subsequently revised their application.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [3] The Owner requires the Committee’s consent for a lot line adjustment and grant of easements/right-of-way. The property is shown as Parts 2, 3, 4 & 5 on the Draft 4R-Plan filed with the applications.
- [4] The severed land, shown as Parts 2 and 3 on a Draft 4R-Plan filed with the applications, contains a frontage of 3.02 metres, a depth of 38.22 metres and a lot area of 114.9 square metres. This vacant land will merge with the property to the north, known municipally as 814 High Street.
- [5] The retained land, shown as Parts 4 & 5 on said plan, contains a frontage of 17.08 metres, a depth of 38.57 metres and a lot area of 649.4 square metres. This land will be known municipally as 820 High Street.

- [6] It is proposed to establish easements/right of way over Part 4 in favour of Parts 1 to 3 for vehicular and pedestrian access.
- [7] Approval of this consent application will result in a proposed parcel and development that will not be in conformity with the requirements under the Zoning By-law and therefore, minor variance application (File No. D08-02-23/A-00232) has been filed and will be heard concurrently with this application.

PUBLIC HEARING

At the hearing on April 16, 2024, the Committee suggested an adjournment of the application might be in order to allow the Applicant time to revise the application and planning rationale, to include the criteria for consent applications. William Ritcey, Agent for the Applicant, objected to an adjournment and the Committee agreed to hear the application without delay.

Oral Submissions Summary

- [8] Mr. Ritcey provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request.
- [9] City Planner Samantha Gatchene confirmed she had no concerns with the application, highlighting that the application will create equally sized lots.
- [10] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Tests

- [11] 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

[12] 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, revised tree information report, photo of the posted sign, and a sign posting declaration.
- City Planning Report received April 12, 2024, with no concerns; received November 9, 2023, with some concerns.
- Rideau Valley Conservation Authority email received April 11, 2024, with no objections; received November 10, 2023, with no objections.
- Hydro Ottawa email received April 10, 2024, with comments; received November 8, 2023, with comments.
- Hydro One email received April 16, 2024, with no comments.
- C. Mergie and I. Marcinek, residents, email received April 16, 2024, in opposition; received November 10, 2023, in opposition.
- M. Bara-Swidarska, resident, email received November 14, 2023, in opposition.

Effect of Submissions on Decision

- [13] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [14] The Committee notes that the City's Planning Report raises "no concerns" regarding the application, highlighting that, "[t]he lot line adjustment result in the creation of two more equally sized lots for development."
- [15] 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.
- [16] 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 Application (D08-02-23/A-00232) have been approved, with all levels of appeal exhausted.
2. That the owner(s) file with the Secretary-Treasurer of the Committee of Adjustment the following:
 - a. A copy of the reference plan and/or legal description of the severed land and the deed or instrument conveying the severed land to the owner of the abutting property, known municipally as 814 High Street, so that no new lot is being created, in accordance with paragraph (b) below
 - b. A Certificate of Official attached to the deed/transfer required by paragraph (a) above containing the following endorsement:

“The lands to be severed are for the purpose of a lot addition only to the abutting lands owned by (*insert name*) described as PIN (*insert property identification number*) being Part(s) (*insert numbers*) on Plan (*insert plan number*), not for the creation of a new lot, and any subsequent transfer, charge or other transaction involving the lands to be severed shall be subject to compliance with Section 50(3) or Section 50(5) of the Planning Act, as applicable. Neither the lands to be severed nor the abutting lands are to be transferred, charged, or otherwise re-conveyed in the future without the other parcel unless a further consent is obtained.

The owner(s) shall cause the lands to be severed to be consolidated on title with the abutting lands and for this condition to be entered on the parcel register for the consolidated parcel as a restriction.”

- c. An undertaking from a solicitor authorized to practice law in the Province of Ontario, and in good standing with the Law Society of Upper Canada, as follows:

“In consideration of, and notwithstanding the issuance of the Certificate under Section 50(12) of the Planning Act in respect to the subject Application for Consent, I undertake on behalf of the Owner, within **30 days** of the registration on title of the transfer document containing the endorsement set out in the Certificate of Official issued by the Committee of Adjustment, to file an Application to Consolidate Parcels including the severed land (Part of PIN (*insert number*) and the abutting land (PIN *insert number*). This PIN consolidation is intended to reinforce the Planning Act stipulation in the condition outlined above that both parcels have merged on Title and cannot be conveyed separately in the future. I further undertake to forward a copy of the registered Application to Consolidate Parcels and a copy of the Consolidated Parcel abstract page(s) to the Committee office within 21 days of the registration of the Application to Consolidate Parcels”.

Where the parcel consolidation stipulated in paragraph (b) and the solicitor's undertaking in paragraph (c) above cannot be completed because the parcels of land to be merged have different estate qualifiers, an application to annex restrictive covenant under Section 118 of the Land Titles Act must be registered on the title of both the severed lands and on the abutting parcel that is to be merged. The covenant, which is to be to the satisfaction of the Secretary-Treasurer of the Committee of Adjustment, shall advise all future purchasers that the parcels must be dealt with together and not separately, and contain wording set out below or similar wording acceptable to the Secretary-Treasurer of the Committee of Adjustment:

"These lands have been merged and may not be dealt with separately, without applying for a consent of the Committee of Adjustment."

In lieu of the undertaking provided in paragraph (c), a replacement undertaking by the solicitor must be filed undertaking on behalf of the owner(s) to register the restrictive covenant on both property titles within 30 days of the registration of the transfer document containing the endorsement of the Certificate of Official issued by the Committee of Adjustment for this application and to file a copy of the registered restrictive covenant with the Committee of Adjustment within 21 days of the registration of the document.

3. 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 West in the Planning, Real Estate and Economic Development Department, or their designate**, and **City Legal Services**. The Committee requires written confirmation that the Agreement is satisfactory to the **Manager of Development Review West in the Planning, Real Estate and Economic Development 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.

4. That the Owner(s) enter into an Infrastructure Agreement with the City of Ottawa to extend the municipal services on High 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) 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 Development Review West in the Planning, Real Estate and Economic Development 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 West in the Planning, Real Estate and Economic Development Department, or their designate**.
6. That the Owner(s) provide a servicing plan or other evidence, to the satisfaction of the **Manager of Development Review West in the Planning, Real Estate and Economic Development Department, or their 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.
7. 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 West in the Planning, Real Estate and Economic Development Department, or their designate**, to require that an asphalt overlay will be installed, at the Owner(s) expense, on High 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 Development Review West in the Planning, Real Estate and Economic Development 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 Development Review West in the Planning, Real Estate and Economic Development Department, or their designate** determines

that a Development Agreement requiring an asphalt overlay 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 the **Manager of Development Review West in the Planning, Real Estate and Economic Development Department, or their 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) 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.
10. 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 a lot line adjustment and grant of easements/right-of-way for which the Consent is required.

“Fabian Poulin”
FABIAN POULIN
VICE-CHAIR

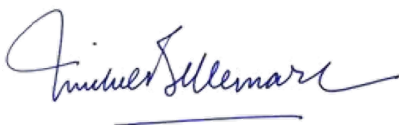
“Jay Baltz”
JAY BALTZ
MEMBER

“George Barrett”
GEORGE BARRETT
MEMBER

“Heather MacLean”
HEATHER MACLEAN
MEMBER

Absent
JULIANNE WRIGHT
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
City of Ottawa
Ottawa.ca/CommitteeofAdjustment
cofa@ottawa.ca
613-580-2436



Comité de dérogation
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