

**DECISION
CONSENT/SEVERANCE**

Date of Decision	June 16, 2023
File No(s):	D08-01-23/B-00026 to D08-01-23/B-00028
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Markins Holdings Inc.
Property Address:	1353 and 1354 McMahon Avenue, and 1349 Ridgedale Street
Ward:	10 – Gloucester-Southgate
Legal Description:	Part of Lot 8, Concession 3 (Rideau Front), Geographic Township of Gloucester, and Lot 65, Registered Plan 674
Zoning:	R1WW [637]
Zoning By-law:	2008-250
Hearing Date:	June 6, 2023

APPLICANT(S)' PROPOSAL AND PURPOSE OF THE APPLICATION(S)

- [1] The Owner wants to subdivide their property into four separate parcels of land for the construction of three new two-storey detached dwellings on each of the newly created parcels. The existing dwellings will remain.
- [2] At the scheduled hearing on March 1, 2023, the Committee adjourned the applications *sine die* to allow the Owner time to submit additional documents.
- [3] The applications, subsequently scheduled to be heard on May 3, 2023, were rescheduled for a hearing on June 6, 2023 due to a public notification error.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [4] The Owner requires the Consent of the Committee for Conveyances. The property is shown as Parts 1 to 10 on a Draft 4R-Plan filed with the applications and the separate parcels will be as follows:

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00026	14.84 m	30.55 m	464.2 sq. m	1	1349 Ridgedale Street
B-00027	14.84 m	31.55 m	464.4 sq. m	2	1351 Ridgedale Street
B-00028	14.84 m	31.56 m	464.5 sq. m	3	1353 Ridgedale Street

- [5] The retained lands, shown as Parts 4 to 10 on said plan, will have frontage of 20.19 metres on McMahon Avenue, a depth of 91.85 metres, and contain a lot area of 5,777.7 square metres. This parcel contains two single detached dwellings on the northern side of the property and will be known municipally as 1353 and 1354 McMahon Avenue.
- [6] The applications indicate that Parts 5, 9, and 10 are subject to Instrument No. LT02315 and LT402316, and Parts 8 and 10 are subject to Instrument No. GL62989.
- [7] Approval of these applications will have the effect of creating three separate parcels of land. The proposed development and parcels of land will not be in conformity with the requirements of the Zoning By-law and therefore, Minor Variance Applications (D08-02-23/A-00017 to D08-02-23/A-00019) have been filed and will be heard concurrently with these applications.

PUBLIC HEARING

Oral Submissions Summary

- [8] Michael Segreto, Agent for the Applicant, provided a slide presentation that included photographs, a draft reference plan, architectural plans, area lot fabric information, aerial images of existing double driveways on Ridgedale Street, and a tree planting plan, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. Mr. Segreto asserted that the proposal is in keeping with the streetscape.
- [9] In response to questions from the Committee, Mr. Segreto confirmed that the retained lands to the north of the subject properties includes two detached dwellings, which are legally non-conforming. He also confirmed that the Applicant is agreeable to redesign the driveway to retain trees #10 and #11 (as indicated on

the tree planting plan on Part 2) by having a single width driveway that widens towards the garage.

- [10] City Planner Siobhan Kelly responded to the Committee's questions, confirming that a permission application is not required for the severance of the retained lands as the use is not being changed or expanded. She further confirmed that the proposed double driveway width is at its' widest point of 5.5 metres, which is based on the width of the lot as set out in the Zoning By-law.
- [11] City Planning Forester Hayley Murray was also present and highlighted that the loss of trees #10 and #11 would be avoidable with a 3-metre driveway.
- [12] With respect to condition #3 relating to tree protection, as outlined in the Planning Report, Ms. Murray requested that as part of the securities for the trees to be protected, trees #10 and #11 also be included and that the Applicant provide the revised plans showing the retention of the trees. Mr. Segreto agreed to the request and confirmed no concerns with any of the requested conditions of provisional consent.
- [13] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Applications Must Satisfy Statutory Tests

- [14] 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

[15] 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, photographs, tree information, photo of the posted sign, and a sign posting declaration.

- City Planning Report received June 1, 2023, with no concerns regarding the severance application but concerns with minor variances; received April 28, 2023, with no concerns regarding the severance application but concerns with minor variances; received February 24, 2023, with an adjournment request.
- Rideau Valley Conservation Authority email dated May 31, 2023, with no objections; dated April 26, 2023, with no objections; dated February 21, 2023, with no objections.
- Hydro Ottawa email dated May 31, 2023, with comments and a requested condition; dated April 26, 2023, with comments and a requested condition; dated February 22, 2023, with comments and a requested condition.
- Hydro One email dated April 28, 2023, with no comments or concerns
- Bell Canada email dated April 26, 2023, with comments and a requested condition.
- Airport Authority email dated April 24, 2023, with no comments; dated February 22, 2023, with comments.
- C. Jeshi, area resident, email dated June 4, 2023, with objections.
- J. Bowler, area resident, email dated February 17, 2023, with concerns.

Effect of Submissions on Decision

- [16] The Committee considered all written and oral submissions relating to the applications in making its decision and granted the applications.
- [17] The Committee notes that, with respect to the associated minor variance application for reduced lot area, the City's Planning Report raises no concerns, stating that "the reduced lot areas are consistent with the lot pattern along Ridgedale Street as existing lots range from 351 square metres to 910 square metres."
- [18] Based on the evidence, the majority of the Committee (Member J. Wright dissenting) 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 majority of 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 majority of 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.

[19] 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 (D08-02-23/A-00017 to D08-02-23/A-00019) 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 2022-280. Information regarding the appraisal process can be obtained by contacting the Planner.
3. That the Owner(s) agree that the location of the proposed structures, including the driveways, retaining walls, services, projections, etc. shown on the Grading & Servicing Plan, will be determined based on the least impact to protected trees and tree cover. The Owner(s) further acknowledges and agrees that this review may result in relocation of these structures and agrees to revise their plans accordingly to the satisfaction of the **Development Review Manager of the South Branch within the Planning, Real Estate and Economic Development Department, or his/her designate**.
4. That the Owner(s) to provide a revised site plan and tree information report, showing retention of trees # 10 and 11, to the satisfaction of the **Development Review Manager of the South Branch within the Planning, Real Estate and Economic Development Department, or his/her designate**. This report shall be prepared by an Arborist, identifying all trees protected under the City's Tree Protection by-law, and meeting the standards of the City's Tree Information Report Guidelines, including specific mitigation measures where work is proposed within the Critical Root Zone of a protected tree.
5. That the Owner(s), prior to the issuance of a building permit, shall 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 **General Manager of the Planning, Infrastructure, and Economic Development Department, or his/her designate**. A development agreement is to be registered on Title of the property (where applicable), which will include the mitigation measures outlined in the approved Tree Information Report, prepared by Dendron Forestry Services, dated March 7, 2023, and associated security for tree protection. The securities, which will be based on the value of the trees to be protected (#'s 2,3,4,5,6,7,8,9,10 & 11) shall be retained for 2 years following completion of construction and returned to the owner only upon

the City having received a report from an arborist or appropriate professional confirming that the trees identified are in good health and condition and remain structurally stable.

6. That the Owner(s) provide evidence (i.e., servicing plan), to the satisfaction of the **Development Review Manager of the South Branch within the Planning, Real Estate and Economic Development Department or his/her designate**, to be confirmed in writing from the Department to the Committee, that both the severed and retained parcels have their own independent water, sanitary and sewer connection, as appropriate, and that these services do not cross the proposed severance line and are connected directly to City infrastructure. If they do cross the proposed severance line, or they are not independent, the Owner(s) will be required to relocate or construct new services from the city sewers and/or watermain at his/her own costs.
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 the **Development Review Manager of the South Branch within the 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.
8. 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 **Development Review Manager of the South Branch within the Planning, Real Estate and Economic Development Department or his/her designate** to require that an asphalt overlay will be installed, at the Owner(s) expense, on Ridgedale Street, fronting the subject lands, over the entire public driving surface area within the limits of the overlay, as shown on the approved Site Grading and Servicing Plan. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.
9. The Owner(s) shall prepare a noise attenuation study (or noise and vibration attenuation study if applicable) in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of the **Development Review Manager of the South Branch within Planning, Real Estate and Economic Development 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.

10. 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 **Development Review Manager of the South Branch within Planning, Real Estate and Economic Development 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.

11. 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.
12. That the Owner(s) grant to **Bell Canada** without cost, such easements as may be required, the consent to the registration of which is hereby granted.
13. 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.
14. 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 Conveyance 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

Dissent
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 16, 2023**.



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 6, 2023**, 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
Ville d'Ottawa
Ottawa.ca/Comitedederogation
cded@ottawa.ca
613-580-2436