

**DECISION
CONSENT/SEVERANCE**

Date of Decision	July 26, 2024
Panel:	2 - Suburban
File No(s):	D08-01-24/B-00109
Application:	Consent under Section 53 of the <i>Planning Act</i>
Applicant(s):	GsterHldgs Inc.
Property Address:	162 Anwatin Street
Ward:	8 – College
Legal Description:	Lot 16, Registered Plan 341265
Zoning:	R1FF
Zoning By-law:	2008-250
Heard:	July 16, 2024, in person and by videoconference

APPLICANT’S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Applicant wants to subdivide their property into two separate parcels of land for the to create two new lots for the construction of a single detached dwelling. The existing dwelling will remain.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Applicant requires the Committee’s consent for conveyance.
- [3] The severed land, shown as Part 2 on the draft 4R- plan filed with the application, will have a frontage of 21.02 metres, an irregular depth, and a lot area of 684.1 square metres. This parcel is vacant and will be known municipally as 537 Moodie Drive.
- [4] The retained land, shown as Part 1 on said plan, has a frontage of 28.65 metres, an irregular depth, and a lot area of 702.2 square metres. This parcel contains the existing dwelling and is known municipally as 162 Anwatin Street.
- [5] The subject property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

Oral Submissions Summary

- [6] Emily Charby and Christine McCuaig, Agents 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.
- [7] Ms. McCuaig requested that the Committee not impose the City's requested condition for a Grading and Servicing/Site Plan because no development is currently proposed on the severed parcel.
- [8] City Planner Erin O'Connell proposed revised wording for the condition .
- [9] City Forester Julian Alvarez-Barkham advised that the tree information report provided with the application did not align with the conceptual site plan.
- [10] Ms. McCuaig noted that tree information report does not in fact align with the conceptual site plan as the building design has not been finalized and the site plan only provides for a building envelope to confirm that the parcel can be developed.
- [11] City Planner Luke Teeft confirmed no additional concerns with the application.
- [12] In response to questions from the Committee, Mr. Alvarez-Barkham confirmed that the condition would be requested if a site plan had not been submitted with the application because a buildable footprint is required in a tree information report.
- [13] The Committee also heard oral submissions from the following individuals:
- D. MacKenzie, resident, expressed concerns over light pollution, road conditions, drainage, and bedrock underlying Moodie Drive.
 - J. O'Grady, resident, expressed concerns over potential damage to private trees, noise, light pollution, and property value.
- [14] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Tests

- [15] 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

[16] 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, parcel register abstract, tree information report, photo of the posted sign, and a sign posting declaration.
- City Planning Report received July 11, 2024, with no concerns.
- Rideau Valley Conservation Authority email received July 10, 2024, with no objections.
- Hydro One email received July 9, 2024, with no comments.
- Hydro Ottawa email received July 10, 2024, with comments.
- Ontario Ministry of Transportation email received July 11, 2024, with no comments.

Effect of Submissions on Decision

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

[18] The Committee notes that the City's Planning Report raises "no concerns" regarding the application, subject to the requested conditions agreed to by the Applicant or their/plicant's Agent.

[19] The Committee finds that the City's requested condition for a Grading and Servicing/Site Plan is not reasonable nor necessary and does not impose it. Instead, the requested condition can be addressed by the municipality when the Applicant applies for a building permit for a proposed development.

[20] 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.

[21] 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 the manager of the Development Review All Wards Branch, or their designate**, 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 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 the Development Review All Wards Branch, 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.

4. 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, 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 the Development Review All Wards Branch, or their designate.**

5. That the Owner/Applicant(s) provide a tree planting plan, prepared to the satisfaction of the **manager of the Development Review All Wards Branch, or their designate**, showing the location(s) and species or ultimate size of the specified number of compensation trees (50 mm caliper) required under the Tree Protection By-law, assuming that all proposed tree removals are permitted.
6. That the Owner convey a 3m x 9m corner sight triangle located at the intersection of Anwatin and Moodie 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 Owner shall provide a reference plan for registration, indicating the corner sight triangle, to the **City Surveyor** for review and approval prior to its deposit in the Land Registry Office. Such reference plan must be tied to the Horizontal Control Network in accordance with the municipal requirements and guidelines for referencing legal surveys. The Owner(s) must provide to the City Surveyor a copy of the Committee of Adjustment Decision and a draft Reference Plan that sets out the required corner sight triangle. The Committee must receive written confirmation from **City Legal Services** that the transfer of the lands to the City has been registered.
7. That the Owner(s) enter into a resurfacing agreement with the City to the satisfaction of the **Program Manager, Right of Way Branch within the Planning, Development and Building Services Department, or their designate**, and provide financial security in accordance with the Road Activity By-law, as amended, to install an asphalt overlay over the roadway surface of Anwatin and Moodie, fronting the subject lands, to the limits shown on the approved Site Servicing Plan. Where the approved Site Servicing Plan demonstrates that resurfacing is not required based on the City's Road Cut Resurfacing Policy, the **manager of the Development Review All Wards Branch, or their designate**, shall deem this condition satisfied.
8. That the Owner acknowledges and agrees to convey to the City, at no cost to the City, an unencumbered road widening across the complete frontage of the lands, measuring 12 meters from the existing centerline of pavement/the abutting right-of-way along Moodie Drive, pursuant to Section 50.1(25)(c) of the Planning Act and Schedule C16 of the City's new Official Plan, if required. The exact widening must be determined by legal survey. The Owner shall provide a reference plan for registration, indicating the widening, to the **City Surveyor** for review and approval prior to its deposit in the Land Registry Office. Such reference plan must be tied to the Horizontal Control Network in accordance with the municipal requirements and guidelines for referencing legal surveys. The Owner(s) must provide to the **City Surveyor** a copy of the Committee of

Adjustment Decision and a draft Reference Plan that sets out the required widening. The Committee requires written confirmation from **City Legal Services** that the transfer of the widening to the City has been registered. All costs shall be borne by the Owner.

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 Conveyance for which the Consent is required.

Fabian Poulin
FABIAN POULIN
VICE-CHAIR

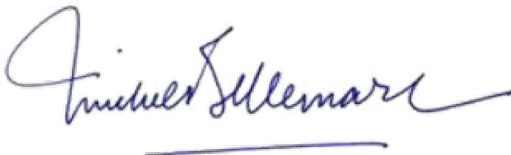
Absent
JAY BALTZ
MEMBER

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 **July 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 **August 15, 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

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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