

**DECISION
CONSENT/SEVERANCE**

Date of Decision:	November 15, 2024
Panel:	1 - Urban
File No.:	D08-01-24/B-00151
Application:	Consent under Section 53 of the <i>Planning Act</i>
Applicant:	Michelle Sample
Property Address:	314 Queen Elizabeth Driveway
Ward:	17 - Capital
Legal Description:	Part of Lot E, Registered Plan 35085
Zoning:	R3Q [1474]
Zoning By-law:	2008-250
Heard:	November 6, 2024, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Applicant wants to convey a portion of her property to the abutting property owners to the west, known municipally as 1 Second Avenue, and to expand the existing detached garage at the rear of the property, as shown on plans filed with the Committee.
- [2] On September 18, 2024, the Committee adjourned this application to allow the Applicant time to submit a minor variance application.
- [3] In May 2023, the Committee granted minor variance application (D08-02-23/A-00076) which included relief needed to renovate the existing garage. The Applicant has since revised her plans for the proposed garage and is reapplying for the required variances.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [4] The Applicant requires the Committee's consent for a lot line adjustment.
- [5] The severed property is shown as Part 2 on a draft 4R-plan filed with the application, is landlocked and will contain an area of 0.04 square metres. This

vacant land will be merged with the property to the east, known municipally as 1 Second Avenue.

- [6] The retained property, shown on the draft 4R-plan filed with the application, has a frontage of 13.1 metres, an irregular depth, and will contain a lot area of 194.96 square metres. This parcel is known as 314 Queen Elizabeth Driveway.
- [7] A reciprocal Consent Application (D08-01-24/B-00150) has been filed by the abutting property owner at 1 Second Avenue as part of a mutual land exchange and will be heard concurrently with this application.
- [8] Approval of this this mutual land exchange will have the effect of creating a parcel of land for which the proposed development will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance application (D08-02-24/A-00250) have been filed and will be heard concurrently with this application.

PUBLIC HEARING

Oral Submissions Summary

- [9] Arjan Soor and Murray Chown, 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.
- [10] In response to questions from the Committee, Mr. Chown explained the garage at 314 Queen Elizabeth Driveway shares a wall with the garage at 1 Second Avenue. Mr. Chown also confirmed the existing eave of the garage at 1 Second Avenue encroaches onto the portion of land being transferred to 314 Queen Elizabeth Driveway. Mr. Chown confirmed that through the renovations of both garages this encroachment would be eliminated.
- [11] In response to questions from the Committee, Mr. Chown confirmed that renovations to the existing dwelling have begun in concurrence with the previous granted minor variance application. He explained the purpose of the requested variances was to expand the existing garage and to connect it to the dwelling.
- [12] City Planner Penelope Horn highlighted no concerns with the application.
- [13] The Committee also heard oral submissions from the following individuals:
 - G. Weston, resident, raised concerns over access to the foundation, possibility of future development, and his kitchen exhaust vent which extends through the shared wall between his dwelling and the garage on the subject property, adding the if the garage was built higher it would impact the vent. Mr. Weston also requested that a common wall agreement be implemented.

- [14] In response to Mr. Weston's concerns, Mr. Chown reiterated that tying approval of the variances to plans would restrict future development. Mr. Chown also added that the Applicant is not proposing to increase the height of the garage.
- [15] Michael Polowin, the Applicant's solicitor, confirmed that a common wall agreement binding current and future owners could be created to address the shared wall.
- [16] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Tests

- [17] 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

[18] 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 revised cover letter, plans, tree information, parcel register abstract, photo of the posted sign, and a sign posting declaration.
- City Planning Report received October 31, 2024, with no concerns; received September 12, 2024, requesting adjournment.
- Rideau Valley Conservation Authority email dated November 1, 2024, with no objections; received September 16, 2024, with no objections.
- Hydro Ottawa email dated November 1, 2024, with comments; received September 16, 2024, with no objections.

- Hydro One email dated October 31, 2024, with no concerns; received September 9, 2024, with no comments.
- Ontario Ministry of Transportation email dated October 18, 2024, with no comments; September 9, 2024, with no comments.
- G. Weston, resident, email received November 5, 2024, with concerns; received September 17, 2024, requesting adjournment.

Effect of Submissions on Decision

- [19] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [20] 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's Agent.
- [21] 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.
- [22] 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 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 to the west, known municipally as 1 Second Avenue 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 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”.

- d. Where the parcel consolidation stipulated in paragraph (b) and the solicitor’s Undertaking in paragraph (c) above cannot be reasonably 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, 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:

“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 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 within 21 days of the registration of the document.

2. 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.
3. That the Owner(s) provide evidence that the accompanying minor variance application (D08-02-24/A-00250) has been approved, with all levels of appeal exhausted.
4. 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.
5. 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 lot line adjustment for which the Consent is required.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

"John Blatherwick"
JOHN BLATHERWICK
ACTING PANEL CHAIR

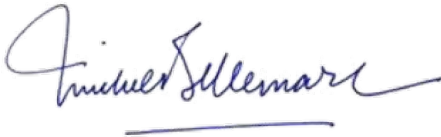
"Simon Coakeley"
SIMON COAKELEY
MEMBER

"Arto Keklikian"
ARTO KEKLIKIAN
MEMBER

ABSENT
SHARON LÉCUYER
MEMBER

"Heather Maclean"
HEATHER MACLEAN
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **November 15, 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 **December 5, 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 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 **30 working days** prior to lapsing date of the consent and should include all required documentation including that related to transfers, easements, and postponements, and all approved technical studies. If you do not fulfill the conditions of provisional consent within the two-year period, the *Planning Act* provides that your application “shall be deemed to be refused”.

Ce document est également offert en français.

Committee of Adjustment
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