



**DECISION
CONSENT/SEVERANCE**

Date of Decision: October 25, 2024
Panel: 1 - Urban
File Nos.: D08-01-24/B-00127 and D08-01-24/B-00184
Application: Consent under Section 53 of the *Planning Act*
Applicants: Minto (FIFTH + BANK) GP INC. and FIFTH + BANK LP
Property Address: 819 Bank Street & 99 Fifth Avenue
Ward: 17 – Capital
Legal Description: Lots 36 & 37 (North Fifth Avenue), Lots 18, 19, 20 and 21 (East Bank Street) Registered Plan 34756 and Lots 36 & 37 (South Fourth Avenue) Registered Plan 35085
Zoning: TM[2506] S387
Zoning By-law: 2008-250
Heard: October 16, 2024, in person and by videoconference

APPLICANTS’ PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Applicants want to subdivide their property into two separate parcels of land to establish separate ownerships for the existing commercial and residential buildings, and to establish easements/rights of way for a shared ramp to the underground parking garage, internal access to the commercial garbage room, and balcony projections.
- [2] On August 21, 2024, the Committee adjourned this matter to allow the Applicants to submit an additional consent application for easements for existing balcony projections.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [3] The Applicants require the Committee’s consent to subdivide the property, to grant easements/rights of way, and for a joint-use and maintenance agreement. The property is shown as Parts 1 to 10 on a strata plan of survey filed with the application, and the separate parcels will be as follows:

Table 1 Proposed Parcels

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00127	46.8 m (Fifth) 37.9 m (Fourth)	62.8 m	2,637.1 sq. m	1, 3, 4 and 5	99 Fifth Avenue (residential building)

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00184	63.47 m (Bank)	63.47 m	1,048.30 sq. m	2, 6, 7, 8, 9 and 10	819 Bank Street (commercial building)

[4] It is proposed to establish easements/rights of way as follows:

- Over Part 1 in favour of Parts 2, 6, 7, 8, 9 and 10 for access to underground parking (P1 level).
- Over Part 3 in favour of Parts 2, 6, 7, 8, 9 and 10 for access to underground parking (P1 level)
- Over Part 4 in favour of Parts 2, 6, 7, 8, 9 and 10 for internal access to a commercial garbage room (ground level)
- Over Parts 9 & 10 in favour of Parts 1, 3, 4 and 5 for balcony projection encroachments (floors 4 to 6).

[5] The applications indicate that the property is subject to existing easements set out in Instruments OC2178596, OC 2354887 and OC2685864.

[6] The subject property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

Oral Submissions Summary

[7] Krista Libman, Agent for the Applicant, provided an overview of the applications.

[8] City Planner Penelope Horn confirmed that she had no concerns with the applications.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS 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 a cover letter, plans, tree information report, parcel abstract, photo of the posted sign, and a sign posting declaration.
- City Planning Report (revised) received October 15, 2024, with no concerns; received October 10, 2024, with no concerns.
- Rideau Valley Conservation Authority email received October 9, 2024, with no comments.
- Hydro Ottawa email received October 11, 2024, with comments.
- Hydro One email received October 9, 2024, with no comments.
- Ontario Ministry of Transportation email received October 1, 2024, with comments.

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, subject to the requested conditions agreed to by the Applicants' agent.

[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 a servicing plan or other evidence, to the satisfaction of **the Development Review Manager of the All Wards Branch within Planning, Development and Building Services 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.

If the services are shared, 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 their own costs.

2. 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.
3. 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, grants of easements/rights of way and joint-use and maintenance agreement for which the consent is required.

“Simon Coakeley”
SIMON COAKELEY
ACTING PANEL CHAIR

“John Blatherwick”
JOHN BLATHERWICK
MEMBER

“Ann M. Tremblay”
ANN M. TREMBLAY
CHAIR

“Arto Keklikian”
ARTO KEKLIKIAN
MEMBER

“Sharon Lécuyer”
SHARON LÉCUYER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **October 25, 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 **November 14, 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 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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