

**DECISION
CONSENT/SEVERANCE**

Date of Decision:	September 27, 2024
Panel:	1 - Urban
File Nos.:	D08-01-23/B-00328 & D08-01-23/B-00329
Application:	Consent under section 53 of the <i>Planning Act</i>
Applicant:	1828487 Ontario Inc.
Property Address:	97 MacLaren Street
Ward:	14 – Somerset
Legal Description:	Lot 63 (North Side MacLaren Street), Registered Plan 15558
Zoning:	R4UC [478]
Zoning By-law:	2008-250
Heard:	September 18, 2024, in person and by videoconference

APPLICANT’S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Applicant wants to subdivide their property into two separate parcels of land to create one new lot for residential development. The existing low rise apartment building will remain, as shown on plans filed with the Committee.
- [2] On February 7, 2024, the Committee adjourned the scheduled hearing of the applications to allow the Applicant time to identify new variances, and to provide additional information regarding parking, driveways and soft landscaping on the retained land. The Applicant subsequently revised their applications.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [3] The Applicant requires the Committee’s consent to sever land and to grant the rights for easements/rights of way.

Table 1 Proposed Parcels

File No.	Frontage	Depth	Area	Part No(s).	Municipal Address
B-00328	8.72 metres	33.56 metres	292.9 sq. metres	1 & 2	101 MacLaren Avenue
B-00329	8.96 metres	33.56 metres	300.7 sq. metres	3 & 4	97 MacLaren Avenue (existing dwelling)

It is proposed to establish easements/rights-of-way as follows:

- Over Part 2, in favour of Parts 3 & 4 for pedestrian and vehicular access and servicing.
- Over Part 3, in favour of part 1 & 2 for pedestrian and vehicular access and servicing.

[4] Approval of these applications will have the effect of creating two separate parcels of land, the parcel containing the existing dwelling will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance application (D08-02-23/A-00301) has been filed and will be heard concurrently with these applications.

PUBLIC HEARING

Oral Submissions Summary

- [5] Jillian Simpson, Agent for the Applicant, provided an overview of the applications and responded to questions from the Committee. Nico Church, also Agent for the Applicant, was present as well.
- [6] Mr. Church advised that the requested variance for one parking space would allow for soft landscaping in the rear yard and improve the current situation. He also highlighted that one of the existing tenants requires parking on site.
- [7] Mr. Church requested that the City's requested condition of provisional consent of a tree planting plan not be imposed because it is premature at this stage of development. In response, Planning Forester Nancy Young confirmed that this is a standard condition and is simply seeking a plan to confirm that there is enough space on each lot for tree planting.
- [8] City Planner Penelope Horn was also present.

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 cover letter, parcel register, plans, tree information, photo of the posted sign, and a sign posting declaration.
- City Planning Report received September 12, 2024, with no concerns; received February 1, 2024, requesting adjournment.
- Rideau Valley Conservation Authority email received September 16, 2024, with no objections; received January 31, 2024, with no objections.
- Hydro Ottawa email received September 16, 2024, with no objections; received January 30, 2024, with comments.
- Hydro One email received September 9, 2024, with no comments.
- Ontario Ministry of Transportation email received September 9, 2024, with no comments; received February 2, 2024, with no 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 Applicant's 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 evidence that the accompanying Minor Variance Application (D08-02-23/A-00301) has been approved, with all levels of appeal exhausted.
2. That the Owner(s) provide evidence to the satisfaction of both the **Chief Building Official and Development Review Manager, Planning, Development and Building Services Department, or designates**, 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(s) enter into a Joint Use, Maintenance and Common Elements Agreement, 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 **Relevant Manager of the Relevant Branch within Planning, Development and Building Services Department, or their designate, or City Legal Services**. The Committee requires written confirmation that the Agreement is satisfactory to **Relevant Manager of the Relevant Branch within Planning, Development and Building Services Department, or their designate, or is satisfactory to City Legal Services**, as well as a copy of the Agreement and confirmation that it has been or will be registered on title.

4. 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 (collector road) and may therefore be subject to noise and other activities associated with that use.”

The Agreement shall be to the satisfaction of **Development Review All Wards Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate**. The Committee requires a copy of the Agreement and written 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 **Development Review All Wards Manager of the Development Review All Wards Branch within Planning, Development and Building Services 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 **Development Review All Wards Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate**.
6. That the Owner(s) provide(s) a Grading and Servicing Plan/Site Plan including the locations of existing protected trees, and with the locations of proposed structures (driveways, retaining walls, services, etc.) determined based on the least impact to protected trees and tree cover, to the satisfaction of the **Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or their designate(s)**.
7. The Owner/Applicant(s) shall prepare and submit a tree planting plan, to the satisfaction of the **Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or their designate(s)**, showing the location(s), species/ultimate size of one new 50 mm tree to be planted on the property frontage or right-of-way of the new lot following construction, to enhance the urban tree canopy and streetscape, and one new 50mm tree to be planted in the rear yard of the retained property to balance canopy cover and parking.
8. 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.

9. 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 and grants of easements/right-of-way for which the Consent is required.

Ann M. Tremblay
ANN M. TREMBLAY
CHAIR

John Blatherwick
JOHN BLATHERWICK
MEMBER

Simon Coakeley
SIMON COAKELEY
MEMBER

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 **September 27, 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 **October 17, 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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