

**DECISION
CONSENT/SEVERANCE**

Date of Decision:	September 27, 2024
Panel:	1 - Urban
File Nos.:	D08-01-24/B-00142
Application:	Consent under section 53 of the <i>Planning Act</i>
Applicant:	255 Marier Ltd.
Property Address:	255 Marier Avenue
Ward:	12 – Rideau–Vanier
Legal Description:	Part of Lot 5, Concession Junction Gore, Geographic Township of Gloucester
Zoning:	R4UA-c
Zoning By-law:	2008-250
Heard:	September 18, 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 to create one new lot for the construction of a six-unit stacked dwelling. The existing two-storey detached dwelling will remain.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Applicant requires the Committee’s consent to sever land. The property is shown as Parts 1 and 2 on a draft 4R-plan filed with the applications and the separate parcels will be as follows:
- [3] The land to be severed is shown as Part 1 on a draft 4R plan, will have a frontage of 10.02 metres, a depth of 31.39 meters, and contain a lot area of 314.6 square metres. This parcel will contain the 6 proposed stacked dwelling units and will be known municipally as 257 Marier Avenue.
- [4] The land to be retained is shown as Part 2 on said plan, will have a frontage of 10.10 metres, a depth of 31.39 metres, and contain a lot area of 316.9 metres. This parcel will contain the existing two storey detached dwelling and is known municipally as 259 Marier Avenue.
- [5] Approval of these applications will have the effect of creating two separate parcels of land, one of which will not be in conformity with the requirements of the Zoning

By-law and therefore, minor variance application (File No. D08-02-24/A-00206) has been filed and will be heard concurrently with these applications.

PUBLIC HEARING

Oral Submissions Summary

- [6] Thomas Freeman, Agent for the Applicant, provided an overview of the applications and responded to questions from the Committee. Mr. Freeman confirmed his agreement with the City's requested conditions of provisional consent. He highlighted that the applications represent good planning, by providing new housing on the severed lot with an opportunity for tree planting and landscaping around the proposed building.
- [7] City Planner Elizabeth King confirmed that the City had no concerns with the applications, noting that a site servicing plan would be required at the building permit stage of the project.
- [8] The Committee also heard oral submissions from the following individual:
- Varvara Lobanova, resident, expressed concerns regarding the removal of trees, and the lack of clarity regarding the number of bedrooms that are allocated to the proposed units.
- [9] City Forester Julian Alvarez Barkham highlighted that there was no permit was required to remove trees that were considered undersized.
- [10] Tim Beed, also acting as Agent for the Applicant, confirmed that the trees were removed in accordance with the City's By-laws.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application(s) Must Satisfy Statutory Tests

- [11] 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

[12] 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, photo of the posted sign, and a sign posting declaration.
- City Planning Report received September 12, 2024, with no concerns.
- Rideau Valley Conservation Authority email received September 16, 2024, no objections.
- Hydro Ottawa email received September 16, 2024, with no objections.
- Hydro One email received September 9, 2024, with no objections.
- Ontario Ministry of Transportation email received September 9, 2024, with no comments.
- K. Walsh, resident, email received September 4, 2024, in support.
- V. Lobanova, resident, email received September 17, 2024, with comments.

Effect of Submissions on Decision

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

[14] 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.

[15] 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.

[16] 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 (D08-02-24/A-00142) has 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 No. 2022-280, as amended. Information regarding the appraisal process can be obtained by contacting the Planner.
3. That the Owner(s) provide evidence to the satisfaction of both the **Chief Building Official and Development Review Manager of All Wards, 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.
4. That the Owner(s) provide evidence to the satisfaction of the **Development Review Manager of All Wards within Planning, Development and Building Services Department, or their designate**, to be confirmed in writing from the Department to the Committee, that the accessory structure has been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law.
5. 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 within Planning, Development and Building Services Department, 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.

6. 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**

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 within Planning, Development and Building Services Department, or their designate**.

7. That the Owner convey a 3 m x 3 m corner sight triangle located at the intersection of Deschamps Avenue and Marier Avenue 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 Committee must receive written confirmation from **City Legal Services** that the transfer of the lands to the City has been registered.
8. That the Owner/Applicant(s) provide a tree planting plan, prepared to the satisfaction of the **Development Review All Wards Manager within the Planning, Real Estate and Economic Development Department, or their designate(s)**, showing the location(s) and species or ultimate size of all compensation trees required under the Tree Protection By-law and/or one new tree (50 mm caliper) per lot.
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.

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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613-580-2436



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