

**DECISION****CONSENT/SEVERANCE AND MINOR VARIANCE**

<b>Date of Decision:</b>	November 29, 2024
<b>Panel:</b>	1 - Urban
<b>File Nos.:</b>	D08-01-24/B-00217 and D08-02-24/A-00272
<b>Applications:</b>	Consent under section 53 of the <i>Planning Act</i> Minor Variance under section 45 of the <i>Planning Act</i>
<b>Applicant:</b>	1358 Capital Corporation
<b>Property Address:</b>	139 Duford Street
<b>Ward:</b>	12 - Rideau-Vanier
<b>Legal Description</b>	Part of Lot 2, Registrar's Compiled Plan 908
<b>Zoning</b>	R2L
<b>Zoning By-law:</b>	2008-250
<b>Heard:</b>	November 20, 2024, in person and by videoconference

**APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATIONS**

- [1] The Applicant wants to subdivide their property into two separate parcels of land to create separate ownership for each half of the semi-detached dwelling currently under construction. The Applicant is proposing a reversed slope driveway for one of the semi-detached units, as shown on plans filed with the Committee.

**CONSENT REQUIRED**

- [2] The Applicant seeks the Committee's consent to sever land.
- [3] The severed land is shown as Parts 1 and 2 on a draft 4R-Plan filed with the application, will have a frontage of 7.14 metres, a depth of 28.30 metres and a lot area of 214.30 square metres. This parcel will be known municipally as 137 Duford Street.
- [4] The retained land, shown on said plan as Parts 3 and 4, will have a frontage of 7.22 metres, a depth of 28.34 metres and a lot area of 213.90 square metres. This parcel is known municipally as 139 Duford Street.

- [5] The property is subject to an existing easement as set out in Instrument OC2387206.
- [6] Approval of this application will have the effect of creating two separate parcels of land for the proposed development 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-00272) has been filed and will be heard concurrently with this application.

## REQUESTED VARIANCE

- [7] The Applicant seeks the Committee of Adjustment's authorization for minor variances from the Zoning By-law as follows:

**00272: 139 Duford Street, Parts 3 and 4 on draft 4R- Plan, semi-detached dwelling under construction:**

- To permit the gradient of the driveway leading to a parking space to have an increased average slope of 12%, whereas the By-law requires the average slope of a driveway be no greater than 8%.

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

## PUBLIC HEARING

### Oral Submissions Summary

- [10] Majid Ebrahimipour, agent for the Applicant, and City Planner Penelope Horn were present.

### Evidence

- [11] 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, plans, Hydro Ottawa letter, parcel abstract, tree information report, a photo of the posted sign and a signed posting declaration.
- City Planning Report received November 14, 2024, with no concerns
- Rideau Valley Conservation Authority email dated November 15, 2024, with no objections

- Hydro Ottawa email dated November 15, 2024, with comments
- Hydro One email dated November 15, 2024, with no comments.
- Ontario Ministry of Transportation email dated November 5, 2024, with no comments.
- N. Brosseau, resident, email received November 20, 2024, in opposition

**DECISION AND REASONS OF THE COMMITTEE:**

- **CONSENT APPLICATION GRANTED**
- **MINOR VARIANCE APPLICATION GRANTED**

**Consent Application Must Satisfy Statutory Tests**

[12] 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).

### **Minor Variance Application Must Satisfy Statutory Four-Part Test**

- [13] The Committee of Adjustment has the power to authorize a minor variance from the provisions of the Zoning By-law if, in its opinion, the application meets all four requirements under subsection 45(1) of the *Planning Act*. It requires consideration of whether the variance is minor, is desirable for the appropriate development or use of the land, building or structure, and whether the general intent and purpose of the Official Plan and the Zoning By-law are maintained.

### **Effect of Submissions on Decision**

- [14] The Committee of Adjustment considered all written and oral submissions relating to the applications in making its decision and granted the applications.
- [15] 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.
- [16] 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.

- [17] 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.
- [18] 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.
- [19] 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.
- [20] Based on the evidence, the Committee is further satisfied that the requested variance meets all four requirements under subsection 45(1) of the *Planning Act*.
- [21] The Committee also notes that no compelling evidence was presented that the variance would result in any unacceptable adverse impact on neighbouring properties.
- [22] Considering the circumstances, the Committee finds that, because the proposal fits well in the area, the requested variance is, from a planning and public interest point of view, desirable for the appropriate development or use of the land, building or structure on the property, and relative to the neighbouring lands.
- [23] The Committee also finds that the requested variance maintains the general intent and purpose of the Official Plan because the proposal respects the character of the neighbourhood.
- [24] In addition, the Committee finds that the requested variance maintains the general intent and purpose of the Zoning By-law because the proposal represents orderly development that is compatible with the surrounding area.
- [25] Moreover, the Committee finds that the requested variance, is minor because it will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.
- [26] THE COMMITTEE OF ADJUSTMENT therefore grants the provisional consent, subject to the conditions set out in Appendix "A" to this decision.
- [27] THE COMMITTEE OF ADJUSTMENT also authorizes the requested variance, **subject to** the location and size of the proposed construction being in accordance with the site plan filed, Committee of Adjustment date stamped October 21, 2024, and the elevations filed, Committee of Adjustment date stamped October 24, 2024, as they relate to the requested variance.

*"Ann M. Tremblay"*  
ANN M. TREMBLAY  
CHAIR

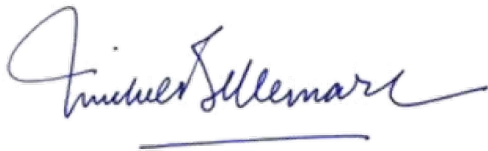
*"John Blatherwick"*  
JOHN BLATHERWICK  
MEMBER

*"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 **November 29, 2024**



Michel Bellemare  
Secretary-Treasurer

## **NOTICE OF RIGHT TO APPEAL**

To appeal this decision to the Ontario Land Tribunal (OLT), a completed appeal form and the filing fee must be submitted via one of the below options and must be received no later than **3:00 p.m. on December 19, 2024**.

- **OLT E-FILE SERVICE** – An appeal can be filed online through the [E-File Portal](#). First-time users will need to register for a My Ontario Account. Select [Ottawa (City): Committee of Adjustment] as the Approval Authority. To complete the appeal, fill in all the required fields and provide the filing fee by credit card.
- **BY EMAIL** - Appeal packages can be submitted by email to [cofa@ottawa.ca](mailto:cofa@ottawa.ca). The appeal form is available on the OLT website at [Forms | Ontario Land Tribunal](#). Please indicate on the appeal form that payment will be made by credit card.

- **IN PERSON** – Appeal packages can be delivered to the Secretary-Treasurer, Committee of Adjustment, 101 CentrepoinTE Drive, 4<sup>th</sup> floor, Ottawa, Ontario, K2G 5K7. The appeal form is available on the OLT website at [Forms | Ontario Land Tribunal](#). In person 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.

Please note only one of the above options needs to be completed. If your preferred method of appeal is not available at the time of filing, the appeal must be filed with one of the other two options.

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.

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 you have any questions about the appeal process, please visit [File an Appeal | Ontario Land Tribunal](#)

## NOTICE TO APPLICANT

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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## APPENDIX "A"

1. 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.
2. That the Owner(s) enter into a Joint Use, Maintenance and Common Elements, 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, and foundations.

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 **Development Review All Wards Manager 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 **Development Review All Wards Manager of the Development Review All Wards 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 written confirmation from **City Legal Services** that it has been registered on title.

3. 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**.



4. That the Owner/Applicant(s) provide and implement a tree planting plan, prepared 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) 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.
5. That the Owner(s) provide evidence to the satisfaction of the **Chief Building Official, or designate**, that the party wall meets the Ontario Building Code, O Reg. 332/12 as amended, which requires a 1-hour fire separation from the basement through to the underside of the roof. Verification from the Building Inspector is required. If necessary, a building permit shall be obtained from Building Code Services for any required alterations.
6. That the Owner(s) provide evidence that the accompanying minor variance application (D08-02-24/A-00272) has been approved, with all levels of appeal exhausted.
7. 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.
8. 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 conveyance for which the Consent is required.