

DECISION

CONSENT/SEVERANCE AND MINOR VARIANCE

Date of Decision:	December 20, 2024
Panel:	2 - Suburban
File Nos.:	D08-01-24/B-00225 & D08-01-24/B-00226 D08-02-24/A-00275 & D08-02-24/A-00276
Applications:	Consent under section 53 of the <i>Planning Act</i> Minor Variance under section 45 of the <i>Planning Act</i>
Applicant:	Caruso Quality Homes Ltd.
Property Address:	45 David Drive
Ward:	8 - College
Legal Description:	Part of Lot 152, Registered Plan 349783
Zoning:	R1FF
Zoning By-law:	2008-250
Heard:	December 10, 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. The detached dwelling currently under construction will remain and a second detached dwelling will be constructed on the other parcel, as shown on plans filed with the Committee.

CONSENT REQUIRED:

- [2] The Applicant seeks the Committee of Adjustment's consent to sever the land. The property is shown as Parts 1 to 4 on a Draft 4R-Plan filed with the applications and the separate parcels will be as follows:

Table 1 Proposed Parcels

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00225	14.24 m	29.10 m	414.2 sq. m	1 & 2	45B David Drive Detached dwelling under construction

B-00226	14.24 m	29.10 m	414.6 sq. m	3 & 4	45A David Drive Proposed detached dwelling
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- [3] The applications indicate that the property is subject to an existing easement as set out in Instrument CR342576.
- [4] Approval of these applications will have the effect of creating two separate parcels of land that will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance applications (File Nos. D08-02-24/A-00275 & D08-02-24/A-00276) have been filed and will be heard concurrently with these applications.

REQUESTED VARIANCES

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

A-00276: 45B David Drive, Parts 1 and 2 on Draft 4R-Plan, detached dwelling under construction:

- a) To permit a reduced lot width of 14.24 metres, whereas the By-law requires a minimum lot width of 19.5 metres.
- b) To permit a reduced lot area of 414.2 square metres, whereas the By-law requires a minimum lot area of 600 square metres.

A-00275: 45A David Drive, Parts 3 and 4 on Draft 4R-Plan, proposed detached dwelling:

- c) To permit a reduced lot width of 14.24 metres, whereas the By-law requires a minimum lot width of 19.5 metres.
- d) To permit a reduced lot area of 414.6 square metres, whereas the By-law requires a minimum lot area of 600 square metres.

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

PUBLIC HEARING

Oral Submissions Summary

- [7] Mike Segreto, Agent for the Applicant, provided an overview of the applications.
- [8] Mr. Segreto confirmed that he was in agreement with all the requested conditions of provisional consent. He also confirmed that three units total are proposed for each lot and the proposed development complies with all other requirements of the Zoning By-law.

[9] City Planner Elizabeth King confirmed that she had no concerns with the applications.

[10] The Committee also heard oral submissions from the following individual:

- Nancy Wilson, City View Community Association, highlighted her appreciation of Mr. Segreto's effort to consult with the community association. She also highlighted no concerns about the height of the building; and privacy at the back of the balcony and questioned if these elements were Zoning By-law compliant.

[11] Following the public hearing, the Committee reserved its decision.

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:

- Applications and supporting documents, including cover letter, plans, tree information report, planting plan, parcel abstract photo of the posted sign, and a sign posting declaration.
- City Planning Report (revised) received December 6, 2024, with no concerns; received December 5, 2024, with no concerns.
- Rideau Valley Conservation Authority email dated December 9, 2024, with no comments.
- Hydro Ottawa email dated December 6, 2024, with comments.
- Hydro One email received December 3, 2024, with no comments.
- Ontario Ministry of Transportation email received November 22, 2024, with no comments.
- H. Adams, resident, email received December 9, 2024, with comments.

DECISION AND REASONS OF THE COMMITTEE:

- **CONSENT APPLICATIONS GRANTED**
- **MINOR VARIANCE APPLICATIONS GRANTED**

Consent Application Must Satisfy Statutory Tests

[13] 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

- [14] The Committee 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

- [15] The Committee of Adjustment considered all written and oral submissions relating to the applications in making its decision and granted the applications.
- [16] The Committee notes that the City's Planning Report raises "no concerns" regarding the consent applications, subject to the requested conditions agreed to by the Applicant's agent.
- [17] 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.
- [18] 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.

- [19] 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.
- [20] 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.
- [21] Based on the evidence, the Committee is also satisfied that the requested variance meets all four requirements under subsection 45(1) of the *Planning Act*.
- [22] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications, highlighting that "the site at 45 David is zoned Residential First Density Subzone FF, the intent of the zone is to restrict the building form to detached dwellings and regulate development in a manner that is compatible with existing land use patterns so that the detached dwelling, residential character of a neighbourhood is maintained and enhanced".
- [23] The Committee also notes that no evidence was presented that the requested variances would result in any unacceptable adverse impact on neighbouring properties.
- [24] Considering the circumstances, the Committee finds that, because the proposal fits well in the area, the requested variances are, 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.
- [25] The Committee also finds that the requested variances maintain the general intent and purpose of the Official Plan because the proposal respects the character of the neighbourhood.
- [26] In addition, the Committee finds that the requested variances maintain the general intent and purpose of the Zoning By-law because the proposal represents orderly development that is compatible with the surrounding area.
- [27] Moreover, the Committee finds that the requested variances, both individually and cumulatively, are minor because they will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.
- [28] THE COMMITTEE OF ADJUSTMENT therefore grants the provisional consent, subject to the conditions set out in Appendix "A" to this decision.
- [29] THE COMMITTEE OF ADJUSTMENT also authorizes the requested variances.

"Fabian Poulin"
FABIAN POULIN
VICE-CHAIR

"Jay Baltz"
JAY BALTZ
MEMBER

"George Barrett"
GEORGE BARRETT
MEMBER

"Heather MacLean"
HEATHER MACLEAN
MEMBER

"Julianne Wright"
JULIANNE WRIGHT
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **December 20, 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 January 9, 2025**.

- **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. 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, 4th 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(S)

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.

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APPENDIX "A"

1. The Owner(s) provide evidence that the accompanying minor variance application (D08-02-24/A-00275 & D08-02-24/A-00276) 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/Applicant(s) provide proof, to the satisfaction of the **Manager of the relevant Branch within the Planning, Development and Building Services Department, or their designate(s)** that the approved Tree Planting Plan submitted to the City, prepared by Dendron Forestry Services, Version 1.0, dated May 24, 2024 has been implemented. Proof will be accepted in the form of photographs showing the planted tree(s) or requesting a Tree Planting Inspection by contacting 311. A paid planting contract or a Letter of Undertaking are acceptable if planting cannot be completed prior to completion of the severance.
4. 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.
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 (airport) 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 of 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 Planning, Development and Building Services Department, or their designate**.

7. That the Owner(s) enter into a resurfacing agreement with the City to the satisfaction of the Program Manager, Right of Way Branch **within Planning, Development and Building Services Department, or their designate**, and provide financial security in accordance with the Road Activity By-law, as amended, to install an asphalt overlay over the roadway surface of David Drive, fronting the subject lands, to the limits shown on the approved Site Servicing Plan. Where the approved Site Servicing Plan demonstrates that resurfacing is not required based on the City's Road Cut Resurfacing Policy, the Development Review Manager of the All-Wards Branch **within Planning, Development and Building Services Department, or their designate**, shall deem this condition satisfied.
8. That the Owner(s) submit a Stormwater Management Brief prepared by a Professional Civil Engineer licensed in the Province of Ontario, demonstrating a design for controlling post-development stormwater peak flows to pre-development peak flows for all stormwater events up to the 100 year storm event, to the satisfaction of **the Development Review 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,

If the Stormwater Management Brief includes infiltration techniques, the Owner(s) must submit a supporting Geotechnical Brief prepared by a Professional Civil Engineer licensed in the Province of Ontario, for approval by the Manager of the **Development Review All Wards Branch** within Planning, Development and Building Services Department Planning, Development and Building Services Department, or their designate.

9. That the Owner(s) enter into a Development Agreement with the City to construct the required stormwater system, including posting required securities. A copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title, shall be forwarded to the Committee of Adjustment.

If applicable, the Owner(s) shall obtain an Environmental Compliance Approval from the Ontario Ministry of Environment, Conservation and Parks.

10. 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.

11. 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.