

DECISION

CONSENT/SEVERANCE AND MINOR VARIANCE

Date of Decision:	November 29, 2024
Panel:	2 - Suburban
File Nos.:	D08-01-24/B-00171 & D08-01-24/B-00172 D08-02-24/A-00232 & D08-02-24/A-00233
Application:	Consent under Section 53 of the <i>Planning Act</i> Minor Variance under section 45 of the <i>Planning Act</i>
Applicants	Phillippe Damecour and Sabina Stabryla
Property Address:	2725 Rowatt Street
Ward:	7 - Bay
Legal Description	Parts 9 to 12 on Plan 5R-11970
Zoning:	R1O
Zoning By-law:	2008-250
Heard:	November 19, 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 create two new lots for the construction of two, two-storey detached dwellings, each with a garage and second-storey coach house in the rear yard, as shown on plans filed with the Committee.

CONSENT REQUIRED

- [2] The Applicants seek the Committee's consent to sever land and to grant easements/rights of way. The property is shown as Parts 1 to 5 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-00171	10.26 metres	40.2 m	412.80 sq. m	1 to 3	2723 Rowatt Street
B-00172	9.6 metres	40.2 m	368.9 sq. m	4 & 5	2725 Rowatt Street

- [3] The applications indicate there is an existing easement registered under instrument CR607220.
- [4] It is proposed to establish the following easements/rights of way:
- Over Part 3 in favour of Parts 4 & 5 for pedestrian and vehicular access.
 - Over Part 4 in favour of Parts 1, 2 & 3 for pedestrian and vehicular access.
- [5] Approval of these applications will have the effect of creating separate parcels of land and proposed coach houses that will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance applications (File Nos.D08-02-24A-00232 & D08-02-24/00233) have been filed and will be heard concurrently with these applications.

REQUESTED VARIANCES

- [6] The Applicants seek the Committee's authorization for minor variances from the Zoning By-law as follows:

A-00233: 2725 Rowatt Street, Part 4 & 5 on draft 4R-Plan:

- a) To permit a reduced lot width of 10.26 metres, whereas the By-law requires a minimum lot width of 15 metres.
- b) To permit a reduced lot area of 412.8 square metres whereas the By-law requires a minimum lot area of 450 square metres.
- c) To permit an increased building height for the coach house of 6 metres, whereas the By-law permits a maximum building height for a coach house of 3.1 metres.
- d) To permit an interior side yard setback for a coach house of 3.1 metres, whereas the By-law requires a side yard setback of 4 metres for a coach house.

A-00232: 2723 Rowatt, Parts 1 to 3 on draft 4R-Plan:

- e) To permit a reduced lot width of 9.6 metres, whereas the By-law requires a minimum lot width of 15 metres.
- f) To permit a reduced lot area of 386.9 square metres, whereas the By-law requires a minimum lot area of 450 square metres.

- g) To permit an increased coach house height of 6 metres, whereas the By-law permits a maximum building height for a coach house of 3.1 metres.
- h) To permit an interior side yard setback for a coach house of 2.56 metres, whereas the By-law requires a side yard setback of 4 metres for a coach house.

PUBLIC HEARING

- [7] The Panel Chair administered an oath to Jennifer Murray, agent for the Applicants, who confirmed that the statutory notice posting requirements were satisfied.

Oral Submissions Summary

- [8] Ms. Murray provided an overview of the applications and responded to questions from the Committee. She referred to lot fabric evidence demonstrating that the proposed severed lots are comparable to existing lot sizes in the area. Ms. Murray highlighted an engineer's automobile turning radius diagram demonstrating the functionality of the proposed shared access and garage entrances at the rear of the dwellings. She also highlighted an existing easement on the east side of the property that contributed to the proposed asymmetrical severance configuration. In response to a question from the Committee, she confirmed that any drainage runoff would be required to be directed to the City right of way, not onto the abutting property. She also stated that there are no windows on the west elevation of the proposed coach house, and therefore there would be no direct impact on adjacent residents.
- [9] City Planner Elizabeth King highlighted that there is sufficient soft landscaping proposed, with space for walkway access to the coach houses to be included, and that this would be confirmed at the building permit stage. She also confirmed that the City had no concerns with the proposed variances, and the concerns previously raised regarding the functionality of the proposed shared driveway and parking had been largely addressed.
- [10] City Infill Forester Nancy Young stated that, due to the proximity to Mud Lake, she consulted with the National Capital Commission regarding the proposal and confirmed that there would be no impact to existing vegetation.
- [11] The Committee also heard oral submissions from the following individuals:
- J. Morris, President, Britannia Village Community Association, raised concerns with the size of the proposed coach houses relative to the lots, and submitted that the property could be developed in a more compatible form by reducing parking or limiting the coach houses to one storey. He believed that the proposed coach houses are too tall and too close to the neighbours, and do not maintain the intent of Official Plan policy concerning height restrictions for coach houses.

- G. Khan, resident, expressed opposition to the reduced lot sizes, which he submitted were not compatible with surrounding lots, and to the impacts of the proposed development on access to sunlight, drainage, traffic and community safety.
- E. Giles, resident, also expressed concerns with the impact of the proposal on access to sunlight, drainage, and the loss of mature trees, as well as its impact on Mud Lake, which is an ecologically sensitive area. She submitted that the proposal amounts to overdevelopment that is not in keeping with the character of the neighbourhood.
- K. Giles, resident, highlighted concerns regarding the loss of trees and the impact on local wildlife and objected to the overall scale of the proposed development. Ms. Giles submitted that, although the proposed coach house has no windows facing the neighbours' rear yards, it would nonetheless impact their enjoyment of their properties.

[12] Ms. Murray responded to the residents' concerns by stating that the Applicant would be open to providing a privacy fence, to further mitigate privacy impacts on neighbours.

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

Evidence

[14] 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, parcel register, tree information, and photo of the posted sign.
- City Planning Report received November 14, 2024, with concerns; received October 10, 2024, with concerns.
- Rideau Valley Conservation Authority email dated November 14, 2024, with no objections; received October 9, 2024, with no objections.
- Hydro Ottawa email dated November 4, 2024, with comments; received October 11, 2024, with comments.
- Hydro One email dated November 12, 2024, with no comments; dated October 9, 2024, with no comments.

- Ontario Ministry of Transportation email dated November 5, 2024, with no concerns; dated October 4, 2024, with no comments.
- J. Morris, President, Britannia Village Community Association, email dated November 13, 2024, opposed.
- N. Shore, resident, email dated November 15, 2024, opposed; dated October 10, 2024, requesting adjournment.
- K. Giles, resident, email dated October 10, 2024, requesting adjournment.
- G. Khan, resident, email dated October 11, 2024, requesting adjournment.
- A. Butlergeorge, resident, by telephone on October 15, 2024, opposed; email dated October 11, 2024, requesting an adjournment.
- P. Markey, resident, email dated October 15, 2024, opposed and requesting adjournment.
- P. Duncan, resident, email dated October 15, 2024, opposed.
- Unnamed resident, email dated October 15, 2024, opposed.
- S. Bain, resident, email dated October 15, 2024, opposed.
- F. Brosseau, resident, email dated October 15, 2024, opposed.
- R. H. Cheam, resident, email dated October 15, 2024, opposed.

DECISION AND REASONS:

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

Consent Applications Must Satisfy Statutory Tests

[15] Under the *Planning Act*, the Committee of Adjustment 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 Applications Must Satisfy Statutory Four-Part Test

- [16] The Committee of Adjustment has the power to authorize minor variances 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 variances are minor, are 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

- [17] The Committee considered all written and oral submissions relating to the applications in making its decision and granted the applications.
- [18] The Committee notes the submission of City Planner Elizabeth King that the City has no concerns regarding the applications, subject to the requested conditions agreed to by the Applicants' agent.
- [19] 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.
- [20] 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.
- [21] 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.
- [22] 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.
- [23] Based on the evidence, the Committee is also satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [24] The Committee notes that no compelling evidence was presented that the variances would result in any unacceptable adverse impacts on neighbouring properties, with no impacts on privacy in particular, and finds that the coach house would have no greater impact on the adjacent rear yards than the proposed principal dwelling unit. The Committee also finds that no evidence was presented of adverse impacts on the ecologically sensitive lands to the east. However, mindful of concerns raised by residents, the Committee encourages the Applicants to consider fencing or landscaping solutions to integrate the proposal more sensitively within its context.

- [25] 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.
- [26] 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.
- [27] 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.
- [28] 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.
- [29] THE COMMITTEE OF ADJUSTMENT therefore grants the provisional consent, subject to the conditions set out in Appendix "A" to this decision.
- [30] THE COMMITTEE OF ADJUSTMENT also authorizes the requested variances, **subject to** the location and size of the proposed construction being in accordance with the plans filed, Committee of Adjustment date stamped November 15, 2024, as they relate to the requested variances.

Absent
FABIAN POULIN
VICE-CHAIR

"Gary Duncan"
GARY DUNAN
MEMBER

"Arto Keklikian"
ARTO KEKLIKIAN
MEMBER

"Jay Baltz"
JAY BALTZ
ACTING PANEL CHAIR

"George Barrett"
GEORGE BARRETT
MEMBER

"Heather MacLean"
HEATHER MACLEAN
MEMBER

Absent
JULIANNE WRIGHT
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. 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.

Committee of Adjustment
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APPENDIX "A"

1. The Owner(s) provide evidence that the accompanying minor variance applications D08-02-24/A-00232 & D08-02-24/A-00233 have 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) enter into an Infrastructure Agreement with the City of Ottawa to extend the municipal services on Rowatt Street at their own costs and post the necessary securities for the work on the City Right-of-Way to the satisfaction of the **City's Planning, Development and Building Services Department 's Infrastructural Approvals Branch and to the satisfaction of City Legal Services**. The Owner(s) must also receive the approval of the Ontario Ministry of the Environment Conservation and Parks for the extension of the municipal services. The Committee requires a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title.
5. 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, 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 **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 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.

6. 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.

7. 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**.
8. That the Owner(s) submit a Site Servicing Brief prepared by a Professional Civil Engineer licensed in the Province of Ontario, for approval by the **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, outlining the municipal servicing requirements for each unit and indicating, if required, that capacity exists within existing City infrastructure.
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

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preparation documents” for the severance and grant of easements/rights of way for which the consent is required.