

DECISION**CONSENT/SEVERANCE AND MINOR VARIANCE**

Date of Decision:	January 24, 2025
Panel:	1 - Urban
File Nos.:	D08-01-24/B-00227 & D08-02-24/A-00277
Applications:	Consent under section 53 of the <i>Planning Act</i> Minor Variance under section 45 of the <i>Planning Act</i>
Applicant:	Toloui Group
Property Address:	308 Atlantis Avenue
Ward:	15 - Kitchissippi
Legal Description:	Lot 214, Registered Plan 4M-28.
Zoning:	R3E
Zoning By-law:	2008-250
Heard:	January 15, 2025, 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 the construction of a two-storey single detached dwelling, as shown on the plans filed with the application. The existing dwelling will remain.
- [2] On October 19, 2022, the Committee granted provisional consent (Application No. D08-01-22/B-00136) to subdivide the property into two lots. However, the conditions of provisional consent were not fulfilled within the statutory time period and the application was deemed to be refused under the *Planning Act*.

CONSENT REQUIRED:

- [3] The Applicant seeks the Committee of Adjustment's consent to sever land.
- [4] The severed land is shown as Parts 2 & 4 on the draft 4R-plan filed with the application, and will have a frontage of 7.91 metres, a depth of 30.47 metres, and an area of 241 square metres. This lot will contain the proposed detached dwelling and will be known municipally as 310 Atlantic Avenue.

- [5] The retained land is shown as Parts 1 & 3 on said plan, and will have a frontage of 7.33 metres, a depth of 30.46 metres, and an area of 223.4 square metres. This lot contains the existing detached dwelling and is known municipally as 308 Atlantis Avenue.
- [6] Approval of this application will have the effect of creating separate parcels of land that will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance application (File No: D08-02-24/A-00277) has been filed and will be heard concurrently with this application.

REQUESTED VARIANCES

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

A-00277: 308 Atlantis Avenue, Parts 1 & 3 on 4R-Draft, existing dwelling:

- a) To permit a reduced lot area of 223.4 square metres, whereas the By-law requires a minimum lot area of 450 square metres.
- b) To permit a reduced interior side yard setback of 1.185 metres, whereas the By-law requires a minimum interior side yard setback of 1.2 metres.

PUBLIC HEARING

Oral Submissions Summary

- [8] Evan Saunders and Brian Casagrande, agents for the Applicant, responded to questions from the Committee.
- [9] Mr. Saunders highlighted that the previous consent application had a technical error regarding the lot area, and no minor variance was required for the severed parcel.
- [10] City Planner Penelope Horn was also 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, parcel register, plans, tree information, and a sign posting declaration.
 - City Planning Report received January 9, 2025, with no concerns.

- Rideau Valley Conservation Authority email dated January 9, 2025, with no objections.
- Hydro Ottawa email dated January 13, 2025, with concerns.
- Hydro One email dated January 3, 2025, with no comments.
- Ontario Ministry of Transportation email dated December 24, 2024, with no comments.
- P. Le Saux email dated January 7, 2025, with no concerns.

DECISION AND REASONS OF THE COMMITTEE:

- **CONSENT APPLICATION GRANTED**
- **MINOR VARIANCE APPLICATIONS 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 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, highlighting that "[d]espite the reduced lot area, the

proposal accommodates the existing distinct trees, while providing additional density on the subject site”.

- [16] Based on the evidence, the Committee is satisfied that the consent application 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 also satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [21] The Committee notes that no evidence was presented that the variances 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 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.
- [23] 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.
- [24] 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.
- [25] 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.
- [26] **THE COMMITTEE OF ADJUSTMENT ORDERS** that the consent application is granted and the provisional consent is to be given, subject to the conditions set out in Appendix A to this Order.

[27] **THE COMMITTEE OF ADJUSTMENT ALSO ORDERS** that the minor variance application is granted and the variances to the Zoning By-law are authorized, **subject to** the location and size of the proposed construction being in accordance with the site plan filed, Committee of Adjustment date stamped November 19, 2024, and the elevations filed, Committee of Adjustment date stamped June 13, 2024, as they relate to the requested variances.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

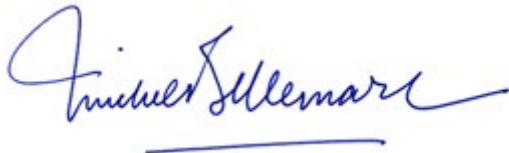
"John Blatherwick"
JOHN BLATHERWICK
MEMBER

"Simon Coakeley"
SIMON COAKELEY
MEMBER

Absent
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 **January 24, 2025**



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 February 13, 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-00277 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, 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 Agreement with the City, at the expense of the Owner(s), which is to be registered on the Title of the property, to deal with the following covenant/notice that shall run with the land and bind future owners on subsequent transfers:

“The property is located next to lands that have an active railway line now, or may have one in the future, and may therefore be subjected to noise, vibration, and other activities associated with this use.”

The Committee requires a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title.
5. The Owner(s) shall prepare a noise and vibration attenuation study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of **Development Review All Wards Manager Branch within Planning, Development and Building Services Department, or their designate**. The Owner(s) shall enter into an agreement with the City that requires the Owner to implement any noise control and vibration attenuation measures recommended in the approved study. 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 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.**

7. That the Owner/Applicant(s) enter into a Development Agreement or a Letter of Undertaking (LOU) with the City of Ottawa, at the expense of the Owner/Applicant(s), and to the satisfaction of the Manager of the relevant branch within **Planning, Real Estate, and Economic Development Department, or their designate(s)**. A development agreement is to be registered on Title of the property (where applicable). The agreement will include the mitigation measures outlined in the approved Tree Information Report, prepared by IFS, dated July 19, 2022 or an approved revision, and associated securities for tree protection. The securities, which will be based on the value of the tree(s) to be protected (Tree(s) #1) shall be retained for 3 years following issuance of an occupancy permit, and thereafter returned to the owner only upon the City having received a report from an arborist or appropriate professional confirming that the identified tree(s) is/are healthy, retainable, and remain(s) structurally stable. If, in the opinion of the City Forester and/or the Manager of the relevant Branch within **Planning, Real Estate, and Economic Development**, the report indicates that any tree is declining and/or must be removed due to construction-related impacts, the Security for that tree, in its entirety, will be forfeited.
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 which the Consent is required.