

DECISION

CONSENT/SEVERANCE AND MINOR VARIANCE

Date of Decision:	January 24, 2025
Panel:	1 - Urban
File Nos.:	D08-01-24/B-00259 & D08-01-24/B-00260 D08-02-24/A-00304 & D08-02-24/A-00305
Applications:	Consent under section 53 of the <i>Planning Act</i> Minor Variances under section 45 of the <i>Planning Act</i>
Applicants:	Anne and Wolfgang Illing
Property Address:	160 Clemow Avenue
Ward:	17 - Capital
Legal Description:	Part of Lot 37, Plan 4M-8
Zoning:	R1MM
Zoning By-law:	2008-250
Heard:	January 15, 2025, 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 one new lot for the construction of a three-storey detached dwelling, as shown on plans filed with the Committee. The existing dwelling will remain, with the carport and shed demolished.

CONSENT REQUIRED:

- [2] The Applicants seek the Committee of Adjustment's consent to sever land and grant of easement/right-of-way. The property is shown as Parts 1 through 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-00259	12.80 m	33.53 m	429.2 sq. m	1 & 2	160 Clemow Ave (existing dwelling)

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00260	10.06 m	33.53 m	337.3 sq. m	3 & 4	158 Clemow Ave (proposed dwelling)

It is proposed to establish easements/rights-of-ways as follows:

- Over Part 2, in favor of Parts 3 and 4 for access and maintenance.
- Over Part 3, in favor of Parts 1 and 2 for access and maintenance.

REQUESTED VARIANCES

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

A-00304: 160 Clemow Avenue, (existing dwelling) Parts 1 and 2 on draft 4R-Plan:

- a) To permit a reduced lot width of 12.80 metres, whereas the By-law requires a minimum lot width of 15 metres.
- b) To permit a reduced lot area of 429.2 square metres, whereas the By-law requires a minimum lot area of 450 square metres.
- c) To permit an increased shared driveway width of 4.3 metres, whereas the By-law permits a maximum shared driveway width of 3.0 metres.
- ~~d) To permit a reduced distance of 0.55 metres for an accessory structure from the dwelling for a proposed garage, whereas the By-law permits a minimum distance of 1.2 metres from an accessory structure and any other building located on the same lot.~~

A-00305: 158 Clemow Avenue, Parts 3 and 4 on draft 4R-Plan:

- e) To permit a reduced lot width of 10.06 metres, whereas the By-law requires a minimum lot width of 15 metres.
- f) To permit a reduced lot area of 337.3 square metres, whereas the By-law requires a minimum lot area of 450 square metres.
- g) To permit an increased shared driveway width of 4.3 metres, whereas the By-law permits a maximum shared driveway width of 3.0 metres.
- h) To permit a reduced interior side yard setback of 0.75 metres, whereas the By-law requires a minimum interior side yard setback of 1.2 metres.

- i) To permit an increased eaves projection of 0.14 metres to an interior side lot line, whereas the By-law permits a maximum eaves projection not closer than 0.3 metres to a lot line.

PUBLIC HEARING

- [4] Prior to the hearing, the Committee received an adjournment request from Debbie Bellinger, acting as agent for O. and P. Semple, neighbours, to allow time to review a prior Heritage permit and due to the perceived lack of notice.
- [5] Brian Casagrande, agent for the Applicants, summarized the process to obtain the Heritage permit, and confirmed that notice of that process was provided to the neighbours. City Planner's Penelope Horn and Erin O'Connell confirmed that notice was in fact provided by the City and the community association was involved in the process.
- [6] The Panel subsequently decided to hear the application without delay.

Oral Submissions Summary

- [7] Gillian Henderson, also agent for the Applicant, provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. In addition, Mr. Casagrande responded to questions from the Panel.
- [8] Thomas Freeman, also agent for the Applicant, and Grant Stewart, architect, were present.
- [9] The Committee also heard oral submissions from the following individual:
- Debbie Bellinger, who stated that the related Heritage permit, does not address the merits of the current applications before the Committee, and that there was inadequate public notification. Ms. Bellinger also highlighted that the proposed lot size would not fit with the streetscape and that there could be parking in the front yard.
- [10] Mr. Casagrande highlighted that the plans had been changed to provide a carport in the rear yard, instead of a garage, thereby eliminating the need for variance (d). He further provided evidence regarding the lot fabric in the neighbourhood.
- [11] City Planner Penelope Horn confirmed that there are some examples of varying lot widths on adjacent lots, some less than 15 metres.
- [12] Following the public hearing, the Committee reserved its decision.

Evidence

[13] 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, photo of the posted sign, 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 concerns.
- Hydro Ottawa email dated January 13, 2025, with no concerns.
- Hydro One email dated January 3, 2025, with no comments.
- Ontario Ministry of Transportation email dated December 24, 2024, with no concerns.
- L. Johnson & H. Silver, neighbours email dated January 13, 2025, opposed.
- W. Lee email dated January 13, 2025, opposed.

DECISION AND REASONS OF THE COMMITTEE:

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

Consent Application Must Satisfy Statutory Tests

[14] 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

- [15] 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

- [16] The Committee of Adjustment considered all written and oral submissions relating to the applications in making its decision and granted the applications.
- [17] 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. The report highlights that "the proposal represents context sensitive residential infill within a Heritage Conservation District."
- [18] Based on the evidence, the Committee is satisfied that the consent applications are 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.
- [19] 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.
- [20] 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.
- [21] 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.
- [22] 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*.
- [23] The Committee notes that no compelling evidence was presented that the 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 ORDERS** that the consent applications are granted and the provisional consent is to be given, subject to the conditions set out in Appendix A to this Order.
- [29] **THE COMMITTEE OF ADJUSTMENT ALSO ORDERS** that the minor variance applications are granted and the variances to the Zoning By-law are authorized subject to the following conditions: the location and size of the proposed construction being in accordance with the site plan filed, Committee of Adjustment date stamped January 15, 2025, and the elevations filed, Committee of Adjustment date stamped December 2, 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

"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 **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 applications D08-02-24/A-00304 & D08-02-24/A-00305 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 a Joint Use, Maintenance and Common Elements Agreement, 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 driveways.

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 confirmation that it has been registered on title.

5. The Owners shall:

Prepare a noise attenuation study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of the **General Manager, Planning, Infrastructure and Economic Development Department, or his/her designate**. The Owner(s) shall also enter into an agreement with the City

that requires the Owner to implement any noise control attenuation measures recommended in the approved study. The Agreement will also deal with any covenants/notices recommended in the approved study, that shall be registered on the title and bind future owners on subsequent transfers, warning purchasers and/or tenants of expected noise levels due to the existing source of environmental noise. The Agreement shall be to the satisfaction of the **Development Review Manager, Planning, Development and Building Services Department, or his/her designate**. The Committee requires a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title.

or

Design the dwelling units with central air conditioning and 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 will bind future owners on subsequent transfers, warning purchasers and/or tenants of expected noise levels due to the existing source of environmental noise. The following two conditions will be included in the above-noted Agreement.

Notices-on-Title respecting noise:

- i) "The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns acknowledges being advised that this dwelling unit has been supplied with a central air conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the City of Ottawa's and the Ministry of the Environment and Climate Change's noise criteria."
- ii) "The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns acknowledges being advised that despite the inclusion of noise control features in this development and within building units, noise levels from increasing roadway traffic may be of concern, occasionally interfering with some activities of the dwelling occupants as the outdoor sound level exceeds the City of Ottawa's and the Ministry of the Environment and Climate Change's noise criteria."

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) provide a signed letter of permission from the owner(s) of identified adjacent or boundary tree(s), for the proposed removal or operations impacting the tree(s). A tree removal permit cannot be issued without the permission of all owners of a tree, and the development plan must be revised to allow for the retention and protection of the adjacent or boundary trees if this letter cannot be produced.
8. That the Owner/Applicant(s) provide 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 at least one new tree (50 mm caliper) per lot, in addition to any compensation trees required under the Tree Protection By-law.
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 which the Consent is required.