

DECISION**CONSENT/SEVERANCE AND MINOR VARIANCE**

Date of Decision:	December 20, 2024
Panel:	1 - Urban
File Nos.:	D08-01-24/B-00021 D08-02-24/A-00025 & D08-02-24/A-00157
Applications:	Consent under section 53 of the <i>Planning Act</i> Minor Variance under section 45 of the <i>Planning Act</i>
Applicant:	Mostafa Menafi
Property Address:	242 Park Street
Ward:	12 - Rideau-Vanier
Legal Description:	Lots 210 & 211, Registered Plan 246
Zoning:	R4UA
Zoning By-law:	2008-250
Heard:	December 11, 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 to create a new lot for the construction of a three storey, low-rise, apartment building, containing 8 dwelling units. The existing three-unit dwelling will remain on the other lot.

CONSENT REQUIRED:

- [2] The Applicant seeks the Committee's consent to sever land.
- [3] The severed parcel, shown as Part 2 on a Draft 4R-Plan filed with the applications, will have a frontage of 15.53 metres on Park Street and 18.82 metres on Carillon Street, a depth of 15.53 metres, and a lot area of 290.8 square metres. This parcel will be municipally known as 267 Carillon Street and will contain the proposed three-storey, low-rise, apartment building.
- [4] The retained parcel, shown as Part 1 on said plan, will have a frontage of 13.42 metres, a depth of 18.85 metres, and a lot area of 254.6 square metres. This

parcel is known municipally as 242 Park Street and contains the existing three-unit dwelling.

- [5] Approval of this application will have the effect of creating separate parcels of land, which along with existing dwelling and the proposed apartment building, will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance applications (File Nos. D08-02-24/A-00025 and D08-02-24/A00157) have been filed and will be heard concurrently with this application.

REQUESTED VARIANCES

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

A-00025: 242 Park Street, Part 1 on Draft-4R plan, existing three-unit dwelling:

- a) To permit a reduced lot area of 254.6 square metres, whereas the By-law requires a minimum lot area of 300 square metres.
- b) To permit a reduced rear yard setback of 1.15 metres, or 6.10% of the lot depth, whereas the By-law requires a minimum rear yard setback of 25% of the lot depth, or in this case 4.71 metres.
- c) To permit a reduced rear yard area of 15.63 square metres, or 6.14% of the lot area, whereas the By-law requires a minimum lot area of 25% of the lot area, or in this case 63.65 square metres.
- d) To permit a reduced rear soft landscaping area of 15.62 square metres, whereas the By-law requires a minimum rear soft landscaping of 35 square metres.
- e) To permit a reduced rear aggregated rectangular soft landscaping area of 15.62 square metres, whereas the By-Law requires a minimum rear aggregated rectangular soft landscaping of 25 square metres.

A-00157: 267 Carillon Street, Part 2 on Draft-4R plan, proposed low-rise apartment building:

- f) To permit a reduced lot area of 290.8 square metres, whereas the By-law requires a minimum lot area of 360 square metres.
- g) To permit a reduced rear yard setback of 2 metres, or 12.87% of the lot depth, whereas the By-law requires a minimum rear yard setback of 25% of the lot depth, or in this case 4 metres.
- h) To permit a reduced rear yard area of 37.70 square metres, or 12.95% of the lot area, whereas the By-law requires a minimum rear yard area of 25% of the lot area, or in this case 72.70 square metres.

- i) To permit a reduced rear aggregated rectangular soft landscaping area of 37.70 square metres (with the longer dimension more than twice the shorter dimension), whereas the By-law requires a minimum rear aggregated rectangular soft landscaping of 25 square metres with the longer dimension not more than twice the shorter dimension.

PUBLIC HEARING

- [7] On November 6, 2024, the hearing of the applications was adjourned to allow time for the Applicant to further consult with City staff.

Oral Submissions Summary

- [8] Frankie Geddes and Najman Mughal, agents for the Applicant, provided an overview of the applications and responded to questions from the Committee.
- [9] Mr. Geddes highlighted that requested variances “a” through “e” are to regularize existing conditions, and that variances “f” through “i” relate to the proposed development. He also explained that to be more compatible with the *Planning Act*, more amenity space would be provided in the front yard of the subject site to compensate for the requested reduced rear yard setback and rear yard area.
- [10] Mr. Geddes also addressed the complexities of providing soft landscaping on corner lots, particularly within the subject site, and that it was his opinion that they addressed those complexities through their design.
- [11] He further advised that the proposal achieves a balance between increased density and sustainability, while maintaining neighbourhood character.
- [12] City Planner Penelope Horn confirmed that she was satisfied that the proposed site would function well.

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, photos of the posted sign, and a sign posting declaration.
 - City Planning Report received December 5, 2024, with no concerns received October 31, 2024, with some concerns.

- Rideau Valley Conservation Authority email dated December 6, 2024, with no objections; received November 1, 2024, with no objections.
- Hydro Ottawa email dated December 6, 2024, with no concerns; received November 1, 2024, with comments.
- Hydro One email dated December 3, 2024, with no comments; received October 31, 2024, with no concerns.
- Ontario Ministry of Transportation email dated November 22, 2024, with no comments; received October 18, 2024, with no comments.
- K. Walsh, resident, email dated October 18, 2024, with comments.
- C. Heinbecker, resident, email dated November 4, 2024, with comments.

DECISION AND REASONS OF THE COMMITTEE:

- **CONSENT APPLICATION 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 consent applications, subject to the requested conditions agreed to by the Applicant or their agent. The report highlights that "[t]he revised plans include increased setbacks along the front, corner, and interior lot lines to compensate for the loss of rear yard soft landscaping. Intensive plantings are proposed in the front and corner side yards, which will provide residents with amenity space and contribute to canopy cover along the street. Furthermore, the revised plans provide a fence to screen the waste storage and bike parking from the adjacent property on Carillon Street".
- [18] 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.
- [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 also notes that no 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 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, **subject to** the location and size of the proposed construction being in accordance with the site plan filed, Committee of Adjustment date stamped December 4, 2024, and the elevations filed, Committee of Adjustment date stamped October 9, 2024, as they relate to the requested variances.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

Absent
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 **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 applications D08-02-24/A-00025 & D08-02-24/A-00157 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) provide evidence 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, that the accessory structure has been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law.
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 (Marier Avenue) 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 of the Development Review All Wards Branch 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 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 convey a 3 m x 3 m corner sight triangle located at the intersection of Park Street & Carillon Street to the City, with all costs to be borne by the Owner(s), to the satisfaction of the Surveys and Mapping Branch of the City. This area will be free of all structures, plantings, etc. and will allow a proper sighting distance for motorists when performing turning movements within the intersection. The Committee must receive written confirmation from **City Legal Services** that the transfer of the lands to the City has been registered.
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 all compensation trees required under the Tree Protection By-law and/or one new tree (50 mm caliper) per lot.
9. That the Owner(s) satisfies the **Chief Building Official, or designate**, by providing design drawings or other documentation prepared by a qualified designer, that as a result of the proposed severance to the existing buildings on Part 2 of draft 4R-plan shall comply with the Ontario Building Code, 0. Reg. 332/12 as amended, in regard to the limiting distance along the southerly of the proposed property line. If necessary, a building permit shall be obtained from Building Code Services for any required alterations.
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 which the Consent is required.