

DECISION

CONSENT/SEVERANCE AND MINOR VARIANCE

Date of Decision:	February 14, 2025
Panel:	1 - Urban
File Nos.:	D08-01-24/B-00261 & D08-01-24/B-00262 and D08-02-24/A-00308 & D08-02-24/A-00309
Application:	Consent under section 53 of the <i>Planning Act</i> Minor Variance under section 45 of the <i>Planning Act</i>
Applicant:	Tru-Vest Management Ltd.
Property Address:	251 Columbus Avenue
Ward:	13 - Rideau-Rockcliffe
Legal Description:	Lot 163 and Part of Lot 164, Registered Plan 441
Zoning:	R4UC
Zoning By-law:	2008-250
Heard:	February 5, 2025, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS:

- [1] The Applicant wants to subdivide its property into two separate parcels of land to construct two, three-storey apartment buildings, each containing 8 units. The existing dwelling will be demolished.

CONSENT REQUIRED:

- [2] The Applicant seeks the Committee of Adjustment's consent to sever land and to grant easements/rights-of-way. The property is shown as Part 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-00261	10.82 m	35.36 m	382.5 sq. m	1 & 2	249 Columbus Avenue

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00262	10.82 m	35.36 m	382.5 sq. m	3 & 4	251 Columbus Avenue

[3] It is proposed to establish easements/rights-of-way as follows:

- Over Part 2 in favour of Parts 3 and 4 to provide vehicular and pedestrian access
- Over Part 3 in favour of Parts 1 and 2 to provide vehicular and pedestrian access

[4] Approval of these applications will have the effect of creating separate parcels of land and development that will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance applications D08-02-24/A-00308 & D08-02-24/A-00309) 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-00308: 249 Columbus Avenue, Parts 1 & 2 on draft 4R plan, proposed three-storey apartment building with 8 units:

- a) To permit a reduced rear yard setback of 25% of the lot depth or 8.91 metres, whereas the By-law states that the minimum required rear yard setback is 30% of the lot depth but may not be less than 6 metres and need not exceed 10.61 metres.
- b) To permit no solid, permanent fixtures sufficient to prevent motor vehicle parking in a portion of the front yard, whereas the By-Law requires that the front yard must be equipped with solid, permanent fixtures sufficient to prevent motor vehicle parking.
- c) To permit one motor vehicle parking space to be located in the rear yard whereas the By-law does not permit motor vehicle parking on a lot less than 450 square metres in area.

A-00309: 251 Columbus Avenue, Parts 3 & 4 on Draft 4R Plan, proposed low-rise apartment building with 8 units:

- d) To permit a reduced rear yard setback of 25% of the lot depth or 8.91 metres, whereas the By-law states that the minimum required rear yard setback is 30%

of the lot depth but may not be less than 6 metres and need not exceed 10.61 metres.

- e) To permit no solid, permanent fixtures sufficient to prevent motor vehicle parking in a portion of the front yard, whereas the By-Law requires that the front yard must be equipped with solid, permanent fixtures sufficient to prevent motor vehicle parking.
- f) To permit one motor vehicle parking space to be located in the rear yard whereas the By-law does not permit motor vehicle parking on a lot less than 450 square meters in area.

PUBLIC HEARING

Oral Submissions Summary

- [6] Peter Hume, 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.
- [7] Responding to Committee's questions, Mr. Hume explained the functionality of the proposed driveway and parking space. He also highlighted that front yard parking would be prevented with the installation of bollards on either side of the proposed shared driveway.
- [8] Mr. Hume clarified that no neighbourhood pre-consultation was undertaken as he believed the applications were minor in nature. He acknowledged the comments submitted by the Overbrook Community Association.
- [9] City Planner Penelope Horn confirmed that the placement of the bollards would be reviewed at the building permit stage.. Ms. Horn confirmed that the Applicant would need an encroachment permit to proceed with the installation of the bollards on City property.
- [10] City Planner Erin O'Connell noted that the bollards would likely not be permitted on City property and requested a revised site plan be submitted to the Committee moving the bollards to the subject property.
- [11] Mr. Hume clarified that variances (b) and (e) are seeking to allow the bollards to be located on a portion of the front-yard only to allow vehicles to access the rear parking space. He confirmed he would provide the Committee with a revised site plan showing the exact location of the bollards and that the rear yard parking spaces would function.
- [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 abstract, tree information report, photo of the posted sign, and a sign posting declaration.
- City Planning Report received January 30, 2025, with no concerns.
- Rideau Valley Conservation Authority email dated January 27, 2025, with no concerns.
- Hydro Ottawa email dated January 24, 2025, with comments.
- Ontario Ministry of Transportation email dated January 22, 2025, with no comments.
- N. Benamra, Chair Overbrook Community Association, email dated February 3, 2025, with comments.

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 consent applications, subject to the requested conditions agreed to by the Applicant's agent.
- [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 majority of the Committee (Member Blatherwick dissenting on variances (b) and (e)) is also satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [23] The Committee notes that the City's Planning Report raises "no concerns" regarding the minor variance applications.
- [24] The majority of the Committee also notes that no compelling evidence was presented that the variances would result in any unacceptable adverse impact on neighbouring properties.
- [25] Considering the circumstances, the majority of 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 majority of 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 majority of 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 majority of 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 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.
- [30] **THE COMMITTEE OF ADJUSTMENT ALSO ORDERS** that the minor applications are granted as amended 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 plans filed, Committee of Adjustment date stamped February 6, 2025, as they relate to the requested variances.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

Dissent
"John Blatherwick"
JOHN BLATHERWICK
MEMBER

"Arto Keklikian" ARTO
KEKLIKIAN MEMBER

Absent
SIMON COAKELEY
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 **February 14, 2025**

"Michel Bellemare"
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 March 6, 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

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-00308 & D08-02-24/A-00309) 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 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 Owner(s) shall:

prepare a noise attenuation study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of the **Development Review All Wards Manager, Planning, Development and Building Services 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 land 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 All Wards 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 the provision for adding central air conditioning at the occupant's discretion 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 shall run with the land 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 Committee requires a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title. 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 fitted with a forced air heating system and the ducting, etc. was sized to accommodate central air conditioning. Installation of central air conditioning by the Purchaser/Lessee 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;" and
 - ii) "The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns acknowledges being advised that noise levels due to 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."
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(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 Columbus Ave, 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/Applicant(s) provide a revised site plan with the locations of proposed elements (buildings, driveways, services, grading, etc.) designed to reduce any excavation within the Critical Root Zones of protected trees and/or to provide sufficient soil volume to plant new trees, to the satisfaction of the **Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or their designate(s)**. The Tree Information Report must be revised to reflect changes to the site plan and to show the accurate tree protection areas and mitigation measures.
9. 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.
10. That the Owner(s) provide proof, to the satisfaction of the **Manager of Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate**, that the existing dwelling/building has been demolished in accordance with the demolition permit. Notice shall be provided in writing to the Committee from the Department confirming this condition has been fulfilled.
11. 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.
5. 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 and grant of easements/rights of way for which the Consent is required.