

DECISION

CONSENT/SEVERANCE AND MINOR VARIANCE

Date of Decision:	February 28, 2025
Panel:	1 - Urban
File Nos.:	D08-01-25/B-00001 & D08-01-25/B-00002 D08-02-25/A-00005 to D08-02-25/A00007
Applications:	Consent under section 53 of the <i>Planning Act</i> Minor Variance under section 45 of the <i>Planning Act</i>
Applicant:	1001091948 Ontario Inc.
Property Address:	120 Queen Mary Street
Ward:	13 - Rideau-Rockcliffe
Legal Description:	Part of Lots 112, 113, & 114, Registered Plan 341
Zoning:	R3M
Zoning By-law:	2008-250
Heard:	February 19, 2025, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Applicant wants to subdivide the property into three separate parcels of land for the construction of three townhouses, as shown on the plans filed with the applications. The existing dwelling will be demolished.

CONSENT REQUIRED:

- [2] The Applicant seeks the Committee's consent to sever land and to a grant of easement/right of way. The property is shown as Parts 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 Nos.	Municipal Address
Retained	6.77 m	25.86 m	175.1 sq. m	1	120 Queen Mary
B-00001	5.51 m	25.86 m	142.5 sq. m	2	122 Queen Mary

File No.	Frontage	Depth	Area	Part Nos.	Municipal Address
B-00002	6.77 m	25.86 m	175.1 sq. m	3 and 4	124 Queen Mary

- [3] It is proposed to establish an easement over Part 4 in favor of Part 2 for 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 (File Nos. D08-02-25/A-00005 to D08-02-24/A-00007) have been filed and will be heard concurrently with these applications.

REQUESTED VARIANCES

- [5] The Applicant requires the Committee's authorization for the following minor variances from the Zoning By-law:

A-00005: 120 Queen Mary Street, Part 1 on 4R-Draft, proposed townhome:

- a) To permit a reduced lot area of 175.1 square metres, whereas the By-law requires a minimum lot area of 180 square metres.
- b) To permit a reduced rear yard setback of 21.3% of the lot depth or 5.5 metres, whereas the By-law states that the minimum required rear yard setback is 28% of the lot depth but may not be less than 6 metres and need not exceed 7.24 metres.
- c) To permit a reduced rear yard area of 21.3% of the lot area or 37.2 square metres, whereas the By-law requires a minimum rear yard area of 25% of the lot area or, in this case, 43.78 square metres.

A-00006: 122 Queen Mary Street, Part 2 on 4R-Draft, proposed townhome:

- d) To permit a reduced lot width of 5.51 metres, whereas the By-law requires a minimum lot width of 6.0 metres.
- e) To permit a reduced lot area of 142.5 square metres, whereas the By-law requires a minimum lot area of 180 square metres.
- f) To permit a reduced rear yard setback of 21.3% of the lot depth or 5.5 metres, whereas the By-law states that the minimum required rear yard setback is 28% of the lot depth but may not be less than 6 metres and need not exceed 7.24 metres.
- g) To permit a reduced rear yard area of 21.3% of the lot area or 30.3 square metres, whereas the By-law requires a minimum rear yard area of 25% of the lot area or, in this case, 35.6 square metres.

- h) To permit a driveway with a width of 2.6 metres, whereas the by-law does not permit a driveway for a lot with a width or frontage of less than 6 metres.

A-00007: 124 Queen Mary Street, Parts 3 & 4 on 4R-Draft, proposed townhome:

- i) To permit a reduced lot area of 175.1 square metres, whereas the By-law requires a minimum lot area of 180 square metres.
- j) To permit a reduced rear yard setback of 21.3% of the lot depth or 5.5 metres, whereas the By-law states that the minimum required rear yard setback is 28% of the lot depth but may not be less than 6 metres and need not exceed 7.24 metres.
- k) To permit a reduced rear yard area of 21.3% of the lot area or 37.2 square metres, whereas the By-law requires a minimum rear yard area of 25% of the lot area or, in this case, 47.78 square metres.

PUBLIC HEARING

Oral Submissions Summary

- [6] Christian Campanale, 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 response to questions from the Committee regarding the neighbourhood context, Mr. Campanale highlighted that a new detached dwelling was under construction on the adjacent lot and the development on the lot across from the subject property had been converted into a four-storey, low-rise apartment building.
- [7] Mr. Campanale also addressed the conditions in the City's Planning Report and highlighted his concerns with requested conditions 3 and 4, which would require a revised grading and servicing plan reflecting necessary design changes to minimize excavation within the critical root zone of "Tree 1," located outside of the as-of-right building envelope for the proposed townhouse dwelling on Part 1, and a tree planting plan showing one new replacement tree on each proposed lot. He stated that Tree 1 could not be retained without substantially reducing the size of the townhouse unit or eliminating parking. He also explained that the retention of Tree 1 would make it difficult for construction vehicles to access the site, which is already constrained by existing overhead Hydro lines. He also submitted that the requirement to plant a new tree on each lot was too onerous for a development of this scale.
- [8] Responding to the Committee's questions, City Forester Julian Alvarez-Barkham confirmed that Tree 1 is healthy and located outside the as-of-right building envelope, and it should therefore be a priority for retention. He explained that he had discussed the retention of Tree 1 with the Applicant's agent, who indicated

that retention was not possible due his preference to provide parking and a driveway in the front yard. He also clarified that condition 3 was modified to require either evidence of design changes to retain Tree 1 or of sufficient soil volume to accommodate replacement trees, as required by condition 4. Additionally, he noted that it is a standard requirement that replacement trees be planted where existing trees are proposed to be removed.

- [9] In response to further questions, Mr. Alvarez-Barkham expressed concerns over the loss of Tree 1 regardless of whether conditions 3 and 4 were imposed, but highlighted that they were recommended to mitigate the impact of its removal.
- [10] City Planner Nivethini Jekku Einkaran confirmed that she would have no concerns with the applications with or without requested conditions 3 and 4, on the basis that the proposal meets the intent of the Zoning By-law and Official Plan policies that encourage intensification.
- [11] Following the public hearing, the Committee reserved its decision.

Evidence

- [12] 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 abstract information, plans, tree information report, photo of the posted sign, and a sign posting declaration.
 - City Planning Report received February 13, 2025, with no concerns.
 - Rideau Valley Conservation Authority email dated February 13, 2025, with no objections.
 - Hydro One email dated February 13, 2025, with no comments.
 - Ontario Ministry of Transportation email dated February 12, 2025, with no comments.
 - N. Benamra, Overbrook Community Association, email dated February 18, 2025, with comments.

DECISION AND REASONS OF THE COMMITTEE:

- **CONSENT APPLICATIONS REFUSED**
- **MINOR VARIANCE APPLICATIONS REFUSED**

Consent Application Must Satisfy Statutory Tests

[13] 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

- [14] 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

- [15] The Committee of Adjustment considered all written and oral submissions relating to the applications in making its decision and refused the applications.
- [16] The Committee notes that the City's planning report highlights "no concerns" with the applications.
- [17] Based on the evidence, only two of the four Panel Members who heard the application (Chair A. M. Tremblay and Member S. Lécuyer) are 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, and that the proposal has adequate regard to matters of provincial interest. Chair A. M. Tremblay and Member S. Lécuyer are also satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality, and that the proposal has adequate regard for the criteria specified under subsection 51(24) of the *Planning Act* and is in the public interest.

- [18] Chair A. M. Tremblay and Member S. Lécuyer also find that, because the proposed development supports additional residential units at a locally appropriate scale, the requested variances are, from a planning and public interest point of view, desirable for the appropriate development or use of the lot.
- [19] Chair A. M. Tremblay and Member S. Lécuyer also find that the requested variances maintains the general intent and purpose of the Official Plan because the proposal respects the character of the neighbourhood.
- [20] In addition, Chair A. M. Tremblay and Member S. Lécuyer find that the requested variances maintains the general intent and purpose of the Zoning By-law because the proposal represents orderly development that is compatible with the surrounding area.
- [21] Moreover, Chair A. M. Tremblay and Member S. Lécuyer find 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.
- [22] Conversely, based on the evidence, Members J. Blatherwick and A. Kekilikian are not satisfied that the proposal conforms with or maintains the general intent and purpose of the Official Plan, which encourages the preservation of the urban tree canopy and directs that planning and development decisions, including Committee of Adjustment decisions, shall give priority to the retention and protection of large, healthy trees over replacement plantings. Members J. Blatherwick and A. Keklikian find that the loss of Tree 1 is avoidable, and that the planning rationale provided was not sufficient to justify its removal.
- [23] Pursuant to the Committee's *Rules of Procedure*, any application on which there is a tie vote shall be deemed to be refused.
- [24] **THE COMMITTEE OF ADJUSTMENT THEREFORE ORDERS** that the consent applications are refused, and the provisional consent is not to be given.
- [25] **THE COMMITTEE OF ADJUSTMENT ALSO ORDERS** that the minor variance applications are refused, and the variances are not to be authorized.

Grant
"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

Refuse
"John Blatherwick"
JOHN BLATHERWICK
MEMBER

Absent
SIMON COAKELEY
MEMBER

Refuse
"Arto Keklikian"
ARTO KEKLIKIAN
MEMBER

Grant
"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 28, 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 20, 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.

Committee of Adjustment
City of Ottawa
Ottawa.ca/CommitteeofAdjustment
cofa@ottawa.ca
613-580-2436



Comité de dérogation
Ville d'Ottawa
Ottawa.ca/Comitedederogation
cded@ottawa.ca
613-580-2436