

DECISION**CONSENT/SEVERANCE AND MINOR VARIANCE**

Date of Decision:	March 14, 2025
Panel:	1 - Urban
File Nos.:	D08-01-24/B-00283 & D08-01-24/B-00285 D08-02-24/A-00329 & D08-02-24/A-00330
Applications:	Consent under section 53 of the <i>Planning Act</i> Minor Variance under section 45 of the <i>Planning Act</i>
Applicant:	Bourk's Property Management Limited
Property Address:	401 Golden Avenue
Ward:	15 - Kitchissippi
Legal Description:	Part of Lots 18, 19 and 20, South Side of Richmond Road, Registered Plan 179, Part of Lots 18 and 19, North Side of James Street, Registered Plan 179, Part of Lots 18, 19 and 20, South Side of Richmond Road, Registered Plan 204; being Parts 1, 3, 5, 6, 8 and 13 on Plan 4R24019.
Zoning:	TM [83]
Zoning By-law:	2008-250
Heard:	March 5, 2025, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Applicant wants to subdivide its property to create two new parcels for two second floor office units within its existing freehold commercial block. The subject property also contains existing commercial and residential condominiums.

CONSENT REQUIRED:

- [2] The Applicant seeks the Committee of Adjustment's consent for conveyances and grants of easements/rights-of-way, a mortgage/partial discharge of mortgage, and a joint use and maintenance agreement.
- [3] The freehold commercial block is shown as Parts 1 to 4 on a stratified Draft 4R-Plan filed with the applications, and the separate parcels will be as follows:

Table 1 Proposed Parcels

File No.	Part	Parcel Layout	Area	Municipal Address
B-00283	1	Second storey office unit	148 sq. m	401 Golden Avenue, Unit 202 ("East Block")
B-00284	4	Second storey office unit and stairs accessed from Golden Avenue at ground level	117.4 sq. m	401A Golden Avenue, Unit 203 ("West Block")

- [4] The retained land is the remainder of the existing freehold commercial block shown as Parts 2 and 3 and on the Draft 4R-Plan and Parts 1, 3, 5, 6, 8 and 13 on Plan 4R-24019.
- [5] It is also proposed to grant easements/right over way over Parts 3 and 5 on Plan 4R-24019 to provide common access in favour of the 'office units', being Part 1 and Part 4 on the Draft 4R-Plan.
- [6] Approval of these applications will have the effect of creating separate office units that will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance applications (File Nos. D08-02-24/A-00329 & D08-02-25/A-00330) have been filed and will be heard concurrently with these applications.

REQUESTED VARIANCES

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

A-00329: 401 Golden Avenue, Unit 202, Part 1, East Block:

- To permit 0 parking spaces for the office unit, whereas the By-law requires a parking space rate of 1 space per 100 square metres gross floor area, in this case, 1 parking space required.
- To permit no frontage on a public street, whereas the By-law requires a lot to have a minimum of 3 metres of frontage on a public street.

A-00330: 401A Golden Avenue, Unit 203, Part 4, West Block:

- c) To permit 0 parking spaces for the office unit, whereas the By-law requires a parking space rate of 1 space per 100 square metres gross floor area, in this case, 1 parking space required.
- d) To permit no frontage on a public street, whereas the By-law requires a lot to have a minimum of 3 metres of frontage on a public street.

PUBLIC HEARING

Oral Submissions Summary

- [8] Ursula Melinz, 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, and responded to questions from the Committee.
- [9] In response to questions from the Panel, Ms. Melinz confirmed that the existing joint use and maintenance agreement would be amended accordingly to account for the two new office units. She also confirmed that she had no objections to the City's requested condition requiring a servicing plan.
- [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, plans, tree information, parcel register, photo of the posted sign, and a sign posting declaration.
 - City Planning Report received February 27, 2025, with no concerns.
 - Rideau Valley Conservation Authority email dated February 28, 2025, with no objections.
 - Hydro Ottawa email dated February 21, 2025, with comments.
 - Hydro One email dated February 28, 2025, with no comments.
 - J. Lincoln, Executive Director, Westboro Village Improvement Area email dated February 26, 2025, in support.

DECISION AND REASONS OF THE COMMITTEE:

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

Consent Applications 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 consent applications, subject to the requested conditions agreed to by the Applicant's agent.
- [16] 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.
- [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 satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [21] The Committee notes that the City's Planning Report raises "no concerns" regarding the minor variance applications.
- [22] The Committee also notes that no evidence was presented that the requested variances would result in any unacceptable adverse impact on neighbouring properties.
- [23] 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.
- [24] 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.
- [25] 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.
- [26] 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.
- [27] **THE COMMITTEE OF ADJUSTMENT THEREFORE 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.
- [28] **THE COMMITTEE OF ADJUSTMENT ALSO ORDERS** that the minor variance application is granted and the variances to the Zoning By-law are authorized.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

"John Blatherwick"
JOHN BLATHERWICK
ACTING PANEL CHAIR

"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 **March 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 April 3, 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-00329 & D08-02-24/A-00330 have been approved, with all levels of appeal exhausted.
2. That the Owner(s) provide a servicing plan or other proof, to the satisfaction of the **Manager of Development Review All Wards Branch within Planning, Development Building Services Department, or their designate**, that the severed and retained parcels has appropriately accounted for water, sanitary and sewer connection, connected to City infrastructure.
If the services are shared, and there is sufficient justification for the service locations to remain, the Owner(s) may be required to obtain an Environmental Compliance Approval (ECA) from the **Ministry of Environment, Conservation and Parks**, the approval of the Committee to grant easement(s) for access and maintenance of the services, and/or to register on title, a Joint Use and Maintenance Agreement, between the Owners of the services, which shall be at their own costs.
3. 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.
4. 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 the conveyances, grants of easements/ rights-of-way, mortgage/partial discharge of mortgage, and a joint-use and maintenance agreement for which the Consent is required.