

## DECISION

### CONSENT/SEVERANCE AND MINOR VARIANCE

<b>Date of Decision:</b>	April 11, 2025
<b>Panel:</b>	1 - Urban
<b>File Nos.:</b>	D08-01-24/B-00275 D08-02-24/A-00318 & D08-02-24/A-00319
<b>Applications:</b>	Consent under section 53 of the <i>Planning Act</i> Minor Variance under section 45 of the <i>Planning Act</i>
<b>Applicants:</b>	Haniyeh Etesam and Ali Tohidi
<b>Property Address:</b>	60 Hampton Avenue
<b>Ward:</b>	15 - Kitchissippi
<b>Legal Description:</b>	Lot 2769, Registered Plan M-47
<b>Zoning:</b>	R3K
<b>Zoning By-law:</b>	2008-250
<b>Heard:</b>	April 2, 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 for the construction of a two-and-a-half-storey semi-detached dwelling. The existing dwelling will be demolished.

### CONSENT REQUIRED:

- [2] The Applicants seek the Committee of Adjustment's consent to sever the land.
- [3] The severed land, shown as Part 2 on a draft 4R-plan filed with the application, will have a frontage of 7.06 metres, a depth of 29.26 metres and will contain a lot area of 206.57 square metres, and is known municipally as 60 B Hampton Avenue.
- [4] The retained land, shown as Part 1 on said plan, will have a frontage of 8.18 metres, a depth of 29.26 metres and will contain a lot area of 239.34 square metres, and will be known municipality as 60 A Hampton Avenue.
- [5] Approval of this consent application will have the effect of creating separate parcels of land that will not be in conformity with the requirements of the Zoning

By-law and therefore, minor variance applications (D08-02-24/A-00318 & D08-02-24/A-00319) been filed and will be heard concurrently with this application.

## **REQUESTED VARIANCES**

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

**A-00318, 60 A Hampton Avenue, Part 1 on 4R-plan, one half of the proposed semi-detached dwelling:**

- a) To permit a reduced rear yard setback of 19% of the lot depth or 5.51 metres, whereas the By-law requires a minimum rear yard setback of 30% of the lot depth, or 8.78 in this case.
- b) To permit a reduced rear yard area of 19% of the lot area or 45.57 square metres, whereas the By-law requires a minimum rear yard area of 30% of the lot area, or 71.80 square metres in this case.
- c) To permit a reduced setback for a garage from the front wall of the dwelling of 0.3 metres, whereas the By-law requires a minimum setback for a garage from the front wall of the dwelling of 0.6 metres
- d) To permit a front facing attached garage, whereas the By-law does not permit a front facing garage based on the conclusions of a Streetscape Character Analysis.

**A-00319, 60 B Hampton Avenue, Part 2 on 4R-plan, one half of the proposed semi-detached dwelling:**

- e) To permit a reduced rear yard setback of 19% of the lot depth or 5.50 metres, whereas the By-law requires a minimum rear yard setback of 30% of the lot depth, or 8.78 metres in this case.
- f) To permit a reduced rear yard area of 19% of the lot area or 39.24 square metres, whereas the By-law requires a minimum rear yard area of 30% of the lot area, or 61.97 square metres in this case.
- g) To permit a reduced setback for a garage from the front wall of the dwelling of 0.3 metres, whereas the By-law requires a minimum setback for a garage from the front wall of the dwelling of 0.6 metres.
- h) To permit a reduced lot width of 7.06 metres, whereas the By-law requires a minimum lot width of 7.5 metres.
- i) To permit a reduced lot area of 206.57 square metres, whereas the By-law requires a minimum lot area of 225 square metres.

- j) To permit a front facing attached garage, whereas the By-law does not permit a front facing garage based on the conclusions of a Streetscape Character Analysis.

## **PUBLIC HEARING**

- [7] On February 5, 2025, the hearing of the applications was adjourned to allow time for the Applicants to apply for additional minor variances.

### **Oral Submissions Summary**

- [8] Ali Tohidi and Joseph Vahidi, agents for the Applicants, provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request.
- [9] Responding to Panel's questions, Mr. Tohidi confirmed that two neighbours had advised that they were in support of the front-facing garage despite the findings of the streetscape character analysis, to avoid any impact on street parking.
- [10] City Planner Penelope Horn advised that the approval of these applications should be tied to the plans as they relate to the variances to accommodate any changes to the plans to address separating the driveway from the walkway.
- [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, plans, tree information report, photo of the posted sign, and a sign posting declaration.
  - City Planning Report received March 26, 2025, with concerns; received March 13, 2025, with concerns; received January 30, 2025, requesting an adjournment.
  - Rideau Valley Conservation Authority email received March 26, 2025, with no objections; received March 14, 2025, with no objections; received January 27, 2025, with no objections.
  - Hydro Ottawa email received March 21, 2025, with comments; received March 6, 2025, with comments; received January 24, 2025, with comments.

- Hydro One email received March 19, 2025, with no comments.
- Ontario Ministry of Transportation email received March 25, 2025, with no comments; received January 22, 2025, with no comments.
- Ottawa-Carleton District School Board email received January 21, 2025, with comments.
- G. and J. Labatut, residents, email received March 11, 2025, in support; received February 3, 2025, in support.
- J. Marshall, resident, email received March 17, 2025, in support.

#### **DECISION AND REASONS OF THE COMMITTEE:**

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

#### **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 Applications 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 granted the applications.

- [16] 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.
- [17] 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.
- [18] 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.
- [19] 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.
- [20] 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.
- [21] 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*.
- [22] The Committee notes that the City's Planning Report raises "concerns" regarding the minor variance applications, highlighting that the "proposed attached garage renders the principal entrance of less importance and may contribute to the dominance of the automobile within this neighbourhood."
- [23] The Committee (Members Coakeley and Keklikian dissenting on variances (d) and (j)) also notes that no compelling evidence was presented that the requested 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 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 decision.
- [29] **THE COMMITTEE OF ADJUSTMENT ALSO ORDERS** that the requested minor variance applications are granted 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 March 3, 2025, as they relate to the requested variances.

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

*"John Blatherwick"*  
JOHN BLATHERWICK  
MEMBER

*"Simon Coakeley"*  
*(with noted dissent)*  
SIMON COAKELEY  
MEMBER

*"Arto Keklikian"*  
*(with noted dissent)*  
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 **April 11, 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 May 1, 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](mailto: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, 4<sup>th</sup> 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.*

**Committee of Adjustment**  
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**APPENDIX "A"**

1. The Owner(s) provide evidence that the accompanying minor variance applications (D08-02-24/A-00318 & D08-02-24/A-00319) 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 the Manager of Development Review All Wards Branch within Planning, Development and Building Services Department, or their designates, that both severed and retained parcels have their own independent water, sanitary and storm connection as appropriate, 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 proof 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, delineating the existing and proposed grades for both the severed and retained lands has been provided to the satisfaction of the Manager of Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate.
5. The Owner(s) shall:

Prepare a Noise Control Study, in compliance with the City of Ottawa Environmental Noise Control Guidelines, to the satisfaction of the the Manager of Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate. The Owner(s) shall enter into an agreement with the City, at the expense of the Owner(s), that requires the Owner(s) to implement any Noise Control Study attenuation measures recommended in the approved study. The Agreement shall also deal with any covenants/notices, recommended in the approved study, 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 (arterial, highway, airport, etc.). The Committee shall be provided 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
  - i) "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) enter into a Resurfacing Agreement with the City, to the satisfaction of the Program Manager, Right of Way Branch within the 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 Hampton Ave, fronting the subject lands, to the limits shown on the approved Site Servicing Plan. Where the approved Site Servicing Plan demonstrates the resurfacing is not required, based on the City's Road Cut Resurfacing Policy, the Manager of Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate, shall deem this condition satisfied.
  7. That the Owner/Applicant(s) enter into a Development Agreement or a Letter of Undertaking (LOU) with the City of Ottawa, at the expense of the Owner/Applicant(s), and to the satisfaction of the Manager of the relevant branch within Planning, Real Estate, and Economic Development Department, or their designate(s). A development agreement is to be registered on Title of the property (where applicable). The agreement will include the mitigation measures outlined in the approved Tree Information Report, prepared by IFS, dated Nov 27, 2024, and associated securities for tree protection. The securities, which will be based on the value of the tree(s) to be protected (Tree(s) 1) shall be retained for 2 years following issuance of an occupancy permit, and thereafter returned to the owner

only upon the City having received a report from an arborist or appropriate professional confirming that the identified tree(s) is/are healthy, retainable, and remain(s) structurally stable. The Owner(s) acknowledge(s) and agree(s) that if, in the opinion of the City Forester and/or the Manager of the relevant Branch within Planning, Real Estate, and Economic Development, the report indicates that any tree is declining and/or must be removed, the Security for that tree, in its entirety, will be forfeited.

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) satisfy the requirements of Hydro Ottawa with respect to the relocation of the existing overhead services or grant an easement as required, the consent to which is hereby granted.
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.
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 for which the Consent is required.