

DECISION**CONSENT/SEVERANCE AND MINOR VARIANCE**

Date of Decision:	May 16, 2025
Panel:	1 - Urban
File Nos.:	D08-01-25/B-00014, D08-01-25/B-00015, D08-01-25/B-00016, D08-01-25/B-00018, D08-02-25/A-00016
Applications:	Consent under section 53 of the <i>Planning Act</i> Minor Variance under section 45 of the <i>Planning Act</i>
Applicants:	Tina Martins-Campagna, Fernando Martina, Albertina Martins
Property Address:	280, 282, 284 Somerset Street East, 105 Sweetland Avenue and 146 Russell Avenue
Ward:	12 - Rideau-Vanier
Legal Description:	Lot 35, Lots D, E, & F and Part of Lot 23, Registered Plan 81868
Zoning:	R4UC [480]-c
Zoning By-law:	2008-250
Heard:	May 7, 2025, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Applicants want to construct four, three-storey, ten-unit apartment buildings, as shown on the plans filed with the applications. The existing buildings on the property will be demolished.

CONSENT REQUIRED:

- [2] The Applicants seek the Committee's consent to sever land, establish easements, and establish a joint use and maintenance agreement. The property is shown as Parts 1 to 21 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
B-00014	16.01 metres	28.95 metres	463.5 sq. metres	1 to 6, 21	146 Russell Avenue
B-00015	19.66 metres	23.62 metres	464.1 sq. metres	7 to 12	284 Somerset Street
B-00016	17.90 metres	30.48 metres	482 sq. metres	13 to 17	282 Somerset Street
B-00018	18.28 metres	46.15 metres	765.2 sq. metres	18 to 20	105 Sweetland Avenue

[3] It is proposed to establish the following easements:

B-00014: 146 Russell Avenue, Parts 1 to 6 and 21

- Over Parts 3, 4, and 6 in favour of Parts 7 to 20 for pedestrian access and maintenance.

B-00015: 284 Somerset Street, Parts 7 to 12

- Over Parts 9 and 10 in favour of Parts 1 to 6 and 13 to 21 for pedestrian access and maintenance.

B-00016: 282 Somerset Street, Parts 13 to 17

- Over Parts 15 & 16 in favour of Parts 1 to 12 and 18 to 21 for pedestrian access and maintenance.
- Over Part 17 in favour of Parts 1 to 12 and 18 to 21 for pedestrian access and maintenance.
- Over Part 17 in favour of Parts 1 to 6 and 18 to 21 for vehicular access.

B-00018: 105 Sweetland Avenue, Parts 18 to 20

- Over Part 20 in favour of Parts 1 to 17 and 21 for pedestrian access and maintenance.
- Over Part 20 in favour of Parts 1 to 6 and 21 for vehicular access.

[4] The proposed construction on Parts 7 to 12 will not be in conformity with the requirements of the Zoning By-law and therefore, a minor variance application (D08-02-25/A-00016) has been filed and will be heard concurrently with these applications.

REQUESTED VARIANCES

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

A-00016: 284 Somerset Street East, Parts 7 to 12, proposed apartment building:

- a) To permit a reduced interior yard area of 0.0 square metres, whereas the By-law requires a minimum interior yard area of 41.89 square metres.
- b) To permit a reduced soft landscaped area of 21.9 square metres, whereas the By-law requires a minimum soft landscaped area of 25 square metres.

PUBLIC HEARING

Oral Submissions Summary

- [5] Rosaline Hill, 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.
- [6] Responding to the Committee's questions, Ms. Hill confirmed that it was not proposed to formally establish common access for tenants of all buildings to shared outdoor amenity space, and submitted that adequate outdoor amenity space would exist independently on each lot, including along the Somerset Street East and Russell Avenue street frontages for Parts 7 to 12, for which no interior yard area would be provided.
- [7] The Committee also heard oral submissions from the following individuals:
- S. Higham, resident, expressed support for the applications in general, but raised concerns over the potential loss of sunlight and tree canopy. Additionally, Mr. Higham suggested an easement be provided for public pedestrian access and that the buildings be designed with the potential for retail uses to be established on the ground floor.
 - Y. Jiang, resident, raised concerns over potential noise, lack of available parking, especially in the winter, the loss of sunlight, and garbage storage.
 - D. Marin, resident, raised additional concerns over the lack of available parking, the impact of traffic on pedestrian safety, and the loss of sunlight.
- [8] Responding to resident concerns, Ms. Hill confirmed that the Zoning By-law would permit commercial uses.

- [9] Responding to the Committee's questions, City Planner Dylan Geldert confirmed that a shadow analysis was not required for the applications, as it does not exceed the Zoning By-law's height restrictions.
- [10] Ms. Hill noted that various sizes of dwelling units were proposed to provide housing to a mixed demographic and confirmed that no parking was required, and highlighted that several amenities are available within walking distance and the area is served by public transit. Additionally, Ms. Hill explained that the buildings located at 146 Russell Avenue, 282 Somerset Street, and 105 Sweetland Avenue would have garbage enclosures in the rear yards, and the building at 284 Somerset Street would have an interior garbage storage space.
- [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 revised, cover letter, revised plans, revised tree information report, parcel register abstract, photo of the posted sign, and a sign posting declaration.
 - City Planning Report received May 1, 2025, with no concerns.
 - Rideau Valley Conservation Authority email dated April 30, 2025, with no objections.
 - Hydro Ottawa email dated April 17, 2025, with comments.
 - Ontario Ministry of Transportation email dated April 16, 2025, with no comments.
 - S. Higham, resident, email dated May 2, 2025, with comments.

DECISION AND REASONS OF THE COMMITTEE:

- **CONSENT APPLICATIONS GRANTED**
- **MINOR VARIANCE APPLICATIONS GRANTED IN PART**

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 granted the applications, in part.
- [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 Applicants' agent.
- [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 proposed consent 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 variance (b) meets all four requirements under subsection 45(1) of the *Planning Act*.

- [22] The Committee notes that no compelling evidence was presented that variance (b) 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, variance (b) is, 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 variance (b) maintains 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 variance (b) maintains 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 variance (b) is minor because it will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.
- [27] Conversely, based on the evidence, the majority of the Committee (Member S. Lécuyer dissenting) is not satisfied that variance (a) meets all four requirements under subsection 45(1) of the *Planning Act*.
- [28] Specifically, the majority of the Committee finds that insufficient evidence was presented that variance (a) is desirable from a planning and public interest point of view, or that it maintains the general intent and purpose of the Zoning By-law, as the proposal made no alternative provision for communal outdoor amenity space.
- [29] **THE COMMITTEE OF ADJUSTMENT THEREFORE ORDERS** that the consent applications are granted, and provisional consent is to be given, subject to the conditions set out in Appendix A to this decision.
- [30] **THE COMMITTEE OF ADJUSTMENT ALSO ORDERS** that the minor variance application is granted in part and variance (b) to the Zoning By-law is authorized **subject to** the location and size of the proposed construction being in accordance with the site plan filed, Committee of Adjustment date stamped May 6, 2025, as it relates to variance (b). Variance (a) is not authorized.

Absent
ANN M. TREMBLAY
CHAIR

"John Blatherwick"
JOHN BLATHERWICK
ACTING PANEL CHAIR

"Simon Coakeley"
SIMON COAKELEY
MEMBER

Declared Interest
ARTO KEKLIKIAN
MEMBER

"Sharon Lécuyer"
(With noted dissent)
SHARON LÉCUYER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **May 16, 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 June 5, 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.

D08-01-25/B-00014, D08-01-25/B-00015,
D08-01-25/B-00016, D08-01-25/B-00018,
D08-02-25/A-00016

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 APPLICANTS

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. That the Owner(s) provide evidence to the satisfaction of the Chief Building Official, or designate, that the existing buildings have been demolished or relocated under the authority of a building permit.
2. That the Owner(s) provide proof 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 cost. The value of the 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 the **Manager of Development Review All Wards, Planning, Development and Building Services Department**, that each existing parcel has its own independent storm, sanitary and water services connected to City infrastructure and that these services do not cross the proposed severance line. If they do cross or are not independent, the Owner(s) will be required, at their own cost, to relocate the existing services or construct new services from the City sewers/watermain. Notice shall be provided in writing to the Committee from the Department confirming this condition has been fulfilled.
4. That the Owner(s) provide a Stormwater Management Report, prepared by a Professional Civil Engineer, licensed in the Province of Ontario, demonstrating a design for post-development stormwater peak flows that are controlled to pre-development peak flows for all stormwater events up to and including the 100 year storm event. The report shall be to the satisfaction of and approved by the **Manager of Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate.**

If the Stormwater Management Report includes infiltration techniques, the Owner(s) must provide a supporting Geotechnical Brief prepared by a Professional Civil Engineer licensed in the Province of Ontario, for approval by the Manager of Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate.

That the Owner(s) enter into a Development Agreement with the City to construct the required stormwater system, including posting required securities. A copy of the Agreement and written confirmation from City Legal Services that it has been registered on title, shall be forwarded to the Committee of Adjustment.

If applicable, the Owner(s) shall obtain an Environmental Compliance Approval from the Ontario Ministry of Environment, Conservation and Parks.

Should the stormwater management system cross property lines or access to the system be over multiple properties, that the owner will seek approval of the Committee to grant easement(s) for access and maintenance of the stormwater

system or register a Joint Use and Maintenance Agreement on title of the properties, all at the owner(s) costs.

5. That the Owner(s) provide a Site Servicing Study/Brief, prepared by a Professional Civil Engineer, licensed in the Province of Ontario, outlining the municipal servicing requirements, including fire flow requirement, for each unit and indicating, if required, that capacity exists within existing City infrastructure. The study shall be to the satisfaction of **Manager of Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate.**
6. 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.**
7. The Owner(s) shall:
 - a) prepare a Noise Control Study, in compliance with the City of Ottawa Environmental Noise Control Guidelines, to the satisfaction of 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 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

- b) 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.”
8. That the Owner(s) enter into a Joint Use and Maintenance Agreement, at the expense of the Owner(s), setting forth the obligations between the Owner(s) and the proposed future owners with respect to the joint use and maintenance of all common elements including, but not limited to, common areas, common driveways and common landscaping.

The Owner shall ensure that the Agreement is binding upon all unit owners and successors in title and shall be to the satisfaction of **Manager of Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate, or City Legal Services**. The Committee shall be provided written confirmation that the Agreement is satisfactory to the Manager of Development Review All Wards Branch 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.

9. 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 Somerset Street, Sweetland Avenue, and/or Russell Avenue, 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.
10. The Owner conveys to the City, at no cost to the City, an unencumbered corner sight triangle, measuring 9 m x 3 m, at the intersection of Somerset Street and Russell Avenue, respectively. The corner sight triangle must be determined by legal survey.

The Owner shall provide a reference plan for registration, indicating the corner sight triangle, to the **City Surveyor** for review and approval prior to its deposit in the Land Registry Office. Such reference plan must be tied to the Horizontal Control Network in accordance with the municipal requirements and guidelines for referencing legal surveys. The Owner(s) must provide to the City Surveyor a copy of the Committee of Adjustment Decision and a draft Reference Plan that sets out the required corner sight triangle. The Committee shall be provided written confirmation from **City Legal Services** that the transfer of the corner sight triangle to the City has been registered. All costs shall be borne by the Owner.

11. That the Owner/Applicant(s) provide a revised Tree Information Report, to the satisfaction of the **Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or their designate(s)**. This report shall be prepared by an arborist or forester, identifying all trees protected under the City's Tree Protection by-law, and meeting the standards of the City's Tree Information Report Guidelines, including an assessment of impacts related to the updated site plan, and specific mitigation measures where work is proposed within the Critical Root Zone of a protected tree.
12. 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.
13. 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 severances, grants of easements, and joint use and maintenance agreement for which the Consent is required.