

## DECISION

### CONSENT/SEVERANCE AND MINOR VARIANCE

<b>Date of Decision:</b>	May 30, 2025
<b>Panel:</b>	1 - Urban
<b>File Nos.:</b>	D08-01-25/B-00023 D08-02-25/A-00031 & D08-02-25/A-00032
<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>	Lin Shuhua & Huang Yonglong
<b>Property Address:</b>	196 Clare Street
<b>Ward:</b>	15 - Kitchissippi
<b>Legal Description:</b>	Lots 19 and 20, Registered Plan 308
<b>Zoning:</b>	R3R-c
<b>Zoning By-law:</b>	2008-250
<b>Heard:</b>	May 21, 2025, in person and by videoconference

### APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Applicants want to subdivide the property into two separate parcels of land for the construction of a semi-detached dwelling, as shown on plans filed with the Committee. The existing detached dwelling will be demolished.
- [2] These applications were adjourned from the scheduled hearing on March 19, 2025, to allow the Applicants time to request additional required variances. The Applicants have also revised their plans.

### CONSENT REQUIRED:

- [3] The Applicants seeks the Committee's consent to sever land. The property is shown as Parts 1 & 2 on a Draft 4R-plan filed with the application and the separate parcels will be as follows:

Table 1 Proposed Parcels

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00023	9.94 m	20.14 m	199.8 sq. m	1	259A Westhaven Crescent
Retained	8.95 m	20.14 m	181 sq. m	2	259B Westhaven Crescent

- [4] Approval of these applications will have the effect of creating separate parcels of land, in which the proposed development will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance applications (D08-02-25/A-00031 & D08-02-25/A-00032) have 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-00031: 259A Westhaven Crescent, Part 1 on Draft 4R-Plan, one half of proposed semi-detached dwelling:**

- a) To permit an increased building height of 10 metres, whereas the By-law permits a maximum building height of 8 metres.
- b) To permit a reduced corner side yard setback of 2.68 metres, whereas the By-law requires a minimum corner side yard setback of 4.29 metres.
- c) 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-00032: 259B Westhaven Crescent, Part 2 on Draft 4R-Plan, one half of proposed semi-detached dwelling:**

- d) To permit an increased building height of 10 metres, whereas the By-law permits a maximum building height of 8 metres.
- e) 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.

- [6] The property is not the subject of any other current application under the *Planning Act*.

## **PUBLIC HEARING**

### **Oral Submissions Summary**

- [7] Chang Sun, agent 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.
- [8] Responding to the Committee's questions, Mr. Sun clarified that a portion of the proposed front steps would be constructed within the limits of the 6 metre by 6 metre corner sight triangle along Westhaven Crescent and Clare Street. He further confirmed that this was permitted under the Zoning By-law.
- [9] City Planner Erin O'Connell explained that the Zoning By-law requires the corner sight triangle to prevent obstruction of sight lines at the intersection and noted that the steps could protrude into the corner sight triangle as long as they are less than 0.75 metres in height.
- [10] In response to further questions from the Committee, Mr. Sun highlighted that the requested building height variances are required to allow for the construction of the proposed rooftop terrace. Mr. Sun provided four examples of three-storey dwellings within the neighbourhood. When asked for further details, Mr. Sun could not confirm when these existing three-storey dwellings were constructed but he estimated some could have been 'historical' and prior to the implementation of the current Zoning By-law.
- [11] The Committee also heard oral submissions from the following individuals:
- B. Lamy, resident, raised concerns over the proposed height, noting that the other dwellings in the area are consistent with the Zoning By-law. He also expressed concerns over the reduced setback and greenspace, potential privacy impacts, and lack of community consultation.
  - T. Gray, President, Westboro Community Association raised concerns over lack of community consultation.
- [12] When addressed by the Committee, Huang Yonglong, one of the Applicants, confirmed that the sign had been posted on the property prior to both scheduled hearings, but he did not initiate community consultation.
- [13] Responding to the Committee's questions regarding the letters of concern filed by area residents, Mr. Sun stated that a private snow management plan would be implemented to mitigate snow storage issues, and that privacy measures would be discussed with neighbours. He also confirmed that front yard parking would not be permitted within the front yard setback.

[14] City Planner Penelope Horn was also present.

[15] Following the public hearing, the Committee reserved its decision.

### **Evidence**

[16] 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 register abstract, streetscape character analysis, plans, tree information, photo of the posted sign, and a sign posting declaration.
- City Planning Report received May 14, 2025, with no concerns; received March 13, 2025, requesting an adjournment.
- Rideau Valley Conservation Authority email dated May 20, 2025, with no objections; received March 14, 2025, with no objections.
- Hydro Ottawa email dated April 29, 2025, with comments; received March 6, 2025, with no concerns.
- Ontario Ministry of Transportation email dated April 29, 2025, with no comments; received March 12, 2025, with no comments.
- Hydro One email dated March 19, 2025, with no comments.
- E. Lin, resident, email dated May 12, 2025, with concerns.
- S. Walker, resident, email dated May 20, 2025, in opposition.
- T. Gray, President, Westboro Community Association, email dated May 20, 2025, with concerns; received March 17, 2025, with comments; received March 14, 2025, requesting an adjournment; received March 10, 2025, with comments.

**DECISION AND REASONS OF THE COMMITTEE:**

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

**Consent Application Must Satisfy Statutory Tests**

[17] 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**

- [18] 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**

- [19] The Committee of Adjustment considered all written and oral submissions relating to the applications in making its decision and granted the consent application and granted the minor variance applications, in part.
- [20] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications, subject to the requested conditions agreed to by the Applicants' agent.
- [21] 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.
- [22] 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.

- [23] 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.
- [24] 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.
- [25] Based on the evidence, the Committee is satisfied that variances (b), (c), and (e) meet all four requirements under subsection 45(1) of the *Planning Act*.
- [26] The Committee also notes that no compelling evidence was presented that variances (b), (c), and (e) would result in any unacceptable adverse impact on neighbouring properties.
- [27] Considering the circumstances, the Committee finds that because the proposal fits well in the area, variances (b), (c), and (e) 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.
- [28] The Committee also finds that variances (b), (c), and (e) maintain the general intent and purpose of the Official Plan because the proposal respects the character of the neighbourhood.
- [29] In addition, the Committee finds that variances (b), (c), and (e) maintain the general intent and purpose of the Zoning By-law because the proposal represents orderly development that is compatible with the surrounding area.
- [30] Moreover, the Committee finds that variances (b), (c), and (e), both individually and cumulatively, are minor because they will not create any unacceptable adverse impact on abutting properties or the neighbourhood in general.
- [31] Based on the evidence, Members A. M. Tremblay and S. Lécuyer are satisfied that variances (a) and (d) meet all four requirements under subsection 45(1) of the *Planning Act*.
- [32] Conversely, Members J. Blatherwick and A. Kekilikian are not satisfied that sufficient evidence was presented that variances (a) and (d) maintain the general intent and purpose of the Zoning By-law, which is to limit building height within this residential zone.
- [33] Pursuant to the Committee's *Rules of Procedure*, any variance on which there is a tie vote shall be deemed to be refused.
- [34] **THE COMMITTEE OF ADJUSTMENT THEREFORE ORDERS** that the consent application is granted and provisional consent is to be given, subject to the conditions set out in Appendix A to this decision.

[35] **THE COMMITTEE OF ADJUSTMENT ALSO ORDERS** that the minor variance applications are granted in part and requested variances (b), (c), and (e) 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 April 9, 2025, as they relate to variances (b), (c), and (e). Variances (a) and (d) are not authorized.

*"Ann M. Tremblay"*  
*Supported variances (a) and (d)*  
ANN M. TREMBLAY  
CHAIR

*"John Blatherwick"*  
*Opposed variances (a) and (d)*  
JOHN BLATHERWICK  
ACTING PANEL CHAIR

*Absent*  
SIMON COAKELEY  
MEMBER

*"Arto Keklikian"*  
*Opposed variances (a) and (d)*  
ARTO KEKLIKIAN  
MEMBER

*"Sharon Lécuyer"*  
*Supported variances (a) and (d)*  
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 30, 2025**

*"Matthew Garnett"*  
MATTHEW GARNETT  
ACTING 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 19, 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

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. 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.
2. 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.
3. 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**.
4. 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 Westhaven Crescent, 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.
5. 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."
6. 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, the common party walls, common structural elements such as roof, footings, soffits, foundations.

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.

7. The Owner agrees to convey to the City, at no cost to the City, an unencumbered corner sight triangle, measuring 3 metres along Westhaven Crescent and 9m along Clare Street. 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.
8. That the Owner/Applicant(s) provide a Grading & Servicing Plan showing the locations of existing services and existing protected trees. New services, if required, must be located based on the least impact to protected trees and tree cover to the satisfaction of the **Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or their designate(s).**
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) 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.
11. 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 severance for which the Consent is required.