

DECISION

CONSENT/SEVERANCE AND MINOR VARIANCE

Date of Decision: August 15, 2025
Panel: 1 - Urban
File Nos.: D08-01-25/B-00127 & D08-01-25/B-00128
D08-02-25/A-00141 & D08-02-25/A-00142
Applications: Consent under section 53 of the *Planning Act*
Minor Variance under section 45 of the *Planning Act*
Applicant: L. Abraham
Property Address: 574 Kirkwood Avenue
Ward: 15 - Kitchissippi
Legal Description: Part of Lot 14, Registered Plan 152
Zoning: R4UC
Zoning By-law: 2008-250
Heard: August 6, 2025, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Applicant wants to subdivide the property into two separate parcels of land for the construction of a three-storey, low-rise apartment building containing eight units. The existing low-rise apartment building will remain. The detached garage will be demolished.

CONSENT REQUIRED:

- [2] The Applicant seeks the Committee's consent to sever land. The property is shown as Parts 1 and 2 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 No.	Municipal Address
B-00127	18.98 m (Kirkwood Avenue)	25.74 m	488.5 sq. m	1	574 Kirkwood Avenue (existing low-rise apartment building)
B-00128	18.98 m (Westhaven Crescent)	13.98 m (irregular)	264.3 sq. m	2	174 Westhaven Crescent (proposed low-rise apartment building)

- [3] The proposal does not conform to the requirements of the Zoning By-law and therefore, minor variance applications (File Nos. D08-02-25/A-00141 & D08-02-25/A-00142) have been filed and will be heard concurrently with these applications.

REQUESTED VARIANCES

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

A-00127: 574 Kirkwood Avenue, Part 1 on draft 4R-plan, existing low-rise apartment dwelling:

- a) To permit a reduced rear yard area of 61.6 square metres (12.5% of the lot area), whereas the By-law requires a minimum rear yard area of 122.12 square metres (25% of the lot area).
- b) To permit a reduced rear yard setback of 3.4 metres (13.22% of the lot depth), whereas the By-law requires a minimum rear yard setback of 7.71 metres (30% of the lot depth).
- c) To permit a reduced aggregated rectangular area of soft landscaping in the rear yard of 23.12 square metres, whereas the By-law requires that at least one aggregated rectangular area of soft landscaping be at least 25 square metres.

A-00128: 174 Westhaven Crescent, Part 2 on draft 4R-plan, proposed low-rise apartment dwelling:

- ~~d) To permit a reduced aisle width accessing a bicycle parking space of 0.0 metres, whereas the By-law requires a minimum aisle width accessing a bicycle parking space of 1.5 metres. [Deleted]~~
- e) To permit a reduced front yard setback of 1.5 metres, whereas the By-law requires a minimum front yard setback of ~~7.0 metres~~ **4.5 metres**.

- f) To permit a reduced rear yard area of 61 square metres (23% of the lot area), whereas the By-law requires a minimum rear yard area of 66 square metres (25% of the lot area).
 - g) To permit a reduced rear yard setback of 3.3 metres (23.5% of the lot depth), whereas the By-law requires a minimum rear yard setback of 3.5 metres (25% of the lot depth)
 - h) To permit a reduced area for soft landscaping in the rear yard of 31.2 square metres, whereas the By-law requires a minimum area for soft landscaping in the rear yard of 35 square metres.
 - i) To permit a reduced aggregated rectangular area of soft landscaping in the rear yard of 12.5 square metres, whereas the By-law requires that at least one aggregated rectangular area of soft landscaping be at least 25 square metres.
 - j) To permit a reduced lot area of 264 square metres, whereas the By-law requires a minimum lot area of 300 square metres.
- [5] The property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [6] At the scheduled hearing, the Committee considered a possible adjournment to allow City Planning staff additional time to review a revised site plan filed earlier in the day, and to allow the Applicant time to discuss the City's concerns and requested conditions of provisional consent. Connor Joy, agent for the Applicant, was opposed to an adjournment and explained that he had met with City staff prior to the scheduled hearing and resolved their concerns. The Committee therefore agreed to hear the applications without delay.
- [7] The Panel Chair administered an oath to Mr. Joy, who confirmed that the statutory notice posting requirements were satisfied.

Oral Submissions Summary

- [8] Mr. Joy and Morgan Jones, also acting as 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.
- [9] The Committee noted that minor variance application D08-02-25/A-00128, related to the proposed development at 174 Westhaven Crescent, should be amended as identified in the City's Planning report and as follows:
- e) To permit a reduced front yard setback of 1.5 metres, whereas the By-law requires a minimum front yard setback of ~~7.0 metres~~ **4.5 metres**.

- [10] Mr. Joy also indicated that, based on the revised site plan, the application should be further amended to **delete variance (d)**, as the proposal would now comply with the minimum required aisle width for accessing bicycle parking. With all parties in agreement, the application was amended accordingly.
- [11] Responding to the Committee's questions about parking concerns, Mr. Joy confirmed that parking is not required for the proposed building under the Zoning By-law. He added that the subject lot is near transit and commercial amenities, and that the existing parking is partially located in the City right of way.
- [12] Responding to the Committee's questions, Mr. Jones clarified that the City's requested conditions of provisional consent would satisfy servicing concerns, and that the proposed building would connect to services on Westhaven Crescent. He noted that, in his opinion, the proposal would not have a negative impact on the surrounding area.
- [13] City Planner Penelope Horn noted that staff previously had concerns over the reduction of the aggregate rectangular landscape area, however, in addition to the relocation of the bicycle parking area, those concerns were satisfied through the Applicant's agreement to provide more intensive soft landscaping, including additional trees. Ms. Horn indicated she had no further concerns with the applications.
- [14] Responding to a further question, Mr. Joy confirmed that, following completion of the proposed development, there would be no pedestrian through-access to Kirkwood Avenue from 174 Westhaven Crescent. He raised concerns over the City's requested condition of provisional consent requiring an easement on the severed and retained lands to provide pedestrian access to each street, noting that, in the Applicants' opinion, those easements would not be reasonable or necessary and that connectivity to each street will still be maintained.
- [15] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE:

- **CONSENT APPLICATIONS GRANTED**
- **MINOR VARIANCE APPLICATIONS GRANTED AS AMENDED**

Consent Applications Must Satisfy Statutory Tests

- [16] 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

[17] 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.

Evidence

[18] 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, revised plans, parcel register abstract, tree information report, photo of the posted sign, and a sign posting declaration.
- City Planning Report received July 31, 2025, with concerns.
- Rideau Valley Conservation Authority email dated August 1, 2025, with no objections.
- Hydro Ottawa email dated July 25, 2025, with comments.
- Ontario Ministry of Transportation email dated July 25, 2025, with no comments.
- B. Lamy, resident, email dated July 31, 2025, in opposition.
- E. Wylie, resident, by phone August 6, 2025, in opposition.

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 applications as amended.

- [20] 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.
- [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 also satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [26] The Committee notes the oral submission of the City Planner that concerns raised in the Planning Report regarding the minor variance applications had been adequately addressed, and the City therefore has no further concerns with the applications.
- [27] The Committee also notes that no compelling evidence was presented that the variances would result in any unacceptable adverse impact on neighbouring properties.
- [28] 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.
- [29] 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.
- [30] 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.

- [31] 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.
- [32] **THE COMMITTEE OF ADJUSTMENT THEREFORE ORDERS** that the consent applications are granted, and the provisional consent is to be given, subject to the conditions set out in Appendix A to this decision.
- [33] **THE COMMITTEE OF ADJUSTMENT ALSO ORDERS** that the minor variance applications are granted as amended, 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 revised site plan filed, Committee of Adjustment date-stamped August 6, 2025, and the elevation drawings filed, Committee of Adjustment date-stamped May 28, 2025, as they relate to the requested variances.

Absent
ANN M. TREMBLAY
CHAIR

"John Blatherwick"
JOHN BLATHERWICK
MEMBER

"Colin Haskin"
COLIN HASKIN
MEMBER

"Arto Keklikian"
ARTO KEKLIKIAN
MEMBER

"Sharon Lécuyer"
SHARON LÉCUYER
MEMBER

"Jocelyn Chandler"
JOCELYN CHANDLER
ACTING PANEL CHAIR

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **August 15, 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 September 4, 2025**.

- **OLT E-FILE SERVICE** – An appeal can be filed online through the [E-File Portal](#) . First-time users will need to register for a My Ontario Account. Select [Ottawa (City): Committee of Adjustment] as the Approval Authority. To complete the appeal, fill in all the required fields and provide the filing fee by credit card.
- **BY EMAIL** - Appeal packages can be submitted by email to cofa@ottawa.ca. The appeal form is available on the OLT website at [Forms | Ontario Land Tribunal](#). Please indicate on the appeal form that payment will be made by credit card.
- **IN PERSON** – Appeal packages can be delivered to the Secretary-Treasurer, Committee of Adjustment, 101 CentrepoinTE Drive, 4th floor, Ottawa, Ontario, K2G 5K7. The appeal form is available on the OLT website at [Forms | Ontario Land Tribunal](#). In person payment can be made by certified cheque or money order made payable to the Ontario Minister of Finance, or by credit card. Please indicate on the appeal form if you wish to pay by credit card.

Please note only one of the above options needs to be completed. If your preferred method of appeal is not available at the time of filing, the appeal must be filed with one of the other two options.

The Ontario Land Tribunal has established a filing fee of \$400.00 per type of application with an additional filing fee of \$25.00 for each secondary application.

Only the applicant, the Minister or a specified person or public body that has an interest in the matter may appeal the decision to the Ontario Land Tribunal. A “specified person” does not include an individual or a community association.

There are no provisions for the Committee of Adjustment or the Ontario Land Tribunal to extend the statutory deadline to file an appeal. If the deadline is not met, the OLT does not have the authority to hold a hearing to consider your appeal.

If you have any questions about the appeal process, please visit [File an Appeal | Ontario Land Tribunal](#)

NOTICE TO APPLICANT

Should a Development Agreement be required, such request should be initiated 30 working days prior to lapsing date of the consent and should include all required documentation including that related to transfers, easements, and postponements, and all approved technical studies. If you do not fulfill the conditions of provisional consent within the two-year period, the *Planning Act* provides that your application “shall be deemed to be refused”.

Ce document est également offert en français.

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APPENDIX "A"

1. That the Owner(s) provide evidence that the accompanying minor variance applications (D08-02-25/A-00141-142) have been approved, with all levels of appeal exhausted.
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) enter into an Infrastructure Agreement with the City, at the expense of the Owner(s), to extend, at their own costs, the municipal services on Westhaven Crescent. Securities shall be posted for the necessary works in the City Right-of-Way 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) must also obtain Ministry of the Environment, Conservation and Parks approval for the extension of the municipal services. The Committee shall be provided a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title.
Where the approved Site Servicing Plan demonstrates the infrastructure extension is not required, the **Manager of Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate**, shall deem this condition satisfied.
5. That the Owner(s) provide a Site Servicing Study, prepared by a Professional Civil Engineer, licensed in the Province of Ontario, outlining the municipal servicing requirements 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. That 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 **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

Design the dwelling units with central air conditioning 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 will 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 regarding noise:

- i. "The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns acknowledges being advised that this dwelling unit has been supplied with a central air conditioning system which 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."
- ii. "The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns acknowledges being advised that despite the inclusion of noise control features in this development and within building units, noise levels from 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) satisfy the **Chief Building Official**, or designate, by providing design drawings or other documentation prepared by a qualified designer, that as a result of the proposed severance the existing building at 574 Kirkwood shall comply with the Ontario Building Code, O. Reg. 163/24 as amended, in regards to the limiting distance along the east property line. If necessary, a building permit shall be obtained from Building Code Services for any required alterations.
9. Pursuant to clause 51 (25) (c) of the *Planning Act* and Schedule C16 of the City's Official Plan, the Owner must convey to the City, at no cost to the City, an unencumbered road widening across the complete Kirkwood Avenue frontage of the lands, measuring 13 meters from the existing centerline of pavement. The exact widening must be determined by legal survey. The Owner shall provide a reference plan for registration, indicating the widening, 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 widening. The Committee shall be provided written confirmation from **City Legal Services** that the transfer of the widening to the City has been registered. All costs shall be borne by the Owner.
10. That the Owner/Applicant(s) provide a tree planting plan, prepared to the satisfaction of the **Manager of Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate**, 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.
11. 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.
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 severance for which the Consent is required.