

DECISION

CONSENT/SEVERANCE AND MINOR VARIANCE

Date of Decision:	August 15, 2025
Panel:	1 - Urban
File Nos.:	D08-01-25/B-00152 and D08-02-25/A-00164
Applications:	Consent under section 53 of the <i>Planning Act</i> Minor Variance under section 45 of the <i>Planning Act</i>
Applicant:	AB & B Management Inc
Property Address:	46 Garland Street
Ward:	15 - Kitchissippi
Legal Description:	Part of Lots 40 and 42, Registered Plan 57
Zoning:	LC1 [2256]
Zoning By-law:	2008-250
Heard:	August 6, 2025, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Applicant wants to subdivide their property into two parcels of land to create a new lot for a proposed three-storey stacked dwelling containing six residential units. The existing mixed-use building will remain.

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.
- [3] The severed land, shown as Part 2 on the draft 4R-plan, will have a frontage of 6 metres, a depth of 30.18 metres, and an area of 181.1 square metres. This parcel will be known municipally as 50 Garland Street.
- [4] The retained land, shown as Part 1 on said plan, will have a frontage of 13.92 metres, a depth of 30.18 metres, and a lot area of 420.7 square metres. This parcel is known municipally as 46 Garland Street.

- [5] The proposal will not conform with the requirements of the Zoning By-law and therefore, minor variance applications have been filed and will be heard concurrently with these applications.

REQUESTED VARIANCES

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

A-00164: 50 Garland Street, Part 2 on draft 4R-plan, proposed three-storey stacked dwelling:

- a) To permit a reduced (southeast) interior side yard setback of 0 metres, whereas the By-law requires a minimum interior side yard setback of 1.2 metres.
 - b) To permit a reduced (northwest) interior side yard setback of 0 metres, whereas the By-law requires a minimum interior side yard setback of 1.2 metres.
 - c) To permit a reduced rear yard setback of 5 metres, whereas the By-law requires a minimum rear yard setback of 7.5 metres.
 - d) To permit a reduced width of a landscape buffer abutting a street of 1.5 metres, whereas the By-law requires a minimum width of a landscape buffer abutting a street of 3 metres.
 - e) To permit a reduced front yard setback of 1.5 metres, whereas the By-law requires a minimum front yard setback of 3 metres.
- [7] The property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

Oral Submissions Summary

- [8] Yasaman Bahadori and Jasmine Paoloni, agents 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. Responding to the Committee's questions, Ms. Paoloni clarified that the proposed stacked dwelling design provided the most functional internal layout and allowed for larger units on the upper floors. She noted that the upper floors was designated for the larger units to comply with Ontario Building Code requirements for egress.
- [9] Responding to the Committee's questions regarding service capacity, City Planner Penelope Horn clarified that these applications were circulated to City engineers who identified no concerns with service capacity, and a condition requiring a servicing plan was not deemed necessary. She also explained that services would be reviewed in detail at the building permit stage. Responding to additional questions from the Committee, Ms. Horn noted that the proposed development is

in keeping with the intent of the Zoning By-law and provides desirable intensification, including larger dwelling units, near a transit station.

[10] Responding to the Committee's questions, Ms. Paoloni clarified that the proposed landscape buffer would only be reduced at the front, along the existing sidewalk, and is due to the reduction to the front yard setback.

[11] The Committee also heard oral submissions from the following individuals:

- C. Parrott, representing the Hintonburg Community Association, provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. In her presentation, Ms. Parrott expressed concerns with the accessibility of the larger units, the location of the proposed entrances along the side of the building, the size of the lot and setback reductions, and related impacts on the functionality of the site, and the incompatibility of the proposal with the surrounding neighbourhood.

[12] Responding to concerns raised by Ms. Parrott, Ms. Paoloni reiterated that the larger units were required to be located on the upper floors to meet Ontario Building Code requirements, and submitted that the access to unit entrances on the side of the building would be well lit. Ms. Paoloni further noted that, through the use of building materials and the provision of balconies and windows on the front façade, the proposal would maintain a visual interest along the streetscape. Additionally, she indicated that the proposed reduction of the side yards to 0 metres was recommended by City Planning staff.

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

DECISION AND REASONS OF THE COMMITTEE:

- **CONSENT APPLICATION GRANTED**
- **MINOR VARIANCE APPLICATION REFUSED**

Consent Application Must Satisfy Statutory Tests

[14] 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

[15] 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

[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, plans, tree information report, parcel register abstract, photo of the posted sign, and a sign posting declaration.
- City Planning Report received July 31, 2025, with no 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.
- C. Parrott, Hintonburg Community Association, email dated August 1, 2025, in opposition.

Effect of Submissions on Decision

[17] The Committee of Adjustment considered all written and oral submissions relating to the applications in making its decision and granted the consent application and refused the minor variance application.

[18] The Committee notes that the City's Planning Report raises "no concerns" regarding the consent application, subject to the requested conditions agreed to by the Applicant's agent.

[19] Based on the evidence, the Committee is satisfied that the proposed severance 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.

- [20] The Committee is also satisfied that the proposed severance 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.
- [21] 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.
- [22] Moreover, the Committee is satisfied that the proposed severance has adequate regard for the criteria specified under subsection 51(24) of the *Planning Act* and is in the public interest.
- [23] Based on the evidence, the majority of the Committee (Acting Panel Chair J. Chandler dissenting) is not satisfied that the requested variances meet all four requirements under subsection 45(1) of the *Planning Act*.
- [24] The Committee notes that the City's Planning Report raises "no concerns" regarding the minor variance application.
- [25] Considering the circumstances, the majority of the Committee finds that the proposed development would not fit well in the neighbourhood and that the requested variances are not, 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. Specifically, the majority of the Committee finds that inadequate evidence was presented to demonstrate that the interior side yard setbacks were appropriate for the proposed six-unit stacked dwelling, or that the proposal would align with existing development patterns in the area and be compatible with the existing streetscape.
- [26] The majority of the Committee also finds that the requested variances do not maintain the general intent and purpose of the Zoning By-law because the proposal does not represent orderly development that is compatible with the surrounding area.
- [27] Failing two of the four statutory requirements, the Committee is unable to grant the application.
- [28] **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.
- [29] **THE COMMITTEE OF ADJUSTMENT ALSO ORDERS** that the minor variance application is refused, and the variances are not authorized.

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

Dissent

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 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.
2. 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 on Part 1 on 4R PLAN 57 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.
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.**

5. 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.

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/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.
8. That the Owner(s) satisfy the requirements of **Hydro Ottawa** with respect to the provision of a Common Elements Agreement to provide each property with mutual access, maintenance and cost sharing responsibilities for the electrical supplies.
9. 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 severance for which the Consent is required.