



COMMITTEE OF ADJUSTMENT OF THE CITY OF OTTAWA

DECISION CONSENT

(Section 53 of the *Planning Act*)

File No.:	D08-01-22/B-00170
Owner(s):	2486180 Ontario Inc.
Location:	188 Baribeau Street and 130 Dagmar Avenue
Ward:	12-Rideau-Vanier
Legal Description:	Lots 84 and 85, Reg. Plan No. M-78, Ref. Plan No. 4R-29599, Parts 3 and 4
Zoning:	R4UA
Zoning By-law:	2008-250

Notice was given and a Public Hearing was held on **July 6, 2022**, as required by the *Planning Act*.

PURPOSE OF THE APPLICATION:

In 2015, an Application for Consent (D08-01-15/B-00132) to divide these lands were approved by the Ontario Municipal Board. ~~however, the application was not completed within the statutory timelines.~~ **The properties merged in title when 130 Dagmar Avenue (shown as Parts 1 and 2 on 4R-29599) and 188 Baribeau Street (shown as Part 3 on 4R-29599) came under single ownership in 2021.** The Owner is now re-applying to divide the property into two separate parcels of land, to establish separate ownerships for each of the newly created parcels.

CONSENT IS REQUIRED FOR THE FOLLOWING:

The land to be severed, shown as Parts 1 and 2 on 4R-29599 filed with the application, will have a frontage of 13.77 metres on Dagmar Avenue, a depth of 24.67 metres, and an area of 341.2 square metres. This parcel contains the existing ~~detached duplex dwelling~~ **triplex** and will be known municipally as 130 Dagmar Avenue.

The land to be retained, shown as Part 3 and 4 on the same plan, will have a frontage of 6.27 metres on Baribeau Street, a depth of 17.54 metres, and an area of 199.8 square metres. This parcel contains the existing ~~detached duplex dwelling~~ **triplex** and will be known municipally as 188 Baribeau Street.

Approval of this application will have the effect of creating two separate parcels of land which will not be in conformity with the requirements of the Zoning By-law and therefore,

Minor Variance Application (D08-02-22/A-00147) has been filed and will be heard concurrently with this application.

The Application indicates that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING:

The Panel Chair administered an oath to Eric Bays, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied.

The Panel Chair noted that the description for the purpose of the consent application be amended to read as follows:

In 2015, an Application for Consent (D08-01-15/B-00132) to divide these lands were approved by the Ontario Municipal Board. ~~however, the application was not completed within the statutory timelines.~~ **The properties merged in title when 130 Dagmar Avenue (shown as Parts 1 and 2 on 4R-29599) and 188 Baribeau Street (shown as Part 3 on 4R-29599) came under single ownership in 2021.** The Owner is now re-applying to divide the property into two separate parcels of land, to establish separate ownerships for each of the newly created parcels.

It was also noted that the description for the severed and retained lands be amended as follows:

The land to be severed, shown as Parts 1 and 2 on 4R-29599 filed with the application, will have a frontage of 13.77 metres on Dagmar Avenue, a depth of 24.67 metres, and an area of 341.2 square metres. This parcel contains the existing ~~detached duplex dwelling~~ **triplex** and will be known municipally as 130 Dagmar Avenue.

The land to be retained, shown as Part 3 and 4 on the same plan, will have a frontage of 6.27 metres on Baribeau Street, a depth of 17.54 metres, and an area of 199.8 square metres. This parcel contains the existing ~~detached duplex dwelling~~ **triplex** and will be known municipally as 188 Baribeau Street.

With the concurrence of Mr. Bays, the application was amended accordingly.

In response to questions from the Committee, Mr. Bays confirmed that the development was constructed and completed in 2017 prior to the rezoning of R4E to R4UA (Residential Fourth Density Subzone). The development is now considered to be a legal non-complying use and the requested variances is to allow recreation of the lots under the new R4UA Zone.

Also in attendance was Serene Shahzadeh, also representing the Applicant, and Siobhan Kelly, of the City's Planning, Real Estate and Economic Development Department (PRED).

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

The Committee considered any written and oral submissions relating to the application in making its Decision.

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).

The Committee notes that the City's Planning Report raises "no concerns" regarding the application.

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. 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. 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. 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.

The Committee therefore grants the provisional consent, subject to the following conditions, **which must be fulfilled within a two-year period from the date of this Decision:**

1. That the Owner(s) provide evidence that the accompanying Minor Variance Application (D08-02-22/A-00147) have been approved, with all levels of appeal exhausted.
2. That the owner(s) provide evidence to the satisfaction of the Chief Building Official, or his/her designate by providing design drawings or other documentation prepared by a qualified designer, that as a result of the proposed severance to both existing triplexes on Part 1 and 2 and Part 3 and 4 of Plan 4R-

29599 comply with the Ontario Building Code, O. Reg. 332/12 as amended, in regard to the limiting distance along the easterly side (130 Dagmar Ave) and the westerly side (188 Baribeau St) of the proposed property line. If necessary, the owner(s) shall obtain a building permit from Building Code Services for any required alterations.

3. 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.
4. That upon completion of the above conditions, and **within the two-year period outlined above**, the Owner(s) file with the Committee, the “electronic registration in preparation documents” for a Conveyance for which the Consent is required.

The Consent lapses two years from the date of this Decision.

All technical studies must be submitted to Planning, Real Estate and Economic Development Department a minimum of **40 working days** prior to lapsing date of the consent. Should a Development Agreement be required, such request should be initiated **15 working days** prior to lapsing date of the consent and should include all required documentation including the approved technical studies.

Please note that if a major change to a condition or conditions is requested, you will be entitled to receive Notice of the changes only if you have made a written request to be notified.

NOTICE OF RIGHT TO APPEAL:

To appeal this decision to the Ontario Land Tribunal (OLT), a completed appeal form along with payment must be received by the Secretary-Treasurer of the Committee of Adjustment by **August 4, 2022**, delivered by email at cofa@ottawa.ca and/or by mail or courier to the following address:

Secretary-Treasurer, Committee of Adjustment,
101 CentrepoinTE Drive, 4th floor, Ottawa, Ontario, K2G 5K7

The Appeal Form is available on the OLT website at <https://olt.gov.on.ca/>. The OLT has established a filing fee of \$400.00 per type of application with an additional filing fee of \$25.00 for each secondary application. 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. If you have any questions

about the appeal process, please contact the Committee of Adjustment office by calling 613-580-2436 or by email at cofa@ottawa.ca.

Only individuals, corporations and public bodies may appeal Decisions in respect of applications for consent to the OLT. A notice of appeal may not be filed by an unincorporated association or group. However, a Notice of Appeal may be filed in the name of an individual who is a Member of the Association or group on its behalf.

Please note that there are no provisions for the Committee of Adjustment or the OLT 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.

NOTICE TO APPLICANT:

Applicants are advised to take note of comments received from City departments and other technical agencies like Hydro Ottawa and to consult where appropriate.

**DECISION SIGNATURE PAGE
PAGE DE SIGNATURE DE LA DÉCISION**

File No. / Dossier n°: D08-01-22/B-00170

Owner(s) / Propriétaire(s): 2486180 Ontario Inc.

Location / Emplacement: 188 Baribeau Street and 130 Dagmar Avenue

We, the undersigned, concur in the decision and the reasons set out by the Committee of Adjustment.

Nous, soussignés, souscrivons à la décision et aux motifs rendus par le Comité de dérogation.

“Ann M. Tremblay”

**ANN M. TREMBLAY
CHAIR / PRÉSIDENTE**

“Kathleen Willis”

**KATHLEEN WILLIS
MEMBER / MEMBRE**

“Scott Hindle”

**SCOTT HINDLE
MEMBER / MEMBRE**

“Colin White”

**COLIN WHITE
MEMBER / MEMBRE**

“Julia Markovich”

**JULIA MARKOVICH
MEMBER / MEMBRE**

I certify that this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa.

Je certifie que celle-ci est une copie conforme de la décision rendue par le Comité de dérogation de la Ville d'Ottawa.

Date of Decision / Date de la décision
July 15, 2022 / 15 juillet 2022



Michel Bellemare
Secretary-Treasurer / Secrétaire-trésorier