



**COMMITTEE OF ADJUSTMENT
OF THE CITY OF OTTAWA**

**DECISION
CONSENT**

(Section 45 of the *Planning Act*)

File No.: D08-01-22/B-00183 & D08-01-22/B-00216
Owner(s): Taggart Corporation Ltd.
Location: 257 Lisgar Street
Ward: 14 - Somerset
Legal Description: Lot 43 and Part of Lot 44 South Nepean Street and Part of Lots 42, 43 and 44 North Lisgar Street, Registered Plan 2996
Zoning: R5B[482] F(3.0)
Zoning By-law: 2008-250

Notice was given and a Public Hearing was held on **August 3 and September 21, 2022**, as required by the *Planning Act*.

PURPOSE OF THE APPLICATION:

The Owner wants to convey a portion of their land to the abutting landowner to the west, known municipally as 108 Nepean Street, as shown on plans filed with the Committee.

CONSENT IS REQUIRED FOR THE FOLLOWING:

The Owner requires the Consent of the Committee for a Conveyance, a Maintenance and Joint Use Agreement and Grants of Easements/Rights-of-Way.

The land to be conveyed is shown as Part 3, 4 and 5 on a stratified Draft 4R-Plan filed with the application and will have frontage of 19.03 metres on Nepean Street, a depth of 30.19 metres will contain an area of 572.9 square metres. This property will be conveyed to the abutting property owner to the west, known municipally as 108 Nepean Street.

It is proposed to create an easement over Parts 4 and 5 for the benefit of the owner of the retained lands, for pedestrian and vehicular access.

The lands to be retained, being the remainder of 257 Lisgar Street and shown on said plan, will have frontages of ~~80.46~~ **30.19** metres on O'Connor Street and ~~30.19~~ **80.46** metres on Lisgar Street, and will contain a lot area of 2,429 square metres. This parcel

will contain the existing ten-storey residential apartment building and associated underground parking known municipally as 257 Lisgar Street.

It is proposed to create an easement over Part 7 (D08-01-22/B-00216) for the access ramp and drive aisles of the underground parking garage on the retained land, for the benefit of the owner of the lands to be conveyed.

The applications indicate that the property is subject to the following existing Easements: Instrument No. N493246, being a Transfer Easement in favour of Bell Canada over Part 1 on Plan 5R-11590; Instrument No. N730805, being a Transfer from Taggart Corporation to the Taggart Corporation Ltd.; Instrument No. OC97230, being a Transfer Easement in favour of Rogers Cable Inc. as amended by Instrument No. OC992900.

The applications indicate that the Property is subject of a Zoning By-law Amendment Application (D02-02-21-0042) under the *Planning Act*.

PUBLIC HEARING:

The Chair administered an oath to Darrell Daley, Agent for the Owner, who confirmed that the statutory notice posting requirements were satisfied. Mr. Daley provided the Committee with a brief presentation.

When questioned by the Committee, Mr. Daley stated that a Zoning By-law Amendment Application for the site had been approved by City Council and a related Site Plan Control Application would follow in the near future. In response to a question from the Committee, Mr. Daley confirmed that his client was comfortable proceeding with these applications, which in part will provide access to existing parking facilities, in advance of finalizing a development proposal through the Site Plan Control process.

The Committee noted that the description of the retained lands should be amended to read as follows:

The lands to be retained, being the remainder of 257 Lisgar Street and shown on said plan, will have frontages of ~~80.46~~ **30.19** metres on O'Connor Street and ~~30.19~~ **80.46** metres on Lisgar Street, and will contain a lot area of 2,429 square metres. This parcel will contain the existing ten-storey residential apartment building and associated underground parking known municipally as 257 Lisgar Street.

With the concurrence of Mr. Daley, the applications were amended accordingly.

Siobhan Kelly of the City's Planning, Real Estate and Economic Development Department was also in attendance.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

The Committee considered any written and oral submissions relating to the applications 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 applications.

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 to the satisfaction of the **Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, that the amendment to Zoning By-law 2008-250 for 108 Nepean Street and part of 257 Lisgar Street (By-law 2022-282) is in full force and effect with all levels of appeal exhausted.
2. That the Owner(s) file with the Secretary-Treasurer of the Committee of Adjustment the following:

- a. A copy of the reference plan and/or legal description of the severed land and the deed or instrument conveying the severed land to the owner of the abutting property, known municipally as 108 Nepean Street, so that no new lot is being created, in accordance with paragraph (b) below.
- b. A Certificate of Official attached to the deed/transfer required by paragraph (a) above containing the following endorsement:

“The lands to be severed are for the purpose of a lot addition only to the abutting lands owned by *(insert name)* described as PIN *(insert property identification number)* being Part(s) *(insert numbers)* on Plan *(insert plan number)*, not for the creation of a new lot, and any subsequent transfer, charge or other transaction involving the lands to be severed shall be subject to compliance with Section 50(3) or Section 50(5) of the Planning Act, as applicable. Neither the lands to be severed nor the abutting lands are to be transferred, charged, or otherwise re-conveyed in the future without the other parcel unless a further consent is obtained.

The owner(s) shall cause the lands to be severed to be consolidated on title with the abutting lands and for this condition to be entered on the parcel register for the consolidated parcel as a restriction.”

- c. An undertaking from a solicitor authorized to practice law in the Province of Ontario, and in good standing with the Law Society of Upper Canada, as follows:

“In consideration of, and notwithstanding the issuance of the Certificate under Section 50(12) of the Planning Act in respect to the subject Application for Consent, I undertake on behalf of the Owner, within 30 days of the registration on title of the transfer document containing the endorsement set out in the Certificate of Official issued by the Committee of Adjustment, to file an Application to Consolidate Parcels including the severed land (Part of PIN *(insert number)*) and the abutting land (PIN *insert number*). This PIN consolidation is intended to reinforce the Planning Act stipulation in the condition outlined above that both parcels have merged on Title and cannot be conveyed separately in the future. I further undertake to forward a copy of the registered Application to Consolidate Parcels and a copy of the Consolidated Parcel abstract page(s) to the Committee office within 21 days of the registration of the Application to Consolidate Parcels”.

- d. Where the parcel consolidation stipulated in paragraph (b) and the solicitor's undertaking in paragraph (c) above cannot be completed because the parcels of land to be merged have different estate qualifiers, an application to annex restrictive covenant under Section 118 of the *Land Titles Act* must be registered on the title of both the severed lands and on the abutting parcel that is to be merged. The covenant, which is to be to the satisfaction of the Secretary-Treasurer of the Committee of Adjustment, shall advise all future purchasers that the parcels must be dealt with together and not separately, and contain wording set out below or similar wording acceptable to the Secretary-Treasurer of the Committee of Adjustment:

“These lands have been merged and may not be dealt with separately, without applying for a consent of the Committee of Adjustment.”

In lieu of the undertaking provided in paragraph (c), a replacement undertaking by the solicitor must be filed undertaking on behalf of the owner(s) to register the restrictive covenant on both property titles within 30 days of the registration of the transfer document containing the endorsement of the Certificate of Official issued by the Committee of Adjustment for this application and to file a copy of the registered restrictive covenant with the Committee of Adjustment within 21 days of the registration of the document..

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 the Conveyance, a Maintenance and Joint Use Agreement and Grants of Easements/Rights-of-Way 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 **October 20, 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-00183 & D08-01-22/B-00216
Owner(s) / Propriétaire(s): Taggart Corporation Ltd.
Location / Emplacement: 257 Lisagr Street

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
September 29, 2022 / 29 septembre 2022


Michel Bellemare
Secretary-Treasurer / Secrétaire-trésorier