



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

**DECISION  
CONSENT**

(Section 53 of the *Planning Act*)

**File Nos.:** D08-01-22/B-00127 and D08-01-22/B-00128  
**Owner(s):** Leslie and Richard Kondejewski  
**Location:** 44 and 46 Imperial Avenue  
**Ward:** 17-Capital  
**Legal Description:** Lot 23 and Part of Lot 22, Reg. Plan 189959  
**Zoning:** R3P  
**Zoning By-law:** 2008-250

Notice was given and a Public Hearing was held on **September 21 and October 5, 2022**, as required by the *Planning Act*.

**PURPOSE OF THE APPLICATIONS:**

In 2017, the Committee granted Consent Applications (D08-01-16/B-00419 and D08-01-16/B-00420) to subdivide the property into two separate parcels of land. The applications were not completed within the required statutory timelines. The Owners now wants to proceed to subdivide the property to establish separate ownerships for the existing semi-detached dwelling.

**CONSENT IS REQUIRED FOR THE FOLLOWING:**

The Owners require the Consent of the Committee for Conveyances and Grant of Easement/Right-of-Way.

The property is shown as Parts 1 to 4 on a ~~Draft 4R-Plan~~ Plan 4R-30505 filed with the applications and the separate parcels will be as follows:

File No.	Frontage	Depth	Area	Part Nos.	Municipal Address
B-00127	8.39 m	37.91 m	248.2 sq. m	1	46 Imperial Ave.  (existing semi-detached dwelling)

File No.	Frontage	Depth	Area	Part Nos.	Municipal Address
B-00128	9.94 m	36.91 m	307.2 sq. m	2, 3* and 4	44 Imperial Ave.  (existing semi-detached dwelling)

It is proposed to create a right-of-way over Part 3 for the benefit of the Owners of Part 1 for the purpose of vehicular and pedestrian access, as well as a right-of-way over Part 3 for the benefit of the Owners of 36 and 38 Imperial Avenue.

It should be noted that there is an existing easement/right-of-way over Part 5 as in OC1933434 (on 4R-30505) for the benefit of the Owners of Part 1, and for the benefit of the Owners of Parts 2, 3 and 4 for the purpose of vehicular and pedestrian access.

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

#### **PUBLIC HEARING:**

At the Hearing on September 21, 2022, the Panel Chair administered an oath to Michael Segreto, Agent for the Applicants, who confirmed that the statutory notice posting requirements were satisfied. Upon deliberation on the applications, it was agreed that the applications be adjourned to allow time for the Applicant to provide additional information to provide clarification to the Committee in regard to the irregular share of the proposed easement and the location of Part 4 on the Draft 4R-Plan. With the concurrence of all parties, the applications were adjourned to October 5, 2022.

At the renewed Hearing on October 5, 2022, the Committee heard from Mr. Segreto, who presented the Committee with the previously deposited Registered Plan (4R-30505). The registered plan addressed the concerns the Committee had regarding the location of Part 4 on the Draft 4R-Plan originally filed with the application.

Margot Linker, 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 that payment has been made to the City of Ottawa for cash-in-lieu of the conveyance of land for parkland 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.
2. The Owner(s) shall submit a Trees In Trust application for one new 50mm tree to be planted in the right-of-way in front of 44 Imperial Ave, to enhance the urban tree canopy and streetscape.
3. That the Owner(s) provide proof to the satisfaction of the **Development Review Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or his/her designate**, to be confirmed in writing from the Department to the Committee, 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 to relocate the existing services or construct new services from the City sewers/watermain, at his/her own cost.

4. The Owner(s) shall:

- a. Prepare a noise attenuation study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of the **General Manager, Planning, Real Estate and Economic Development Department, or his/her designate**. The Owner(s) shall also enter into an agreement with the City that requires the Owner to implement any noise control attenuation measures recommended in the approved study. The Agreement will also deal with any covenants/notices recommended in the approved study, that shall be registered on the title 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 Agreement shall be to the satisfaction of the General Manager, Planning, Real Estate and Economic Development Department, or his/her designate. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.
- b. 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 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 acknowledge 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 acknowledge 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."

5. That the Owner(s) enter into a Joint Use, Maintenance and Common Elements Agreement, at the expense of the Owner(s), setting forth the obligations between the Owner(s) and the proposed future owners.

*The Joint Use, Maintenance and Common Elements Agreement shall set forth 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, common areas, common driveways and common landscaping.*

The Owner shall ensure that the Agreement is binding upon all the unit owners and successors in title and shall be to the satisfaction of the **City's Development Review Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or his/her designate, and City Legal Services**. The Committee requires written confirmation that the Agreement is satisfactory to the **City's Development Review Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or his/her designate**, and is satisfactory to **City Legal Services**, as well as a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title.

6. That the Owner(s) provide evidence to the satisfaction of the Chief Building Official, or designate, that the party wall meets the Ontario Building Code, O Reg. 332/12 as amended, which requires a 1-hour fire separation from the basement through to the underside of the roof. Verification from the Building Inspector is required. If necessary, a building permit shall be obtained from Building Code Services for any required alterations.
7. 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.
8. 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 Conveyances and Grant of Easement/Right-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 **November 3, 2022**, delivered by email at [cofa@ottawa.ca](mailto:cofa@ottawa.ca) and/or by mail or courier to the following address:

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 <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](mailto: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.

File Nos.: D08-01-22/B-00127 and D08-01-22/B-00128

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

**File No. / Dossier n°:** D08-01-22/B-00127 and D08-01-22/B-00128  
**Owner(s) / Propriétaire(s):** Leslie and Richard Kondejewski  
**Location / Emplacement:** 44 and 46 Imperial 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.

***“John Blatherwick”***

**JOHN BLATHERWICK**  
**VICE-CHAIR / VICE-PRÉSIDENT**

Absent / Absent

**STAN WILDER**  
**MEMBER / MEMBRE**

***“Heather MacLean”***

**HEATHER MACLEAN**  
**MEMBER / MEMBRE**

***“Michael Wildman”***

**MICHAEL WILDMAN**  
**MEMBER / MEMBRE**

***“Colin White”***

**COLIN WHITE**  
**MEMBER / MEMBRE**

Absent / Absente

**BONNIE OAKES CHARRON**  
**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***  
**October 14, 2022 / 14 octobre 2022**

**Michel Bellemare**  
**Secretary-Treasurer / Secrétaire-trésorier**