



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

**DECISION
CONSENT**

(Section 53 of the *Planning Act*)

File No.: D08-01-22/B-00227 to D08-01-22/B-00229
Owner(s): David Glen McCabe and Alexandra Debra Da Costa
Location: 305 Currell Avenue (686 & 688 Irene Crescent)
Ward: 15- Kitchissippi
Legal Description: Part of Lot 31, Registered Plan 282
Zoning: R4UA
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 APPLICATION:

The owners want to subdivide their property into three separate parcels of land to create three new townhouse dwelling units. The existing dwelling is to remain as one townhouse unit.

CONSENT IS REQUIRED FOR THE FOLLOWING:

The Owner requires the Consent of the Committee for Conveyances, Maintenance and Joint-Use Agreements and Grants of Easements/Rights-of-Ways. The property is shown as Parts 1 to 7 on a Draft 4R-Plan filed with the applications, and the separate parcels will be as follows:

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00227	12.83 m	14.01 m	179.4 sq. m	1, 4 & 5	305 Currell Avenue (unit of a townhouse dwelling)

File No.: D08-01-22/B-00227 & D08-01-22/B-00228 & D08-01-22/B-00229

B-00228	7.18 m	13.84 m	98.6 sq. m	2 & 6	688 Irene Crescent (unit of a townhouse dwelling)
B-00229	11.66 m	13.67 m	160.5 sq. m	3 & 7	686 Irene Crescent (unit of a townhouse dwelling)

It is proposed to establish easements and rights-of-way as follows:

305 Currell Avenue:

- Over Part 4 in favour of Parts 2 and 6 for underground services
- Over Part 5 for the benefit of Parts 3 and 7 for underground services
- Over Part 5 for the benefit of Parts 2 and 6 for pedestrian access.

688 Irene Crescent:

- Over Part 6 in favour of Parts 3 and 7 for underground services.

686 Irene Crescent:

- Over Part 7 in favour of Parts 2 and 6 for parking.

Approval of these applications will have the effect of creating three separate parcels of land. The proposed parcels and development will not be in conformity with the requirements of the Zoning By-law and therefore, Minor Variance Applications (D08-02-22/A-00217, D08-02-22/A-00218 and D08-02-22/A-00219) have been filed and will be heard concurrently with these applications.

PUBLIC HEARING:

Prior to the Hearing on September 21, 2022, the Committee received an adjournment request from Craig Hamilton, of the City's Planning, Real Estate and Economic Development Department (PRED), to allow for additional time for the parties to discuss servicing corridors. At the Hearing, the Committee heard from James Colizza, Agent for the Applicants, who was in agreement with the adjournment requested by the City Planner. With the concurrence of all parties the application was adjourned to the Hearing scheduled for October 5, 2022.

At the renewed Hearing on October 5, 2022, the Panel Chair administered an oath to Mr. Colizza, who confirmed that the statutory notice posting requirements were satisfied. Mr. Colizza provided the Committee with a full presentation.

File No.: D08-01-22/B-00227 & D08-01-22/B-00228 & D08-01-22/B-00229

The Committee heard from Mr. Hamilton who confirmed that the servicing corridor had been clarified and the department had no further concerns with the applications. Mr. Hamilton further explained that the severance would create two new front lot lines for the interior units of the townhouse dwelling but the change would not result in any change in the performance standards.

The Committee also heard from Heather Mitchel, of the Westboro Community Association, who stated that the association was in support of the applications.

Also in attendance was Nancy Young, Infill Forester, who requested that any approval made by the Committee be tied to the revised site plan, which had been revised to shift the walkway and driveway out of the Critical Root Zones of the retained trees to allow for better protection.

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;

File No.: D08-01-22/B-00227 & D08-01-22/B-00228 & D08-01-22/B-00229

- (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.

File No.: D08-01-22/B-00227 & D08-01-22/B-00228 & D08-01-22/B-00229

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 Applications (D08-02-22/A-00217, D08-02-22/A-00218 and D08-02-22/A-00219) has been approved, with all levels of appeal exhausted.
2. That the Owner(s) provide evidence that payment has been to the City of Ottawa for cash-in-lieu of the conveyance of land for park 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. 2009-95, as amended.
3. The Owner(s) shall enter into an Agreement with the City, through a Development Agreement or Letter of Undertaking, at the expense of the Owner(s) and to the satisfaction of the Development Review Manager of the relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate, agreeing to prepare and implement the tree planting plan and to provide securities in the amount of \$400 per tree for a period of 1 year from the issuance of the final occupancy permit. Compensation for any trees which cannot be planted on site will be paid to Forestry Services with the tree permit application.
4. That the Owner(s) provide a servicing plan or other evidence, 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 building and/or unit on the severed and retained parcels has its own independent water, sanitary and sewer connection, as appropriate, that are directly connected to City infrastructure and do not cross the proposed severance line.
5. That the Owner(s) enter into a Joint Use, Maintenance and Common Elements, 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.

File No.: D08-01-22/B-00227 & D08-01-22/B-00228 & D08-01-22/B-00229

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 **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 **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) shall provide evidence 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, has been submitted 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. The grading and drainage plan shall delineate existing and proposed grades for both the severed and retained properties, 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**.
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, Maintenance and Joint-Use Agreements and Grants of Easements/Rights-of-Ways 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.

File No.: D08-01-22/B-00227 & D08-01-22/B-00228 & D08-01-22/B-00229

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 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.

File No.: D08-01-22/B-00227 & D08-01-22/B-00228 & D08-01-22/B-00229

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

File No. / Dossier n°: D08-01-22/B-00227 to D08-01-22/B-00229
Owner(s) / Propriétaire(s): David Glen McCabe and Alexandra Debra Da Costa
Location / Emplacement: 305 Currell Avenue (686 & 688 Irene Crescent)

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