



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

**DECISION  
CONSENT**

(Section 45 of the *Planning Act*)

**File No.:** D08-01-22/B-00136  
**Owner(s):** Tolou Group Inc.  
**Location:** 308 Atlantis Avenue  
**Ward:** 15-Kitchissippi  
**Legal Description:** Lot 214, Reg. Plan 4M-29  
**Zoning:** R3E  
**Zoning By-law:** 2008-250

Notice was given and a Public Hearing was held on **June 15 and October 19, 2022**, as required by the *Planning Act*.

**PURPOSE OF THE APPLICATION:**

At its Hearing on June 15, 2022, the Committee adjourned this application to permit the Owner time to address the concerns of both the Planning, Real Estate and Economic Development Department and the Forestry Services Branch. The Owner has revised the Minor Variance Applications and wants to proceed with the applications.

The Owner wants to subdivide their property into two separate parcels of land. The existing detached dwelling is to remain on one parcel, and to construct a new two-storey detached dwelling on the other parcel.

**CONSENT IS REQUIRED FOR THE FOLLOWING:**

The Owner requires the Consent of the Committee for a Conveyance.

The land to be severed, shown as Part 2 on a Draft 4R-Plan filed with the application, will have a frontage of 7.91 metres on Atlantis Avenue, a depth of 30.47 metres, and an area of 241.0 square metres. This parcel will contain the new two-storey detached dwelling and will be known municipally as 310 Atlantis Avenue.

The land to be retained, shown as Part 1 on the same plan, will have a frontage of 7.33 metres on Atlantis Avenue, a depth of 30.47 metres, and an area of 233.4 square metres. This parcel will contain the existing detached dwelling and will be known municipally as 308 Atlantis Avenue.

Approval of this application will have the effect of creating two separate parcels of land which, along with the proposed development, will not be in conformity with the requirements of the Zoning By-law and therefore, Minor Variance Applications (D08-02-22/A-00118 & D08-02-22/A-00119) have been filed and will be heard concurrently with this application.

### **PUBLIC HEARING:**

Prior to the Hearing on June 15, 2022, the Committee received an adjournment request from Craig Hamilton of the City's Planning, Real Estate and Economic Development Department (PRED), on the basis that additional variances and a Tree Information Report were required. At the Hearing, the Committee heard from Joseph Vahidi, Agent for the Applicant, who confirmed that he would seek the additional variances identified by the City Planner and was in agreement with the adjournment requested by the department. With the concurrence of all parties the application was adjourned *sine die*.

At the renewed Hearing on October 19, 2022, the Panel Chair administered an oath to Mr. Vahidi, who confirmed that the statutory notice posting requirements were satisfied. Mr. Vahidi provided the Committee with a brief presentation explaining that since the original Hearing in June, the plans had been revised to protect the two trees at the front of the new dwelling.

The Committee heard from Mr. Hamilton, of the City's PRED, who explained that the initial concerns regarding the reduced interior side yard in relation to the tree had been alleviated with the submission of revised plans. The department still has minor concerns with the reduced side yard setback, but notes that access is still provided to the rear yard through the larger side yard.

The Committee heard from Haley Murray, the City's Infill Forester, who confirmed that she was satisfied with the revisions to the plans to protect trees #1 and #3. In reference to the Planning Report on file, Ms. Murray confirmed that the condition requiring an Arborist's report to release securities held against trees #1 and #3 was duplicated, and one of the conditions could be removed. It was further confirmed that the condition requiring a revised grading and drainage plan showing the excavation being outside the critical root zone of trees #1 and #3 could also be removed, as the applicant had already submitted the plan.

Also in attendance was Patricia Le Saux, representing the Westboro Beach Community Association. Ms. Le Saux expressed that the association was in support of the proposed development. Josh Svatek, of 314 Atlantis Avenue and Rod Thiessen, of 304 Atlantis Avenue, also were in attendance and spoke in favour of the application.

**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 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 the accompanying Minor Variance Applications (D08-02-22/A-00118 & D08-02-22/A-00119) have been approved, with all levels of appeal exhausted.
2. That the Owner(s) grant to Hydro Ottawa without cost, such easements as may be required, the consent to the registration of which is hereby granted
3. 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 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. 2022-280.

4. Prior to the issuance of a building permit, the Owner/Applicant(s) shall enter into a Development Agreement or a Letter of Undertaking (LOU) with the City of Ottawa, at the expense of the Owner/Applicant(s), and to the satisfaction of the **General Manager of the Planning, Real Estate, and Economic Development Department, or his/her designate**. A development agreement is to be registered on Title of the property (where applicable), which will include the mitigation measures outlined in the approved Tree Information Report, prepared by IFS Associates dated July 19, 2022, and associated security for tree protection. The Development Agreement 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**.
  - a. The Owner(s) agree to provide securities for a period of 3 years following the completion of construction, which is equivalent to the value of the trees to be protected (trees #1 and #3). The Owner(s) agree that the security shall be returned to the owner only upon the City having received a report from an arborist or appropriate professional confirming for both trees #1 and #3, that they are in good health and condition, and remain structurally stable. The Owner(s) acknowledge and agree that if, in the opinion of the **City Forester and/or the General Manager, Planning, Real Estate, and Economic Development**, the report indicates that either or both trees #1 or #3 are declining and must be removed, the Security for that tree, will be forfeited. That the Owner(s) enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the **General Manager, Planning, Real Estate and Economic Development Department, or his/her designate** to address the following:
5. Prior to the severance of the subject property, that the Applicant provide proof the existing deck and stairways crossing the proposed severance line have been modified to be contained on the retained lot and to be zoning compliant, **to the satisfaction of the General Manager of the Planning, Real Estate and Economic Development Department, or his/her designate**.
6. 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. Owner(s) will be required to relocate the existing services or construct new services from the City sewers/watermain, at his/her own cost.

7. 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**.
8. That the Owner(s) provide 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 the accessory structure has been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law. (Existing garage to be demolished).
9. That the Owner(s) provide 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 the existing structure straddling the proposed severance line has been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law. (Existing deck at 308 Atlantis Ave. currently crosses the proposed severance line)
10. That the Owner(s) enter into an Agreement with the City, at the expense of the Owner(s), which is to be registered on the Title of the property, to deal with the following covenant/notice that shall run with the land and bind future owners on subsequent transfers:

"The property is located next to lands that have an active railway line now, or may have one in the future, and may therefore be subjected to noise and other activities associated with this use."

The Committee requires a copy of the Agreement and **written confirmation from City Legal Services** that it has been registered on title. (Within 500m from future LRT line)

11. The Owner(s) shall prepare a noise and vibration 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 enter into an agreement with the City that requires the Owner to implement any noise control and vibration 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 land 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 (arterial, highway, airport, etc.). 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. (Within 75m from future LRT line. Within 100m from current Transitway)
12. 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.
13. 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 **November 17, 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.



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

**File No. / Dossier n°:** D08-01-22/B-00136  
**Owner(s) / Propriétaire(s):** Tolou Group Inc.  
**Location / Emplacement:** 308 Atlantis 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**

***“Stan Wilder”***

**STAN WILDER  
MEMBER / MEMBRE**

***“Heather MacLean”***

**HEATHER MACLEAN  
MEMBER / MEMBRE**

Absent / Absente

**BONNIE OAKES CHARRON  
MEMBER / MEMBRE**


***“Michael Wildman”***

**MICHAEL WILDMAN  
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 28, 2022 / 28 octobre 2022**

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