

**DECISION  
CONSENT**

Section 53 of the *Planning Act*

<b>Date of Decision</b>	November 10, 2022
<b>File No.:</b>	D08-01-22/B-00289
<b>Owner(s):</b>	Elaine Wong
<b>Location:</b>	75 Second Avenue
<b>Ward:</b>	17 - Capital
<b>Legal Description:</b>	Lot 23, North Side Second Avenue, Registered Plan 35085
<b>Zoning:</b>	R3Q[1474]
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	November 2, 2022

**PURPOSE OF THE APPLICATION**

- [1] The Owner wants to create an easement and right-of-way to facilitate vehicular access to the rear yard for the adjacent properties to the east (73B & 73A Second Avenue). The Owners of 73B Second Avenue have filed a reciprocal application to create an easement and right-of-way (D08-01-22/B-00290).

**CONSENT IS REQUIRED FOR THE FOLLOWING**

- [2] The Owner requires the Consent of the Committee for a Grant of Easement/Right-of-Way.
- [3] It is proposed to create an Easement and Right-of-Way over Part 1 on the Draft 4R-Plan in favour of Part 2 on the Draft Plan & Part 2 on 4R-12766 (73B Second Avenue) and Part 1 on 4R-12766 (73A Second Avenue).
- [4] The application indicates that Parts 3 and 4 of Lot 22 are subject to an existing easement/ right-of-way as in LT1032087.
- [5] The application indicates that the Property is not the subject of any other current application under the *Planning Act*.

## **PUBLIC HEARING**

- [6] The Panel Chair administered an oath to Diane Clarice Kramer, Agent for the Owner, who confirmed that the statutory notice posting requirements were satisfied. Ms. Kramer briefly summarized the intent of the proposed easement and right-of-way.

## **DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED**

- [7] The Committee considered any written and oral submissions relating to the application in making its Decision.
- [8] 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):

[9] **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).

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

[11] 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, 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.

[12] THE COMMITTEE OF ADJUSTMENT 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) 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 easement/right-of-way land. If the Registered Plan does not indicate the 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.

2. 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 Grant of Easement/Right-of-Way for which the Consent is required.

*“John Blatherwick”*  
JOHN BLATHERWICK  
VICE-CHAIR

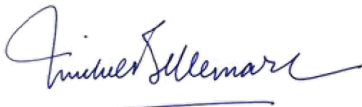
*“Stan Wilder”*  
STAN WILDER  
MEMBER

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HEATHER MACLEAN  
MEMBER

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BONNIE OAKES CHARRON  
MEMBER

*“Michael Wildman”*  
MICHAEL WILDMAN  
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **November 10, 2022**.



Michel Bellemare  
Secretary-Treasurer

## 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 **December 1, 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 Ontario Land Tribunal 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 Ontario Land Tribunal. 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.

There are no provisions for the Committee of Adjustment or the Ontario Land Tribunal 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.

If a major change to condition(s) is requested, you will be entitled to receive Notice of the changes only if you have made a written request to be notified.

## NOTICE TO APPLICANT(S)

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.

*Ce document est également offert en français.*

**Committee of Adjustment | Comité de dérogation**

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