

**DECISION
CONSENT**

Section 53 of the *Planning Act*

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|---------------------------|-------------------------------|
| Date of Decision | November 10, 2022 |
| File No(s): | D08-01-22/B-00269 |
| Owner(s): | Leslie Lisk and Dympna Guarna |
| Location: | 1992 Alta Vista Drive |
| Ward: | 18-Alta Vista |
| Legal Description: | Lot 80, Registered Plan 550 |
| Zoning: | R1GG |
| Zoning By-law: | 2008-250 |
| Hearing Date: | November 2, 2022 |

PURPOSE OF THE APPLICATION

- [1] The Owners want to subdivide their property into two separate parcels of land for future development for one of the parcels. The existing detached dwelling will remain on the other parcel.
- [2] At its hearing on October 5, 2022, the Committee adjourned application D08-01-22/B-00269 to allow the Owners time to revise the plans and identify additional variances. The Owners have submitted revised material and wish to proceed with the application.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [3] The Owners require the Consent of the Committee for a Conveyance.
- [4] The severed land, shown as Part 1 on a draft 4R plan filed with the application, will have a frontage of 13.94 metres, a depth of 18.21 metres and will contain a lot area of 266.1 square metres. This parcel will contain a proposed detached dwelling and will be known municipally as 226 Crestview Road.
- [5] The retained lands, shown as Part 2 on said draft plan, will have frontages of 18.29 metres on Alta Vista Drive and 22.01 metres on Crestview Road and will contain a lot area of 377.7 square metres. This parcel will contain the existing detached dwelling and will be known municipally as 1992 Alta Vista Drive.

- [6] Approval of this application will have the effect of creating two separate parcels of land. One proposed lot and one proposed dwelling will not be in conformity with the requirements of the Zoning By-law and therefore, Minor Variance Applications (D08-02-22/A-00255, D08-02-22/A-00256) have been filed and will be heard concurrently with this application.

PUBLIC HEARING

- [7] The Acting Chair administered an oath to Christopher Simmonds, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied.
- [8] In response to questions from the Committee, Mr. Simmonds confirmed that the new proposed detached dwelling would be constructed in accordance with the provisions of the Zoning By-law.
- [9] Jacob Bolduc, also representing the Applicant and Cass Schlauzero of the City's Planning, Real Estate and Economic Development Department, were also in attendance.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

- [10] The Committee considered any written and oral submissions relating to the application in making its Decision, including letters of opposition submitted by area residents and Faircrest Heights Community Association.
- [11] 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):

[12] 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).

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

[14] 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.

[15] 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) provide evidence that the accompanying Minor Variance Applications (D08-02-22/A-00255 and D08-02-22/A-00256) have been approved, with all levels of appeal exhausted.
2. 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, as amended. Information regarding the appraisal process can be obtained by contacting the Planner.
3. That the Owner(s) enter into an Agreement with the City, through a Letter of Undertaking, 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:
 - a) The Owner(s) shall prepare and submit/implement a tree planting plan, prepared 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**, showing the location of one new 50 millimetre tree to be planted on the property frontage or right of way of each lot following construction, to enhance the urban tree canopy and streetscape.
 - b) The Owner(s) agrees to provide securities for a period of three years following the completion of construction, which is equivalent to the value of the tree to be protected (Tree 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 Tree 3, is in good health and condition, and remains structurally stable. The Owner(s) acknowledges 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 Tree 3 is declining and must be removed, the security for that tree will be forfeited.

- c) The Owner(s) agrees to provide a Tree Information Report to the satisfaction of the General Manager of the Planning, Real Estate and Economic Development Department, or his/her designate. This report shall be prepared by an Arborist, identifying all trees protected under the City's Tree Protection By-law, and meeting the standards of the City's Tree Information Report Guidelines, including specific mitigation measures where work is proposed within the Critical Root Zone of a protected tree.
4. That the Owner(s) provide evidence to the satisfaction the **General Manager within 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 frame porch on the proposed severance line has been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law.
5. That the Owner(s) provide evidence (servicing plan), to the satisfaction of the **General Manager within Planning, Real Estate and Economic Development Department, or his/her designate**, to be confirmed in writing from the Department to the Committee, that both the severed and retained parcels have their own independent water, sanitary and sewer connection, as appropriate, and that these services do not cross the proposed severance line and are connected directly to City infrastructure. If they do cross the proposed severance line, or they are not independent, the Owner(s) will be required to relocate or construct new services from the city sewers and/or watermain at his/her own costs.
6. The Owner(s) shall prepare a noise attenuation study (or noise and vibration attenuation study if applicable) in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of **General Manager within 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 if applicable) attenuation measures recommended in the approved study. The Committee requires a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title.
7. That the Owner(s) provide evidence to the satisfaction of the **General Manager within 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 structures (sheds) have been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law.
8. 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 **General Manager within 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 General Manager within Planning, Real Estate and Economic Development Department, or his/her designate.

9. That the Owner convey a 5 metre x 5 metre corner sight triangle located at the intersection of Crestview Road and Alta Vista Drive to the City, with all costs to be borne by the Owner(s), to the satisfaction of the Surveys and Mapping Branch of the City. This area will be free of all structures, plantings, etc. and will allow a proper sighting distance for motorists when performing turning movements within the intersection. The Committee must receive written confirmation from **City Legal Services** that the transfer of the lands to the City has been registered.
10. 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 areas, common driveways, common landscaping, and common drainage infrastructure.

The Owner shall ensure that the Agreement is binding upon all the unit owners and successors in title and shall be to the satisfaction the **General Manager within 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 the **General Manager within 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.

If the **General Manager within Planning, Real Estate and Economic Development Department, or his/her designate** has reviewed all proposed plans including but not limited to the site plan, the grading plan, and the servicing plan and has determined that there are no shared elements, they may determine that a Joint Use, Maintenance and Common Elements Agreement is no longer necessary, and this condition shall be deemed as fulfilled.

11. That the Owner(s) satisfy the Chief Building Official, or designate, by providing design drawings or other documentation prepared by a qualified designer, that as a result of the proposed severance the existing detached dwelling on part 2 of Draft Plan 4R shall comply with the Ontario Building Code, O. Reg. 332/12 as amended, regarding the limiting distance along the westerly side (1992 Alta Vista Drive) of the proposed property line. If necessary, a building permit shall be obtained from Building Code Services for any required alterations.
12. 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.
13. That the Owner(s) grant to Bell Canada without cost, such easements as may be required, the consent to the registration of which is hereby granted.
14. 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.
15. 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.

Absent
ANN M. TREMBLAY
CHAIR

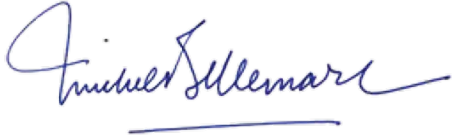
“Kathleen Willis”
KATHLEEN WILLIS
MEMBER

“Colin White”
COLIN WHITE
MEMBER

“Scott Hindle”
SCOTT HINDLE
ACTING CHAIR

“Julia Markovich”
JULIA MARKOVICH
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 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 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.

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

City of Ottawa | Ville d'Ottawa

Ottawa.ca/CommitteeofAdjustment | Ottawa.ca/Comitedederogation

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613-580-2436