

DECISION**CONSENT**Section 53 of the *Planning Act*

Date of Decision December 16, 2022
File No(s): ~~D08-01-22/B-00299~~
D08-01-22/B-00300 to D08-01-22/B-00302
Owner(s): 4176855 Canada Inc.
Location: 432 and 436 Ravenhill Avenue
Ward: 15-Kitchissippi
Legal Description: Part of Lots 10 and 11, West Cole Avenue, Registered Plan 235
Zoning: R3R[2687] H(8.5) and R4UA[2686] H (8.5)
Zoning By-law: 2008-250
Hearing Date: December 7, 2022

PURPOSE OF THE APPLICATION

- [1] The Owner wants to subdivide its property into three separate parcels of land for the construction of three detached dwellings. The existing semi-detached dwelling at 436 Ravenhill Avenue will be retained and the detached garage in the rear yard will be demolished.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Consent of the Committee for Conveyances and Grant of Easement/Right-of-Way. The property is shown as Part 1 to Part 7 on Draft-4R plan filed with the applications.

~~D08-01-22/B-00299, Parts 2, 4, 6 and 7 on the draft 4Rplan (existing driveway)~~

~~The lands to be severed (existing driveway) at 436 Ravenhill Avenue will have a frontage of 4.64 metres on Ravenhill Avenue to an irregular depth and will contain a lot area of 224 square metres and will be conveyed to the abutting property to the east known municipally as 432 Ravenhill Avenue (Parts 1, 3 and 5 on the draft 4Rplan).~~

- [3] **The applicant has revised its plans and withdrawn Consent Application File No. D08-01-22/B-00299.** The lands to be retained will have a frontage of 5.38 metres **on Ravenhill Avenue**, to a depth of 24.49 metres and will contain a lot

area of 136 square metres. This parcel contains one half of an existing semi-detached dwelling and will be known municipally as 436 Ravenhill Avenue (Part of Part 2 5R-4055).

File No.	Frontage	Depth	Area	Part Nos.	Municipal Address
B-00300	12.05 m (Cole Ave.) 19.98 m (Ravenhill Ave.)	20.06 m	241 sq. m.	1 & 2	432 Ravenhill Ave. (proposed detached dwelling)
B-00301	12.78 m (Cole Ave.)	26.24 m	319 sq. m.	5, 6 & 7	458 Cole Ave. (proposed detached dwelling)
B-00302	11.16 m (Cole Ave.)	20.23 m	225 sq. m.	3 & 4	454 Cole Ave. (proposed detached dwelling)

- [4] It is proposed to create an Easement/Right-of-Way over Part 2 in favour of Parts 3 to 7 **and 436 Ravenhill Avenue**, and over Part 4 in favour of Parts 5, 6 and 7 **and 436 Ravenhill Avenue**, for pedestrian and vehicular access.
- [5] The Application indicates that there is an existing easement (Instrument Number NS105349) to provide access to a rear yard parking space at 438 Ravenhill Avenue.
- [6] Approval of these applications will have the effect of creating three separate parcels of land. 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-00185 to D08-02-22/A-00188) have been filed for three of the proposed parcels, dwellings, and **for the retained parcel and semi-detached dwelling** which will not be in conformity with the requirements of the Zoning By-law and will be heard concurrently with these applications.

PUBLIC HEARING

- [7] Prior to the scheduled Hearing on November 2, 2022, the Committee received an adjournment request from Kathleen Klassen of 438 Ravenhill Avenue for additional

time to discuss the application with her solicitor. Debbie Bellinger, solicitor for Ms. Klassen, raised concerns relating to the shared laneway.

- [8] Murray Chown and Ryan Poulton, Agent for the Applicants, and Bryan Ernst and Kevin McMahon, Owners of the property, were also in attendance. Mr. McMahon highlighted efforts to consult with Ms. Klassen and Ms. Bellinger since August 2022 and indicated the proposal would not be amended. Mr. McMahon requested that the hearing of the applications proceed as scheduled. Mr. Chown highlighted that Ms. Klassen had ample time to discuss the matter with all parties and that adjourning the application would not accomplish anything. He also requested that the hearing of the applications proceed as scheduled. Ms. Bellinger emphasized that the applications are complex and that an adjournment would be appropriate.
- [9] After some discussion, the Committee agreed that the applications be adjourned to December 7, 2022, to allow time for Ms. Bellinger and Ms. Klassen to further discuss their concerns with the Applicant.
- [10] At the Hearing on December 7, 2022, the Panel Chair administered an oath to Mr. Ernst who confirmed that the statutory notice posting requirements were satisfied.
- [11] The Committee noted the Applicant withdrew Application File No. D08-01-22/B-00299 and highlighted the following amendments:

~~D08-01-22/B-00299, Parts 2, 4, 6 and 7 on the draft 4Rplan (existing driveway)~~

~~The lands to be severed (existing driveway) at 436 Ravenhill Avenue will have a frontage of 4.64 metres on Ravenhill Avenue to an irregular depth and will contain a lot area of 224 square metres and will be conveyed to the abutting property to the east known municipally as 432 Ravenhill Avenue (Parts 1, 3 and 5 on the draft 4Rplan).~~

The lands to be retained will have a frontage of 5.38 metres **on Ravenhill Avenue**, to a depth of 24.49 metres and will contain a lot area of 136 square metres. This parcel contains one half of an existing semi-detached dwelling and will be known municipally as 436 Ravenhill Avenue (Part of Part 2 5R-4055).

- [12] With respect to the proposed easement, the amendments are as follows:

It is proposed to create an Easement/Right-of-Way over Part 2 in favour of Parts 3 to 7 **and 436 Ravenhill Avenue**, and over Part 4 in favour of Parts 5, 6 and 7 **and 436 Ravenhill Avenue**, for pedestrian and vehicular access.

- [13] The Committee also noted that upon approval of the applications the following be amended to read as follows:

Approval of these applications will have the effect of creating three separate parcels of land. 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-00185 to D08-02-22/A-00188) have been filed for three of the proposed parcels, dwellings, and **for the retained parcel and semi-detached dwelling** which will not be in conformity with the requirements of the Zoning By-law and will be heard concurrently with these applications.

- [14] With the concurrence of Mr. Poulton, the applications were amended accordingly.
- [15] Mr. Poulton provided the Committee with a slide presentation that included 3D renderings, aerial photographs, draft plans, architectural plans, and a landscape plan.
- [16] The Committee also heard from Ms. Bellinger, who highlighted the definition of a “planned unit development” under the Zoning By-law as “two or more residential use buildings on the same lot” with certain exceptions. Ms. Bellinger believed the proposed development should be reviewed as a planned unit development because the properties had merged on title and are now considered to be a single lot. She also raised concerns about adverse impacts on surrounding properties because of no rear yard setbacks and rear yard buffering, encroachment of decks into the rear yard, shared services with 436 Ravenhill, inconsistency with the streetscape character, garbage collection, and snow removal. Ms. Bellinger believed the proposed development is not minor nor consistent with the intent and purpose of the Zoning By-law.
- [17] Ms. Klassen also expressed concerns regarding impact on the streetscape character, loss of privacy, loss of an existing hedge, and problematic sharing of the existing laneway.
- [18] In response to questions from the Committee, Ms. Klassen confirmed that, if approved, the laneway will no longer be functional because access would be challenging because of the turning radius and little space for larger vehicles to maneuver.
- [19] Mr. Chown emphasized the proposed development will not alter the configuration nor the functionality of access to the rear yard. He stated that the amount of proposed soft landscaping is more than required. He also stated the proposal is not considered a “planned unit development”.
- [20] Regarding the City’s requested conditions, Mr. Poulton asked that the wording for the Joint Use Maintenance Agreement be modified as to apply only to shared elements. City Planner M. Linker agreed.
- [21] Ms. Linker confirmed that the department opposes the consent and minor variance applications and summarized the concerns outlined in her Planning Report, noting the cumulative impact of this configuration to on-site soft landscaping and the impact of rear-facing balconies and reduced rear yards on 436 Ravenhill Avenue. It was her opinion that the proposed development does not meet all four statutory

requirements for the concurrent minor variance applications, and in particular, does not maintain the general intent and purpose of both the Zoning By-law and Official Plan.

[22] Responding to the Committee's questions, Ms. Linker confirmed that a Zoning By-law Amendment is not required in this case. Ms. Linker also confirmed the proposed application before the Committee is not considered a "planned unit development".

[23] City Planner Jean-Charles Renaud highlighted the importance of imposing the revised requested condition relating to the Joint Use and Maintenance Agreement should the Committee approve the applications.

[24] Also in attendance was Marc Lemay, lawyer for the Applicants.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS REFUSED

[25] The Committee considered all written and oral submissions relating to the applications in making its Decision.

[26] 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):

[27] 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).

[28] The Committee notes that the City's Planning, Real Estate and Economic Development Department "opposes" the applications. The Planning Report highlights that: "With respect to the criteria for the subdivision of land listed in Section 51(24) of the *Planning Act*, Staff have some concerns with the requested severance. It appears that there are no similar lot sizes that are occupied by single- detached dwellings within the immediate surrounding neighbourhood. As it relates to the cumulative impact of the requested variances, Staff do not believe the size and shape of the proposed lots are suitable for the use of the land as they will not accommodate development that will maximize the overall availability of greenspace and soil volume on site and will negatively impact the semi-detached dwelling located at 436 Ravenhill Avenue.

[29] Based on the evidence, the Committee is not 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 not 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 not satisfied that the proposal has adequate regard for the criteria specified under subsection 51(24) of the *Planning Act* or is in the public interest.

[30] THE COMMITTEE OF ADJUSTMENT therefore does not grant the provisional consent.

"John Blatherwick"
JOHN BLATHERWICK
VICE-CHAIR

Absent
STAN WILDER
MEMBER

"Heather MacLean"
HEATHER MACLEAN
MEMBER

"Bonnie Oakes Charron"
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 **December 16, 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 **January 5, 2023**, 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 the applicant, the Minister or a specified person or public body that has an interest in the matter may appeal the decision to the Ontario Land Tribunal. A “specified person” does not include an individual or a community association.

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
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