

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

Date of Decision December 16, 2022
File No(s): D08-01-22/B-00320 to D08-01-22/B-00322
Owner(s): Sam Falsetto
Location: 524 MacLaren Street
Ward: 14 - Somerset
Legal Description: Lot 22A (Lots South MacLaren Street), Registered Plan 27293
Zoning: R4UD[733]
Zoning By-law: 2008-250
Hearing Date: December 7, 2022

PURPOSE OF THE APPLICATIONS

- [1] The Owner wants to subdivide their property into three separate parcels of land to create two new lots for residential development.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Consent of the Committee for Conveyances. The property is shown as Parts 1 to 3 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-00320	9.01 m	22.28 m	200.7 sq. m	Part 1	528 MacLaren Street (Proposed low-rise apartment)
B-00321	8.31 m	22.29 m	185.2 sq. m	Part 2	524 MacLaren Street (Existing two-storey detached dwelling)

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00322	10.98 m	17.34 m	190.4 sq. m	Part 3	352 Lyon Street North (Proposed low-rise apartment)

- [3] Approval of these applications will have the effect of creating three separate parcels of land which will not be in conformity with the requirements of the Zoning By-law and therefore, Minor Variance Applications (D08-02-22/A-00311 to D08-02-22/A-00313) have been filed and will be heard concurrently with these applications.

PUBLIC HEARING

- [4] Prior to the Hearing, the Committee received an adjournment request from Monica Moody, tenant at 524 MacLaren Street, for additional time to discuss her lease agreement with the Applicant. The Panel Chair advised that landlord/tenant issues are not within the Committee's purview and that the hearing would proceed today, as scheduled.
- [5] The Panel Chair administered an oath to Simran Soor, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied.
- [6] Ms. Soor provided the Committee with a slide presentation, including a draft reference plan, a lot fabric plan, and a sketch demonstrating development within the developable areas. She pointed out that the proposed lots would have adequate space to support a wide mix of residential building forms, including a detached dwelling, a duplex, a three-unit dwelling, and a low-rise apartment, all of which are permitted within the zone.
- [7] The Committee then heard from Murray Chown, also representing the Applicant, who advised that concerns highlighted in City Planner Margot Linker's report had been addressed through further discussion. Ms. Linker was notably provided with a sketch and preliminary plans, demonstrating the viability of the proposed development.
- [8] In response to questions from the Committee. Mr. Chown confirmed that the existing driveway can remain and that there is no intention on increasing the number of driveways on Lyon Street.
- [9] Naomi De Silva of 543 Gilmour Street also addressed the Committee and expressed her concerns regarding the applications, including the loss of greenspace, flooding, and negative impact to the streetscape character.
- [10] City Planner M. Linker confirmed receiving the concept plans, however advised that she did not have sufficient time to review them in detail before the hearing. Ms.

Linker confirmed that, while the department continues to have some concerns with the applications, they do not anticipate any zoning compliance issues.

- [11] In response to questions from the Committee, Ms. Linker confirmed that this zone requires a minimum lot width of 10 metres and a minimum lot area of 300 square metres for low-rise apartment dwellings with a maximum of 8 units.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

- [12] The Committee considered all written and oral submissions relating to the applications in making its Decision.
- [13] 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):

[14] 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).

[15] The Committee notes that the City's Planning Report raises "some concerns" with the applications, however planning officials do not anticipate any zoning compliance issues relating to the proposed development.

[16] 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.

[17] 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-00311 to D08-02-22/A-00313) have been approved, with all levels of appeal exhausted.

2. The Owner acknowledges and agrees to enter into a permanent Encroachment Agreement to permit the encroachment of the single detached dwelling located within the City's Lyon Street North right-of-way. The Owner shall, at its expense, provide a reference plan for registration, indicating the existing encroachments, and the Owner shall submit the draft reference plan to the City's Surveyor for review and approval prior to its deposit in the Land Registry Office. The Owner further acknowledges and agrees that the cost of preparation and registration of the Encroachment Agreement will be borne by the Owner.
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. That the Owner(s) provide evidence to the satisfaction of the Chief Building Official, or designate, that the existing detached garage has been demolished or relocated under the authority of a building permit.
5. 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 to the existing detached dwelling on part 2 of Plan 27293 shall comply with the Ontario Building Code, O. Reg. 332/12 as amended, in regard to the limiting distance along the westerly side of the proposed property line. If necessary, a building permit shall be obtained from Building Code Services for any required alterations.
6. That the Owner(s) provide evidence to the satisfaction of both the **Chief Building Official and Development Review Manager, Planning, Real Estate and Economic Development Department, or designates**, that both severed and retained parcels have their own independent water, sanitary and storm connection as appropriate, and that these services do not cross the proposed severance line and are connected directly to City infrastructure. Further, the Owner(s) shall comply to 7.1.5.4(1) of the Ontario Building Code, O. Reg. 332/12 as amended. If necessary, a plumbing permit shall be obtained from Building Code Services for any required alterations.
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 **Development Review Manager of the Central Branch 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 **Development Review Manager of the Central Branch**

within 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 Central Branch 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 structure has been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law. (For the detached garage)
9. That the Owner(s) provide evidence to the satisfaction **of the Development Review Manager of the Central Branch 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 structure straddling the proposed severance line has been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law. (For the existing deck)
10. Pursuant to Section 50.1(25)(c) of the Planning Act and Schedule C16 of the City's new Official Plan, the Owner acknowledges and agrees to convey to the City, at no cost to the City, an unencumbered road widening across the complete **Lyon Street North** frontage of the lands, measuring **10** meters from the existing centerline of pavement/the abutting right-of-way. The exact widening must be determined by legal survey. The Owner shall provide a reference plan for registration, indicating the widening, to the City Surveyor for review and approval prior to its deposit in the Land Registry Office. Such reference plan must be tied to the Horizontal Control Network in accordance with the municipal requirements and guidelines for referencing legal surveys. The Owner(s) must provide to the City Surveyor a copy of the Committee of Adjustment Decision and a draft Reference Plan that sets out the required widening. The Committee requires written confirmation from City Legal Services that the transfer of the widening to the City has been registered. All costs shall be borne by the Owner.

The Owner is advised that the required road widening described in part a) above may be reduced or waived under certain situations, as described in Schedule C16 s.2.1.1 (c) of the Official Plan or where the right-of-way requirement exceeds the front yard setback or corner side yard setback, or where an existing building or structure encroaches into the required road widening, as of the day the Consent to Sever application was deemed complete, as applicable, and determined by the Director, Transportation Planning, Planning, Real Estate and Economic Development Department.

11. The Owner(s) shall prepare a noise attenuation study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of **Development Review Manager of the Central Branch 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 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. (Lyon St. North and Somerset St. West)

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.

“John Blatherwick”
JOHN BLATHERWICK
VICE-CHAIR

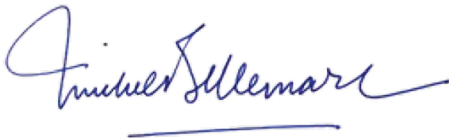
Absent
STAN WILDER
MEMBER

“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
City of Ottawa
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