

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

Date of Decision	February 10, 2023
File No(s):	D08-01-22/B-00293
Owner(s):	Patrizia and Omar Ghadban & Ram and Sarita Chande
Location:	153 Grandview Road
Ward:	7-Bay
Legal Description:	Lots 24 and 25, Registered Plan 444
Zoning:	R1E
Zoning By-law:	2008-250
Hearing Date:	February 1, 2023

PURPOSE OF THE APPLICATION

- [1] The Owners want to convey a portion of their property to the abutting property to the west known municipally as 155 Grandview Road. The existing detached dwelling and garage will be demolished.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owners require the Consent of the Committee for a Lot Line Adjustment.
- [3] ~~The lands to be severed as shown as Part 3 on the Draft 4R Plan filed with the application, have frontage of 2.29 metres on Grandview Road and an area of 304 square metres. This property will contain one new detached dwelling will be~~ **conveyed to Part 1 to facilitate the construction of a new detached dwelling. The resulting lot will have 23.63 metres of frontage on Grandview Road, an area of 1,672 square metres** and will be known municipally as 155 Grandview Road.
- [4] The lands to be retained, shown as Part 2 on said plan will have frontage of 23.63 metres on Grandview Road and an area of 1680 square metres. This property will contain a new detached dwelling and will be known municipally as 153 Grandview Road.

- [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 Christoph Jalkotzy, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied. Mr. Jalkotzy confirmed that the application should be amended as follows, as highlighted in the City's Planning Report:

~~The lands to be severed as shown as Part 3 on the Draft 4R Plan filed with the application, have frontage of 2.29 metres on Grandview Road and an area of 304 square metres. This property will contain one new detached dwelling~~ **will be conveyed to Part 1 to facilitate the construction of a new detached dwelling. The resulting lot will have 23.63 metres of frontage on Grandview Road, an area of 1,672 square metres** and will be known municipally as 155 Grandview Road.

- [7] With all parties in agreement, the Committee amended the application.
- [8] The Committee discussed the addition of the following condition requested by the Forestry Department:

The ownership of trees on site must be determined. If the identified trees are determined to be boundary or adjacent trees, the Owner(s) shall provide a signed letter of permission from the owner, for the proposed removal or operations impacting the tree(s). The applicant acknowledges that a tree removal permit cannot be issued without the permission of all owners of a tree, and that the development plan must be revised to allow for the retention and protection of the adjacent or boundary trees if this letter cannot be produced.

- [9] Mr. Jalkotzy believed the condition was premature because a building design had not yet been completed, and the proposed lot line adjustment is not near the trees.
- [10] City Forester Hayley Murray explained that conditioning confirmation of ownership at the consent application stage helps to avoid future civil disputes or by-law infractions, and ensures plans can be designed without consequences to trees.
- [11] The Committee found that the adjustment of the lot line would not affect the trees on the property. The Committee also acknowledged that, with no building plans currently in place, the tree issue is not pertinent to the present consent application.
- [12] Bipin Dhillon, also representing the Applicant, was also present.

**DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED,
AS AMENDED**

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

[14] 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):

[15] **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).

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

[17] 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.

[18] 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. Prior to the issuance of a building permit, the Owner (s) shall enter into a Development Agreement or a Letter of Undertaking (LOU) with the City of Ottawa, at the expense of the Owner (s), and to the satisfaction of the Development Review Manager of the West Branch within the Planning, Infrastructure, and Economic Development Department, or his/her designate. A development agreement is to be registered on the Title of the properties.
 - a. The Owner(s) agrees that the location of the proposed services, structures, including the driveways, retaining walls, projections, etc. shown on the Grading & Servicing Plan, will be determined based on the least impact to protected trees and tree cover, and the full protection of tree # 9.
2. That the Owner(s) provide proof to the satisfaction of the Development Review Manager of the West 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 dwelling has been removed, that the existing water service is blanked at the watermain, and that the existing septic system is decommissioned.

3. That the Owner(s) provide evidence (servicing plan), to the satisfaction of the Development Review Manager of the West 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 both the severed and retained parcels have their own independent water connection, as appropriate, and that this service does not cross the proposed severance line and is connected directly to City infrastructure. If it does cross the proposed severance line, or it is not independent, the Owner(s) will be required to relocate or construct a new service from the city water main at his/her own costs.
4. 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 West 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 the Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate.
5. 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 lot is located adjacent to lands with slope stability concerns. Additional engineering and slope stability measures may be required prior to issuance of Building Permits for development on the lot.”

The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.

6. That the Owner(s) enter into a Development Agreement with the City, at the expense of the Owner(s) and to the satisfaction Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate, to require that an asphalt overlay will be installed, at the Owner(s) expense, on Grandview Street, fronting the subject lands, over the entire public driving surface area within the limits of the overlay, if the approved Site Servicing Plan shows three or more cuts within the pavement surface. The overlay must be done to the satisfaction of the Development Review Manager of the West Branch within the 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. If the Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate determines that a Development Agreement requiring an asphalt overlay is no longer necessary, this condition shall be deemed as fulfilled.

7. That the Owner file with the Secretary-Treasurer of the Committee of Adjustment the following:

- a. A copy of the Reference Plan and/or legal description of the severed land and the deed or Instrument conveying the severed land to the owner of the abutting property to the west, known municipally as 155 Grandview Road, so that no new lot is being created, in accordance with paragraph (b) below
- b. A Certificate of Official attached to the deed/transfer required by paragraph (a) above containing the following endorsement:

“The lands to be severed are for the purpose of a lot addition only to the abutting lands owned by *(insert name)* described as PIN *(insert property identification number)* being Part(s) *(insert numbers)* on Plan *(insert plan number)*, not for the creation of a new lot, and any subsequent transfer, charge or other transaction involving the lands to be severed shall be subject to compliance with Section 50(3) or Section 50(5) of the *Planning Act*, as applicable. Neither the lands to be severed nor the abutting lands are to be transferred, charged, or otherwise re-conveyed in the future without the other parcel unless a further consent is obtained.

The Owner shall cause the lands to be severed to be consolidated on title with the abutting lands and for this condition to be entered on the parcel register for the consolidated parcel as a restriction.”

- c. An Undertaking from a solicitor authorized to practice law in the Province of Ontario, and in good standing with the Law Society of Upper Canada, as follows:

“In consideration of, and notwithstanding the issuance of the Certificate under Section 50(12) of the Planning Act in respect to the subject Application for Consent, I undertake on behalf of the Owner, within 30 days of the registration on title of the transfer document containing the endorsement set out in the Certificate of Official issued by the Committee of Adjustment, to file an Application to Consolidate Parcels including the severed land (Part of PIN (insert number) and the abutting land (PIN insert number). This PIN consolidation is intended to reinforce the Planning Act stipulation in the condition outlined above

that both parcels have merged on Title and cannot be conveyed separately in the future. I further undertake to forward a copy of the registered Application to Consolidate Parcels and a copy of the Consolidated Parcel abstract page(s) to the Committee office within 21 days of the registration of the Application to Consolidate Parcels”.

- d. Where the parcel consolidation stipulated in paragraph (b) and the solicitor’s Undertaking in paragraph (c) above cannot be completed because the parcels of land to be merged have different estate qualifiers, an Application to Annex Restrictive Covenant under Section 118 of the Land Titles Act must be registered on the Title of both the severed lands and on the abutting parcel that is to be merged. The Covenant, which is to be to the satisfaction of the Secretary-Treasurer of the Committee, shall advise all future purchasers that the parcels must be dealt with together and not separately, and contain wording set out below or similar wording acceptable to the Secretary-Treasurer of the Committee:

“These lands have been merged and may not be dealt with separately, without applying for a Consent of the Committee of Adjustment.”

In lieu of the Undertaking provided in paragraph (c), a replacement Undertaking by the solicitor must be filed undertaking on behalf of the Owner to register the Restrictive Covenant on both property Titles within 30 days of the registration of the transfer document containing the endorsement of the Certificate of Official issued by the Committee of Adjustment for this application and to file a copy of the registered Restrictive Covenant with the Committee within 21 days of the registration of the document.

8. 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.
9. 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.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

Absent
KATHLEEN WILLIS
MEMBER

"Scott Hindle"
SCOTT HINDLE
MEMBER

"Colin White"
COLIN WHITE
MEMBER

"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 **February 10, 2023**.



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 **March 2, 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
Ottawa.ca/CommitteeofAdjustment
cofa@ottawa.ca
613-580-2436



Comité de dérogation
Ville d'Ottawa
Ottawa.ca/Comitedederogation
cded@ottawa.ca
613-580-2436