

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

Date of Decision	February 10, 2023
File No(s):	D08-01-22/B-00357
Owner(s):	Sarah Whitehead
Location:	173 Breezehill Avenue North
Ward:	15-Kitchissippi
Legal Description:	Part of Lot 29, Registered Plan 92 1/2
Zoning:	R4UB
Zoning By-law:	2008-250
Hearing Date:	February 1, 2023

PURPOSE OF THE APPLICATION

- [1] The Owner wants to subdivide her property into two separate parcels of land to create separate ownerships for each half of the existing semi-detached dwelling.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Consent of the Committee for a Conveyance and Grant of Easement/Right-of-Way.
- [3] The severed land, shown as Parts 1 and 3 on a draft 4R-plan filed with the application, will have a frontage of 6.90 metres on Breezehill Avenue North, a depth of 27.43 metres and will contain a lot area of 189.27 square metres. This parcel will contain one half of the existing semi-detached dwelling and will be known municipally as 173 Breezehill Avenue North.
- [4] The retained lands, shown as Part 2 on said draft plan, will have a frontage of 7.43 metres, a depth of 27.44 metres and will contain a lot area of 203.88 square metres. This parcel will contain the other half of the existing semi-detached dwelling and will be known municipally as 175 Breezehill Avenue North.
- [5] It is proposed to create an easement/right-of-way over Part 3 in favour of Part 2 for pedestrian and vehicular access to the concrete driveway.

- [6] The application indicates that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [7] The Panel Chair administered an oath to Tamara Nahal, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied.
- [8] The Chair noted that in addition to the conditions requested by the City's Planning Department, the Committee would impose a condition requiring certification from an Ontario Land Surveyor of the existing party wall. Ms. Nahal stated her agreement to the additional condition.
- [9] City Planner Margot Linker, Jacob Bolduc, representing the Applicant, and the owner, Sarah Whitehead, were also present.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

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

[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 certification from an Ontario Land Surveyor that the party walls are as shown on the plan.
2. That the Owner(s) provide proof 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 each existing parcel has its own independent storm, sanitary and water services connected to City infrastructure and that these services do not cross the proposed severance line. If they do cross or are not independent, the Owner(s) will be required to relocate the existing services or construct new services from the City sewers/watermain, at his/her own cost.
3. That the Owner convey a 3 m x 3 m corner sight triangle located at the intersection of Gladstone Avenue and Breezehill Avenue North 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. (Downsized from 5m x 5m due to existing dwelling encroachment)
4. That the Owner(s) enter into a Joint Use, Maintenance and Common, 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 party walls, the common storm laterals, common structural elements such as roof, footings, soffits, foundations, common areas, common driveways and common landscaping.
 The Owner shall ensure that the Agreement is binding upon all the unit owners and successors in title and shall be to the satisfaction of **the Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate**. The Committee requires written confirmation that the Agreement is satisfactory to **the Development Review Manager of the Central Branch 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.
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 property is located next to lands that have an active railway line now, or may have one in the future, and may therefore be subjected to noise, vibration, and other activities associated with this use.”

The Committee requires a copy of the Agreement and **written confirmation from City Legal Services** that it has been registered on title. (Within 500m from existing LRT rail line).

6. That the Owner enter into an Agreement with the City, at the expense of the Owner, which is to be registered on Title to deal with the covenants/notices that shall run with the land and bind future owners on subsequent transfers;

“The property is located next to lands that have an existing source of environmental noise arterial road, highway, airport, etc) and may therefore be subject to noise and other activities associated with that use.”

The Agreement shall be to the satisfaction of **the Development Review Manager of the Central Branch within 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. (Within 100m from Gladstone Ave., within 500m from Highway 417, within 100mm from stationary noise source (City work yard at 175 Loretta Ave. North, Canadian Bank Note at 975 Gladstone Ave.))

7. 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.
8. 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 Conveyance and Grant of Easement/Right-of-Way 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

Absent
MICHAEL WILDMAN
MEMBER

"Colin White"
COLIN WHITE
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