

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

Date of Decision	March 10, 2023
File No(s):	D08-01-22/B-00294 & D08-01-22/B-00330
Owner(s):	Asgard Investment Corporation
Location:	1300 Michael Street
Ward:	11 - Becon Hill-Cryville
Legal Description:	Part of Lot 17 & 18, Registered Plan 23
Zoning:	GM12 H(11)
Zoning By-law:	2008-250
Hearing Date:	March 1, 2023

PURPOSE OF THE APPLICATIONS

- [1] The Owner wants to subdivide its property into two separate parcels of land to create a new commercial lot for a proposed automobile dealership. The existing automobile dealership to remain.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Consent of the Committee for a Conveyance and Grants of Easements/Rights-of-Way.
- [3] The severed land, shown as Parts 3 and 6 to 14 on a Draft R-plan filed with the application, will have a frontage of 46.78 metres, an irregular depth of approximately 59 metres, and will contain a lot area of 2,142.7 square metres. This parcel is vacant and will contain a new automotive dealership to be municipally known as 1310 Michael Street.
- [4] The retained land, shown as Parts 1, 2, 4, and 5 on said plan, will have frontages of 205 metres on Michael Street and 79.5 metres on Parisien Street, an irregular depth of approximately 138 metres, and will contain a lot area of 9,314.3 square metres. This parcel contains the existing automobile dealership building known municipally as 1300 Michael Street.
- [5] It is proposed to establish easements/rights-of-way as follows:

- A right-of-way over Part 2 in favour of Parts 3 and 6 to 14.
- A right-of-way over Parts 3 and 9 in favour of Parts 1, 2, 4 and 5.
- A right-of-way over Part 5 in favour of Parts 3 and 6 to 14.
- A right-of-way over Part 6 in favour of Parts 1, 2, 4 and 5.
- **A drainage easement over Parts 3 and 6 in favour of Parts 1, 2, 4 and 5.**
- **A right-of-way for parking over Part 1 in favour of Parts 3 and 6 to 14.**

[6] Approval of these applications will have the effect of creating two separate parcels of land. The proposed automobile dealership on the severed land will not be in conformity with the requirements of the Zoning By-law and therefore, a Minor Variance Application (D08-02-22/A-00277) has been filed and will be heard concurrently with these applications.

[7] The applications indicates that the Property is subject to a Site Plan Application (D07-12-22-0012) under the *Planning Act*.

PUBLIC HEARING

[8] Prior to the Hearing on December 7, 2022, the Committee received an adjournment request from Arjan Soor, Agent for the Applicant, to allow for additional time for consultation between the applicant and Planning Department regarding the conditions requested in the City's Planning report. At the Hearing, the Committee heard from Mr. Soor, who reiterated his request for an adjournment. With the concurrence of all parties the applications were adjourned to the Hearing scheduled for January 11, 2023.

[9] Before the Hearing on January 11, 2023, the Committee received a further adjournment request from Mr. Soor, stating that additional time was needed to review the conditions outlined in the Planning Report. With the concurrence of all parties the applications were further adjourned to March 1, 2023.

[10] At the Hearing on March 1, 2023, the Acting Panel Chair administered an oath to Mr. Soor who confirmed that the statutory notice posting requirements were satisfied.

[11] Christine McCuaig, also acting Agent for the Applicant, provided the Committee with an overview of the applications. She advised that a revised site plan had been submitted to reflect the dimensions set out in the draft reference plan. She also confirmed that, as highlighted in the Planning Report, the proposed easements should include the following:

- **A drainage easement over Parts 3 and 6 in favour of Parts 1, 2, 4 and 5.**

- **A right-of-way for parking over Part 1 in favour of Parts 3 and 6 to 14.**

- [12] Regarding the City's requested conditions, Ms. McCuaig stated her concerns with the road widening across the retained lands. Highlighting the pre-consultation for Site Plan Control approval, she indicated the consent applications were submitted on the basis of no impact on the retained lands. Ms. McCuaig referred to an aerial photograph of the subject properties and highlighted the negative impact on employee parking that would result from a road widening on the retained lands along Michael Street and Parisien Street.
- [13] In response to questions from the Committee, Ms. McCuaig confirmed that, although the existing dealership on the retained lands was reconstructed several times, it had not been the subject of site plan control approval.
- [14] The Committee also heard from Debbie Bellinger, solicitor for the Applicant, who stated it would be inappropriate to impose the road widening conditions on the retained lands, especially along Michael Street because of the approved parking spaces.
- [15] City Planner Lucy Ramirez advised that, during pre-consultation for the Site Plan Control application regarding the severed lands, the assumption was that the site plan was for the severed, stand-alone parcel, and so the road widening was requested for this parcel only. She also noted that the retained lands have not gone through a site plan control application process.
- [16] City Planner Cass Schlauzero was also present and advised that the existing JLR dealership on the retained lands was rebuilt in phases and because of that, it did not trigger the need for a site plan control application or a demolition permit. She explained that, because the dealership had undergone reconstruction and would likely not be redeveloped in the future, the City believes this is an appropriate time to request the road widening conditions.

**DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED
AS AMENDED**

- [17] The Committee considered all written and oral submissions relating to the applications in making its Decision.
- [18] 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):

[19] 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).

- [20] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications.
- [21] Regarding requested conditions 3, 4, and 5 relating to the road widening on the retained lands along Michael Street and Parisien Street, the majority of the Committee (Acting Chair S. Hindle dissenting for the reasons noted below) find they are not appropriate and should not be imposed.
- [22] Based on the evidence, the majority of 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 majority of 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 majority of 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 majority of 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.
- [23] 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**:

D08-01-22/B-00294 – Severed lands, location of future Volvo Dealership

1. That the Owner(s) convey a 3 metre x 3 metre corner sight triangle located at the intersection of Michael Street and Parisien Street 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.
2. The Owner acknowledges and agrees, pursuant to Section 50.1(25)(c) of the *Planning Act* and Schedule C16 of the City's Official Plan, to convey to the City, at no cost to the City, an unencumbered road widening across the complete frontage of the lands, measuring 22.25 metres from the existing centreline 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(s).

The Owner is advised that the required road widenings described above may be reduced or waived under certain situations, as described Schedule C16 of the Official Plan, 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.

3. 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.
4. 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 and Grants of Easements/Rights-of-Way for which the Consent is required.

[25] *Acting Chair S. Hindle dissents on the removal of conditions 3, 4, and 5 that were outlined in the planning staff report relating to the road widenings along the retained lands. He finds the requested conditions are both reasonable and necessary considering likely future development of the surrounding area, in line with subsection 51(24)(e) of the Planning Act.*

Absent
ANN M. TREMBLAY
CHAIR

"Kathleen Willis"
KATHLEEN WILLIS
MEMBER

Dissents
SCOTT HINDLE
ACTING CHAIR

"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 **March 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 30, 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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