

Committee of Adjustment

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City of Ottawa | Ville d'Ottawa
Comité de dérogation



Consent
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
Panel 2

Site Address:	136 & 138 Acacia Avenue
Legal Description:	Part of Lots 5, 6, 7 & 8, Registered Plan 4M-46
File No.:	D08-01-22/B-00360 & D08-01-22/B-00361
Date: April 4, 2023	Hearing Date: April 5, 2023
Planner:	Cass Scлаuzero
Official Plan Designation:	Inner Urban Transect, Neighbourhood
Zoning:	R1C [1260]

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **requests an adjournment** of the application.

DISCUSSION AND RATIONALE

Section 53 (12) of the *Planning Act*, R.S.O. 1990, c.P.13 permits the criteria for the subdivision of land listed in Section 51 (24) to be considered when determining whether provisional consent may be granted. Based on the criteria under S. 51 (24), staff request that the application be adjourned until such time that the ownership history and title status of the two properties has been contemplated by Planning and Heritage staff prior to providing comments on the application.

The purpose of the application is to sever two abutting lots under common ownership. The proposed severance would permit the severed lot to be conveyed separately and would reconfigure the location of the common interior side lot line such that the retained and severed lots maintain a shape that is more consistent with the pattern of other lots along Acacia Avenue between Roxborough Avenue to the north and Wood Avenue to the south, which are perpendicular to the street. Both the retained and severed parcel will comply with the minimum required lot width and area of the R1C subzone and no minor variances are being requested concurrently with this application.

Following the removal of a sunroom addition on the north side of the detached dwelling on the retained parcel, the dwelling will comply with all applicable provisions of the Zoning By-law. Heritage Planning Branch staff have indicated that a heritage permit would be issued for the removal of the sunroom addition.

At its hearing on February 15 and March 15, the Committee adjourned the application so that staff and the applicant could provide more information about the history of the two properties, including confirmation about historic ownership of the properties and whether the lots had merged on title. Following discussion with the applicant, Planning and Heritage staff determined that additional research was required to satisfy the Committee's request and, if necessary, to re-evaluate the application per the *Planning Act*, Official Plan, and Rockcliffe Park Heritage Conservation District Guidelines.

ADDITIONAL COMMENTS

136 and 138 Acacia Avenue are comprised of lots 5 through 8 on Plan 4M-46, registered in December 1914. The Plan shows this portion of Rockcliffe Park as being comprised of largely rectangular lots, generally with 36 to 50 feet of frontage, with most being 90 feet deep. Lots 5 through 8 along Acacia Avenue were between 99 and 180 feet deep. The subject properties are shown on an excerpt of the Plan below:

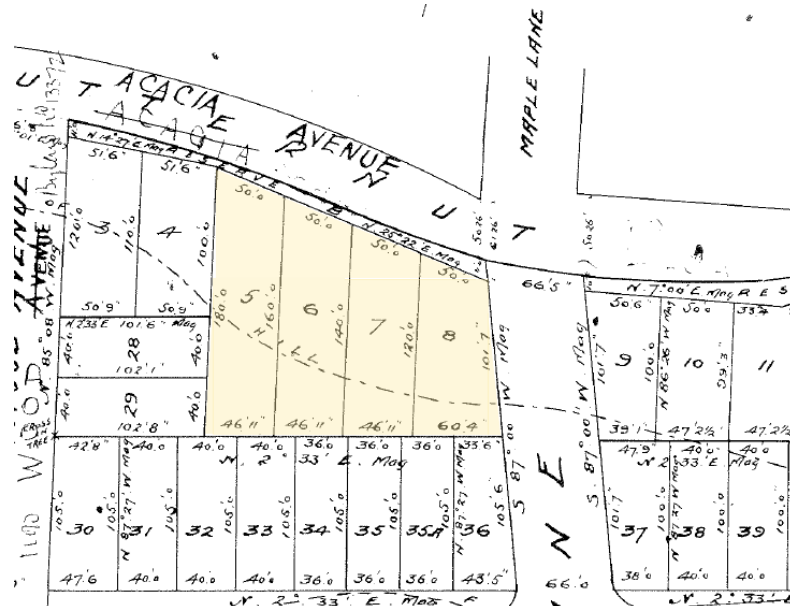


Fig. 1: Lots 5 - 8 on Plan 4M-46, registered in 1914.

An easement for the Ottawa Electric Railway (OER) over a number of lots on Plan 4M-46, including parts of lots 5 through 8, was registered in December 1937. In June and August 1944, parts of lots 5 through 8 were registered as Parcels 2317 and 2345, respectively. The eastern and northern limits of these parcels abutted the OER easement.

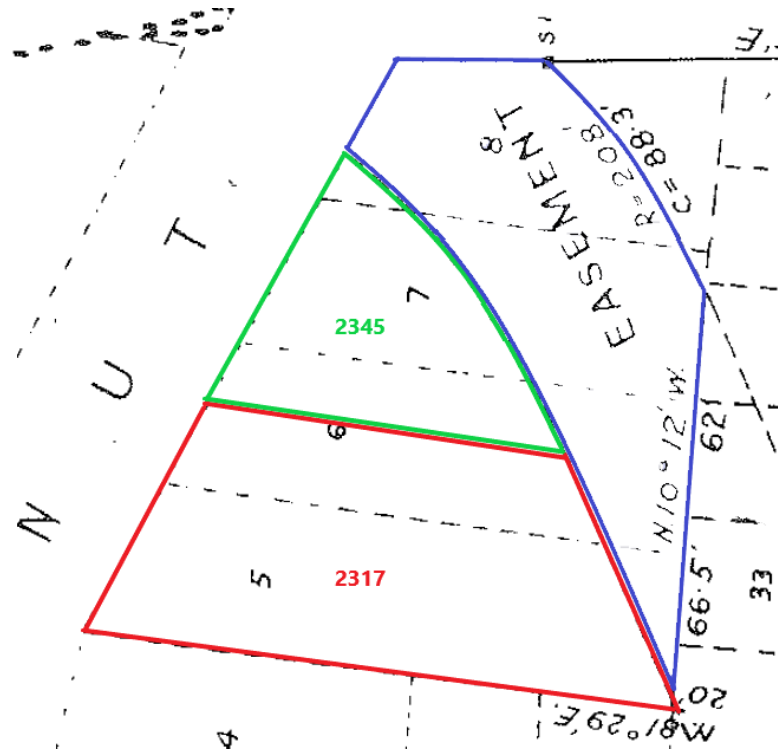


Fig. 2: Approximate configuration of Parcels 2317 and 2345 overlaid onto Plan 4M-80.

Plan 4M-80 was registered in June 1947 and proposed the creation of larger estate lots that more or less represent the current lot configuration of Rockcliffe Park along Maple Lane, Maple Place, Juliana Road, Beechwood Avenue, and portions of Wood Avenue and Roxborough Avenue. The lots along Acacia Avenue were excluded from this new Plan of Subdivision and subsequent development along this road largely reflected the previous Plan 4M-46.

Parcel 2733, later addressed as 138 Acacia Avenue, was registered in August 1947. The irregular shape of this parcel reflects its creation from the remnant parcels of lots 5 through 8 on Plan 4M-46 that were excluded from Parcels 2317, 2345 and Plan 4M-80.

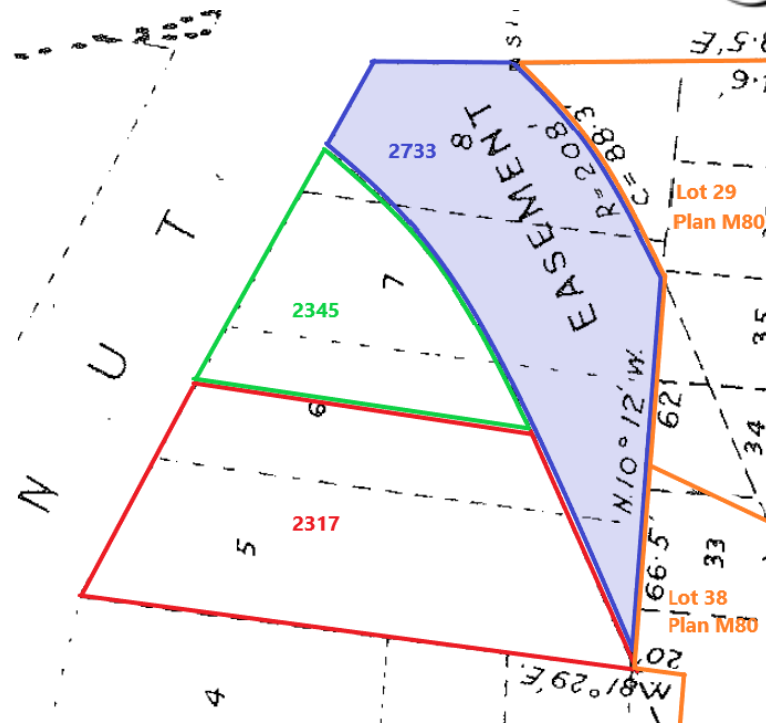


Fig. 3: Parcel 2733 (later 138 Acacia Avenue) abutting Parcels 2345, 2317, and Plan 4M-80

In March 1955, Parcels 2345 and a portion of Parcel 2317 were reconfigured into Parcel 4511, now 136 Acacia Avenue. 136 Acacia Avenue and Parcel 2733, which remained unaddressed until at least 1975, were not under common ownership until 1961.

Staff provide the above context to provide a preliminary summary of the property histories, specifically with regard to the irregular lot shapes of 136 and 138 Acacia Avenue, and to confirm that they were indeed created as separate parcels. However, without reviewing the registration certificate(s) delineating the process by which 136 and 138 were created and subsequently conveyed to a common owner, and associated conditions of the conveyance (if any), staff are unable to ascertain whether the two parcels have merged on title or remain separate parcels, and/or whether 136 and 138 Acacia may be severed through processes under the *Planning Act*.

Heritage:

Heritage staff are unable to provide any comments at this time as further information is still required regarding the two lots.



Engineering:

At its hearing on February 1, the Committee requested that the applicant provide a geotechnical report for staff review prior to the March 15 hearing. The report was received on March 6 and subsequently reviewed by Engineering staff, who concurred with the report's conclusion that the severed parcel is considered developable from a geotechnical standpoint. Although Engineering staff recommend that Condition 9 remain in the staff report, they are satisfied that it can be cleared should the Committee approve the application.

Transportation Engineering:

Any private approach must be at least 6.0 metres from an intersection and 0.3 metres from the adjacent property line to comply with the Private Approach By-Law.

Forestry:

The applicant provided a Tree Information Report (TIR) and plan showing the as-of-right building footprint on the retained and severed lots. Future development on the Parcel containing Parts 1, 3, and 4 is likely to have impacts on private and/or jointly owned trees. Section 4.8.2 of the Official Plan states that planning and development decisions, including Committee of Adjustment decisions, shall have regard for short-term, long-term, and cumulative impacts on the urban forest at the neighborhood and urban-wide scale.

The design and locations of the building, servicing, and grading should be determined based on the least impact to existing trees on and adjacent to the development site, particularly Trees 11 and 12, which are solely owned by 410 Maple Lane, Tree 23 jointly owned with 410 Maple Lane, and City-owned Trees 3 and 14. City trees, of any size, are protected under the Tree Protection By-law. Infrastructure installation, including a driveway, should not require removal of a City owned tree.

CONDITIONS OF APPROVAL

The Department further requests that the following conditions be imposed on the consent applications if approved:

1. 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, as amended. Information regarding the appraisal process can be obtained by contacting the Planner.

2. That prior to the issuance of a building permit, the Owner(s) shall enter into a Development Agreement or Letter of Undertaking (LOU) with the City of Ottawa, at the expense of the Owner/Applicant(s), and to the satisfaction of the Development Review Manager of the Central Branch within the Planning, Real Estate and Economic Development Department, or his/her designate. The Agreement shall be registered on Title of the properties. The Agreement will address the following:
 - a) The Owner(s) agree that the location of the proposed servicing, 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 trees # 3, 11, 12, 14, 23.
3. The Owner(s), or any subsequent owners, acknowledge and agrees that the private approach, including temporary construction access to the subject lands, shall be designed and located in accordance with and shall comply with the City's Private Approach By-Law, being By-law No. 2003-447, as amended, and shall be subject to approval of the General Manager, Planning, Real Estate and Economic Development, or his/her designate.
4. 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.

In the case of a vacant parcel being created, the Owner(s) shall provide evidence (servicing plan), 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 parcel has access to sufficient services with adequate capacity.

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 3,5 of Plan 4M-46 shall comply with the Ontario Building Code, O. Reg. 332/12 as amended, in regard to the limiting distance along the northernly side of the proposed property line. If necessary, a building permit shall be obtained from Building Code Services for any required alterations. (Note that an addition on the side is not shown on the survey plan).
6. That the Owner(s) convey a 5 metre x 5 metre corner sight triangle located at the intersection of Acacia Avenue and Maple Lane 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.
7. That the Owner(s) enter into a Joint Use, Maintenance and Common Elements Agreement, 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, common retaining wall.

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.



8. 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 address 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.

The following conditions pertain to D08-01-22/B-00361 – Severed lands, 138 Acacia Avenue only:

9. That the Owner provide a Geotechnical Report prepared by a Professional Geotechnical Engineer licensed in the Province of Ontario, that is satisfactory to both the Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate, and to the Rideau Valley Conservation Authority, to be confirmed in writing from the PREDD and the Authority to the Committee, demonstrating the following:
 - a) That all parcels to be created by this application are or can be made suitable for residential purposes (slope stability, erosion protection, and building limits adjacent to slopes)

The Geotechnical Report shall, as a minimum, determine the limit of organic soils present on the severed parcel and provide recommendations for construction methods based on the soil types encountered.

10. That the Owner(s) enter into a Development Agreement with the City, at the expense of the Owner(s) and 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 require that an asphalt overlay will be installed, at the Owner(s) expense, on Acacia Avenue and Maple Lane, 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 carried out 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.

If the Development Review Manager of the Central 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.

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