

**DECISION
CONSENT/SEVERANCE**

Date of Decision	April 14, 2023
File No(s):	D08-01-23/B-00008
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Ana Maria Tavares and Carlos & Cristina Macedo
Property Address:	31 Starwood Road
Ward:	8 - College
Legal Description:	Lots 1913, 1914, 1915, 1916 and 1917 Registered Plan 375
Zoning:	R1FF (632)
Zoning By-law:	2008-250
Hearing Date:	April 5, 2023

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owners want to subdivide their property into two separate parcels of land for the construction of two new detached dwellings. The existing dwelling is to be demolished.
- [2] This application was adjourned from the Committee's hearing on February 15, 2023 to allow the Owners time to revise their plans and the related Minor Variance Applications.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [3] The Owner requires the Consent of the Committee for a Conveyance.
- [4] The severed land, shown as Part 2 on a Draft 4R-plan filed with the application, will have a frontage of 19.03 metres, a depth of 27.45 metres and will contain a Lot area of 522.2 square metres. This parcel will contain one detached dwelling and will be known municipally as 33 Starwood Road.
- [5] The retained lands, shown as Part 1 on said draft plan, will have a frontage of 19.02 metres, a depth of 27.45 metres and will contain a Lot area of 522.1 square metres. This parcel will contain one detached dwelling and will be known municipally as 31 Starwood Road.

- [6] Approval of this application will have the effect of creating two separate parcels of land. The proposed parcels will not be in conformity with the requirements of the Zoning By-law and therefore, Minor Variance Applications (D08-02-23/A-00009 & D08-02-23/A-00010) have been filed and will be heard concurrently with this application.

PUBLIC HEARING

- [7] The Panel Chair administered an oath to Paulo Alves, Agent for the Owners, who confirmed that the statutory notice posting requirements were satisfied.

Oral Submissions Summary

- [8] Mr. Alves provided an overview of the applications and responded to questions from the Committee.
- [9] The Committee also heard oral submissions from the following individuals:
- Nancy Wilson, City View/Ryan Farms Community Association, raised concerns regarding the proposal's compliance with the Zoning By-law and the retention of mature trees on site.
 - Jill Prot, City View/Ryan Farms Community Association, raised concerns regarding the adequacy of existing municipal services and the functionality of the flat roof design.
- [10] City Planner Cass Sclauzero responded to the Committee's questions, confirming that the condition requested in the Planning Report that would require a Private Approach permit could be deleted, as this would be addressed at the building permit stage.
- [11] Also present was City Infill Forester Haley Murray, who confirmed that the mature white pine at the front of the property (tree #8) was in good condition and would be retained.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Tests

- [12] 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):

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).

Evidence

[13] Evidence considered by the Committee included any oral submissions made at the hearing, as highlighted above, and the following written submissions held on file with the Secretary-Treasurer and available from the Committee Coordinator upon request:

- Application and supporting documents, including a planning rationale, a declaration of co-ownership for the removal of a boundary tree, plans with revisions, and tree information
- City Planning Report, received March 31, 2023, with no concerns
- Rideau Valley Conservation Authority, dated March 24, 2023, with no objections
- Hydro Ottawa, dated March 29, 2023, with no concerns
- Hydro One, dated March 29, 2023, with no concerns
- Nancy Wilson and Jill Prot, Co-Presidents, City View/Ryan Farm Community Association, email dated April 3, 2023, in opposition
- Ministry of Transportation, dated March 23, 2023, with no comments

Effect of Submissions on Decision

[14] The Committee considered all written and oral submissions relating to the application in making its decision and granted the applications.

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

[16] Based on the evidence, the majority of the Committee (Member C. White dissenting for the reasons noted below) 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.

[17] *Member C. White dissents, finding that the increase of impervious surfaces on reduced-sized lots will put further stress on an already underperforming stormwater management system in the area.*

[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. That the Owner(s) provide evidence that the accompanying Minor Variance Applications (D08-02-23/A-00009 & D08-02-23/A-00010) has been approved, with all levels of appeal exhausted.
2. 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. Information regarding the appraisal process can be obtained by contacting the Planner.
3. That the Owner(s) submit a Stormwater Management Brief prepared by a Professional Civil Engineer licensed in the Province of Ontario, for approval by 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, demonstrating a design for post-development stormwater peak flows that are controlled to pre-development peak flows for all stormwater events up to and including the 100 year storm event. The Owner(s) also agrees to enter into a Development Agreement with the City to implement any proposed stormwater system including posting required securities. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.

If applicable, the Owner(s) must obtain an Environmental Compliance Approval from the Ontario Ministry of Environment, Conservation and Parks and if required by the Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate, approval of the Committee to grant easement(s) for access and maintenance of the stormwater system or register a Joint Use and Maintenance Agreement on title of the properties, all at the owner(s) costs.

4. 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 sewer services are capped at the sewer and that the existing water service is blanked at the watermain.
5. 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, sanitary and sewer connection, as appropriate, and that these services do not cross the proposed severance line and are connected directly to City infrastructure. If they do cross the proposed severance line, or they are not independent, the Owner(s) will be required to relocate or construct new services from the city sewers and/or watermain at his/her own costs.
6. That the Owner(s) provide evidence 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 accessory structure has been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law.
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 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. 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.
8. The Owner(s) shall prepare a noise attenuation study (or noise and vibration attenuation study if applicable) in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of the Development Review Manager of the **West 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 (and vibration if applicable) 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.

9. 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 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 Starwood Road, 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 West 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 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.

10. The Owner/Applicant(s) shall prepare and submit a tree planting plan, prepared to the satisfaction of the **Development Review Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or his/her designate**, showing the location(s) of the specified number of compensation trees (50 millimetre caliper) required under the Tree Protection By-law, assuming that all proposed tree removals are permitted.
11. Prior to the stamping of the deed(s), the Owner/Applicant(s) shall enter into a Development Agreement or a Letter of Undertaking (LOU) with the City of Ottawa, at the expense of the Owner/Applicant(s), and to the satisfaction of the **General Manager of the Planning, Real Estate, and Economic Development Department, or his/her designate**. A development agreement is to be registered on Title of the property.
 - a. That the Owner(s) agree to provide securities for a period of 3 years following the completion of construction, which is equivalent to the value of the tree(s) to be protected (Tree 8). The Owner(s) agree that the security shall be returned to the owner only upon the City having received a report from an arborist or appropriate professional confirming Tree 8 remains in good health and condition, and structural stability. The Owner(s) acknowledge and agree that if, in the opinion of the City Forester and/or the Development Review Manager of the relevant Branch within Planning, Real Estate, and Economic Development, the report indicates that Tree 8

is declining and must be removed, the Security for that tree, will be forfeited.

- b. That the Owner(s) agree to prepare and implement the tree planting plan and to provide securities in the amount of \$400 per tree for a period of 1 year from the issuance of the final occupancy permit. Compensation for any trees which cannot be planted on site will be paid to Forestry Services with the tree permit application. The Owner agrees that the security shall be returned to the original payee only upon the City having received a report from an arborist or appropriate professional confirming that all replacement trees are in good health; any of the replacement trees which have died or are in poor condition must be replaced.
12. That the Owner(s) agree to provide proof that the tree protection fencing around the Critical Root Zone of the protected tree is installed as shown in the Tree Information Report, prior to capping of services, to prevent any excavation within this zone. The sanitary and storm services, if present, must be abandoned and capped outside of the Critical Root Zone of protected trees as clearly demonstrated on the Existing Conditions, Removals, and Decommissioning plan.
13. That the Owner(s) agree that the location of the proposed 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. The Owner(s) further acknowledges and agrees that this review may result in relocation of these structures and agrees to revise their plans accordingly to the satisfaction of the **Development Review Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or his/her designate.**
14. 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.
15. 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

"Kathleen Willis"
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 April 14, **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 **May 4, 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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