

**DECISION
CONSENT/SEVERANCE**

Date of Decision	April 14, 2023
File No(s):	D08-01-23/B-00068 & D08-01-23/B-00069
Application:	Consent under section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Xuejie Chan and Jing Zhang
Property Address:	91 Concord Street North
Ward:	17 - Capital
Legal Description:	Lot 3, East Concord Street, Registered Plan 48
Zoning:	R4UD
Zoning By-law:	2008-250
Hearing Date:	April 5, 2023

APPLICANT(S)' PROPOSAL AND PURPOSE OF THE APPLICATION(S)

- [1] The Owners want to subdivide their property into two separate parcels of land for the construction of a two-storey duplex. The existing three-storey duplex is to remain.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owners require the Consent of the Committee for Conveyances. The property is shown as Parts 1 and 2 on a Draft 4R-Plan filed with the applications, and the separate parcels will be as follows:

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00068	12.11 m	30.22 m	365.8 sq. m	1	91 Concord St. N. (existing three-storey duplex)
B-00069	8.06 m	30.22 m	243.6 sq. m	2	93 Concord St. N. (proposed two-storey duplex)

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

PUBLIC HEARING

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

Oral Submissions Summary

- [5] Ms. Paoloni provided an overview of the applications and responded to questions from the Committee, confirming that the Owners are proposing to construct a duplex on the proposed severed land.
- [6] Ms. Paoloni confirmed she had no concerns regarding the City's requested conditions of approval as outlined in the City's Planning Report.
- [7] City Planner Basma Alkhatib was also present.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Applications Must Satisfy Statutory Tests

- [8] 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

[9] Evidence considered by the Committee included all 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 cover letter, plans, 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 comments.
- Hydro One dated March 24, 2023, with no comments.

- Ministry of Transportation dated March 22, 2023, with no objections.

Effect of Submissions on Decision

- [10] The Committee considered all written and oral submissions relating to the applications in making its decision and granted the applications.
- [11] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications.
- [12] 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.
- [13] 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 (servicing plan), to the satisfaction of the **Central 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 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. 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.
 2. 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 **Central 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. The grading and drainage plan shall delineate existing and proposed grades for

both the severed and retained properties, to the satisfaction of **Central Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate.**

3. That the Owner convey a 3 m x 3 m corner sight triangle located at the intersection of Concord and Havelock 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.

4. **Noise condition for Part 1 (retained land):**

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 (within 50m of highway 417) and may therefore be subject to noise and other activities associated with that use”

The Agreement shall be to the satisfaction of **Central 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.

5. **Noise condition for Part 2 (severed land):**

The Owner(s) shall prepare a noise attenuation study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of **Central Manager of the Central 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 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.

6. The Owner/Applicant(s) shall prepare and submit a tree planting plan, prepared to the satisfaction of the **Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate,** showing the location of one new 50mm tree to be planted on each lot following construction, to enhance the urban tree canopy and/or streetscape where adequate soil volume can be provided.

7. The Owner, or any subsequent owners, acknowledges and agrees to obtain a private approach permit to remove the existing driveway along Concord. In addition, the removal shall be 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 **Right-of-Way, Heritage, and Urban Design Department**. Furthermore, any works required to be done by the Owner(s) on the City Road allowances shall be according to the specifications and by-laws of the City. The Owner, or its contractor, shall be required to obtain all the necessary permits for road cuts prior to the disruption of the City Road allowance and it is further understood and agreed that the aforementioned cuts shall be reinstated to the satisfaction of the **Director, Infrastructure Services**.
8. The Owner, or any subsequent owners, acknowledges and agrees to obtain a private approach permit to legalize the driveway located along Havelock Street. In addition, the private approaches 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 **Right-of-Way, Heritage, and Urban Design Department**. Furthermore, any works required to be done by the Owner(s) on the City Road allowances shall be according to the specifications and by-laws of the City. The Owner, or its contractor, shall be required to obtain all the necessary permits for road cuts prior to the disruption of the City Road allowance and it is further understood and agreed that the aforementioned cuts shall be reinstated to the satisfaction of the **Director, Infrastructure Services**.
9. That the Owner(s) and its successors, if required, in the opinion (and at the sole discretion) of the **Manager, Right-of-Way, Heritage, Urban Design Department or his/her designate**, acknowledges, and agrees to enter into an **Encroachment Agreement** to permit the encroachment of, including, but not limited to retaining walls, fences, **stairs**, ramps, appurtenances structures or structure(s) that are permanent in nature within the City's right-of-way . The Owner shall, at its expense, provide a draft reference plan to the **Right-of-Way, Heritage, and Urban Design Department, as well as to the City's Surveyor** for review and approval prior to its deposit at the Land Registry Office. Immediately after the registration of the **Encroachment Agreement**, the Owner shall assume maintenance and replacement responsibilities in perpetuity. The Owner(s) and its successors acknowledges and agree that this Agreement is binding and shall be drafted to the satisfaction of **the Manger, Right-of-Way, Heritage, and Urban Design Department, or his/her designate, and to the City's Legal Services Department**. Furthermore, the Committee requires confirmation from the **City's Legal Services Department** that it has been registered on Title. Moreover, the Owner shall be made aware that failure to receive the required approval will result in the Owner having to remove or relocate the structure(s), element(s), or feature(s) from the City's right-of-way onto private property, prior to the provisional consent being granted.

10. 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.
11. 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.

“John Blatherwick”
JOHN BLATHERWICK
VICE-CHAIR

“Stan Wilder”
STAN WILDER
MEMBER

“Heather MacLean”
HEATHER MACLEAN
MEMBER

Absent
BONNIE OAKES CHARRON
MEMBER

Absent
MICHAEL WILDMAN
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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