

DECISION CONSENT/SEVERANCE

Date of Decision	April 28, 2023
File No(s):	D08-01-23/B-00041
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	David Taiwo
Property Address:	47 Elvaston Avenue
Ward:	9 - Knoxdale-Merivale
Legal Description:	Lot 222, Registered Plan 645570
Zoning:	R2M
Zoning By-law:	2008-250
Hearing Date:	April 19, 2023

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owner wants to convey a portion of his property to the abutting property owner to the east, known municipally as 49 Elvaston Avenue. It is proposed to construct a new detached dwelling on the retained lands.
- [2] The owners of 49 Elvaston Avenue have filed a Minor Variance Application (D08-02-23/A-00034) to convert their existing semi-detached dwelling unit to a detached dwelling.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [3] The Owner requires the Consent of the Committee for a Lot Line Adjustment and a **Grant of Easement/Right-of-Way**.
- [4] The severed lands, shown as Parts 2 and 4 on a draft 4R-Plan filed with the application, will have frontage of 0.30 metres to a depth of 30.48 metres, and will contain an area of 9.2 square metres. This land will be conveyed to the owner of the property to the east known municipally as 49 Elvaston Avenue.
- [5] The retained lands, shown as Parts 1 and 3 on said plan, will have frontage of 13.42 metres to a depth of 30.48 metres and will contain a lot area of 409.1 square metres. This parcel contains a portion of a semi-detached dwelling unit that was destroyed by a storm and is known municipally as 47 Elvaston Avenue.

- [6] It is proposed to construct a new detached dwelling on the retained parcel that will not be in conformity with the requirements of the Zoning By-law and therefore, a Minor Variance Application (D08-02-23/A-00033) has been filed and will be heard concurrently with this application.

PUBLIC HEARING

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

Oral Submissions Summary

- [8] Mr. Segreto provided an overview of the application and responded to questions from the Committee.
- [9] City Planner Alex Gatien raised some concerns with the application and recommended that the area of the severed lands be increased to provide a larger side yard setback for the owner of 49 Elvaston Avenue, to allow for access for maintenance purposes.
- [10] In response, Mr. Segreto proposed that a maintenance easement be established over a portion of 47 Elvaston Avenue, in favour of 49 Elvaston, to address the concerns raised by Mr. Gatien. He therefore requested that the application be amended to include a request for a **Grant of Easement/Right-of-Way**. Mr. Gatien indicated that an easement would satisfy his concerns.
- [11] With all parties in agreement, the application was amended accordingly.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED AS AMENDED

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 cover letter, lot fabric evidence, site photos and plans
- City Planning Report received April 17, 2023, requesting adjournment
- Building Code Services email dated April 13, 2023, including Orders to Comply
- Rideau Valley Conservation Authority email dated April 17, 2023, with no objections
- Hydro Ottawa email dated April 13, 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 application.

[15] 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.

[16] 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) establish a maintenance easement in favour of 49 Elvaston Avenue, to the satisfaction of the **Development Review Manager of the relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate and City Legal Services**, the consent to the registration of which is hereby granted.
2. The Owner, or any subsequent owners, acknowledges and agrees to obtain a private approach permit for the newly constructed two-storey detached dwelling (47 Elvaston Ave). In addition, the private approach 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 a road cut permit 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**.

3. The Owner, or any subsequent owners, acknowledges and agrees to obtain a private approach permit to remove the existing approach in front of 47 Elvaston Ave). In addition, the removal of the approach 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 a road cut permit 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**.
4. 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.
5. 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 Lot Line Adjustment and a Grant-of-Easement/Right-of-Way 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

Absent
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 28, 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 18, 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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