

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: 47-49 Elvaston Avenue

Legal Description: East and West Parts of Lot 22, Plan 645570

File No.: D08-01-23/B-00041, D08-02-23/A-00033 and D08-02-23/A-00034

Date: April 14, 2023

Hearing Date: April 19, 2023

Planner: Alex Gatien

Official Plan Designation: Neighbourhood, Outer Urban Transect

Zoning: R2M

## DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department has **some concerns** with the lot line adjustment and minor variance applications. Staff recommend that the Committee of Adjustment **adjourns** the applications to provide the applicant with an opportunity to revise the plans to address staff concerns.

## DISCUSSION AND RATIONALE

The Official Plan (2022) designates the property as a Neighbourhood in the Outer Urban Transect. The policies pertaining to this designation support a variety of housing types with a focus on lower density forms of missing-middle housing. In this case, the proposed development replaces half of a semi-detached dwelling that was destroyed in a windstorm with a detached dwelling, which provides comparable density to what previously existed in a different built form. The conversion of the remaining half of the formerly semi-detached dwelling to a detached dwelling maintains existing housing stock.

The property is zoned *Residential Second Density Zone, Subzone M (R2M)*. The purpose of this zone is to allow detached and principal unit buildings, and to maintain or enhance the residential character of a neighbourhood. The Zoning By-law permits both detached and semi-detached dwellings.

As currently proposed, there is slightly over 1.6 metres between the two dwellings. The interior side yard setback for 47 Elvaston is proposed to exceed the Zoning By-law requirement of 0.9 metres with a setback of 1.2 metres. 49 Elvaston is proposed to have a zero-metre setback whereas approximately 0.4 metres is provided.



Staff have two concerns with the proposed variances and lot line adjustment as submitted.

Firstly, the proposed zero-metre side yard setback and setback to the eaves of 49 Elvaston could prove challenging for accessing the side of the building for any future maintenance. The proposed site plan shows a side yard width of approximately 0.4 metres for 49 Elvaston. Staff recommend that the applicant examine revising the lot line adjustment to increase the side yard setback and setback to the eaves for 49 Elvaston.

Secondly, the zero-metre setback proposed for both the side yard and the eaves raises a high risk of accidentally crossing the property boundary. As the wall of the building already exists and a peaked roof where the eaves extend beyond the building wall is proposed, a zero-metre setback for both the building and the eaves is not appropriate. Since eaves project beyond the main wall of a building, it is intended that they are subject to smaller setback requirements than the building itself. Staff is of the opinion that as proposed, the variance does not meet the general intent and purpose of the Zoning By-law in terms of setbacks for eaves and buildings.

## **ADDITIONAL COMMENTS**

### Right-of-Way Comments

The Right-of-Way Management Department has **no concerns** with the proposed Lot Line Adjustment. However, the Applicant has noted on the Site Plan that the existing driveway will be demolished and a new proposed driveway will be constructed in front of 47 Elvaston Ave. In light of this, the Department requests that the following conditions be imposed:

1. 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**.

2. 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**.

**Please contact the ROW Department for any additional information at [rowadmin@ottawa.ca](mailto:rowadmin@ottawa.ca)**

#### Forester Comments

All existing trees on site were destroyed in the 2018 tornado. There are no tree-related concerns with the requested variances. One new 50mm tree must be planted in the ROW or frontage of each lot following construction, to restore the streetscape and canopy cover in this neighbourhood.

#### **CONDITIONS OF APPROVAL**

If approved, the Planning, Real Estate and Economic Development Department requests that the following conditions be imposed on the consent application:

#### **Lot Line Adjustment**

1. That the owner(s) file with the Secretary-Treasurer of the Committee of Adjustment the following:
  - a. A copy of the reference plan and/or legal description of the severed land and the deed or instrument conveying the severed land to the owner of the abutting property, known municipally as 47 Elvaston Avenue, so that no new lot is being created, in accordance with paragraph (b) below



b. A Certificate of Official attached to the deed/transfer required by paragraph (a) above containing the following endorsement:

“The lands to be severed are for the purpose of a lot addition only to the abutting lands owned by (*insert name*) described as PIN (*insert property identification number*) being Part(s) (*insert numbers*) on Plan (*insert plan number*), not for the creation of a new lot, and any subsequent transfer, charge or other transaction involving the lands to be severed shall be subject to compliance with Section 50(3) or Section 50(5) of the Planning Act, as applicable. Neither the lands to be severed nor the abutting lands are to be transferred, charged, or otherwise re-conveyed in the future without the other parcel unless a further consent is obtained.

The owner(s) shall cause the lands to be severed to be consolidated on title with the abutting lands and for this condition to be entered on the parcel register for the consolidated parcel as a restriction.”

c. An undertaking from a solicitor authorized to practice law in the Province of Ontario, and in good standing with the Law Society of Upper Canada, as follows:

“In consideration of, and notwithstanding the issuance of the Certificate under Section 50(12) of the Planning Act in respect to the subject Application for Consent, I undertake on behalf of the Owner, within **30 days** of the registration on title of the transfer document containing the endorsement set out in the Certificate of Official issued by the Committee of Adjustment, to file an Application to Consolidate Parcels including the severed land (Part of PIN (*insert number*) and the abutting land (PIN *insert number*). This PIN consolidation is intended to reinforce the Planning Act stipulation in the condition outlined above that both parcels have merged on Title and cannot be conveyed separately in the future. I further undertake to forward a copy of the registered Application to Consolidate Parcels and a copy of the Consolidated Parcel abstract page(s) to the Committee office within 21 days of the registration of the Application to Consolidate Parcels”.

d. Where the parcel consolidation stipulated in paragraph (b) and the solicitor’s undertaking in paragraph (c) above cannot be completed because the parcels of land to be merged have different estate qualifiers,



an application to annex restrictive covenant under Section 118 of the *Land Titles Act* must be registered on the title of both the severed lands and on the abutting parcel that is to be merged. The covenant, which is to be to the satisfaction of the Secretary-Treasurer of the Committee of Adjustment, shall advise all future purchasers that the parcels must be dealt with together and not separately, and contain wording set out below or similar wording acceptable to the Secretary-Treasurer of the Committee of Adjustment:

“These lands have been merged and may not be dealt with separately, without applying for a consent of the Committee of Adjustment.”

In lieu of the undertaking provided in paragraph (c), a replacement undertaking by the solicitor must be filed undertaking on behalf of the owner(s) to register the restrictive covenant on both property titles within 30 days of the registration of the transfer document containing the endorsement of the Certificate of Official issued by the Committee of Adjustment for this application and to file a copy of the registered restrictive covenant with the Committee of Adjustment within 21 days of the registration of the document.

## Servicing

2. 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.
3. 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.

## Forestry

4. 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 of one new 50mm tree to be planted on the property frontage or right-of-way of each lot following construction, to enhance the urban tree canopy and streetscape.

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