

DECISION CONSENT/SEVERANCE

Date of Decision	April 28, 2023
File No(s):	D08-01-23/B-00043 & D08-01-23/B-00044
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Pablo Enrique Rangel Rodriguez
Property Address:	609-611 Mutual Street
Ward:	13 - Rideau-Rockcliffe
Legal Description:	Part of Lots 6 and 7, Registered Plan 659
Zoning:	R2F
Zoning By-law:	2008-250
Hearing Date:	April 19, 2023

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

- [1] The Owners want to subdivide their property into two separate parcels of land to establish separate ownership for each half of the existing semi-detached dwelling.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owners require the Consent of the Committee for Conveyances and a Joint Use and Maintenance Agreement.
- [3] The property is shown as Parts 1 to 4 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-00043	9.14 m	36.03 m	328.6 m ²	1 and 2	609 Mutual Street
B-00044	9.14 m	36.03 m	328.6 m ²	3 and 4	611 Mutual Street

- [4] The applications indicate that Parts 2 and 4 are subject to an existing utility easement as set out in instrument **OT21246E**.
- [5] The applications indicate that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

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

Oral Submissions Summary

- [7] The Committee noted that the existing easement instrument number should be amended to read as follows: ~~OT20246E~~ **OT21246E**.
- [8] Mr. Segreto responded to questions from the Committee, confirming that the existing semi-detached structure was constructed in the 1960s and that there are no existing trees at the front of the property.
- [9] City Infill Forester Hayley Murray responded to the Committee's questions advising that the requested Trees in Trust condition, outlined in the City's Planning Report, refers to the City's Trees in Trust program under which the Applicant would submit a request to participate and have the City plant new trees. Having the Applicant participate in this program would allow the City to enter the Applicant's property to plant new tree and help enhance the urban tree canopy. Ms. Murray further advised that the condition highlights that each new tree is to be planted in the City's right-of-way and maintained by the municipality.
- [10] Mr. Segreto confirmed that because the trees will be the City's responsibility to maintain, he had no concerns with the Trees in Trust condition. He further confirmed that he had no concerns with all the conditions outlined in the City's Planning Report.
- [11] City Planner Basma Alkhatib was also present.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Applications 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 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, draft plan, and a lot fabric map
- City Planning Report received April 14, 2023, with no concerns
- Rideau Valley Conservation Authority email dated April 17, 2023, with no objections
- Hydro Ottawa email dated April 11, 2023, with no comments

Effect of Submissions on Decision

- [14] The Committee considered all written and oral submissions relating to the applications 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] Regarding requested condition 5 relating to the Trees in Trust application, the majority of the Committee (Member H. MacLean dissenting) finds that it should be imposed.
- [17] 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.
- [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 a servicing plan or other evidence, 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 each existing building and/or unit on the severed and retained parcels has its own independent water, sanitary and sewer

connection, as appropriate, that are directly connected to City infrastructure and do not cross the proposed severance line.

2. That the Owner(s) enter into a Joint Use, Maintenance and Common Elements, 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, common structural elements such as roof, footings, soffits, foundations, common areas, common driveways and common landscaping.

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 **Central Manager of the Select Branch within Planning, Real Estate and Economic Development Department, or his/her designate, and City Legal Services**. The Committee requires written confirmation that the Agreement is satisfactory to **Central Manager of the Select 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.

3. 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 115m of St. Laurent Blvd) 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 Select 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.

4. That the Owner(s) provide evidence to the satisfaction of the **Chief Building Official, or designate**, that the party wall meets the Ontario Building Code, O Reg. 332/12 as amended, which requires a 1-hour fire separation from the basement through to the underside of the roof. Verification from the Building Inspector is required. If necessary, a building permit shall be obtained from Building Code Services for any required alterations.

5. That the Owner(s) submit a Trees in Trust application for one new 50mm tree to be planted in the right-of-way in front of each lot, to enhance the urban tree canopy and streetscape. <https://ottawa.ca/en/living-ottawa/environment-conservation-and-climate/trees-and-urban-forests/tree-planting#trees-trust>
6. That the Owner(s) provide certification from an Ontario Land Surveyor that the party walls is in line with the proposed severance line.
7. 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.
8. 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 Conveyances and a Joint Use and Maintenance Agreement for which the Consent is required.

“John Blatherwick”
JOHN BLATHERWICK
VICE-CHAIR

“Stan Wilder”
STAN WILDER
MEMBER

“Heather MacLean”
HEATHER MACLEAN
MEMBER

“Michael Wildman”
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 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
City of Ottawa
Ottawa.ca/CommitteeofAdjustment
cofa@ottawa.ca
613-580-2436



Comité de dérogation
Ville d'Ottawa
Ottawa.ca/Comitedederogation
cded@ottawa.ca
613-580-2436