

**DECISION
CONSENT/SEVERANCE**

Date of Decision	May 12, 2023
File No(s):	D08-01-23/B-00052
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Sandy-Belle Ghosselin and Roy Imad
Property Address:	450 Tremblay Road
Ward:	18 – Alta Vista
Legal Description:	Lots 140 & 141 and Part of Lots 139 & 937, Registered Plan 320
Zoning:	R3M
Zoning By-law:	2008-250
Hearing Date:	May 3, 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 new two-storey semi-detached dwelling with secondary dwelling units.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owners require the Consent of the Committee for a Conveyance.
- [3] The severed land, shown as Part 2 on a Draft 4R-plan filed with the application, will have a frontage of 7.47 metres, a depth of 30.17 metres and will contain a lot area of 225.37 square metres. This parcel will contain one-half of the semi-detached dwelling and will be known municipally as 450 Tremblay Road.
- [4] The retained lands, shown as Part 1 on said draft plan, will have a frontage of 10.84 metres, a depth of 30.17 metres and will contain a lot area of 327.04 square metres. This parcel will contain the other half of the semi-detached dwelling and will be known municipally as 452 Tremblay Road.
- [5] The application indicates that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [6] At the April 5, 2023, hearing, the Committee heard from City Planner Justin Grift, who stated he had no concerns with the Consent application but noted that the plans provided with the application were not in conformity with the building height requirements of the Zoning By-law and would need to be revised prior to building permit issuance. Alternatively, the Applicant could apply for a minor variance for building height. Also present was Elie Ghossein, Agent for the Owners, who indicated he would like additional time to consult with the Owners and explore the option before proceeding with the Consent application. With the concurrence of all parties the application was adjourned to May 3, 2023.
- [7] At the hearing on May 3, 2023, the Acting Panel Chair administered an oath to Mr. Ghossein, who confirmed that the statutory notice posting requirements were satisfied.

Oral Submissions Summary

- [8] Mr. Ghossein responded to questions from the Committee, confirming that revised plans had been submitted to ensure conformity with the Zoning By-law regarding building height.
- [9] City Planner Justin Grift was also present.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Tests

- [10] 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

[11] 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, with revisions.

- City Planning Report received April 28, 2023, with no concerns; received March 31, 2023, with no concerns
- Rideau Valley Conservation Authority email dated April 26, 2023, with no objections; dated March 24, 2023, with no objections.
- Hydro Ottawa email dated April 26, 2023, with comments; dated March 29, 2023, with comments
- Hydro One email dated April 28, 2023, with no comments or concerns; dated March 24, 2023, with no comments or concerns
- Ministry of Transportation email dated April 25, 2023, with no objections; dated March 23, 2023, with no objections

Effect of Submissions on Decision

- [12] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [13] The Committee notes that the City's Planning Report raises "no concerns" regarding the application.
- [14] 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.
- [15] 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 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 Page 6 of 9 of By-law 2022-280. Information regarding the appraisal process can be obtained by contacting the Planner.

2. That the Owner(s) provide proof to the satisfaction of the **Development Review Manager of the South Branch within Planning, Infrastructure 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.
3. That the Owner(s) provide evidence to the satisfaction of **the Development Review Manager of the South Branch within Planning, Infrastructure 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.
4. That the Owner convey a 5 m x 5 m corner sight triangle located at the intersection of Tremblay and Avenue U 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.
5. That the Owner(s) provide evidence to the satisfaction of **both the Chief Building Official and Development Review Manager of the South Branch within the 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.
6. 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 South 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 South Branch within Planning, Real Estate and Economic Development Department, or his/her designate**.

7. 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 South 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 Secord Avenue, 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 South 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 South 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.

8. The Owner(s) shall prepare a noise and vibration attenuation study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of the **Development Review Manager of the South Branch within Planning, Infrastructure 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 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 an Agreement with the City, at the expense of the Owner(s), 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, warning purchasers and/or tenants of expected noise levels due to the existing source of environmental noise (Major collector, etc.). The Agreement shall be to the satisfaction of the **Development Review Manager of the South Branch within Planning, Infrastructure 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.
10. That the Owner(s) enter into an Agreement with the City, at the expense of the Owner(s), which is to be registered on the Title of the property, to deal with the following covenant/notice that shall run with the land and bind future owners on subsequent transfers:

“The property is located next to lands that have an active railway line now, or may have one in the future, and may therefore be subjected to noise, vibration, and other activities associated with this use.”

The Committee requires a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title.

11. That the Owner(s) shall and submit a tree planting plan, prepared to the satisfaction of the **Development Review Manager of the South 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 each lot following construction, preferably in the right of way, to enhance the urban tree canopy.
12. 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 South Branch within the Planning, Real Estate and Economic Development Department, or his/her designate**.
13. That the Owner(s) agree to provide proof of the existing services being capped outside of the Critical Root Zone of the protected tree, as part of the demolition process. The sanitary service, and storm service if present, must be abandoned and capped outside of the Critical Root Zone of the protected tree(s), within private property. This must be clearly demonstrated on the Existing Conditions, Removals and Decommissioning Plan.
14. That the Owner(s) enter into a Joint Use, Maintenance and Common Elements Agreement, 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 the **City Legal Services** and the **Development Review Manager of the South Branch within the Planning, Real Estate and Economic Development Department, or his/her designate**. The Committee requires written confirmation that the Agreement is satisfactory to **City Legal Services** and the **Planning, Real Estate and Economic Development Department**, as

well as a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.

15. 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.
16. 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.

Absent
ANN M. TREMBLAY
CHAIR

“Kathleen Willis”
KATHLEEN WILLIS
MEMBER

“Scott Hindle”
SCOTT HINDLE
ACTING CHAIR

Absent
COLIN WHITE
MEMBER

Absent
JULIA MARKOVICH
MEMBER

“Stan Wilder”
STAN WILDER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **May 12, 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 **June 1, 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