

**DECISION
CONSENT/SEVERANCE**

Date of Decision	May 26, 2023
File No(s):	D08-01-23/B-00102 & D08-01-23/B-00103
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	2501308 Ontario Inc.
Property Address:	1544 Kilborn Avenue
Ward:	18 – Alta Vista
Legal Description:	Lot 1, Registered Plan 296
Zoning:	R10
Zoning By-law:	2008-250
Hearing Date:	May 17, 2023

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

- [1] The owner wants to subdivide its property into two separate parcels of land for the construction of a new detached dwelling. The existing detached dwelling will remain.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Consent of the Committee for Conveyances. The subject property is shown as Parts 1 and 2 on the 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-00102	10.63 m	30.57 m	323.4 sq. m	1	1544 Kilborn (existing dwelling)
B-00103	11.27 m	30.54 m	353.9 sq. m	2	1540 Kilborn (new detached dwelling)

- [3] Approval of these applications will have the effect of creating two separate parcels of land. The proposed parcels and development will not be in conformity with the with the requirements of the Zoning By-law and therefore, Minor Variance Applications D08-02-23/A-00082 & D08-02-23/A-00083 have been filed and will be heard concurrently with these applications.

PUBLIC HEARING

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

Oral Submissions Summary

- [5] Mr. Bruni provided a slide presentation that included architectural plans, 3D renderings, lot fabric, and photographs, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. He noted that the zoning description, as indicated in the Planning Report, should be amended to read as follows: ~~R10~~ **R10**. Mr. Bruni highlighted efforts to consult area residents and the community association, with only one resident raising concerns regarding the front yard parking space. He advised that the partial front yard parking on the retained lot has been an existing condition for over 30 years with a requested variance to legalize the parking space. Mr. Bruni elaborated on the reasoning behind the proposed design, indicating that there are houses in the area where the front entrance is located on the side of the structure. He referred to the ground floor plan, indicating that locating the front door on the side enables a more functional interior space for a home office/study instead of an empty foyer. It was his opinion that the proposal is in keeping with the streetscape pattern.
- [6] In response to questions from the Committee, Mr. Bruni confirmed that, as part of the redevelopment of the subject site, the existing driveway on the retained lands would be reduced in width.
- [7] City Planner Siobhan Kelly responded to the Committee's questions, highlighting that, instead of guidelines, the Alta Vista/Faircrest Heights/Riverview Park Secondary Plan include policies that carry the same weight as those of the Official Plan. Ms. Kelly summarized the Secondary Plan policies, highlighting that Kilborn Avenue is identified as a "road designated for Low-Rise Neighbourhood development". Ms. Kelly also highlighted that there are two existing private approaches, and the proposal maintains an unbroken curb space for soft landscaping and tree planting.
- [8] With respect to the City's requested condition 6 concerning the demolition or relocation of an existing structure straddling the proposed severance line, Mr. Bruni highlighted that it was built with metal tubing and a tarp and likely would not qualify for a demolition permit as it could be easily dismantled. Ms. Kelly confirmed that the wording of the condition does allow flexibility in determining if it has been fulfilled. Nevertheless, the Committee agreed to remove all references to a demolition permit.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION(S) GRANTED

Application(s) Must Satisfy Statutory Tests

- [9] 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

[10] 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:

- Applications and supporting documents, including planning rationale, plans, and tree information.
- City Planning Report, received May 12, 2023, with some concerns
- Rideau Valley Conservation Authority email dated May 10, 2023, with no objections
- Hydro Ottawa email dated May 10, 2023, with comments
- Glenda Lahde, 1523 Kilborn Avenue, email dated May 10, 2023, with objections

Effect of Submissions on Decision

[11] The Committee considered all written and oral submissions relating to the applications in making its decision and granted the applications.

[12] The Committee notes that, with respect to the requested variances for reduced lot area and lot width, the City's Planning Report raises no concerns, stating that: "the proposed severance meets the criteria for the subdivision of land listed in Section 51(24) of the Planning Act, R.S.O. 1990, c.P.13. The severance will facilitate the development of a detached dwelling, a permitted use in the R1O zone. The size and shape of the resulting lots are suitable for the purposed residential use and the lots will front onto an established municipal road with municipal services."

[13] Based on the evidence, the majority of the Committee (Member C. White dissenting for reasons noted below) 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 majority of 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 majority of 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 majority of 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.

- [14] *Member C. White dissents, finding that insufficient evidence was presented demonstrating that the proposed lot width and lot area would be consistent with the surrounding area.*
- [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 the accompanying Minor Variance Applications (D08-02-23/A-00082 & D08-02-23/A-00083) have been approved, with all levels of appeal exhausted.
 2. 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 of By-law 2022-280. Information regarding the appraisal process can be obtained by contacting the Planner.
 3. That the Owner(s) satisfies the **Chief Building Official, or designate**, by providing design drawings or other documentation prepared by a qualified designer, that the existing detached dwelling on Part 2 of the Draft 4R Plan complies with the Ontario Building Code, O. Reg. 332/12 as amended, regarding the limiting distance along the western side of the proposed property line. If necessary, the owner(s) shall obtain a building permit from Building Code Services for any required alterations.
 4. That the Owner(s) prepare 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 50 mm 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.
 5. That the Owner(s) provide evidence (servicing plan), 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, 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.

6. That the Owner(s) 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.
7. That the Owner(s) provide evidence 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, that the existing structure straddling the proposed severance line has been removed.
8. 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.
9. 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.

“Ann M. Tremblay”
ANN M. TREMBLAY
CHAIR

“Kathleen Willis”
KATHLEEN WILLIS
MEMBER

Dissent
COLIN WHITE
MEMBER

“Scott Hindle”
SCOTT HINDLE
MEMBER

“Julia Markovich”
JULIA MARKOVICH
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **May 26, 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 15, 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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