

DECISION CONSENT/SEVERANCE

Date of Decision	May 26, 2023
File No(s):	D08-01-23/B-00098 to D08-01-23/B-00100
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	4176855 Canada Inc.
Property Address:	432, 436 Ravenhill Avenue
Ward:	15 - Kitchissippi
Legal Description:	Part of Lots 10 and 11, West Cole Avenue, Plan 235
Zoning:	R3R [2687] H(8.5) and R4UA [2686] H(8.5)
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 three separate parcels of land for the construction of one detached dwelling and one semi-detached dwelling. The existing semi-detached dwelling at 436 Ravenhill Avenue will be retained and the detached garages in the rear yard will be demolished.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Consent of the Committee for Conveyances and Grant of Easements/Right-of-Ways. The property is shown as Part 1 to 9 on Draft-4R plan filed with the applications.

File No.	Frontage	Depth	Area	Part Nos.	Municipal Address
B-00098	20.09 m (Cole Ave.) 18.78 m (Ravenhill Ave.)	18.92 m	380.2 sq. m.	1 & 2	432 Ravenhill Ave. (proposed semi-detached dwelling)
B-00099	15.9 m (Cole Ave.)	22.47 m	324.5 sq. m.	6, 8 & 9	458 Cole Ave. (proposed detached dwelling)
B-00100	6.57 m (Ravenhill Ave.)	35.42 m	218.9 sq. m.	3, 4, 5 & 7	436 Ravenhill Ave. (existing semi-detached dwelling)

- [3] It is proposed to create Easements/Right-of-Ways as follows:
- Over Part 3 in favour of Parts 1, 2, 6, 8 and 9 for pedestrian and vehicular access
 - Over Part 5 in favour of Parts 6, 8 and 9 for pedestrian and vehicular access
 - Over Part 6 in favour of Parts 3, 4, 5 and 7 for pedestrian and vehicular access
 - Over Part 2 in favour of Parts 3 to 8 and 9 for pedestrian and vehicular access.
- [4] The Application indicates that there is an existing easement in NS105349.
- [5] Approval of these applications will have the effect of creating three separate parcels of land, one of which will not be in conformity with the requirements of the Zoning By-law, therefore a Minor Variance Application (D08-02-23/A-00077) has been filed for the proposed lot at 432 Ravenhill Avenue which will be heard concurrently with these applications.

PUBLIC HEARING

- [6] On May 3, 2023, the Panel Chair advised that the applications would need to be adjourned because public notification was deficient in this case. With the concurrence of all parties the application was adjourned *sine die*.
- [7] At the hearing on May 17, 2023, the Panel Chair administered an oath to Bryan Ernst, representing the Applicant, who confirmed that the statutory notice posting requirements were satisfied.

Oral Submissions Summary

- [8] Ryan Poulton and Murray Chown, both acting as Agent for the Applicants, provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. Mr. Chown confirmed that an easement exists on the subject property for the benefit of the Owner of 438 Ravenhill Avenue to access their yard. Mr. Chown confirmed that the proposed development would not modify or impede any rights established by that easement. Mr. Poulton presented turning radius analysis demonstrating how the shared laneway would function for each user.
- [9] City Planner Margot Linker responded to the Committee's questions, highlighting that she had no concerns with the reduction in the soft landscaping buffer. She stated the proposal provides adequate soft landscaping along the Cole Avenue frontage and does not interrupt an established contiguous landscaped buffer.

[10] The Committee also heard oral submissions from the following individuals:

- Debbie Bellinger, a lawyer representing Kathleen Klassen of 438 Ravenhill Avenue, raised concerns including reduction in the paved laneway width to 3 metres where it meets Ravenhill Avenue. She stated that this reduction was the result of additional landscaping elements and of the new development meeting the requirements of the Zoning By-law. However, Ms. Bellinger highlighted that her client's easement is 4.59 metres wide and requested that the full 4.59 metres be paved for use as a laneway, including over the City owned Right-of-Way between the property line and Ravenhill Avenue.
- Kathleen Klassen, 438 Ravenhill Avenue, highlighted concerns regarding the problematic sharing of the existing laneway and the separation of services to her existing semi-detached dwelling.
- Heather Mitchel, Westboro Community Association, highlighted concerns regarding the loss of privacy for Ms. Klassen and the tenants of 436 Ravenhill Avenue as well as potential safety concerns with the shared laneway. Ms. Mitchel acknowledged the Applicant's efforts to consult the neighbours.

[11] In response to the concerns raised by Ms. Bellinger, Mr. Chown noted that the functional laneway, as it exists today, is 3.9 metres wide over the City's Right of Way at the entrance to the drive aisle, not the full 4.59 metres as prescribed by the easement. Mr. Chown noted that his client would be favourable to increase the width of the laneway, but this would involve a further minor variance as it would not comply with the Zoning By-law. In his opinion, an increased width where the laneway meets the street would not be supported by the City. Mr. Chown emphasized the proposed development will not alter the configuration nor the functionality of access to the rear yard of 438 Ravenhill Avenue.

[12] Following the public hearing, the Committee reserved its decision and advised that a written one with reasons would be issued within ten days.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Applications Must Satisfy Statutory Tests

[13] 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

[14] 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 planning rationale, plans, and tree information.
- City Planning Reports, received May 12 and April 28, 2023, with no concerns
- Rideau Valley Conservation Authority, emails dated May 15 and April 27, 2023, with no objections
- Hydro Ottawa, emails dated May 15 and April 27, 2023, with no concerns
- Hydro One, email dated April 28, 2023, with no concerns
- Heather Mitchell, Westboro Community Association, email dated May 15, 2023, in opposition
- Gillian Pearlstone, Highland Park Lawn Bowling Club, email dated May 15, 2023, in opposition
- Kathleen Klassen, 438 Ravenhill Avenue, emails dated May 1, May 12 and May 15, 2023, in opposition
- Mathew Smith, 448 Golden Avenue, email dated April 26, 2023, with concerns
- Nancy Hextall & Brian Hodgson, 455 Golden Avenue, email dated May 15, 2023, in opposition
- Anne Ferguson, 468 Cole Avenue, email dated May 15, 2023, in support
- Debbie Bellinger, lawyer for Kathleen Klassen, memorandum dated May 15, 2023, in opposition

Effect of Submissions on Decision

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

[16] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications. The Committee further notes that any alteration to the easement/right-of-way would require a private approach permit application with the

City's Right of Way, Heritage & Urban Design department, and is not within the purview of the Committee.

- [17] Based on the evidence, the Committee (Member S. Wilder dissenting) 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 evidence that the accompanying Minor Variance Application (D08-02-23/A-00077) has been approved, with all levels of appeal exhausted.
 2. 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(s) of the specified number of compensation trees (50mm caliper) required under the Tree Protection By-law, assuming that all proposed tree removals are permitted.
 3. 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 No. 2022-280.
 4. That the Owner(s) provide proof 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 the existing dwelling/building has been removed.
 5. 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.

6. That the Owner(s) provide 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 the accessory structure has been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law.
7. 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 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. 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 Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate**.
8. That the Owner convey a 3 m x 3 m corner sight triangle located at the intersection of Ravenhill Avenue and Cole Avenue 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.
9. 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 Central 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 Cole 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 Central 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 Central 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.

10. That the Owner(s) enter into a Joint Use, Maintenance and Operating 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 Select 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 Select 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.

11. 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.
12. 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.


“John Blatherwick”
JOHN BLATHERWICK
VICE-CHAIR

Dissent
STAN WILDER
MEMBER

“Heather MacLean”
HEATHER MACLEAN
MEMBER

Absent
MICHAEL WILDMAN
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
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