

DECISION CONSENT / SEVERANCE

Date of Decision	June 30, 2023
Panel:	2 - Suburban
File No(s):	D08-01-23/B-00124, D08-01-23/B-00125
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Capital Better Home Inc.
Property Address:	481 Wentworth Avenue
Ward:	7 - Bay
Legal Description:	Lot 58 & Part of Lot 57, Registered Plan 324
Zoning:	R2F
Zoning By-law:	2008-250
Hearing Date:	June 20, 2023, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owner wants to subdivide its property into two separate parcels of land to create two new parcels for residential development. It is proposed to construct two new detached dwellings, one on each of the newly created parcels. The existing dwelling is to be demolished.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Committee's consent to sever the land. The property is shown as Parts 1 and 2 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-00124	11.44 m	30.48m	348.6 sq. m	1	479 Wentworth Ave
B-00125	11.44 m	30.48 m	348.8 sq. m	2	481 Wentworth Ave

- [3] Approval of these applications will have the effect of creating two separate parcels of land that will not be in conformity with the requirements of the Zoning By-law

and therefore a Minor variance applications (File No. D08-02-23/A-00099, D08-02-23/A-00100) have been filed and will be heard concurrently with these applications.

PUBLIC HEARING

- [4] Prior to the scheduled hearing on June 20, 2023, the Committee received an adjournment request from City Planner Alex Gatien, to allow the Applicant to obtain a permission letter for the removal of the jointly owned tree(s). At the hearing the Committee heard from Michael Segreto, Agent for the Applicant, who advised that the permission letter was obtained and shared with the City Planner and Planning Forester. Mr. Segreto requested that the hearing of the applications proceed as scheduled, however if additional time is required to review the supporting documents, he requested an adjournment to the next available hearing date.
- [5] The Committee also heard from Mr. Gatien, who confirmed that the permission letters were received and reviewed by City Forester Nancy Young. Mr. Gatien withdrew the adjournment request.

Oral Submissions Summary

- [6] Mr. Segreto provided a slide presentation that included photographs, draft reference plan, architectural plans, 3D renderings, a lot fabric map, and tree location and replacement plan, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request.
- [7] The Committee also heard oral submissions from the following individual:
- I. McCallum, Woodpark Community Association, highlighted concerns relating to the impact to the mature trees during development of the property.
- [8] City Forester Nancy Young summarized her concerns relating to five trees on the subject property, as outlined in the Planning Report, noting that the submitted Tree Information Report does not detail how these trees will be retained and protected during construction. She noted that the City's requested conditions 2 to 5 were included in the report to address her concerns, however condition 2 requiring a letter of permission from the adjacent owner is no longer necessary. Responding to the Committee's questions, Ms. Young advised that the Tree Protection By-law is not enforceable under the Ontario Building Code and that the consent application process is the appropriate time to impose tree protection conditions.
- [9] The Committee questioned if the Development Agreement for the asphalt overlay was necessary and/or if it could be obtained during the building permit process. Mr. Gatien indicated that it would not be included in the building permit process.
- [10] Mr. Gatien highlighted that the subject property is within the Evolving Neighbourhood Overlay, which is intended to encourage gradual intensification

near corridors and rapid transit. He confirmed that he had no concerns with the proposed applications.

[11] Following the public hearing, the Committee reserved its decision.

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:

- Applications and supporting documents, including cover letter, plans, flyer, streetscape character analysis, photographs, streetscape rendering, tree information, tree replacement plan, letter of permission, photo of the posted sign, and a sign posting declaration.
- City Planning Report received June 15, 2023, with adjournment request
- Rideau Valley Conservation Authority email dated June 15, 2023, with no objections
- Hydro Ottawa email dated June 13, 2023, with no comments
- Transportation Engineering Services email dated June 16, 2023, with comments
- P. Bortolotti, area resident, email dated June 16, 2023, with comments
- L. Wardell, area resident, email dated June 19, 2023, with concerns

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" with the consent applications, highlighting that they "will facilitate context appropriate intensification in accordance with the goals of the Evolving Neighbourhood Overlay."
- [16] 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.
- [17] 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-00099, D08-02-23/A-00100) 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 No. 2022-280. Information regarding the appraisal process can be obtained by contacting the Planner.
 3. The Owners agree to provide a revised site plan and tree information report 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**. This report shall be prepared by an Arborist, identifying all trees protected under the City's Tree Protection by-law, and meeting the standards of the City's Tree Information Report Guidelines, including specific mitigation measures where work is proposed within the Critical Root Zone of a protected tree.
 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(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.

5. Prior to the stamping of the deed(s), the Owner/Applicant(s) shall enter into a Development Agreement or a Letter of Undertaking (LOU) with the City of Ottawa, at the expense of the Owner/Applicant(s), and to the satisfaction of the **General Manager of the Planning, Real Estate, and Economic Development Department, or his/her designate**. A development agreement is to be registered on Title of the property. (where applicable), which will include the mitigation measures outlined in the approved Tree Information Report, prepared by Dendron Forestry Services, dated March 3, 2023, and associated security for tree protection. The securities, which will be based on the value of the trees to be protected (Tree 1) shall be retained for 2 years following completion of construction, and returned to the owner only upon the City having received a report from an arborist or appropriate professional confirming that the trees identified are in good health and condition, and remain structurally stable.
6. That the Owner(s) provide proof 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, 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.
7. That the Owner(s) provide proof 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, that each new parcel has its own independent storm, sanitary and water services connected to City infrastructure and that these services do not cross the proposed severance line.
8. That the Owner(s) provide evidence 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, that the accessory structure, identified as a Play Structure on the submitted R-Plan, has been removed or relocated in conformity with the Zoning By-law.
9. 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 **West 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 **West Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate.**

10. That the Owner(s) enter into a Development Agreement with the City, at the expense of the Owner(s) and to the satisfaction of **West Manager of the West 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 Wentworth 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 **West Manager of the West 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 West Manager of the West 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.

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.

Absent
FABIAN POULIN
VICE-CHAIR

“Jay Baltz”
JAY BALTZ
ACTING PANEL CHAIR

“George Barrett”
GEORGE BARRETT
MEMBER

“Heather MacLean”
HEATHER MACLEAN
MEMBER

“Julianne Wright”
JULIANNE WRIGHT
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **June 30, 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 **July 20, 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