

**DECISION  
CONSENT/SEVERANCE**

<b>Date of Decision</b>	June 30, 2023
<b>Panel:</b>	2 - Suburban
<b>File No(s):</b>	D08-01-23/B-00132, D08-01-23/B-00133
<b>Application:</b>	Consent under Section 53 of the <i>Planning Act</i>
<b>Owner(s)/Applicant(s):</b>	2501308 Ontario Inc. (under Agreement of Purchase and Sale)
<b>Property Address:</b>	45 Inverness Avenue
<b>Ward:</b>	9 – Knoxdale-Merivale
<b>Legal Description:</b>	Part of Lot 207, Registered Plan 289002
<b>Zoning:</b>	R1FF
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	June 20, 2023, in person and by videoconference

**APPLICANT’S PROPOSAL AND PURPOSE OF THE APPLICATIONS**

- [1] The Applicant wants to subdivide its property into two separate parcels of land to create two new lots. It is proposed to retain the existing detached dwelling and construct a new detached dwelling on the other parcel.

**CONSENT IS REQUIRED FOR THE FOLLOWING**

- [2] The Owner requires the Committee’s consent to sever. The property is shown as Parts 1, 2 and 3 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-00132	17.49 m	32.89 m (irregular)	547.50 sq. m	1	45A Inverness Ave (existing dwelling)
B-00133	19.26 m	38.28 m (irregular)	502.40 sq. m	2 & 3	45 Inverness Ave (proposed dwelling)

- [3] The applications indicate that the property is subject to an existing easement as in Instrument OC185069.

- [4] Approval of these applications will have the effect of creating separate parcels of land that will not be in conformity with the requirements of the Zoning By-law and therefore, Minor variance Applications (D08-02-23/A-00114 and D08-02-23/A-00115) have been filed and will be heard concurrently with these applications.

## **PUBLIC HEARING**

### **Oral Submissions Summary**

- [5] Anthony Bruni, Agent for the Applicant, highlighted efforts to consult with the General Burns Community Association regarding their concerns about construction and the state of the infrastructure in the area. He confirmed that the Applicant would endeavor to avoid disrupting the right-of-way and will consult with the community association should any additional concerns arise.
- [6] City Planner Samantha Gatchene responded to the Committee's questions, highlighting that the City's Engineering Services reviewed the application and servicing for the neighborhood and there are no concerns with the proposal, and that a site servicing condition is not necessary.
- [7] The Committee questioned the need for the City's requested condition of a development agreement for an asphalt overlay condition. City Planner Siobhan Kelly advised that upon reviewing the grading and drainage plan and depending on how many road cuts are required, the City Engineer will advise if the Applicant will need to enter into such a development agreement.
- [8] Following the public hearing, the Committee reserved its decision.

## **DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED**

### **Applications Must Satisfy Statutory Tests**

- [7] 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**

- [8] 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, tree information, photo of the posted sign, and a sign posting declaration
- City Planning Report received June 15, 2023, with no concerns
- Rideau Valley Conservation Authority email dated June 15, 2023, with no objections
- Hydro Ottawa email dated June 13, 2023, with no comments
- Airport Authority email dated June 6, 2023, with comments, *notice already registered on title*
- General Burns Community Association email dated June 19, 2023, with comments

### **Effect of Submissions on Decision**

- [9] The Committee considered all written and oral submissions relating to the applications in making its decision and granted the applications.
- [10] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications.
- [11] 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.
- [12] 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-00114 and D08-02-23/A-00115) 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, as amended. Information regarding the appraisal process can be obtained by contacting the Planner.

3. 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.
4. 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 existing structure straddling the proposed severance line has been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law.
5. 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 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. If they do cross or are not independent, the Owner(s) will be required to relocate the existing services or construct new services from the City sewers/watermain, at his/her own cost.
6. 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 Inverness Street, 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.
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 **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.**

8. The Owner(s) shall:

- a) prepare a noise attenuation study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of the General Manager, Planning, Infrastructure and Economic Development Department, or his/her designate. The Owner(s) shall also enter into an agreement with the City that requires the Owner to implement any noise control attenuation measures recommended in the approved study. The Agreement will also deal with any covenants/notices recommended in the approved study, that shall be registered on the land title and bind future owners on subsequent transfers, warning purchasers and/or tenants of expected noise levels due to the existing source of environmental noise. The Agreement shall be to the satisfaction of the **General Manager, 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.;

**or**

- b) Design the dwelling units with the provision for adding central air conditioning at the occupant's discretion and 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, warning purchasers and/or tenants of expected noise levels due to the existing source of environmental noise. The following two conditions will be included in the above-noted Agreement:

Notices-on-Title respecting noise:

- i. "The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns acknowledges being advised that this dwelling unit has been fitted with a forced air heating system and the ducting, etc. was sized to accommodate central air conditioning. Installation of central air conditioning by the Purchaser/Lessee will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the City of Ottawa's and the Ministry of the Environment and Climate Change's noise criteria;" and

- ii. “The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns acknowledges being advised that noise levels due to increasing roadway traffic may be of concern, occasionally interfering with some activities of the dwelling occupants as the outdoor sound level exceeds the City of Ottawa’s and the Ministry of the Environment and Climate Change’s noise criteria.”
9. 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.
10. 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](mailto:cofa@ottawa.ca) and/or by mail or courier to the following address:

Secretary-Treasurer, Committee of Adjustment,  
101 Centrepointe Drive, 4<sup>th</sup> 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](mailto: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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[Ottawa.ca/CommitteeofAdjustment](http://Ottawa.ca/CommitteeofAdjustment)  
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