

## DECISION CONSENT/SEVERANCE

<b>Date of Decision</b>	August 25, 2023
<b>Panel:</b>	1 - Urban
<b>File No(s):</b>	D08-01-23/B-00177
<b>Application:</b>	Consent under Section 53 of the <i>Planning Act</i>
<b>Owner(s)/Applicant(s):</b>	Eddy Malouf
<b>Property Address:</b>	451 Roosevelt Avenue
<b>Ward:</b>	15 - Kitchissippi
<b>Legal Description:</b>	Part of Lot 10 (East Side Roosevelt Avenue) Registered Plan 235
<b>Zoning:</b>	R4UA [2686] H(8.5)
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	August 16, 2023, in person and by videoconference

### APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owner wants to subdivide their property into two separate parcels of land to create separate ownerships for each half of the existing semi-detached dwelling.

### CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Committee's consent to sever. The severed land, shown as Parts 3, 4, 5, 7 & 9 on a Draft R-plan filed with the application, will have a frontage of 19.36 metres, a depth of 12.65 metres, and will contain a lot area of 241.53 square metres. This parcel will contain one half of the existing semi-detached dwelling and is known municipally as 396 Ravenhill Avenue.
- [3] The retained land, shown as Parts 1, 2, 6 & 8 on the said plan, will have a frontage of 12.65 metres, a depth of 12.18 metres and an area of 143.79 square metres. This parcel will contain the other half of the existing semi-detached dwelling and is known municipally as 451 Roosevelt Avenue.
- [4] Approval of these applications will have the effect of creating a parcel of land that will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance application (File No D08-02-23/A-00167) has been filed and was heard concurrently with this application.

## **PUBLIC HEARING**

### **Oral Submissions Summary**

- [5] Thomas Freeman, agent for the Applicant, provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request.
- [6] Mr. Freeman confirmed that no easements would be required as part of the application, and that both parcels would be independently serviced. He also confirmed that no development is proposed, and that the Owner intends to establish separate ownership for each half of the semi-detached dwelling.
- [7] Mr. Freeman also agreed with the City's requested conditions of provisional consent.
- [8] Jacob Bolduc, also acting as an agent for the Applicant, also confirmed that no development is proposed, and the proposed severance line would limit any future development.
- [9] City Planner Basma Alkhatib stated that the existing dwelling does not meet the corner side yard and front yard setback requirements of the zoning By-law but enjoys legal non-conforming rights. She also confirmed that the zoning of the property is R4UA [2686] H(8.5), and will not change as a result of the severance.
- [10] The Committee also heard oral submissions from the following individual:
- T. Spiegel, neighbour, stated concerns regarding the irregularity of the proposal, citing that it is not desirable for the appropriate development of the property. He also stated that the irregularity of the interior building wall can be seen from the interior of the dwelling.
- [11] Following the public hearing, the Committee reserved its decision.

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

### **Application 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:

- Application and supporting documents, including a planning rationale, plans, a parcel register, tree information, a letter from a solicitor, a photo of the posted sign, and a sign posting declaration.
- City Planning Report received August 11, 2023, with no concerns.
- Revised City Planning Report received August 15, 2023, with no concerns.
- Rideau Valley Conservation Authority email dated August 10, 2023, with no objections.
- Hydro Ottawa email dated August 16, 2023, with comments.
- Hydro One email dated August 4, 2023, with no comments.
- Ministry of Transportation email dated August 10, 2023, with no comments.
- T. Speigel, neighbour, email dated August 3, 2023, with concerns; dated August 15, 2023, with concerns.

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

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

[15] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications, highlighting that the size and shape of the proposed lots are suitable for the use of the land.

[16] Based on the evidence, the majority of the Committee (Chair A. M. Tremblay 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 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] *Chair A. M. Tremblay dissents, finding insufficient evidence submitted regarding the dimensions and shapes of the lots as they relate to the strata severance.*

[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 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 each existing 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.
2. That the Owners agree the location of the proposed services 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 relevant Branch within the Planning, Real Estate and Economic Development Department, or his/her designate**. If separate services exist and no modifications are proposed, this condition can be waived.
3. 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 **Development Review Manager of the Central 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 the **Development Review Manager of the Central 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.

4. 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.
5. 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.

*“Simon Coakeley”*  
SIMON COAKELEY  
ACTING PANEL CHAIR

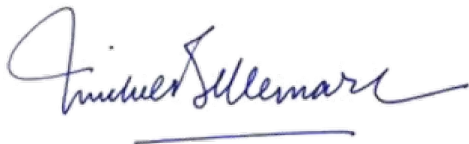
*“John Blatherwick”*  
JOHN BLATHERWICK  
MEMBER

*Dissent*  
ANN M. TREMBLAY  
CHAIR

*“Arto Keklikian”*  
ARTO KEKLIKIAN  
MEMBER

*“Sharon Lecuyer”*  
SHARON LECUYER  
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **August 25, 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 **September 14, 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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