

DECISION CONSENT/SEVERANCE

Date of Decision	September 15, 2023
Panel:	1 - Urban
File No(s):	D08-01-23/B-00185 & D08-01-23/B-00186
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Victoria Homes Construction Limited
Property Address:	152 Columbus Avenue
Ward:	13 – Rideau-Rockcliffe
Legal Description:	Lot 129, Plan 441
Zoning:	R3M
Zoning By-law:	2008-250
Hearing Date:	September 6, 2023, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owner wants to subdivide their property into two separate parcels of land for the construction of a semi-detached dwelling. 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-00185	7.62 m	31.73 m	241.8 sq. m	1	152 A Columbus Ave
B-00186	7.62 m	31.72 m	241.7 sq. m	2	152 B Columbus Ave

PUBLIC HEARING

Oral Submissions Summary

- [3] Rosaline Hill, agent for the Applicant, provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee. Ms. Hill confirmed that the frontage for the parcel to be known municipally as 152 B Columbus should read 7.62 metres, and indicated that her client had no concerns with the City's requested conditions of provisional consent.
- [4] City Planner Margot Linker stated that she had no concerns with the applications.
- [5] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Applications Must Satisfy Statutory Tests

- [6] 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

[7] 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 cover letter, plans, a parcel register, a tree information report, and a sign posting declaration.
- City Planning Report received August 31, 2023, with no concerns.
- Revised City Planning Report received September 1, 2023, with no concerns.
- Building Code Services email received August 31, 2023, with comments.
- Rideau Valley Conservation Authority email dated August 31, 2023, with no objections.

- Hydro Ottawa email dated September 1, 2023, with comments.
- Ottawa International Airport Authority email dated August 22, 2023, with no comments.
- J. McNeil & R. Allarie, neighbours, email dated August 30, 2023, in support.

Effect of Submissions on Decision

- [8] The Committee considered all written and oral submissions relating to the applications in making its decision and granted the applications.
- [9] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications.
- [10] 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.
- [11] 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 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.
 2. The Owners agree to provide a revised site and servicing plan with the driveways, services, retaining walls, projections and grading situated to reduce any excavation within the Critical Root Zones of protected trees and/or to provide sufficient soil volume to plant new trees, 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. The Tree Information Report must be revised to reflect changes to the site plan and to show the accurate tree protection areas and mitigation measures.

3. That the Owner/Applicant(s) shall provide a signed letter of permission from the owner of identified adjacent or boundary tree(s), for the proposed removal or operations impacting the tree(s). The applicant acknowledges that a tree removal permit cannot be issued without the permission of all owners of a tree, and that the development plan must be revised to allow for the retention and protection of the adjacent or boundary trees if this letter cannot be produced.
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 of one new 50mm 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 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.
6. 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.
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 Central 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 Central Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate.
8. That the Owner(s) enter a Joint Use, Maintenance and Common Elements, 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 Central 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 Central 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.

9. Development Agreement:

Joint Use and Maintenance Agreement:

The Owner(s) shall enter into a Development Agreement with the City to the satisfaction of the General Manager, Planning Real Estate, and Economic Development Department or his/her designate to acknowledge and agree to, if necessary, amend or replace the existing Joint Use, Maintenance and Common Elements Agreement, or enter into a further agreement setting out the additional common elements, including any legal and financial obligations thereto, which agreement shall be registered on title to the subject lands at the expense of the unit owners. The Agreement will ensure that, in the event that the common elements change, or any additional common elements are constructed which are not addressed under the Joint Use, Maintenance and Common Elements Agreement, that the Joint Use, Maintenance and Common Elements Agreement be updated.

Noise:

The Owner(s) shall (within 110m of the Vanier Parkway):

prepare a noise attenuation study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of the General Manager, Planning, Real Estate 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, 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.

or

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."

10. That the Owner(s) provide evidence to the satisfaction of the Chief Building Official, or designate, that the existing dwelling has been demolished or relocated under the authority of a building permit.
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 Applications 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 the conveyances for which the consent is required.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

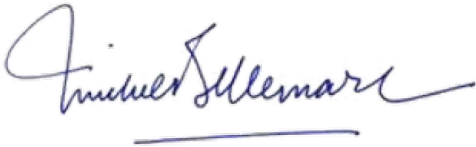
"John Blatherwick"
JOHN BLATHERWICK
MEMBER

Absent
SIMON COAKELEY
MEMBER

"Arto Keklikian"
ARTO KEKLIKIAN
MEMBER

"Sharon Lécuyer"
SHARON LÉCUYER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **September 15, 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 **October 5, 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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613-580-2436



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