

DECISION CONSENT/SEVERANCE

Date of Decision	September 15, 2023
Panel:	1 - Urban
File No(s):	D08-01-23/B-00174
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Fares Elsabbagh under Agreement of Purchase and Sale
Property Address:	70 Havelock Street and 123 Harvey Street
Ward:	17 - Capital
Legal Description:	Part of Lot 8, Registered Plan 48
Zoning:	R4UD
Zoning By-law:	2008-250
Hearing Date:	September 6, 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. It is proposed to demolish the existing dwelling at 70 Havelock Street and construct two three-storey, low-rise apartment buildings each containing eight units, with one building on each parcel.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Committee's consent to sever the land.
- [3] The land to be severed, shown on a survey plan filed with the applications, will have a frontage of 10.115 metres on Havelock Street, a depth of 30.29 metres, and a lot area of 306.29 square metres. This parcel will contain one of the proposed three-storey low-rise apartment buildings.
- [4] The land to be retained, shown on said plan, will have a frontage of 10.06 metres on Harvey Street, a depth of 30.29 metres, and a lot area of 305.39 square metres. This parcel will contain the other proposed three-storey low-rise apartment building.
- [5] 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 (File Nos. D08-02-23/A-00162 and A-00163) have been filed and will be heard concurrently with this application.

PUBLIC HEARING

Oral Submissions Summary

- [6] Alain Bisson, Agent for the Applicant, confirmed that revised plans were filed that include a ramp in the easterly side yard to allow access for bicycles and wheeled waste container storage. He also indicated he had no concerns with the City's requested conditions of provisional consent or the easement/right-of-way requested by Bell Canada.
- [7] The Committee also heard oral submissions from the following individuals:
- P. Castiglione, neighbour, highlighted concerns regarding parking, bicycle access and waste storage, and a lack of unit diversity to attract a variety of tenants.
- [8] City Planner Margot Linker confirmed that, based on the revised plans, the accompanying minor variance applications meet the relevant Official Plan criteria for variances to setbacks for low-rise apartment buildings. In response to a comment from the neighbour, she also clarified that vehicle parking is prohibited on this site.
- [9] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Tests

- [10] 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

[11] 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, parcel registers, an agreement of purchase and sale, tree information, a photo of the posted sign, and a sign posting declaration.
- City Planning Report received August 31, 2023, with no concerns.
- Building Code Services email dated 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.
- Bell email dated September 5, 2023, with comments.
- Ottawa International Airport Authority email dated August 22, 2023, with no comments.
- J. Dance, President, Old Ottawa East Community Association email dated September 5, 2023, with no objections.
- S. Fleck, neighbour, email dated September 5, 2023, with concerns.

Effect of Submissions on Decision

- [12] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [13] The Committee notes that the City's Planning Report raises "no concerns" regarding the application.
- [14] 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.
- [15] 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 Owner, or any subsequent owners, at its expense acknowledges and agrees to obtain a private approach permit to remove the now redundant approach from the property. In addition, the removal shall be completed in accordance with and shall comply with the City's Private Approach By-law, being By-law No. 2003-447, as amended, and shall be subject to approval of the Right-of-Way, Heritage and Urban Design Branch.
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 of one new 50mm tree to be planted on the property frontage or right-of-way of each lot, and one new 50mm tree in the rear yard of each lot following construction, to enhance the urban tree canopy and streetscape.
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) 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.

7. The Owner(s) shall 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 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 (highway 417). 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.
8. 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.
9. That the Owner grant to Bell Canada, without cost, such easements as may be required, the consent to the registration of which is hereby granted.
10. 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.
11. 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 conveyance for which the consent is required.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

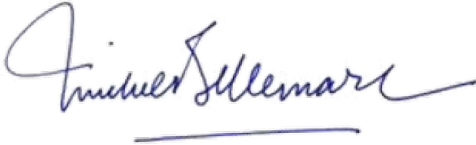
"John Blatherwick"
JOHN BLATHERWICK
MEMBER

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
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