

**DECISION
CONSENT/SEVERANCE**

Date of Decision	September 15, 2023
Panel:	2 - Suburban
File No(s):	D08-02-23/B-00014
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Duozhuang Su
Property Address:	50 Rebecca Crescent
Ward:	11 – Beacon Hill-Cyrville
Legal Description:	Lot 3, Judge’s Plan 652
Zoning:	R1AA
Zoning By-law:	2008-250
Hearing Date:	September 5, 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 for the construction of a new detached dwelling. The existing dwelling will remain.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Committee’s consent to sever.
- [3] The severed land, shown as Part 1 on a draft 4R-Plan filed with the application, will have frontage of 23.08 metres on Massey Lane, a depth of 40.18 metres and will contain a lot area of 919.2 square metres. This parcel will be known municipally as 4807 Massey Lane.
- [4] The retained land, shown as Part 2 on the said plan, will have frontage of 25.28 metres on Massey Lane and 40.23 metres on Rebecca Crescent, a depth of 40.23 metres and will contain a lot area of 1016.7 square metres. This parcel contains the existing dwelling and detached garage and is known municipally as 50 Rebecca Crescent.
- [5] Approval of this application will have the effect of creating two separate parcels of land which will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance applications (D08-02-23/A-00012 & D08-02-23/A-00184) have been filed and will be heard concurrently with this application.

PUBLIC HEARING

- [6] Prior to the hearing on February 15, 2023, the Committee received an adjournment request from the City's Planning, Real Estate, and Economic Development Department to allow the applicant time to revise the draft 4R plan and provide additional information. Chris Jalkotzy, Agent for the Applicant, also requested an adjournment to allow time for the application to be revised to avoid additional variances. Additionally, B. Ho, resident, and the Rothwell Heights Property Owners Association requested an adjournment to allow the neighbours time to prepare for the hearing.
- [7] At the hearing, the Committee heard from Mr. Jalkotzy who reiterated their request for adjournment.
- [8] With the concurrence of all parties the application was adjourned *sine die*.

Oral Submissions Summary

- [9] At the hearing on September 5, 2023, Patricia Warren, 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. Ms. Warren confirmed that the revised lot configuration proposes two rectangular parcels consistent with the existing lots in the surrounding neighbourhood.
- [10] Brian Casagrande, also acting as Agent for the Applicant, raised concerns with a condition of provisional consent requested by the City, requesting that the condition for a Development Agreement to address mitigation measures be modified to solely reflect City-owned trees in the right-of-way, with a time constraint of three months to complete the requested development agreement. Mr. Casagrande also stated that the applicant was not aware of a restrictive covenant registered on title to the property. He further advised that the Applicant had reached out to the local community association and the Ward Councilor's office prior to the current hearing of the application.
- [11] City Planner Cass Sclauzero advised that the condition relating to tree protection is standard and imposed on applications with protected trees on the lot. Ms. Sclauzero also noted that the request to expedite the preparation of the agreement is not realistic as applications are prioritized based on lapse date by the City's Legal Services.
- [12] City Forester Nancy Young stated that the intent of the condition for proposals that do not have a concept plan is to guide the design process to protect all trees and is not intended to require additional variances. She further stated that amending the condition would not meet its intent.
- [13] The Committee also heard oral submissions from the following individual:

- B. Ho, resident, who raised concerns regarding lack of consultation with neighbours, change of proposal and the possibility of a restrictive covenant registered on title.

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

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED AS AMENDED

Application Must Satisfy Statutory Tests

[15] 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

[16] 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 cover letter, parcel register, revised plans, TIR, photo of the posted sign, and a sign posting declaration.
- City Planning Report received August 31, 2023, with no concerns; received February 10, 2023, requesting adjournment.
- Rideau Valley Conservation Authority email dated September 1, 2023, with no objections.
- Hydro Ottawa email dated September 1, 2023, with no objections; dated February 8, 2023, with no objections.
- Ottawa International Airport Authority email dated August 23, 2023, with no comments.
- J. Brammer, Chair, Rothwell Heights Property Owners' Association emails dated September 4, 2023, with concerns; dated February 13, 2023, requesting adjournment.

- T. Johnson, resident, emails dated August 28, 2023, in opposition; dated February 13, 2023, with concerns.
- E. Tannis, resident, emails dated August 25, 2023, in opposition.
- T. and B. Gray, residents, emails dated August 28, 2023, in opposition; dated February 13, 2023, in opposition.
- W. Lewandowski, resident, emails dated August 29, 2023, in opposition; dated February 13, 2023, in opposition.
- Councillor Tim Tierney, Ward 11, emails dated August 30, 2023, in opposition; dated February 8, 2023, with concerns.
- S. Desautels, resident, emails dated August 31, 2023, in opposition; received February 13, 2023, in opposition.
- R. Skaff, resident, emails dated September 1, 2023, in opposition; dated February 13, 2023, in opposition.
- L. Cholmsky, resident, emails dated September 1, 2023, in opposition; dated February 13, 2023, in opposition.
- F. and C. Creutzberg, emails dated September 2, 2023, in opposition; dated February 13, 2023, in opposition.
- D. Clark, resident, emails dated September 2, 2023, in opposition; dated February 13, 2023, in opposition.
- M. Soarec, resident, emails dated September 3, 2023, in opposition.
- M. Fine, resident, emails dated September 3, 2023, in opposition; dated February 13, 2023, in opposition.
- Y. Cole, resident, email dated September 3, 2023, in opposition.
- M. Storm, resident, email dated September 3, 2023, in opposition.
- J. Forgie, resident, emails dated September 4, 2023, in opposition; dated February 13, 2023, in opposition.
- L. Clermont, resident, emails dated September 4, 2023, in opposition; dated February 13, 2023, in opposition.
- B. Ho, resident, emails dated September 4, 2023, in opposition; dated February 6, 2023, requesting adjournment.

- C. Cattan, resident, emails dated February 13, 2023, in opposition.
- D. Bhalla, resident, emails dated February 13, 2023, in opposition.
- E. Skaff, resident, emails dated February 13, 2023, in opposition.

Effect of Submissions on Decision

- [17] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [18] The Committee notes that the City’s Planning Report raises “no concerns” regarding the proposed consent, highlighting that the reconfigured lots were “more in keeping with the surrounding residential character of the neighbourhood”.
- [19] The Committee agrees not to impose the condition for a Development Agreement to address mitigation measures for the trees as the consent application does not include any proposed development at this time.
- [20] 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.
- [21] 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 Owners provide evidence that the accompanying Minor Variance applications (D08-02-23/A-00012 & D08-02-23/A-00184) 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. That the Owner(s) provide proof to the satisfaction of the Development Review Manager of the East Branch within the Planning, Real Estate and Economic Development Department, or his/her designate, that the attached carport has been demolished in accordance with a demolition permit and that any required or provided parking spaces and their associated driveway(s) have been re-established in conformity with the Zoning By-law.
4. That the Owner(s) provide proof to the satisfaction of the Development Review Manager of the East Branch within the Planning, Real Estate and Economic Development Department, or his/her designate, that the accessory buildings have been demolished and/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 East Branch within the Planning, Real Estate and Economic Development Department, or his/her designate, that the swimming pool and its enclosure have been removed and soft landscaping has been reinstated.
6. That the Owner(s) provide proof to the satisfaction of the Development Review Manager of the East Branch within the Planning, Real Estate and Economic Development Department, or his/her designate, that the fence on the proposed severed parcel is removed and the fence on the retained parcel is either removed or reinstated in conformity with the Fence By-law, or that the Owner(s) provide proof to the satisfaction of the Development Review Manager of the East Branch within the Planning, Real Estate and Economic Development Department, or his/her designate, that the Director, By-law and Regulatory Services, or his/her designate, has granted an exemption from or other special permission related to the By-law such that the fence on the retained parcel is permitted to remain.
7. That the Owner(s) provide proof to the satisfaction of the Development Review Manager of the East Branch within the 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.
8. 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 the General Manager of the East Branch within the 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 the General Manager

of the East Branch within the Planning, Real Estate and Economic Development Department, or his/her designate.

9. That the Owner(s) convey a 3m x 3m corner sight triangle located at the intersection of Rebecca Crescent and Massey Lane to the City, with all costs to be borne by the Owner(s), to the satisfaction of the Surveys and Mapping Branch of the City. This area will be free of all structures, plantings, etc. and will allow a proper sighting distance for motorists when performing turning movements within the intersection. The Committee must receive written confirmation from City Legal Services that the transfer of the lands to the City has been registered.
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 a Conveyance for which the Consent is required.

“Fabian Poulin”
FABIAN POULIN
VICE-CHAIR

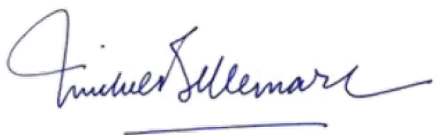
Absent
JAY BALTZ
MEMBER

“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 **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

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



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