

## DECISION CONSENT/SEVERANCE

<b>Date of Decision</b>	September 29, 2023
<b>Panel:</b>	1 - Urban
<b>File No(s):</b>	D08-01-23/B-00194 & D08-01-23/B-00220
<b>Application:</b>	Consent under Section 53 of the <i>Planning Act</i>
<b>Owner(s)/Applicant(s):</b>	Mohammed Ibrahim
<b>Property Address:</b>	284 Dovercourt Avenue
<b>Ward:</b>	15 - Kitchissippi
<b>Legal Description:</b>	Lot 23, Registered Plan 310
<b>Zoning:</b>	R3S
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	September 20, 2023, in person and by videoconference

### APPLICANT(S)' PROPOSAL AND PURPOSE OF THE APPLICATIONS

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

### CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Committee's consent to subdivide the property and to establish easements/rights of way. The property is shown as Parts 1 to 4 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-00194	2.8 m	31.09 m	217.8 sq. m	3 and 4	284C & 284D Dovercourt Ave.
B-00220	7.56 m	13.81 m	104.3 sq. m	1 and 2	284A & 284B Dovercourt Ave.

- [3] It is proposed to establish easements/rights of way as follows:

- Over Part 4 in favour of Parts 1 and 2 to provide access.
- Over Part 2 in favour of Parts 3 and 4 to provide access.

## **PUBLIC HEARING**

### **Oral Submissions Summary**

- [4] Christine McCuaig, Agent for the Applicant, responded to questions from the Committee, highlighting that, in addition to the severance of the land, consent was requested for easements and a joint use and maintenance agreement to ensure access to services for each existing unit, which includes two principal dwelling units and two secondary dwelling units.
- [5] Ms. McCuaig questioned the need for a development agreement to register a notice on title regarding noise, as requested by the City as a condition of provisional consent. It was her opinion that the condition was unnecessary due to the distance of the property from the noise source, being Highway 417, and the number of developed blocks in between.
- [6] City Planner Erin O'Connell stated that the City is currently experiencing significant delays with the preparation of development agreements and therefore staff were willing to exercise some flexibility in this case, for the reasons highlighted by Ms. McCuaig. The Committee therefore agreed that, if the application was approved, this condition would not be imposed.
- [7] City Planner Margot Linker was also present.
- [8] The Committee also heard oral submissions from J. Seymour, neighbour, who stated concerns regarding the location of municipal, electrical and gas services, and the ability for each unit to access those services if the property is severed.
- [9] Following the public hearing, the Committee reserved its decision.

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

### **Applications 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, a parcel register, tree information, a photo of the posted sign, and a sign posting declaration.
- City Planning Report received September 14, 2023, with no concerns.
- Rideau Valley Conservation Authority email dated September 14, 2023, with no objections.
- Hydro Ottawa email dated September 20, 2023, with comments.
- Hydro One email dated September 14, 2023, with no comments.
- J. Seymour, neighbour, email dated September 18, 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 applications, highlighting that "the severance will allow for separate ownership of the existing front and rear units, and the easement will allow for access to the secondary dwelling unit entrances for the rear unit as well as for access and legal interior yard parking for the front unit." The Planning Report also indicates that, "the existing pole width is adequate to provide separate servicing to the rear unit."

[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 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.
2. That the Owner(s) enter into a Development Agreement with the City, at the expense of the Owner(s) and 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 require that an asphalt overlay will be installed, at the Owner(s) expense, on Dovercourt Avenue, 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 the Development Review Manager of the Central 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. If the Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate determines that a Development Agreement requiring an asphalt overlay is no longer necessary, this condition shall be deemed as fulfilled.
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 the conveyances and easements/rights of way for which the consent is required.

*“Ann M. Tremblay”*  
ANN M. TREMBLAY  
CHAIR

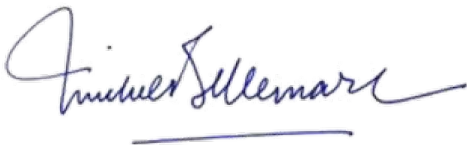
*Absent*  
JOHN BLATHERWICK  
MEMBER

*“Simon Coakeley”*  
SIMON COAKELEY  
MEMBER

*“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 **September 29, 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 19, 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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