

**DECISION
CONSENT/SEVERANCE**

Date of Decision	October 27, 2023
Panel:	2 - Suburban
File Nos.:	D08-01-23/B-00238, B-00241 to B-00243
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner/Applicant:	Estate of Lidia Pietrantonio
Property Address:	429 Ancaster Avenue
Ward:	7 - Bay
Legal Description:	Part of Lot 5, Registered Plan 461
Zoning:	R2F
Zoning By-law:	2008-250
Hearing Date:	October 17, 2023, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owner wants to subdivide their property into four separate parcels of land to create long semi-detached dwellings on their property.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Committee's consent to subdivide the property and to grant the use of and rights in land for easements. The property is shown as Part 1 to 9 on a Draft 4R-Plan filed with the applications and the separate parcels will be as follows:

Table 1 Proposed Parcels

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00238	13.65 m	22.98 m	313.98 sq. m	1, 2 and 9	425 A and B Ancaster Avenue
B-00241	0.76 m	43.07 m	300.51 sq. m	3 and 4	427 A and B Ancaster Avenue

B-00242	0.76 m	62.50 m	396.06 sq. m	5 and 6	429 A and B Ancaster Avenue
B-00243	0.76 m	63.05 m	403.72 sq. m	7 and 8	431 A and B Ancaster Avenue

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

- Over Parts 2 and 9 in favour of Parts 3, 4, 5, 6, 7 and 8 to provide ingress, egress and access to utilities
- Over Part 4 in favour of Parts 1, 2, 5, 6, 7, 8 and 9 to provide ingress, egress and access to utilities
- Over Part 6 in favour of Parts 1, 2, 3, 4, 7, 8 and 9 to provide ingress, egress and access to utilities
- Over Part 8 in favour of Parts 1, 2, 3, 4, 5, 6 and 9 to provide ingress, egress and access to utilities
- Over Part 9 in favour of Parts 3, 4, 5, 6, 7 and 8 to provide ingress, egress and access to utilities

[4] 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-00227 to A-00230) have been filed and will be heard concurrently with these applications.

PUBLIC HEARING

Oral Submissions Summary

[5] Paul Robinson, 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. Mr. Robinson provided an overview of the applications and responded to questions from the Committee.

[6] Ursula Melinz, the Applicant's lawyer, responded to the City's position that the proposal should be considered a planned unit development. She noted that a planned unit development is defined as a parcel of land containing more than one building and, in this case, the proposal is to subdivide the land so that each building is located on a separate lot, sharing a common driveway. Regarding site services, Ms. Melinz requested that the Committee not impose a condition requested by the City requiring independent services because the proposed buildings would connect to a common service pipe located beneath the driveway. She also briefly addressed written comments from area residents opposed to the applications, highlighting that the loss of sunlight, perceived loss of property value, and loss of privacy are not valid planning reasons to refuse the applications.

- [7] Michael Brum of Altare Group Inc., representing the Applicant and purchaser of the property under an agreement to purchase and sale, detailed the proposed site design, highlighting its energy efficiency and its objective to encourage community interaction and provide needed rental housing close to rapid transit. He also addressed the additional time and costs involved with other planning approval processes, such as a Plan of Subdivision or Plan of Condominium application and rezoning, which would negatively impact the viability of the proposal.
- [8] City Planner Solé Sayek highlighted that, while intensification on the site is possible, the proper mechanism to consider this proposal would be a Zoning By-law Amendment and Plan of Condominium application, which would also appropriately address the proposed shared services. City Planner Sayek recommended refusal of the applications.
- [9] The Committee heard oral submissions from the following individuals:
- R. Lee, resident, with concerns regarding the impact of vehicle traffic along the shared driveway, a loss of privacy, a lack of community consultation and transparency, and the inappropriateness of the proposed development for the R2 zone.
 - N. Babic, resident, with concerns regarding the extent of the requested variances, impacts to privacy, the proposal's incompatibility the intent of the Zoning By-law and overcrowding.
 - A. Vieira, resident, with additional concerns regarding the reduced rear yards and the density of the development.
 - S. Milburn-Hopwood, Woodpark Community Association, in support of the applications, highlighting the proposed permeable pavers and energy efficient design, and the Applicant's efforts to preserve the streetscape. She stated that most residents canvassed by the community association supported the application, with some noted concerns regarding infrastructure capacity, drainage, and parking. She therefore requested that, if the applications are approved, conditions be imposed related to stormwater management and service capacity studies.
 - D. Levesque of the Woodpark Community Association was also in attendance.
- [10] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS REFUSED

Applications Must Satisfy Statutory Tests

[11] 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

[12] 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:

- Applications and supporting documents, including a planning rationale, parcel register, plans, a streetscape analysis, tree information, photo of the posted sign, and a sign posting declaration.
- City Planning Report received October 13, 2023, recommending refusal of the applications.
- Rideau Valley Conservation Authority email dated October 11, 2023, with no objections.
- Hydro Ottawa email dated October 10, 2023, with no concerns.
- Hydro One email dated October 12, 2023, with no concerns.
- Y. Park and C. Artuso, residents, also on behalf of D. and M. Wilson, residents, email dated October 15, 2023, opposed to the applications.
- D. Levesque, Woodpark Community Association, email dated October 16, 2023, in support.
- A. Vieira, resident, also on behalf of N. Babic, A. and R. Lee, and Mr. and Mrs. Gao, email dated October 16, 2023, opposed to the applications.
- S. Milburn-Hopwood, Woodpark Community Association, email dated October 17, 2023, in support of the applications, with conditions.

- B. & M. Williams, email dated October 17, 2023, opposed to the applications.

Effect of Submissions on Decision

- [13] The Committee considered all written and oral submissions relating to the applications in making its decision and refused the applications.
- [14] The Committee notes that the City’s Planning Report recommends refusal of the applications, concluding that “studies and plans are required to ensure the serviceability of the lots which is outside of the scope and purview of a consent application and instead should be reviewed under a Zoning By-law Amendment, Plan of Subdivision and Plan of Condominium.”
- [15] Based on the evidence, the Committee is not satisfied that the proposal is consistent with the Provincial Policy Statement that promotes efficient land use and development as well as intensification and development within built-up areas, based on local conditions. The Committee is also not satisfied that the proposal has adequate regard for the criteria specified under subsection 51(24) of the Planning Act, including the reduced dimensions of the lots considered under Minor Variance Applications D08-02-23/A-00227 to A-00230 which were refused, or that it is in the public interest.

Absent
FABIAN POULIN
VICE-CHAIR

“Jay Baltz”
JAY BALTZ
MEMBER

“George Barrett”
GEORGE BARRETT
ACTING PANEL CHAIR

“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 **OCTOBER 27, 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 **NOVEMBER 16, 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 APPLICANTS

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