

## DECISION CONSENT/SEVERANCE

<b>Date of Decision</b>	November 10, 2023
<b>Panel:</b>	1 - Urban
<b>File No(s):</b>	D08-01-23/B-00204, D08-01-23/B-00205
<b>Application:</b>	Consent under Section 53 of the <i>Planning Act</i>
<b>Owner/Applicant:</b>	14007930 Canada Inc.
<b>Property Address:</b>	60 Lees Avenue
<b>Ward:</b>	17 - Capital
<b>Legal Description:</b>	Part of Lot 8, Registered Plan 28
<b>Zoning:</b>	R3P
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	November 1, 2023, in person and by videoconference

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

- [1] The Owner wants to subdivide its property into two separate parcels of land for the construction of two, three-storey long semi-detached dwellings, each with secondary dwelling units. The existing dwelling will be demolished.

### CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Committee's consent for conveyances, grants of easements/rights of way and a joint-use and maintenance agreement. The property is shown as Parts 1-4 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-00204	8.02 m	32.72 m	245.9 sq. m	1 & 2	58 Lees Avenue
B-00205	8.02 m	32.65 m	244.7 sq. m	3 & 4	60 Lees Avenue

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

- Easement over Part 2 in favor of Part 3 & 4 for access and maintenance.
- Easement over Part 3 in favor of Part 1 & 2 for access and maintenance.

[3] 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-00196 & D08-01-23/A-00197) have been filed and will be heard concurrently with these applications.

## **PUBLIC HEARING**

[4] The applications were adjourned on September 20, 2023, at the request of the Old Ottawa East Community Association, to allow time for the Applicant to consult with neighbours.

### **Oral Submissions Summary**

- [5] Jessica D'Aoust, 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. She confirmed that the Applicant had met with the neighbours and community association prior to the hearing and while she was not in attendance, it was her understanding that the Applicant was willing to adjust the location of the dwellings to address concerns with the massing in the rear yard and for tree planting; however, the requested road widening would have to be addressed to see if the revision could be accommodated.
- [6] Ms. D'Aoust requested that the noise attenuation study requested by the City be revised to a noise warning registered on title along with mitigation measures.
- [7] City Planner Margot Linker highlighted that, while City staff would like trees planted in the front yard, shifting the building forward would not be favoured. She confirmed that the noise study condition was to identify types of materials that would help reduce the impact of noise from the 417 and would prefer to see the condition remain as requested.
- [8] Yuri Mitnik, the Applicant, confirmed that the development would consist of two primary units, each with an additional unit, for a total of four units on each newly created parcel.
- [9] The Committee also heard oral submissions from the following individuals:
- J. Dance, representing the Ottawa East Community Association, confirmed that while there was community discussion with the Applicant prior to the hearing, there were still concerns with the applications and the community association would like to see specific conditions imposed.

- M. Versailles, resident, stated that while she was pleased with the conversation with the Applicant, she had concerns with the lack of parking.
- W. McRae, resident, stated that she was also pleased with the changes the Applicant was willing to make to the proposed dwellings but was looking for written guarantees regarding snow, windows, air conditioning units and garbage.

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

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

### **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:

- Application and supporting documents, including cover letter, plans, revised site plan, tree information, parcel register, photo of the posted sign, and a sign posting declaration.
- City Planning Report received October 26, 2023, with no concerns; received September 18, 2023, with no concerns.
- Rideau Valley Conservation Authority email received October 25, 2023, with no objections; email received September 14, 2023, with no objections.
- Hydro Ottawa email received October 24, 2023 with comments; email received September 14, 2023, with comments.
- Hydro One email received October 25, 2023, with no concerns; email received September 14, 2023, with comments.
- Ministry of Transportation received dated October 31, 2023, with no concerns.

- J. Dance, Chair, Old Ottawa East Community Association email received October 31, 2023, with comments; email received September 19, 2023 requesting adjournment.
- Ottawa-Carleton District School Board email received October 25, 2023 with comments; email received September 8, 2023, with comments
- C. and A. Janson email received September 14, 2023, opposed.
- L. Yeomans and S. Smeathers email received September 18, 2023, opposed.
- M. Versailles and M. McEntee email received September 18, 2023, opposed.
- W. McRae email received September 19, 2023, opposed.

### **Effect of Submissions on Decision**

[13] The Committee considered all written and oral submissions relating to the application in making its decision and granted the applications.

[14] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications.

[15] The Committee finds that the requested condition related to the Noise Attenuation Study is appropriate and that the granting of provisional consent should be subject to this requirement.

[16] 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.

[17] 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. 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.
3. 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.
4. That the Owner(s) provide 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 the accessory structure has been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law.
5. 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 Development Review Manager of the 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 the **Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate**.
6. 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 Lees 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.

7. Pursuant to Section 50.1(25)(c) of the Planning Act and Schedule C16 of the City's new Official Plan, the Owner acknowledges and agrees to convey to the City, at no cost to the City, an unencumbered road widening across the complete **16.15m** frontage of the lands, measuring **9.25 meters** from the existing centerline of pavement/the abutting right-of-way. The exact widening must be determined by legal survey. The Owner shall provide a reference plan for registration, indicating the widening, to the **City Surveyor** for review and approval prior to its deposit in the Land Registry Office. Such reference plan must be tied to the Horizontal Control Network in accordance with the municipal requirements and guidelines for referencing legal surveys. The Owner(s) must provide to the City Surveyor a copy of the Committee of Adjustment Decision and a draft Reference Plan that sets out the required widening. The Committee requires written confirmation from **City Legal Services** that the transfer of the widening to the City has been registered. All costs shall be borne by the Owner.
8. 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.

9. 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 (arterial, highway, airport, etc.). 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. (Within 10m of a 2-lane arterial road (Lees Avenue) and within 500m of Highway 417).
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 conveyances, grants of easements/rights of way and a joint-use and maintenance agreement for which the Consent is required.

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

*“John Blatherwick”*  
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 **NOVEMBER 10, 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 30, 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**

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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