

**DECISION  
CONSENT/SEVERANCE**

<b>Date of Decision:</b>	January 26, 2024
<b>Panel:</b>	2 - Suburban
<b>File No(s):</b>	D08-01-23/B-00266 & D08-01-23/B-00267
<b>Application:</b>	Minor Variance under section 45 of the <i>Planning Act</i>
<b>Owner(s)/Applicant(s):</b>	Jose and Maria Alves
<b>Property Address:</b>	44 Dunham Street
<b>Ward:</b>	11 – Beacon Hill-Cyrville
<b>Legal Description:</b>	Part of Lot 112 Registered Plan 591
<b>Zoning:</b>	R1WW (637)
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	January 16, 2024, in person and by videoconference

**APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATIONS**

- [1] The Owners want to subdivide their property into two separate parcels of land to create two new lots for the construction of two single detached dwellings. The existing dwelling will be demolished.
- [2] At its hearing on November 14, 2023, the Committee adjourned the applications to allow the Applicants time to revise their requested variances.

**CONSENT IS REQUIRED FOR THE FOLLOWING**

- [3] The Owners require the Committee's consent to sever the land. The property is shown as Parts 1 & 2 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-00266	12.13 m	33.49 m	408.9 sq. m	1	44 A Dunham Street Proposed detached dwelling.

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00267	12.13 m	33.45 m	407.7 sq. m	2	44 B Dunham Street Future detached dwelling

- [4] Approval of these applications will have the effect of creating separate parcels of land. The parcels of land and one the proposed dwellings will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance applications (File No. D08-02-23/A-00258 & D08-02-23/A-00259) have been filed and will be heard concurrently with these applications.

## PUBLIC HEARING

- [5] At the scheduled hearing on November 14, 2023, the Committee adjourned the hearing to allow the Applicants time to amend their applications and apply for an additional minor variance.
- [6] At the hearing on January 16, 2024, M. O'Connell, resident, highlighted that the French public hearing notice incorrectly states the minimum lot area requirement (450 square metres instead of 555 square metres). However, she and other residents in attendance confirmed they were not in favour of adjourning the hearing to recirculate a new public hearing notice.
- [7] Considering the circumstances, the Committee noted that the public hearing notice accurately identifies the requested variances in both English and French, and sufficiently describes the purpose and effect of the applications. Therefore, no re-circulation is warranted. With the concurrence of all parties, the applications were heard without delay.

## Oral Submissions Summary

- [8] Paulo Alves, 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.
- [9] The Committee also heard oral submissions from the following individuals:
- M. O'Connell, resident, raised concerns regarding the reduction in lot size, and the retention of the tree on site.
  - B. Jetté, resident, raised concerns regarding the reduction in lot size.
  - J. Vanasse, resident, stated that the proposal was incompatible with the neighbourhood.
- [10] City Planner Cass Sclauzero highlighted that the underlying exception in the Zoning By-law for lot area for the subject site was to prevent further subdividing of

narrow lots. Ms. Schlauzero noted that the lot frontages were in compliance with the Zoning By-law.

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

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

### **Applications Must Satisfy Statutory Tests**

[12] 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**

[13] 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 revised cover letter, plans, parcel abstract, tree information report, tree replacement report, a photo of the posted sign, and a sign posting declaration.
- City Planning Report received January 11, 2024, with no concerns; received November 10, 2023, with no concerns.
- Rideau Valley Conservation Authority email received January 10, 2024, with no objections; email received November 10, 2023, with no objections.
- Hydro Ottawa email received December 21, 2023, with no concerns; email received November 8, 2023, with no concerns.
- Hydro One email received December 15, 2023, with no concerns; email received November 14, 2023, with no concerns.
- Building Code Services email received December 15, 2023, with no concerns.
- Ministry of Transportation email received December 19, 2023, with no concerns.

- S. Amid, resident, email received November 14, 2023, in opposition.
- F. J. Brunet, resident, email received November 14, 2023, in opposition.
- C. Holland, resident, email received November 14, 2023, in opposition.

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

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

[15] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications, highlighting that "exception 637 is applicable to the subject property and requires a minimum lot area of 555 square metres. The exception reflects the previous Rs4 zoning under the former Gloucester Zoning By-law (1999), where the minimum lot width and area requirements were 9 metres and 555 square metres, respectively." The report also highlights that "the R1WW zone permits a minimum lot area of 450 square metres, and that the lot width on both the proposed severed and retained parcels will exceed the minimum requirement". 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.

[16] 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-00258 & D08-02-23/A-00259) 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 a revised site plan and Tree Information Report to the satisfaction of the **Development Review Manager of the East Branch within the Planning, Real Estate and Economic Development Department, or their designates**. This report shall be prepared by an Arborist, identifying all trees protected under the City's Tree Protection by-law, and meeting the standards of the City's Tree Information Report Guidelines, including an assessment of impacts related to the as-of-right building envelope and specific mitigation measures where work is proposed within the Critical Root Zone of a protected tree.
4. That the Owner(s) provide a Grading and Servicing Plan or Existing Conditions, Removals, and Decommissioning Plan showing the existing services and the capping location, to be determined based on the least impact to existing protected trees, to the satisfaction of the **Development Review Manager of the East Branch within the Planning, Real Estate and Economic Development Department, or their designates**.
5. That the Owner(s) provide a revised Grading and Servicing Plan with the design and locations of proposed elements (services, retaining walls, etc.) accounting for the adequate protection of Protected Trees as identified in the Tree Information Report. The Owner(s) further acknowledges and agrees that this review may result in relocation of these structures and agrees to revise their plans accordingly to the satisfaction of the **Development Review Manager of the East Branch within the Planning, Real Estate and Economic Development Department, or their designates**. The Tree Information Report may require revision to reflect these changes.
6. That the Owner(s) prepare and submit a tree planting plan, prepared to the satisfaction of the **Development Review Manager of the East Branch within the Planning, Real Estate and Economic Development Department, or their designates**, showing the location(s) of the specified number of compensation trees (50mm caliper) required under the Tree Protection By-law, assuming that all proposed tree removals are permitted, or a minimum of one new tree in the Right of Way of Part 1.
7. That the Owner(s) provide a signed letter of permission from the owner of identified adjacent or boundary tree(s), for the proposed removal or operations impacting the tree(s). The applicant acknowledges that a tree removal permit cannot be issued without the permission of all owners of a tree, and that the development plan must be revised to allow for the retention and protection of the adjacent or boundary trees if this letter cannot be produced.
8. That the Owner(s) provide evidence to the satisfaction of both the Chief Building Official and the **Development Review Manager of the East Branch within the Planning, Real Estate and Economic Development Department, or their designates**, that both severed and retained parcels have their own independent water, sanitary and storm connection as appropriate, and that

these services do not cross the proposed severance line and are connected directly to City infrastructure. Further, the Owner(s) shall comply with 7.1.5.4(1) of the Ontario Building Code, O. Reg. 332/12 as amended. If necessary, a plumbing permit shall be obtained from Building Code Services for any required alterations.

9. That the Owner(s) provide a combined Grading and Drainage Plan and Site Servicing Plan including, where applicable, the tree locations and protection recommendations from the approved Tree Information Report (TIR) to the satisfaction of the **Managers of the East Branch within the Planning, Real Estate, and Economic Development, or their designates**. The plans can be shown on one sheet or multiple sheets but must include the following information.
  - a. The Grading and Drainage Plan must be prepared by a relevant professional: Professional Engineer (P.Eng.), Certified Engineering Technologist (CET), Ontario Land Surveyor (OLS), Professional Landscape Architect (OLA), or Professional Architect (OAA) and adhere to the following:
    - i. Minimum Grading and Servicing Plan Specifications Infill Serviced Lots; and
    - ii. City of Ottawa Standard Drawings, By-laws, and Guidelines, as amended.
  - b. The Site Servicing Plan must be prepared by a Professional Engineer (P.Eng.), Certified Engineering Technologist (CET), or Ontario Land Surveyor (OLS) and adhere to the requirements as noted for the Grading and Drainage Plan.
  - c. In the case of a vacant parcel being created, the plan(s) must show a conceptual building envelope to establish that the lot can be graded to a sufficient and legal outlet, has access to services with adequate capacity, and follows the recommendations of the TIR.
  - d. The following information from the TIR must be included on both the Grading and Servicing Plans to ensure that these elements are designed to follow the recommendations within the TIR:
    - i. Surveyed locations of all protected trees on and adjacent to the subject site;
    - ii. Location of tree protection fencing;
    - iii. Measurements from the tree(s) trunks to nearest limit of excavation or grade changes;
    - iv. Any notes related to excavation or grade changes within the Critical Root Zone, as recommended in the TIR (e.g., use of hydrovac, directional boring, or capping of services outside of the Critical Root Zone); and
    - v. Proposed planting locations from the associated Tree Planting Plan, if provided.
10. That the Owner(s) provide evidence to the satisfaction of the Development Review Manager of the East Branch within the Planning, Real Estate and

Economic Development Department, or their designates, to be confirmed in writing from the Department to the Committee, that the existing dwelling/building has been removed.

11. 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.
12. 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.

*Absent*  
FABIAN POULIN  
VICE-CHAIR

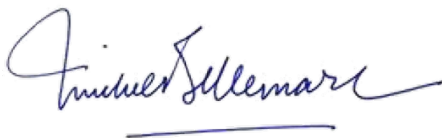
*“Jay Baltz”*  
JAY BALTZ  
MEMBER

*“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 **January 26, 2024**.



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 **February 15, 2024**, 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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