

**DECISION
CONSENT/SEVERANCE**

Date of Decision	February 16, 2024
Panel:	2 - Suburban
File Nos.:	D08-01-23/B-00341 & D08-01-23/B-00342
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner/Applicant:	10926221 Canada Inc.
Property Address:	845 & 847 Dundee Avenue
Ward:	7 - Bay
Legal Description:	Lot 83, Registered Plan 4M-311
Zoning:	R2G[1564]
Zoning By-law:	2008-250
Hearing Date:	February 6, 2024, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owner wants to subdivide their property into two separate parcels of land to establish separate ownerships for each half of a semi-detached dwelling, currently under construction.
- [2] In August 2023, the Committee granted Minor Variance Applications (D08-02-23/A-00122 & D08-02-23/A-00145) for the construction of a semi-detached dwelling with additional (secondary) dwelling units at the rear.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [3] The Owner requires the Committee's consent to sever the land. The property is shown as Parts 1 and 2 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-00341	7.65 m	30.50 m	233.33 sq. m	1	845, 845 B Dundee Ave.

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00342	7.65 m	30.50 m	233.33 sq. m	2	847, 847 B Dundee Ave.

PUBLIC HEARING

Oral Submissions Summary

- [4] Ajanth Singherayor, Agent for the Applicant, provided an overview of the application. He stated that a building permit was issued for the construction of a semi-detached dwelling, which is currently underway, and that the proposed lots comply with the requirements of the Zoning By-law.
- [5] City Planner Samantha Gatchene was also present and advised that the City Planning Department had no concerns with the application.
- [6] The Committee also heard oral submissions from the following individuals:
- K. Vandergrift, Queensway Terrace North Community Association, highlighted concerns relating to revisions to plans since the earlier approval of the Minor Variance Applications, inadequate tree protection, and the size of the proposed additional dwelling units.
 - S. Blakeney, resident, highlighted concerns relating to plan revisions, including the location of entrances and windows, the overall building height, and the relative size of the additional dwelling units, as well as the prior removal of trees and tree protection and enforcement generally.
- [7] City Planning Forester Julian Alvarez-Barkham confirmed that the Applicant would have to comply with the approved tree planting plan as a condition of provisional consent, as well as the requirements of the Tree Protection By-law, and indicated that residents who identify a contravention can contact 3-1-1.
- [8] Ms. Gatchene confirmed that no material changes to the plans were identified and that, due to recent changes to the Zoning By-law, there are no longer any restrictions on the size of additional dwelling units relative to principal units.
- [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:

- Applications and supporting documents, including cover letter, plans, tree information, parcel register, photo of the posted sign, and a sign posting declaration.
- City Planning Report received February 1, 2024, with no concerns.
- Rideau Valley Conservation Authority email received January 31, 2024, with no concerns.
- Hydro Ottawa email received January 30, 2024, with no concerns.
- Ministry of Transportation email dated February 2, 2024, with no comments.
- K. Vandergrift, Queensway Terrace North Community Association, email received February 5, 2024, opposed.
- S. Blakeney, resident, email dated February 5, 2024, opposed.

Effect of Submissions on Decision

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

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

[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. The Owner/Applicant(s) shall prepare and submit a tree planting plan, prepared to the satisfaction of the Manager of the West Branch within the Planning, Real Estate and Economic Development Department, or their designate(s), showing the location(s) and species or size class (small, medium, large) for one new 50 mm tree, to be planted on each lot following construction to enhance the urban tree canopy, in line with the Official Plan's policies (S 4.8.2).
2. That the Owner(s) provide proof to the satisfaction of the Development Review Manager of the West 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 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.
3. That the Owner(s) enter into a Joint Use, Maintenance and Common Elements, 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 West 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 West 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 Applications 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 for which the Consent is required.

Absent
FABIAN POULIN
VICE-CHAIR

“Jay Baltz”
JAY BALTZ
ACTING PANEL CHAIR

“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 **FEBRUARY 16, 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 **MARCH 7, 2024**, 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(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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