

**DECISION
CONSENT/SEVERANCE**

Date of Decision	February 16, 2024
Panel:	2 - Suburban
File No.:	D08-01-23/B00320
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owners/Applicants:	Angelo and Rosetta Lorelli
Property Address:	9 Tower Road
Ward:	8 - College
Legal Description:	Lots 886, 887, 888 and 889, Registered Plan 375
Zoning:	R1FF [632]
Zoning By-law:	2008-250
Hearing Date:	February 6, 2024, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owners want to subdivide their property into two separate parcels of land to create a new lot for the construction of a detached dwelling. The existing detached dwelling is to remain.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owners require the Committee's consent to sever.
- [3] The severed property is shown as Part 2 on a Draft 4R-Plan filed with the applications, will have a frontage of 13.7 metres, a depth of 28.9 metres, and a lot area of 397 square metres. This parcel will contain the proposed detached dwelling and will be known municipally as 7 Tower Road.
- [4] The retained property is shown as Part 1 on the Draft Plan, will have a frontage of 16.5 metres, a depth of 28.9 metres and a lot area of 479 square metres. This parcel contains the existing dwelling and is known municipally as 9 Tower Road.

PUBLIC HEARING

Oral Submissions Summary

- [5] Jeffrey Kelly, the 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. Kelly provided an overview of the application and confirmed his agreement with the conditions set out in the City's revised Planning report.
- [6] Murray Chown, also acting as Agent for the Applicant, was also present.
- [7] The Committee heard oral submissions from the following individual:
- Nancy Wilson, co-president of the City View Community Association, expressed concerns with the proposed lot sizes. She also expressed concerns with the impact of new development and intensification on stormwater management in the neighbourhood and specifically how runoff into the Pinecrest Creek drain would be addressed.
- [8] City Planner Shahira Jalal confirmed that the City's requested stormwater management condition is appropriate. Planner Jalal also confirmed that condition 5 would address any concerns regarding runoff into the Pinecrest Creek drain.
- [9] City Planner Samantha Gatchene was also in attendance.
- [10] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application(s) 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 a cover letter, plans, parcel abstract, tree information report, photo of the posted sign, and a sign posting declaration.
- Revised City Planning Report received February 5, 2024, with no concerns; received February 2, 2024, with no concerns.
- Rideau Valley Conservation Authority email received January 31, 2024, with no concerns.
- Hydro Ottawa email received January 30, 2024, with comments.
- Ministry of Transportation email received February 5, 2024, with no comments.

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 application.

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

[15] 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-00290 & D08-02-23/A-00291) 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/Applicant(s) shall enter into a Development Agreement or a Letter of Undertaking (LOU) with the City of Ottawa, at the expense of the Owner/Applicant(s), and to the satisfaction of **Development Review Manager of the West Branch within Planning, Infrastructure and Economic Development Department, or his/her designate(s)**. A development agreement is to be registered on Title of the property (where applicable). The agreement will include the mitigation measures outlined in the approved Tree Information Report, prepared by IFS Associates, dated Nov. 29, 2023, and associated security for tree protection. The security, which will be based on the value of the tree to be protected (Tree 1) shall be retained for two (2) years following completion of construction, and thereafter returned to the owner only upon the City having received a report from an arborist or appropriate professional confirming that the identified tree is healthy, retainable, and remains structurally stable. The Owner(s) acknowledge(s) and agree(s) that if, in the opinion of the **City Forester and/or the Manager of the relevant Branch within Planning, Real Estate, and Economic Development**, the report indicates that Tree 1 is declining and must be removed, the Security for that tree, in its entirety, will be forfeited.
4. That the Owner(s) provide(s) a Grading and Servicing Plan/Site Plan with the locations of proposed structures (driveways, retaining walls, projections, etc.) determined based on the least impact to protected trees and tree cover, as well as a Tree Information Report reflecting these changes to the satisfaction of the **Development Review Manager of the West Branch within Planning, Infrastructure and Economic Development Department, or his/her designate(s)**.
5. That the Owner(s) provide evidence (servicing plan), to the satisfaction of the **Development Review Manager of the West Branch within Planning, Infrastructure and Economic Development Department, or his/her designate(s)**, to be confirmed in writing from the Department to the Committee, that both the severed and retained parcels have their own independent water, sanitary and sewer connection, as appropriate, and that these services do not cross the proposed severance line and are connected directly to City infrastructure. If they do cross the proposed severance line, or they are not independent, the Owner(s) will be required to relocate or construct new services from the city sewers and/or watermain at his/her own costs.
6. 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 **Manager of the West Branch within**

Planning, Infrastructure and Economic Development Department, or his/her designate(s) 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 **Manager of the West Branch within Planning, Infrastructure and Economic Development Department, or his/her designate(s)**.

7. 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 **Manager of the West Branch within Planning, Infrastructure and Economic Development Department, or his/her designate(s)**, to require that an asphalt overlay will be installed, at the Owner(s) expense, on Tower Road, 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 **Manager of the West Branch within 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.

If the **Manager of the West Branch within Planning, Infrastructure and Economic Development Department, or his/her designate(s)** determines that a Development Agreement requiring an asphalt overlay is no longer necessary, this condition shall be deemed as fulfilled.

8. That the Owner(s) submit a Stormwater Management Brief prepared by a Professional Civil Engineer licensed in the Province of Ontario, demonstrating a design for controlling post-development stormwater peak flows to re-development peak flows for all stormwater events up to the 100 year storm vent, 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.

If the Stormwater Management Brief includes infiltration techniques, the Owner(s) must submit a supporting Geotechnical Brief prepared by a Professional Civil Engineer licensed in the Province of Ontario, for approval by the **Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate(s)**.

The Owner(s) acknowledges and agrees to enter into a Development Agreement with the City to construct the required stormwater system, including posting required securities. A copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title, shall be forwarded to the Committee of Adjustment.

If applicable, the Owner(s) shall obtain an Environmental Compliance Approval from the Ontario Ministry of Environment, Conservation and Parks. The owners acknowledge and agree that should the stormwater management system cross property lines or access to the system be over multiple properties, that the owner will seek approval of the Committee to grant easement(s) for access and maintenance of the stormwater system or register a Joint Use and Maintenance Agreement on title of the properties, all at the owner(s) costs.

9. That the Owner enter into an Agreement with the City, at the expense of the Owner, which is to be registered on Title to deal with the covenants/notices that shall run with the land and bind future owners on subsequent transfers;

"Purchasers/tenants are advised that due to the proximity of the airport, noise from the airport and individual aircraft may at times interfere with outdoor or indoor activities."

The Agreement shall be to the satisfaction of the **Manager of the West Branch within Planning, Infrastructure and Economic Development Department, or his/her designate(s)**. The Committee requires a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title.

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 a Conveyance 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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