

DECISION CONSENT/SEVERANCE

Date of Decision	March 15, 2024
Panel:	1 - Urban
File Nos.:	D08-01-24/B-00012 and D08-01-24/B-00013
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner/Applicant:	Buildx Inc.
Property Address:	493 Highcroft Avenue
Ward:	15 – Kitchissippi
Legal Description:	Part of Block 1, Registered Plan 42
Zoning:	R3R [2687] H(8.5)
Zoning By-law:	2008-250
Hearing Date:	March 6, 2024, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owner wants to subdivide their property into three separate parcels of land to create two new lots for a semi-detached dwelling and one lot for a detached dwelling.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Committee's consent to sever the land. The property is shown as Parts 1 to 3 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-00012	7.47 metres	30.48 metres	228.8 sq. metres	1	489 Highcroft Avenue (one half of the semi-detached dwelling)
B-00013	7.48 metres	30.48 metres	228.0 sq. metres	2	491 Highcroft Avenue (one half of the semi-detached dwelling)

- [3] The retained land is shown on the Draft 4R-Plan filed with the applications and will have a frontage of 10.01 metres, a depth of 30.48 metres, and an area of 304.8 sq.

metres. This lot will contain the proposed detached dwelling and is known municipally as 493 Highcroft Avenue.

- [4] The Applications indicate the property is not subject to any other current applications under the *Planning Act*.

PUBLIC HEARING

Oral Submissions Summary

- [5] Paul Robinson, 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. Robinson confirmed that a revised tree planting plan was provided to the Planning Forester. He also confirmed that the Applicant had spoken with the neighbour regarding the fence and they had reached an agreement.
- [6] Mr. Robinson asked that the City's requested condition for a Joint Use and Maintenance Agreement be amended to only apply to the proposed semi-detached dwelling. He also requested that the conditions for a revised tree planting plan and grading and drainage plan be removed as he believed that these conditions were satisfied with the submission of the revised tree planting plan.
- [7] City Planner Margot Linker agreed to the amendment of the Joint Use and Maintenance Agreement condition.
- [8] In response to questions from the Committee, Planning Forester Nancy Young, confirmed that the revised tree planting plan was sufficient, but requested that the conditions for a revised tree planting plan and grading and drainage plan remain as a precaution.
- [9] The Committee also heard oral submissions from the following individuals:
- M. Proulx, resident, raised concerns over the proposed fencing, and requested the existing hedge on the subject property be retained.
- [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, parcel registry, plans, tree information report, tree planting plan, and a signed declaration.
- City Planning email received March 5, 2024, withdrawing adjournment request; revised report received February 29, 2024, requesting an adjournment; report received February 29, 2024, requesting an adjournment.
- Rideau Valley Conservation Authority email received March 1, 2024, with no concerns.
- Hydro One email received February 26, 2024, with no concerns.
- Hydro Ottawa email received February 27, 2024, with no concerns.
- Ministry of Transportation email received March 1, 2024, with no comments.
- S. Cohen, resident, email received February 29, 2024, with concerns.
- E. Radack and M. Proulx, residents, email received March 1, 2024, with concerns.

Effect of Submissions on Decision

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

[14] The Committee notes that the City's Planning Report highlights that "The loss of tree #2 appears to be avoidable; the site plan and grading/servicing plans must be designed to allow for the retention of trees outside of the zoned building footprint as well as to provide adequate space for planting new trees in the frontage or ROW". The Committee finds that the City's requested conditions, as amended, including those relating to tree retention and protection are both reasonable and necessary, and address the City's concerns raised in the report.

[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 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(s) a Grading and Servicing Plan and Site Plan with the design and locations of proposed elements (services, retaining walls, projections, etc.), and the capping location of existing services, designed and located to ensure the adequate protection of Protected Trees as identified in the Tree Information Report. The Owner(s) further acknowledge(s) and agree(s) that this review may result in relocation of these structures, and agrees to revise their plans accordingly to the satisfaction of the **Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or their designate(s)**. The Tree Information Report may require revision to reflect these changes and to include all protected trees on site.
3. The Owner/Applicant(s) shall prepare and submit a tree planting plan, prepared to the satisfaction of the **Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or their designate(s)**, showing the location(s), species or ultimate size of the specified number of compensation trees (50 mm caliper) required under the Tree Protection By-law, assuming that all proposed tree removals are permitted.
4. 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.

5. That the Owner(s) provide evidence to the satisfaction of both the **Chief Building Official and Development Review Manager, Planning, Real Estate and Economic Development Department, or 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 to 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.
6. 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.
7. 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 **Central 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. The grading and drainage plan shall delineate existing and proposed grades for both the severed and retained properties, to the satisfaction of **Central Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate**.
8. That the Owner(s) enter into a Joint Use, Maintenance and Operating Agreement for Parts 1 and 2 (the semi-detached dwelling), 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 **Central 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 Central 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. 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.
10. 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.

“Jay Baltz”
JAY BALTZ
ACTING PANEL CHAIR

“John Blatherwick”
JOHN BLATHERWICK
MEMBER

“Julianne Wright”
JULIANNE WRIGHT
MEMBER

“Arto Keklikian”
ARTO KEKLIKIAN
MEMBER

“Sharon Lécuyer”
SHARON LÉCUYER
MEMBER

Absent
ANN M. TREMBLAY
CHAIR

Absent
SIMON COAKELEY
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **March 15, 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 **April 4, 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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