

## DECISION CONSENT/SEVERANCE

<b>Date of Decision:</b>	June 30, 2023
<b>Panel:</b>	1 - Urban
<b>File No(s):</b>	D08-01-22/B-00341
<b>Application:</b>	Consent under Section 53 of the <i>Planning Act</i>
<b>Owner(s)/Applicant(s):</b>	Jason and Yelena Ainslie
<b>Property Address:</b>	21 Merganser Street
<b>Ward:</b>	13 – Rideau-Rockcliffe
<b>Legal Description:</b>	Lot 151, Registered Plan 4M-1120; City of Ottawa
<b>Zoning:</b>	R3W & R1TT [527]
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	June 21, 2023, 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 for future residential development. The existing detached dwelling will remain.
- [2] On March 1, 2023, the Committee adjourned the application at the request of the Owners and City Planning staff to allow the Applicants to revise their plans or request a minor variance from the Zoning By-law. The Owners have since revised their plans and now want to proceed with the application to sever the property.

### CONSENT IS REQUIRED FOR THE FOLLOWING

- [3] The Owners require the Consent of the Committee for a Conveyance.
- [4] The severed land, shown as Part 1 on the revised draft 4R-Plan filed with the application, will have frontage of 13.72 metres on Solace Court, to a depth of 35.45 metres and will contain a lot area of 486.4 square metres. This parcel is currently vacant and will be known municipally as 4 Solace Court.
- [5] The retained land, shown as Part 2 on the revised draft 4R-Plan filed with the application, will have frontage of 13.72 metres on Merganser Street, to a depth of 35.75 metres and will contain a lot area of 490.6 square metres. This parcel contains the existing dwelling known municipally as 21 Merganser Street.

## **PUBLIC HEARING**

### **Oral Submissions Summary**

- [6] Zoran Gavran, Agent for the Owners, confirmed no concerns with the City's requested conditions of provisional consent.
- [7] The Committee also heard oral submissions from the following individuals:
- M. & C. Santerre, area residents, noted concerns relating to privacy, drainage, tree protection, permitted building height, and disruption to the neighbourhood during the construction phase.
- [8] City Planner Basma Alkhatib responded to the Committee's questions, confirming the maximum permitted height within the R3W and R1TT is 8 metres. Ms. Alkhatib summarized the history of the subject property outlined in her written report on file, noting that the property was part of a subdivision agreement in 2001. Ms. Alkhatib acknowledged the Applicants' efforts to design the proposed development in compliance with the Zoning By-law and to minimize any impact on abutting neighbours.
- [9] As for the City's requested condition requiring a revised site plan and tree information report, Ms. Alkhatib confirmed receiving the documents, and so the condition could be deleted.
- [10] Following the public hearing, the Committee reserved its decision.

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

### **Application 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, tree information, photo of the posted sign, and a sign posting declaration, with revisions.
- City Planning Report received June 19, 2023, with no concerns; received June 16, 2023, with no concerns; received February 24, 2023, with an adjournment request, with revisions
- Rideau Valley Conservation Authority, email dated June 15, 2023, with no objections; dated February 21, 2023, with no objections
- Hydro Ottawa, email dated June 14, 2023, with comments; dated February 14, 2023, with comments; dated February 22, 2023, with comments
- K. McAndrew and T. Ramsay, area residents, email dated June 20, 2023, with comments; dated February 17, 2023, with an adjournment request
- M. Holness, area resident, email dated June 7, 2023, with comments
- M. and C. Santerre, area residents, email dated June 19, 2023, with comments; dated February 21, 2023, with comments; dated February 17, 2023, with an adjournment request
- Q. Chen and W. Luo, area residents, email dated February 27, 2023, with comments
- S. Perkins, area resident, email dated February 27, 2023, with 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 Owner(s) demonstrate that the location of the proposed elements, including the driveways, retaining walls, services, projections, etc. shown on the Grading & Servicing Plan, will be determined based on the **least impact to protected trees and tree cover**. 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 Central Branch within the Planning, Real Estate and Economic Development Department, or his/her designate.
2. That the Owner(s) demonstrate 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 will 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.
3. 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;

***“The property is located next to lands that have an existing source of environmental noise (Promenade Aviation Parkway) and may therefore be subject to noise and other activities associated with that use”***

The Agreement shall be to the satisfaction of **Central 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.

4. That the Owner(s) provide plans, drawings or reports as may be required to demonstrate, to the satisfaction of the Manager, Right-of-Way, Heritage, and Urban Design Department or his/her designate that a **private approach that conforms** with the Private Approach By-law (2003-447) **can reasonably be established on the severed land** (4 Solace Court), to be confirmed in writing from the Department to the Committee.
5. 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.

6. 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.

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

*“John Blatherwick”*  
JOHN BLATHERWICK  
MEMBER

*“Simon Coakeley”*  
SIMON COAKELEY  
MEMBER

*“Arto Keklikian”*  
ARTO KEKLIKIAN  
MEMBER

*“Sharon Lécuyer”*  
SHARON LÉCUYER  
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **June 30, 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 **July 20, 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(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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