

**DECISION
CONSENT/SEVERANCE**

Date of Decision: May 10, 2024
Panel: 2 - Suburban
File No(s): D08-01-24/B-00042 to D08-01-24/B-00044
Application: Consent under Section 53 of the *Planning Act*
Owner/Applicant: 1332710 Ontario Inc.
Property Address: 1598 Prince of Wales Drive
Ward: 16 - River
Legal Description: Part of Lot 17, Registered Plan 455
Zoning: R1GG
Zoning By-law: 2008-250
Heard: April 30, 2024, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owner wants to construct four two-storey detached dwellings as shown on the plans filed with the application. The existing dwelling will be demolished.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Committee's consent to sever land and to grant easements/rights of way. The property is shown as Parts 1 to 12 on a draft 4R-Plan filed with the application and the separate parcels will be as follows:

Table 1 Proposed Parcels

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00042	10.23 m	31.1 m	318.07 sq. m	1, 2	1592 Prince of Wales Dr.
B-00043	1.75 m	59.10 m (irregular)	389.92 sq. m	7, 8, 9, 12	1596 Prince of Wales Dr.
B-00044	1.75 m	59.10 m (irregular)	389.92 sq. m	3, 4, 5, 6	1594 Prince of Wales Dr.
Retained	10.23 m	31.09 m	318.07 sq. m	10, 11	1598 Prince of Wales Dr.

The applications indicate the property is subject to existing easements as set out in instruments CR569104 and CR584624.

It is proposed to establish easements/rights-of-way as follows:

B-00043: 1596 Prince of Wales Drive, Parts 7, 8, 9, & 12 on 4R-Draft Plan:

- Over Parts 7, 8, and 9 in favour of Parts 3, 4, 5, and 6 for access.
- Over Parts 7 and 8 in favour of Parts 1 and 2 for access.
- Over Parts 7 and 8 in favour of Parts 10 and 11 for access.

B-00044: 1594 Prince of Wales Drive, Parts 3, 4, 5, & 6 on 4R-Draft Plan:

- Over Parts 4, 5, & 6 in favour of Parts 7, 9, and 12 for access.
- Over Parts 4 & 5 in favour of Parts 1 & 2 for access.
- Over Parts 4 & 5 in favour of Parts 10 & 11 for access.

Approval of these applications will have the effect of creating separate parcels of land that will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance applications (File Nos. A-00059, A-00060, A-00061, and A-00072) have been filed and will be heard concurrently with these applications.

PUBLIC HEARING

- [3] The Committee considered an adjournment request from City Planner Penelope Horn, who highlighted in her revised Planning Report that additional variances were required for reduced street frontage for the proposed rear lots. The Committee heard from Mr. P. Hume, Agent for the Applicant, who requested that the Committee amend the applications and proceed with the hearing. He submitted that an adjournment to provide further notice of the additional variances was not necessary in this case because the reduced frontage of the rear lots is already referenced in the hearing notice by the request to vary the minimum lot width.
- [4] Ms. Horn agreed that the additional variances are closely related to the requests for reduced lot widths and stated that the City would have no concerns if the Committee agreed to hear the applications.
- [5] The majority of the Committee (Member J. Wright dissenting) agreed that an adjournment was not necessary. The Committee therefore heard the applications without delay.

Oral Submissions Summary

- [6] Mr. Hume provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request.

- [7] Ms. Horn stated that the City had no concerns with the applications.
- [8] The Committee also heard oral submissions from T. Argentina, resident, who expressed general support for the applications, but noted concerns with water management and drainage, as well as the impact of the reduced rear yards on his privacy and enjoyment of his property. Mr. Argentina requested that a fence be installed at the rear property line and that the dwellings at the rear be limited to one storey.
- [9] Mr. Hume responded to the concerns raised, highlighting that the City had requested several conditions of provisional consent to address drainage, including the requirement to prepare a stormwater management brief and a grading and drainage plan to the satisfaction of the City.
- [10] Addressing the City's requested conditions, Mr. Hume submitted that the requirement for a noise study was not necessary in this case and proposed that a noise warning on title would be sufficient. Ms. Horn stated that a noise warning registered on title would be acceptable to the City.
- [11] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Application(s) 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 cover letter, plans, tree information, parcel register, photo of the posted sign, and a sign posting declaration.

- City Planning Report received April 29, 2024, requesting adjournment; received April 25, 2024, with no concerns.
- Rideau Valley Conservation Authority email received April 29, 2024, with no objections.
- Hydro Ottawa email received April 23, 2024, with no concerns.
- Ottawa Carleton District School Board email received April 26, 2024, with comments; received April 15, 2024, with comments.
- Ottawa Macdonald-Cartier International Airport Authority email received April 16, 2024, with comments.
- Ontario Ministry of Transportation email received April 18, 2024, with no comments.
- Hydro One email received April 27, 2024, with no comments.
- M. Gray, resident, email received April 29, 2024, opposed.
- T. Argentina, resident, email received April 29, 2024, with comments.
- H. & I., residents, email received April 29, 2024, opposed.

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.
- [16] 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.
- [17] 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 the accompanying Minor Variance Applications (D08-02-24/A-00059 to D08-02-24/A-00061 & D08-02-24/A-00072) 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 proof to the satisfaction of the Development Review Manager of the Relevant 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.
4. 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.
5. 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 predevelopment peak flows for all stormwater events up to the 100 year storm event, 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.

The Owner(s) must 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.

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.

If applicable, the Owner(s) shall obtain an Environmental Compliance Approval from the Ontario Ministry of Environment, Conservation and Parks.

6. That the Owner(s) enter into a Development Agreement with the City, at the expense of the Owner(s) and to the satisfaction of Relevant Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate, to require that an asphalt overlay will be installed, at the Owner(s) expense, on Prince of Wales Street, 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 Relevant Manager of the Relevant 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.

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

7. That the Owner(s) enter into a Joint Use, Maintenance and Operating Agreement, 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 Operating 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 Relevant Manager of the Relevant 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 Relevant Manager of the Relevant 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.

8. 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 following 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 (arterial road, highway, airport, etc.) and may therefore be subject to noise and other activities associated with that use.”

The Agreement shall be to the satisfaction of the **Development Review Manager of the Development Review All Wards Branch within Planning, Development and Building Services**, 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. (Within 100m from Prince of Wales Drive and within the Airport Vicinity Development Zone).

9. 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 Relevant Manager of the Relevant 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 Relevant Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate.
10. The Owner/Applicant(s) shall implement a tree planting plan, 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/ultimate size of one new 50 mm tree to be planted on each lot following construction, to enhance the urban tree canopy and streetscape.
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 the Conveyances and Grants of Easements/Rights of Way for which the Consent is required.

“Jay Baltz”
JAY BALTZ
ACTING PANEL CHAIR

Absent
FABIAN POULIN
VICE-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 **MAY 10, 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 **MAY 30, 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
City of Ottawa
Ottawa.ca/CommitteeofAdjustment
cofa@ottawa.ca
613-580-2436



Comité de dérogation
Ville d'Ottawa
Ottawa.ca/Comitedederogation
cded@ottawa.ca
613-580-2436