

**DECISION
CONSENT/SEVERANCE**

Date of Decision	May 24, 2024
Panel:	3 - Rural
File No.:	D08-01-23/B-00207
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owners/Applicants:	Julie and John Davidson
Property Address:	2739 Charters Street
Ward:	20 – Osgoode
Legal Description:	Part of Lot 22, Concession 8, Geographic Township of Osgoode
Zoning:	V1L
Zoning By-law:	2008-205
Heard:	May 14, 2024, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owners/Applicants want to convey a portion of their property to the abutting property owners to the south, known municipally as 2745 Charters Street.
- [2] It was discovered that the pool belonging to 2739 Charter Street is partially located on the property known as 2745 Charter Street. The Owners of 2745 Charters Street have filed a related consent application (D08-01-23/B-00206) to be heard concurrently as part of a mutual land exchange.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [3] The Applicants require the Committee's consent for a lot line adjustment.
- [4] The severed land is shown as Part 2 on the 4R draft plan filed with the application, and has a frontage of 2.985 metres, an irregular depth, and a lot area of 66.2 square metres. This land will be conveyed to the property owners to the south known municipally as 2745 Charters Street.
- [5] The retained land is shown on said plan and will have a frontage of 31 metres, an irregular depth, and a lot area of 1605 square metres. This land is known municipally as 2739 Charters Street and contains the existing detached dwelling.
- [6] The Application indicates that the property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

Oral Submissions Summary

- [7] Julie and John Davidson, Applicants, were present.
- [8] The Committee heard oral submission from Brian Harrington, resident, who expressed his concerns regarding the property boundaries.
- [9] City Planner Luke Teeft confirmed that, once the application is completed, the registered survey would include the new property boundaries. He also confirmed that a grading and drainage plan would be a necessary condition of provisional consent to confirm that the property does not drain onto the abutting properties.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application(s) 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:

- Application and supporting documents, including cover letter, plans, parcel abstract, photo of the posted sign, and a sign posting declaration.
- City Planning Report received May 8, 2024, with no concerns.
- Mississippi Valley Conservation Authority email received May 10, 2024, with comments.
- Ontario Ministry of Transportation email received April 30, 2024, with no comments.
- Hydro One email received May 13, 2024, with no comments.

- Brian Harrington and Nathalie Julien email received May 9, 2024, with comments.

Effect of Submissions on Decision

- [12] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [13] The Committee notes that the City's Planning Report raises "no concerns" regarding the application, subject to the requested conditions agreed to by the Applicants.
- [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. 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 Select Manager of the Select Branch within Planning, Development and Building Services 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 Select Manager of the Select Branch within Planning, Development and Building Services Department, or his/her designate.
 2. That the Owner(s) shall provide a site plan showing the exact location of the sewage system relative to the pool, prepared by an Ontario Land Surveyor or professional engineer, to complete the review to the satisfaction of Ottawa Septic System Office.
 3. That the Owner file with the Secretary-Treasurer of the Committee of Adjustment the following:

- a. A copy of the Reference Plan and/or legal description of the severed land and the deed or instrument conveying the severed land to the owner of the abutting property to the _____, known municipally as _____, so that no new lot is being created, in accordance with paragraph (b) below;

- b. A Certificate of Official attached to the deed/transfer required by paragraph (a) above containing the following endorsement:

“The lands to be severed are for the purpose of a lot addition only to the abutting lands owned by (*insert name*) described as PIN (*insert property identification number*) being Part(s) (*insert numbers*) on Plan (*insert plan number*), not for the creation of a new lot, and any subsequent transfer, charge or other transaction involving the lands to be severed shall be subject to compliance with Section 50(3) or Section 50(5) of the Planning Act, as applicable. Neither the lands to be severed nor the abutting lands are to be transferred, charged or otherwise re-conveyed in the future without the other parcel unless a further consent is obtained.

The Owner shall cause the lands to be severed to be consolidated on title with the abutting lands and for this condition to be entered on the parcel register for the consolidated parcel as a restriction”;

- c. An Undertaking from a solicitor authorized to practice law in the Province of Ontario, and in good standing with the Law Society of Upper Canada, as follows:

“In consideration of, and notwithstanding the issuance of the Certificate under Section 50(12) of the Planning Act in respect to the subject Application for Consent, I undertake on behalf of the Owner, within **30 days** of the registration on title of the transfer document containing the endorsement set out in the Certificate of Official issued by the Committee of Adjustment, to file an Application to Consolidate Parcels including the severed land (Part of PIN (*insert number*) and the abutting land (PIN *insert number*). This PIN consolidation is intended to reinforce the Planning Act stipulation in the condition outlined above that both parcels have merged on Title and cannot be conveyed separately in the future. I further undertake to forward a copy of the registered Application to Consolidate Parcels and a copy of the Consolidated Parcel abstract page(s) to the Committee office within 21 days of the registration of the Application to Consolidate Parcels”.

- d. Where the parcel consolidation stipulated in paragraph (b) and the solicitor’s Undertaking in paragraph (c) above cannot be reasonably completed because the parcels of land to be merged have different estate qualifiers, an Application to Annex Restrictive Covenant under

Section 118 of the *Land Titles Act* must be registered on the Title of both the severed lands and on the abutting parcel that is to be merged. The Covenant, which is to be to the satisfaction of the Secretary-Treasurer of the Committee, shall advise all future purchasers that the parcels must be dealt with together and not separately, and contain wording set out below or similar wording acceptable to the Secretary-Treasurer of the Committee:

“These lands have been merged and may not be dealt with separately, without applying for a Consent of the Committee of Adjustment”. In lieu of the Undertaking provided in paragraph (c), a replacement Undertaking by the solicitor must be filed undertaking on behalf of the Owner to register the Restrictive Covenant on both property Titles within 30 days of the registration of the transfer document containing the endorsement of the Certificate of Official issued by the Committee of Adjustment for this application and to file a copy of the registered Restrictive Covenant with the Committee within 21 days of the registration of the document.

4. 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 lot line adjustment for which the Consent is required.

“William Hunter”
WILLIAM HUNTER
VICE-CHAIR

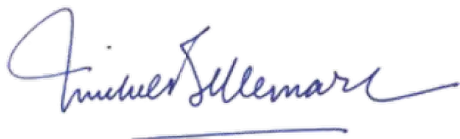
“Terence Otto”
TERENCE OTTO
MEMBER

“Beth Henderson”
BETH HENDERSON
MEMBER

“Martin Vervoort”
MARTIN VERVOORT
MEMBER

“Jocelyn Chandler”
JOCELYN CHANDLER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **May 24, 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 **June 13, 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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Ottawa.ca/CommitteeofAdjustment
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613-580-2436



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