

**DECISION
CONSENT/SEVERANCE**

Date of Decision	June 14, 2024
Panel:	2 - Suburban
File Nos.:	D08-01-24/B-00075 & D08-01-24/B-00076
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owners/Applicants:	Rosella Santella and Ronald Formica
Property Address:	1451 Woodward Avenue
Ward:	16 – River
Legal Description:	Lot 1111 and Part of Lots 1110 and 1112, Registered Plan 346
Zoning:	R2H
Zoning By-law:	2008-250
Heard:	June 4, 2024, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Applicants want to subdivide their property into two separate parcels of land to create two parcels of land for the construction of a two-storey semi-detached dwelling. The existing dwelling is to be demolished.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Applicants require the Committee's consent to sever the land and for a joint-use and maintenance agreement. The property is shown as Parts 1 and 2 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-00075	8.23 m	29.87 m	245 sq. m	1	1453 Woodward Avenue
B-00076	8.23 m	24.87 m	245 sq. m	2	1451 Woodward Avenue

- [3] Approval of these applications will have the effect of creating two separate parcels of land that, along with the proposed development, will not be in conformity with

the requirements of the Zoning By-law and therefore, minor variance applications (File Nos. D08-02-24/A-00100 and D08-02-24/A-00101) have been filed and will be heard concurrently with these applications.

PUBLIC HEARING

Oral Submissions Summary

- [4] Mike Segreto, Agent for the Applicants, provided an overview of the applications and responded to questions from the Committee. Mr. Segreto explained that it was the Applicant's intention to continue the long-standing agreement with the neighbours for the use of the shared driveway, although no formal easement was in place.
- [5] The Committee also heard oral submissions from the following individuals:
- B. Taylor, resident, highlighted concerns about the continued use of the shared driveway and the current parking conditions.
 - S. Dooher, resident, highlighted concerns about the potential impact on the shared tree and the existing fence.
- [6] City Forester Julien Alvarez-Barkham explained that impact to any of the trees would require a permit and, for the shared trees, the written consent of the adjacent owners would also be required.
- [7] City Planner Penelope Horn confirmed that she had no concerns with the applications.
- [8] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Application(s) Must Satisfy Statutory Tests

- [9] 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

[10] 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 report, Parcel abstract, photo of the posted sign, and a sign posting declaration.
- City Planning Report received May 30, 2024, with no concerns.
- Rideau Valley Conservation Authority email received May 29, 2024, with no objections.
- Hydro Ottawa email received May 30, 2024, with comments.
- S. Dooher, resident, email received June 3, 2024, with comments.
- L. Denise, resident, phone call received June 3, 2024, with comments.

Effect of Submissions on Decision

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

[12] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications, subject to the requested conditions agreed to by the Applicant's Agent.

[13] 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.

[14] 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-00100 & D08-02-24/A-00101) 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) provide a signed letter of permission from the owner(s) of identified adjacent or boundary tree(s), for the proposed removal or operations impacting the tree(s). The owner/applicant(s) acknowledge(s) that a tree permit cannot be issued without the permission of all owners of a tree, and that the development plan must be revised to allow for the retention and protection of the adjacent or boundary trees if this letter cannot be produced.
4. The Owner/Applicant(s) shall prepare and submit 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 the property frontage or right-of-way of each lot following construction, to enhance the urban tree canopy and streetscape.
5. That the Owner(s) provide proof to the satisfaction of the **Manager of Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate**, to be confirmed in writing from the Department to the Committee, that the existing dwelling/building has been removed.
6. That the Owner(s) provide evidence to the satisfaction of both the **Chief Building Official** and the **Manager, Planning, Development and Building Services 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.
7. That the Owner(s) provide evidence to the satisfaction of the **Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, or their 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.

8. That the Owner(s) enter into a Joint Use, Maintenance and Common Elements, 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 the Manager of Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate, and City Legal Services. The Committee requires written confirmation that the Agreement is satisfactory to the **Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, or their 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 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 (arterial road) and may therefore be subject to noise and other activities associated with that use”

The Agreement shall be to the satisfaction of the **Manager of Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate**. 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) 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 Development Review All Wards Branch within Planning, Development and Building Services Department, or their 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 the Manager of Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate.

11. 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 Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate**, to require that an asphalt overlay will be installed, at the Owner(s) expense, on Woodward 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 the Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, or their 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 Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate determines that a Development Agreement requiring an asphalt overlay is no longer necessary, this condition shall be deemed as fulfilled.
12. 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.
13. 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 conveyance and the joint-use and maintenance agreement for which the consent is required.

“Fabian Poulin”
FABIAN POULIN
VICE-CHAIR

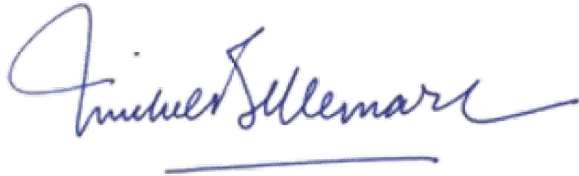
“Jay Baltz”
JAY BALTZ
MEMBER

“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 **June 14, 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 **July 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 the Planning, Development and Building Services 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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