

DECISION CONSENT/SEVERANCE

Date of Decision	April 26, 2024
Panel:	1 - Urban
File No.:	D08-01-24/B-00020
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner/Applicant:	Estate of Beryl Ruth Herrick
Property Address:	304 Fairmont Avenue
Ward:	15 - Kitchissippi
Legal Description:	Lot 195 & Part of 196 on Registered Plan 114306, Lot 3 & Part of Lot 4 on Registered Plan 233925
Zoning:	R1QQ
Zoning By-law:	2008-250
Hearing Date:	April 17, 2024, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owner wants to subdivide its property into two separate parcels of land to create a new lot for residential development. The existing dwelling will remain, and the existing shed will be removed, if necessary.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Committee's consent to sever land.
- [3] The severed land is shown as Parts 2 & 3 on a draft 4R plan filed with the application, and will have a frontage of 18.29 metres, a depth of 23.06 metres, and an area of 421.8 square metres. This parcel will be vacant and known municipally as 75 Gwynne Avenue.
- [4] The retained land is shown as Part 1 on said plan, and will have a frontage of 18.29 metres, a depth of 23.07 metres, and an area of 421.5 square metres. This parcel is known municipally as 304 Fairmont Avenue and will contain the existing detached dwelling.

PUBLIC HEARING

- [5] At the scheduled hearing on April 3, 2024, the application was adjourned to allow the Applicant more time to review the City's requested conditions of provisional

consent. With the concurrence of all parties the hearing was adjourned to April 17, 2024.

Oral Submissions Summary

- [6] Jim Cocks, Agent for the Applicant, responded to a question from the Panel Chair and agreed that the Municipal Ward was incorrect on the public notice of this application, as the property is located within Ward 15 – Kitchissippi.
- [7] City Planning Forester Nancy Young responded to the Committee's questions regarding the revised conditions requested by the City, and provided a summary of the revisions and the City's process for retaining securities for tree protection.
- [8] Mr. Cocks confirmed his agreement to the conditions.
- [9] City Planner Margot Linker was also present.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application 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, tree information, photo of the posted sign, and a sign posting declaration.
- City Planning Report received April 11, 2024, with no concerns; received on March 27, 2024, with no concerns.
- Planning Forestry email received April 16, with revised conditions.
- Rideau Valley Conservation Authority email received March 27, 2024, with no objections; received April 9, 2024, with no objections.

- Hydro Ottawa email received March 27, 2024, with comments.
- Hydro One email received April 16, 2024, with no comments.
- K. Perkins, resident, email received April 2, 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.
- [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) 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/Applicant(s) enter into a Development Agreement or a Letter of Undertaking (LOU) with the City of Ottawa, at the expense of the Owner/Applicant(s), and to the satisfaction of the Manager of the relevant branch within Planning, Real Estate, and Economic Development Department, or their designate(s). The agreement is to be registered on Title of the property (where applicable). The agreement will include the tree protection requirements outlined in the Tree Protection By-law and associated specifications based on the conceptual Tree Information Report, and the grading, servicing, and planting plans, and associated securities for tree protection. The securities,

which will be based on the value of the tree(s) to be protected (Trees 5, 6, and 7) shall be retained for 2 years following issuance of an occupancy permit, and thereafter returned to the owner only upon the City having received a report from an arborist or appropriate professional confirming that the identified tree(s) is/are healthy, retainable, and remain(s) structurally stable. The Owner(s) acknowledge(s) and agree(s) that if, in the opinion of the City Forester and/or the Manager of the relevant Branch within Planning, Real Estate, and Economic Development, the report indicates that any tree is declining and must be removed, the Security for that tree, in its entirety, will be forfeited.

3. That the Owner(s) provide(s) a Grading and Servicing Plan/Site Plan with the proposed elements/structures (driveways, retaining walls, projections, etc.) designed and located based on the least impact to protected trees and tree cover, as well as a revised Tree Information Report reflecting these changes to the satisfaction of the Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or their designate(s).
4. 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.
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 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 structure straddling the proposed severance line 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 the **Relevant 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 the Relevant Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate.**

8. 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.
9. 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 for which the consent is required.

“Ann M. Tremblay”
ANN M. TREMBLAY
CHAIR

“John Blatherwick”
JOHN BLATHERWICK
MEMBER

“Jay Baltz”
JAY BALTZ
MEMBER

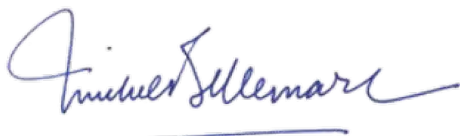
“Arto Keklikian”
ARTO KEKLIKIAN
MEMBER

“William Hunter”
WILLIAM HUNTER
VICE-CHAIRMEMBER

Absent
SIMON COAKELEY
MEMBER

Absent
SHARON LÉCUYER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **April 26, 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 16, 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

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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