

2024-06-13

City of Ottawa | Ville d'Ottawa
Comité de dérogation



**CONSENT & MINOR VARIANCE APPLICATION
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
PANEL 2**

PLANNING, DEVELOPMENT AND BUILDING SERVICES DEPARTMENT

Site Address: 30A and 30B David Drive
Legal Description: Part of Lot 45, Registered Plan 299087
File No.: D08-01-24/B-00090
D08-02-24/A-00118 & A-00119
Report Date: June 13, 2024
Hearing Date: June 18, 2024
Planner: Samantha Gatchene
Official Plan Designation: Outer Urban Transect, Neighbourhood
Zoning: R1FF

BACKGROUND

In July 2017, the Committee of Adjustment granted provisional consent of the original parcel, 30 David Drive. At the same time, Committee approved variances for reductions in minimum lot width and lot area, which were required to be 19.5 metres and 600 square metres, respectively.

The applications divided the original property into two equally-sized lots, shown as Parts 1 and 2 on Plan 4R-31186.

The minor variance approval was tied to plans. These plans demonstrated that each lot could be developed with a detached dwelling in compliance with all other zoning requirements. In 2019, the dwelling at 30A David Drive was built in accordance with these plans.

DEPARTMENT COMMENTS

The Planning, Development and Building Services Department **has no concerns with** the applications.

DISCUSSION AND RATIONALE

Section 53 (12) of the *Planning Act*, R.S.O. 1990, c .P.13, as amended, permits the criteria for the subdivision of land listed in Section 51 (24) to be considered when determining whether provisional consent may be granted by a committee of adjustment.

With respect to the criteria listed in Section 51 (24), staff have no concerns with the proposed lot line adjustment.

Staff have reviewed the subject minor variance application against the “four tests” as outlined in Section 45 (1) of the *Planning Act*, R.S.O. 1990 c. P.13, as amended.

The properties are zoned R1FF and designated Neighbourhood under the Official Plan. The Neighbourhood designation supports intensification that is compatible with the surrounding the low-rise context. The requested variances for reduced lot width and lot area would enable a minor boundary adjustment that facilitates development that conforms with the Official Plan.

Staff do not have concerns with the variance to increase the maximum projection of the covered lanai into the rear yard. Sufficient rear yard area will be maintained to provide outdoor amenity space.

ADDITIONAL COMMENTS

Planning Forestry

The plan as proposed, for a large single detached house would require the removal of 3 trees due to the location of the foundation. The remaining 2 trees are proposed for removal due to their poor/fair condition, which would be evaluated separately by Forestry Services. The minor variances are not considered to have any effect on the ability to retain or plant replacement trees.

The planting plan provided shows 7 of the 12 required compensation trees and will improve both the streetscape and canopy cover of the 2 lots. Compensation for the required trees which cannot be planted must be paid to Forestry Services through the tree permit process.

Infrastructure Engineering

- The Planning, Development and Building Services Department will do a complete review of grading and servicing during the building permit process.
- At the time of building permit application, a grading/servicing plan prepared by a Professional Engineer, Ontario Land surveyor or a Certified Engineering Technologist will be required.
- Any proposed works to be located within the road allowance requires prior written approval from the Infrastructure Services Department.
- All trees on City property and private trees greater than 30cm in diameter in the inner urban area are protected under the Tree Protection By-law (2020-340), and plans are to be developed to allow for their retention and long-term survival. A Tree Removal Permit and compensation are required for the removal of any protected tree.
- The surface storm water runoff including the roof water must be self contained and directed to the City Right-of-Way, not onto abutting private properties as approved by Planning, Development and Building Services Department.

- A private approach permit is required for any access off of the City street.
- Existing grading and drainage patterns must not be altered.
- This property does not have frontage on a storm sewer.
- Encroachment on or alteration to any easement is not permitted without authorization from easement owner(s).

Right of Way Management

- A private approach was never submitted for 30A David and will need to be obtained.
- 30B David is currently undeveloped, however a boat is being stored on it with access from the right of way. Prior to development the use of the lot, a temporary access permit is required.

CONDITIONS

If approved, the Planning, Development and Building Services Development Department requests that the Committee of Adjustment impose the following conditions on the applications:

1. That the owner(s) 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, known municipally as 30B David Drive, 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(s) 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 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 of Adjustment, 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 of Adjustment:

“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(s) 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 of Adjustment within 21 days of the registration of the document.

2. That the Owner(s) provide evidence to the satisfaction of both the Chief Building Official and Development Review 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.

3. 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 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 within Planning, Development and Building Services Department, or their designate.



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