

DECISION CONSENT/SEVERANCE

Date of Decision	July 28, 2023
Panel:	1 - Urban
File No(s):	D08-01-23/B-00151 & D08-01-23/B-00152
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	2423984 Ontario Inc.
Property Address:	612 Tweedsmuir Avenue
Ward:	15 - Kitchissippi
Legal Description:	Lot 9, Registered Plan 356
Zoning:	R4UA [2686] H(8.5)
Zoning By-law:	2008-250
Hearing Date:	July 19, 2023, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owner wants to subdivide its property into two separate parcels of land to create two new lots for the construction of a two-storey semi-detached dwelling, each with an additional dwelling unit. The existing detached dwelling will be demolished.
- [2] At the scheduled hearing on July 5, 2023, the Committee agreed to adjourn the application, at the request of the Applicant, to allow time for the applicant to consult with City and the Westboro Community Association regarding tree retention on site.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [3] The Owner requires the Committee's consent to convey. The property is shown as Parts 1 & 2 on a Draft 4R-Plan filed with the applications and the separate parcels will be as follows:

File Nos.	Frontage	Depth	Area	Part No.	Municipal Address
B-00151	15 15.29 m	15.23 m	228.3 232.7 sq. m	1	253, (253 B) Duncairn (one half of the proposed semi-detached dwelling)

B-00152	15.23 m	15.48 15.19 m	235.9 231.3 sq. m	2	612, (612 B) Tweedsmuir (the other half of the proposed semi-detached dwelling)
---------	---------	------------------------------------	--	---	--

- [4] Approval of these applications will have the effect of creating two separate parcels of land. The proposed development will not be in conformity with the requirements of the Zoning By-law and therefore minor variance applications (D08-02-23/A-00136 & D08-02-23/A-00137) have been filed and will be heard concurrently with these applications.

PUBLIC HEARING

Oral Submissions Summary

- [5] The Committee noted that the dimensions of the proposed lots should be amended as follows:

B-00151	15 15.29 m	15.23 m	228.3 232.7 sq. m	1	253, (253 B) Duncairn (One half of the proposed semi-detached dwelling)
B-00152	15.23 m	15.48 15.19 m	235.9 231.3 sq. m	2	612, (612 B) Tweedsmuir (The other half of the proposed semi-detached dwelling)

- [6] The application was amended accordingly.
- [7] Simran Soor, Agent for the Applicant, provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request.
- [8] Murray Chown, also acting as Agent for the Applicant, raised concerns with a condition of provisional consent requested by the City, questioning the need for the location of the proposed structures be determined based on the least impact to protected trees and tree cover. It was his opinion that an agreement regarding the proposed structures had already been met.
- [9] City Forester Halley Murray stated that the condition is required to ensure that their agreement regarding tree retention is reflected on a grading plan and carried out as planned.
- [10] City Planner Basma Alkhatib was also present.
- [11] The Committee also heard oral submissions from the following individuals:

- T. Gray, Westboro Community Association, who expressed his support for the applications due to the tree conservation efforts of the Applicant and the number and size of the proposed units
- J. Di Francesco, neighbour, who noted concerns regarding the existing conditions and maintenance of the property.

[12] Following the public hearing, the Committee reserved its decision.

**DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED,
AS AMENDED**

Applications Must Satisfy Statutory Tests

[13] 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

[14] 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, a cover letter, plans with revisions, a parcel register, a tree information report, a tree planting plan, a photo of the posted sign, and a sign posting declaration.
- Revised City Planning Report received July 19, 2023, with some concerns; received July 13, with some concerns; received June 30, with some concerns.
- Rideau Valley Conservation Authority email dated July 4, 2023, with no objections; dated July 11, 2023 with no objections.
- Hydro Ottawa email dated June 20, 2023, with comments.
- Hydro One email dated July 11, 2023 with no comments.
- K McCourt, resident, email dated June 26, 2023 with concerns.

Effect of Submissions on Decision

- [15] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [16] The Committee notes that the City's Planning Report raises "no concerns" regarding the proposed consent, highlighting that, "it adheres to the Official Plan policies for those lands designated as Inner Urban Neighbourhood" and, "the size and shape of the proposed lots are suitable for the use of the land and the lots will front onto an established municipal road with municipal services."
- [17] 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.
- [18] 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 plans, drawings or reports for Part 1 and Part 2, as may be required to demonstrate, to the satisfaction of the **Manager, Right-of-Way, Heritage, and Urban Design Department or his/her designate** that a private approach that conforms with the Private Approach By-law (2003-447) can reasonably be established on the severed land, to be confirmed in writing from the Department to the Committee.
 2. That the Owner(s) provide proof to the satisfaction of the Development Review 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, that the existing dwelling/building has been removed.
 3. That the Owner(s) provide a servicing plan, to the satisfaction of the **Development Review 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, that both the severed and retained parcels has its own independent water, sanitary and sewer connection, as appropriate, that are directly connected to City infrastructure and do not cross the proposed severance line.

4. That the Owner(s) provide evidence to the satisfaction of the Development Review 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, that the accessory structure has been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law.
5. 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 **Development Review 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 **Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate**.
6. That the Owner conveys a 3m x 3m corner sight triangle located at the intersection of Tweedsmuir Avenue and Duncairn Avenue to the City, with all costs to be borne by the Owner(s), to the satisfaction of the Surveys and Mapping Branch of the City. This area will be free of all structures, plantings, etc. and will allow a proper sighting distance for motorists when performing turning movements within the intersection. The Committee must receive written confirmation from **City Legal Services** that the transfer of the lands to the City has been registered.
7. 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 **Development Review Manager of the Central 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 Duncairn Avenue or Tweedsmuir Avenue, 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 Development Review Manager of the Central Branch within the 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 **Development Review Manager of the Central 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.

8. That the Owner(s) enter into a Joint Use, Maintenance and Common Elements 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 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 Development Review Manager of the Central 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 the **Development Review Manager of the Central 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.
9. That the owner(s) provide evidence that the 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.
10. That the Owner(s) agree that the location of the proposed structures, including the driveways, retaining walls, services, projections, etc. shown on the Grading & Servicing Plan, will be determined based on the least impact to protected trees and tree cover. The Owner(s) further acknowledges and agrees that this review may result in relocation of these structures and agrees to revise their plans accordingly to the satisfaction of the **Development Review Manager within the Planning, Real Estate and Economic Development Department, or his/her designate**.
11. The Owner(s) agrees to provide proof that the tree protection fencing around the Critical Root Zone of the protected tree is installed as shown in the Tree Information Report, prior to demolition, to the satisfaction of the **Development Review Manager of the Central Branch within the Planning, Real Estate and Economic Development Department, or his/her designate**. The sanitary and storm services if present, must be abandoned and capped outside of the Critical Root Zone of the City tree as clearly demonstrated on the Existing Conditions, Removals, and Decommissioning plan.
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 Conveyances for which the Consent is required.

“Ann M. Tremblay”
ANN M. TREMBLAY
CHAIR

“John Blatherwick”
JOHN BLATHERWICK
MEMBER

“Simon Coakeley”
SIMON COAKELEY
MEMBER

“Arto Keklikian”
ARTO KEKLIKIAN
MEMBER

“Sharon Lecuyer”
SHARON LECUYER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **July 28, 2023**.



Cheryl Williams
Acting 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 **August 17, 2023**, 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