

**DECISION
CONSENT/SEVERANCE**

Date of Decision	October 27, 2023
Panel:	2 - Suburban
File No(s):	D08-01-23/B-00188 & D08-01-23/B-00189
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner/Applicant:	Christopher Simmonds
Property Address:	(1459), 1469 Portal Street
Ward:	18 - Alta Vista
Legal Description:	Lots 45 & 46, Registered Plan 452
Zoning:	R1GG
Zoning By-law:	2008-250
Hearing Date:	October 17, 2023, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owner wants to sever their property into two parcels of land for the construction of a two-storey detached dwelling on one new parcel. The existing dwelling will remain on the other parcel.
- [2] On September 5, 2023, the Committee adjourned the applications to give the Owner time to revise the proposal and the requested variances. The Owner has since revised their plans and now wants to proceed with the applications.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [3] The Owner requires the Committee's consent to sever the property. The property is shown as Parts 1 and 2 on the revised 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-00188	22.38 m	29.25 m	749.6 sq. m	1	1469 Portal Street (Existing dwelling)
B-00189	15.77 m	29.25 m	534.7 sq. m	2	1465 Portal Street (Proposed dwelling)

- [4] Approval of these applications will have the effect of creating two separate parcels of land. One of the proposed parcels and the existing and proposed dwellings will not be in conformity with the requirements of the Zoning By-law and therefore, Minor Variance Applications (File No. D08-02-23/A-00181 and D08-02-23/A-00235) have been filed and will be heard concurrently with these applications.

PUBLIC HEARING

Oral Submissions Summary

- [5] Jill MacDonald and Nadia De Santi, Agents 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.
- [6] Christopher Simmonds, the Applicant, confirmed he agreed with all conditions of provisional consent requested by the City and Hydro Ottawa.
- [7] The Committee also heard oral submissions from the following individuals:
- B. Till, resident, stated that she had no objection to the severance of the lot but raised concerns with the size of the proposed dwelling, its incompatibility with the character of the neighbourhood, and its impact on trees.
 - J.S. Chassé, resident, raised concerns with the proposed building setbacks and their impacts on his privacy and incompatibility with the pattern of setbacks in the neighbourhood.
- [8] City Planner Justin Grift stated he had no concerns with the applications.
- [9] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Applications 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 a planning rationale, plans, parcel register, tree information, photo of the posted sign, and a sign posting declaration.
- City Planning Report dated October 13, 2023 with no concerns; dated August 31, 2023, requesting adjournment.
- Rideau Valley Conservation Authority email dated October 11, 2023, with no objections; email dated October 1, 2023 with no objections.
- Hydro Ottawa email dated October 10, 2023, commenting that the overhead cable must be removed and installed under the driveway due to the severance; email dated September 1, 2023, commenting same.
- Ottawa International Airport Authority email dated August 23, 2023, with no comments.
- Hydro One email dated October 12, 2023, with no comments.
- J. MacPhee, resident, email dated September 5, 2023, opposed to the applications.
- M. Foomani, resident, email dated October 1, 2023, opposed to the applications.
- A. Mashaie, resident, email dated October 16, 2023, in support of the applications.
- J.S. Chassé and M. Lehouillier, residents, email dated October 16, 2023, opposed to the applications; email dated August 30, 2023, opposed to the applications.
- B. Till, resident, email dated October 16, 2023, opposed to the applications; email dated September 1, 2023, opposed to the applications.
- P. and H. Quinn, residents, email dated September 5, 2023, opposed to the applications.
- M. Sauermann and K. Cooper, residents, email dated October 17, 2023, opposed to the applications.

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 applications.

[13] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications, highlighting that, "the severed and retained lots fall within the range of lot width and lot area [of] other lots in the immediate surrounding blocks."

[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(s), prior to the issuance of a building permit, shall 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 General Manager of the Planning, Infrastructure, and Economic Development Department, or his/her designate. A development agreement is to be registered on Title of the property (where applicable), which will include the:
 - a. Mitigation measures outlined in the approved Tree Information Report v3.0, prepared by Dendron Forestry Services, dated July 12, 2023, and associated security for tree protection. The securities, which will be based on the value of the trees to be protected (# 1) shall be retained for 2 years following completion of construction and returned to the owner only upon the City having received a report from an arborist or appropriate professional confirming that the trees identified are in good health and condition and remain structurally stable.
 - b. The Owner/Applicant(s) shall prepare and submit a tree planting plan, prepared to the satisfaction of the Development Review Manager of the

relevant Branch within the Planning, Real Estate and Economic Development Department, or his/her designate, showing the location(s) of the specified number of compensation trees (50mm caliper) required under the Tree Protection By-law, assuming that all proposed tree removals are permitted.

- c. 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 of the South Branch within the Planning, Real Estate and Economic Development Department, or his/her designate.
3. That the Owner(s) satisfies the Chief Building Official, or designate, by providing design drawings or other documentation prepared by a qualified designer, that as a result of the proposed severance to the existing building on Lot 45 and 46 of Plan 4R-draft shall comply with the Ontario Building Code, O. Reg. 332/12 as amended, in regard to the limiting distance along the easterly of the proposed property line. If necessary, a building permit shall be obtained from Building Code Services for any required alterations.
 4. 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 with 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.
 5. That the Owner(s) provide evidence to the satisfaction of the Development Review Manager of the South Branch within Planning, Infrastructure 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.
 6. 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 Development Review Manager of the South Branch within Planning, Infrastructure 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.

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 Development Review Manager of the South Branch within Planning, Infrastructure 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 South Branch within Planning, Infrastructure and Economic Development Department, or his/her designate.
8. That the Owner convey a 3m x 3m corner sight triangle located at the intersection of Portal Ave and Cavendish to the City, with all costs to be borne by the Owner(s). The Owner shall provide a reference plan for registration, indicating the corner sight triangle, to the City Surveyor for review and approval prior to its deposit in the Land Registry Office. 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.
9. That the Owner(s) satisfy the requirements of Hydro Ottawa with respect to the relocation of the existing overhead services.
10. 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 Applications for Consent.

11. 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.

Absent
FABIAN POULIN
VICE-CHAIR

“Jay Baltz”
JAY BALTZ
MEMBER

“George Barrett”
GEORGE BARRETT
ACTING PANEL CHAIR

“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 **OCTOBER 27, 2023**



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 **NOVEMBER 16, 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

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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