

DECISION CONSENT/SEVERANCE

Date of Decision	September 29, 2023
Panel:	1 - Urban
File No(s):	D08-01-23/B-00156
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Danny Ibrahim
Property Address:	577 Melbourne Avenue
Ward:	15 - Kitchissippi
Legal Description:	Lot 32 (East Melbourne Avenue) Registered Plan 204
Zoning:	R3R [2687] H(8.5)
Zoning By-law:	2008-250
Hearing Date:	September 20, 2023, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owner wants to subdivide their property into two separate parcels of land. It is proposed to construct two detached dwellings, one on each of the newly created parcels, as shown on plans filed with the Committee.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Committee's consent to sever. The severed land, shown as Part 2 on a Draft R-plan filed with the application, will have a frontage of 10.6 metres, a depth of 30.68 metres, and will contain a lot area of 308.6 square metres. This parcel will contain a single detached dwelling and will be known municipally as 579 Melbourne Avenue
- [3] The retained land, shown as Part 1 on the said plan, will have a frontage of 10.6 metres, a depth of 30.66 metres and an area of 308.5 square metres. This parcel will contain a single detached dwelling and will be known municipally as 577 Melbourne Avenue.
- [4] Approval of this application will have the effect of creating separate parcels of land. The proposed dwellings will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance applications D08-02-23/A-00142 & D08-02-23/A-00143 have been filed and will be heard concurrently with this application.

PUBLIC HEARING**Oral Submissions Summary**

- [5] On August 19, 2023, the Committee considered an adjournment request from City Planner Margot Linker, on the basis that a revised tree information report was required. Jacob Bolduc, acting as Agent for the Applicant, indicated that revisions to the tree information report were underway and requested an adjournment to September 20. With all parties in agreement, the applications were adjourned to September 20, 2023.
- [6] On September 20, 2023, the Committee noted that a revised site plan was submitted shortly before the hearing and questioned whether a further adjournment was necessary. Mr. Bolduc explained that the revised plan was prepared in response to concerns raised regarding trees and had been circulated previously to City Planning and Infill Forestry staff. Haley Murray, City Infill Forester, confirmed that the revised plan addressed her concerns and Ms. Linker indicated that, as a result, requested condition 2(a) in the City's Planning Report on file could be deleted. The Committee therefore agreed to proceed with the hearing.
- [7] Mr. Bolduc provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. He also confirmed that, based on the revised plan filed, variances d) and j) relating to the provision of soft landscaping could be deleted. The applications were amended accordingly.
- [8] Mr. Bolduc also highlighted the proposed tapered driveway that narrows to a single-wide driveway at the street, that public consultation was undertaken prior to the submission of the application, that the proposed driveway, garage and interior side yard conditions are prominent in the neighbourhood, and that the width of the proposed garage is not subject to a variance, further noting that the difference between a single and double wide garage is minor.
- [9] Danny Ibrahim, Owner of the subject property, reiterated that the proposed tapered driveway is a single-car width at the street and widens as it approaches the double-wide garage, which should resolve concerns regarding compatibility with the streetscape.
- [10] Samantha Schneider and Evan Saunders, acting as Agents for the Applicant, were also present.
- [11] City Planner Margot Linker stated that the revised site plan would allow for retention of the front yard tree but stated that some concerns remained regarding the overall impact on the public realm.
- [12] City Forester Hayley Murray stated no concerns with the applications.

[13] The Committee also heard oral submissions from T. Gray, representing the Westboro Community Association, who stated concerns regarding the accuracy of contextual evidence provided by the Applicant, the extent of the side yard setback variances requested, and the impact of the proposed driveway and garage on streetscape and character of the neighbourhood,

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

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Tests

[15] 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

[16] 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, a tree information report, a parcel register, a streetscape character analysis, a letter from a solicitor, and a sign posting declaration.
- City Planning Report received August 10, 2023, with concerns; received September 14, 2023, with concerns.
- Rideau Valley Conservation Authority email dated September 25, 2023, with no objections; dated September 14, 2023, with no objections.
- Hydro Ottawa email dated August 16, 2023, with comments; dated September 20, 2023, with comments.
- Hydro One email dated August 4, 2023, with no comments; dated September 14, 2023, with no comments.
- Ministry of Transportation email dated August 10, 2023, with no comments.

- M. Nowlan, neighbour, email dated August 14, 2023, with concerns.
- T. Gray, Westboro Community Association, email dated September 18, 2023, with concerns.

Effect of Submissions on Decision

- [17] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [18] The Committee notes that the City's Planning Report raises "no concerns" regarding this consent application.
- [19] 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.
- [20] 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, Real Estate, 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. The Owner(s) agree to provide securities for a period of 2 years following the completion of construction, which is equivalent to the value of the tree to be protected (trees # 2 as identified in the TIR dated March 8, 2023

prepared by Trillium Tree Experts). The Owner(s) agree that the security shall be returned to the owner only upon the City having received a report from an arborist or appropriate professional confirming for tree # 2, that they are in good health and condition, and remain structurally stable. The Owner(s) acknowledge and agree that if, in the opinion of the City Forester and/or the Development Review Manager of the relevant Branch within Planning, Real Estate, and Economic Development, the report indicates that tree # 2 is declining and must be removed, the Security for that tree, will be forfeited.

- b. 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) 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.
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 Select Branch within Planning, Real Estate and Economic Development Department, or his/her designate.
6. That the Owner(s) provide a servicing plan or other 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 each existing

building and/or unit on 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.

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 Melbourne 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 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) 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

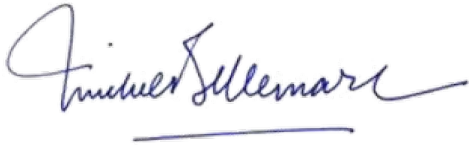
Absent
JOHN BLATHERWICK
MEMBER

“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 **September 29, 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 **October 19, 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