

**DECISION
CONSENT/SEVERANCE**

Date of Decision	November 24, 2023
Panel:	3 - Rural
File No(s):	D08-01-23/B-00254
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Blackburn Real Estate Holdings Inc.
Property Address:	36 Cherry Drive
Ward:	6 – Stittsville
Legal Description:	Lot 5, Plan 4M0146
Zoning:	R1D
Zoning By-law:	2008-250
Hearing Date:	November 14, 2023, 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 one new lot for residential development. The existing detached dwelling and accessory buildings will remain on the other parcel.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Committee’s consent to sever.
- [3] The severed land is shown as Part 1 on a Draft 4R-Plan filed with the application, will have a frontage of 24.09 metres, an irregular depth of 37.58 metres, and a lot area of 897 square metres. This parcel will contain the existing detached dwelling and accessory buildings and is municipally known as 36 Cherry Drive.
- [4] The retained land is shown as Part 2 on said Draft 4R-Plan, has a frontage of 20.77 metres, an irregular depth of 40.30 metres, and a lot area of 881 square metres. This parcel will be used for future residential development and will be known municipally as 34 Cherry Drive.
- [5] The application indicates that the property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

Oral Submissions Summary

- [6] Todd Sinclair, Agent for the Applicant, responded to questions from the Committee. Mr. Sinclair addressed the conditions requested by the City in its Planning Report, noting that while he was not opposed to the conditions, the requirement to register a notice on title for environmental noise was unnecessary since it would be apparent to purchasers that the property is located close to Stittsville Main Street.
- [7] City Planner Luke Teeft explained that this condition was requested instead of the noise study normally required by the City's Official Plan. The Committee therefore agreed that it would impose the condition for a noise warning on title, if the application is approved.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Tests

- [8] 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

[9] 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, parcel register, photo of the posted sign, and a sign posting declaration.
- City Planning Report received November 9, 2023, with no concerns.
- Hydro Ottawa email received November 8, 2023, with no concerns.
- Hydro One email received November 14, 2023, with no concerns.

Effect of Submissions on Decision

- [10] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [11] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications. The report highlights that "the proposed severance aligns with the requirements of the Zoning By-Law for lot area and frontage and that [n]eighbourhoods are intended to evolve through gradual development, of which this application is an example."
- [12] 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.
- [13] 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) satisfy 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 the existing building on Part 1 on Draft 4R PLAN shall comply with the Ontario Building Code, O. Reg. 332/12 as amended, in regards to the limiting distance along the newly created west property line between part 1 and part 2. If necessary, a building permit shall be obtained from Building Code Services for any required alterations.
 3. That the Owner(s) provide evidence (servicing plan), to the satisfaction of **the Development Review Manager of the West Branch within Planning, Infrastructure 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 have their own independent water, sanitary and sewer connection, as appropriate, and that these services do not cross the proposed severance line and are connected directly to City infrastructure. If they do cross the proposed severance line, or they are not independent, the Owner(s) will be required to relocate or construct new services from the city sewers and/or watermain at his/her own costs.

In the case of a vacant parcel being created, the Owner(s) shall provide evidence (servicing plan), to the satisfaction of **the Development Review Manager of the West 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 parcel has access to sufficient services with adequate capacity.

4. 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 West 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 West Branch within Planning, Infrastructure and Economic development Department, or his/her designate**.
5. 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, highway, airport, etc) 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 West 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.

6. 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.

7. 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.

“William Hunter”
WILLIAM HUNTER
VICE-CHAIR

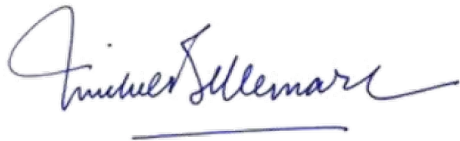
“Terence Otto”
TERENCE OTTO
MEMBER

“Beth Henderson”
BETH HENDERSON
MEMBER

“Martin Vervoort”
MARTIN VERVOORT
MEMBER

“Jocelyn Chandler”
JOCELYN CHANDLER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **November 24, 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 **December 14, 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
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Ottawa.ca/CommitteeofAdjustment
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613-580-2436



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