

## DECISION CONSENT/SEVERANCE

<b>Date of Decision</b>	July 26, 2024
<b>Panel:</b>	1 - Urban
<b>File Nos.:</b>	D08-01-24/B-00100, D08-01-24/B-00101
<b>Application:</b>	Consent under Section 53 of the <i>Planning Act</i>
<b>Applicant:</b>	Falsetto Homes Inc.
<b>Property Address:</b>	370 Princeton Avenue
<b>Ward:</b>	15 – Kitchissippi
<b>Legal Description:</b>	Lot 27 (East side Melbourne Avenue), Registered Plan 204
<b>Zoning:</b>	R4UA [2686] H(8.5)
<b>Zoning By-law:</b>	2008-250
<b>Heard:</b>	July 17, 2024, in person and by videoconference

### APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Applicant wants to subdivide their property into two separate parcels of land for the construction of two, three-storey, eight-unit low-rise apartment buildings, as shown on plans filed with the Committee.

### CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Applicant requires the Committee's consent to subdivide the property and grant the use of and right in land for easements. The property is shown as Parts 1 to 6 on a draft plan of survey 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-00100	10.96 m	30.61 m	335.5 sq. m	1 to 3	547 Melbourne Avenue
B-00101	9.16 m	30.61 m	280.4 sq. m	4 to 6	549 Melbourne Avenue

It is proposed to establish easements/rights of way as follows:

- Over Parts 2 in favour of Parts 4, 5 & 6 to provide walkway access.
- Over Part 4 in favour of Parts 1 to 3 to provide walkway access.

The proposed development will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance applications (File Nos. D08-02-24/A-00145, A-00146) have been filed and will be heard concurrently with these applications.

## PUBLIC HEARING

- [3] On July 3, 2024, the scheduled hearing of the applications was adjourned to allow the Applicant more time to consult with an abutting neighbour regarding a boundary tree, and to consider comments from the City and area residents and revise the proposal.

### Oral Submissions Summary

- [4] Arjan Soor and Murray Chown, the 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.
- [5] Mr. Soor referred to the revised draft survey and site plans on file, summarizing the revisions made to both, which included relocating a walkway and ramp to preserve additional street trees and to remove the ramp from the City right of way and provide barrier-free access to accessible units at the rear. He noted that City staff concluded in their revised Planning Report that the revised design better manages site functionality.
- [6] Based on the revised draft survey, Mr. Soor confirmed that the applications should be amended as follows:

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-100	10.96 m	30.61 m	335.5 sq. m	<del>4 to 4</del> <b>1 to 3</b>	547 Melbourne
B-101	9.16 m	30.61 m	280.4 sq. m	<del>5 and 6</del> <b>4 to 6</b>	549 Melbourne

It is proposed to establish easements/rights of way as follows:

- Over Parts ~~2 & 3~~ in favour of Parts **4, 5 & 6** to provide walkway access.
  - Over Part ~~4 5~~ in favour of Parts **1 to 3** ~~4 to 4~~ to provide walkway access.
- [7] Responding to the Committee's question regarding consultation, Mr. Soor, confirmed that he had consulted the Westboro Community Association to address their concerns and provided updated information about the changes.
- [8] Mr. Chown responded to questions from the Committee, addressing how these revisions respond to concerns raised by area residents, highlighting that the revised proposal addressed concerns related to tree retention by ensuring that all

existing street trees except one, which is in poor condition and recommended for removal, would be preserved.

[9] Responding to the Committee's questions, City Planner Margot Linker explained that she consulted with City engineering and infrastructure staff to confirm that there were no immediate concerns with reserve capacity of City services to support the proposed development. City Planner Erin O'Connell also confirmed that the City is aware of locations where storm sewer, sanitary and water service capacity may be an issue, and is satisfied that this proposal would have no impacts.

[10] The Committee also heard oral submissions from the following individuals:

- H. Mitchell, Chair, Westboro Community Association, highlighted that the Community Association opposes the project and summarized the history and intent of the Westboro infill development study that resulted in the current zoning designation. She also highlighted concerns with the number and extent of the variances requested from this recent amendment to the Zoning By-law, which prohibits apartment dwellings containing more than six units, and the cumulative impacts on neighbours and parking and traffic safety in the area, as well as the inadequacy of the public consultation undertaken by the Applicant.
- A. Cooper, resident, indicating that he represents more than 20 area residents, highlighted concerns with the scale and density of the proposed apartment buildings and their impacts on properties at the interior of the block, as well as traffic along Princeton Avenue. He submitted that the proposal does not maintain the intent of the Zoning By-law, establishes an undesirable precedent for future development and, with both buildings fronting on Melbourne Avenue, would negatively impact community safety. In addition, he believed that the proposal represents overdevelopment on undersized lots that would be out of character with the pattern of development in the area.
- S. Dewar, resident, highlighted concerns with the impact of the development on his enjoyment of his property, specifically as it relates to noise and privacy considering the number of entrances and balconies proposed, and the inadequacy of the tree cover to mitigate these impacts.
- T. Gray, Westboro Community Association, highlighted concerns with the compatibility of the proposal with the pattern of front yard setbacks along the street, its impacts on the interior of the block, the inadequacy of the Applicant's evidence to justify the requested variances, and the overall functionality of the proposal and, in particular, the location of accessible dwelling units at the rear of the buildings.
- J. Jolet, resident, highlighted additional concerns with the incremental and cumulative impacts of multiple variances from the Zoning By-law on the

neighbourhood in general, and with the impact of the proposal on community safety.

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

**DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS REFUSED**

**Application(s) Must Satisfy Statutory Tests**

[12] 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**

[13] 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 report, parcel abstract, photo of the posted sign, and a sign posting declaration.
- City Planning Report received July 11, 2024, with no concerns.
- Rideau Valley Conservation Authority email received July 10, 2024, with no objections.
- Hydro Ottawa email received July 10, 2024, with no comments.
- Hydro One email received July 8, 2024, with no comments.
- D. Stern, resident, email received July 3, 2024, opposed.
- D. Chapman, resident, email received July 15, 2024, with comments.
- C. Campbell, resident, email received July 15, 2024, with comments.
- T. Gray, Westboro Community Association, email received July 15, 2024, with comments.

- S. Burton, resident, email received July 15, 2024, with comments.
- D. and M. Fulford, residents, email received July 15, 2024, with comments.
- S. Dewar, resident, email received July 15, 2024, with comments.
- S. Morris, resident, email received July 16, 2024, with comments.
- L. and C. St. Germain, resident, email received July 15, 2024, with comments.
- A. Tzanadamis, resident, email received July 16, 2024, opposed.
- M. Pennell & J. McKeage, residents, email received July 16, 2024, with comments.
- T. Dang and S. Chan, residents, email received July 16, 2024, with comments.
- J. Tayler and C. Khan Tayler, residents, email received July 17, 2024, with comments.
- B. Kiefl, resident, email received June 18, 2024, with comments.
- D. and M. Dulford, residents, email received June 20, 2024, opposed.
- K. Beltzner, resident, email received June 24, 2024, with comments.
- M. Pennel and J. McKeage, residents, email received June 25, 2024, with comments.
- S. Dewar, resident, email received June 25, 2024, opposed.
- J. Anglesey and S. Crabtree, residents, email received June 28, 2024, with comments.
- F. Lavack and N. Peterson, residents, email received June 30, 2024, with comments.
- M. Lunney, resident, email received July 1, 2024, with comments.
- T. Gray, Westboro Community Association, email received July 2, 2024, with comments.
- C. Cuhaci, resident, email received July 2, 2024, with comments.

### Effect of Submissions on Decision

- [14] The Committee considered all written and oral submissions relating to the application in making its decision and refused the applications.
- [15] Based on the evidence, the Committee is not 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 not satisfied that the proposal has adequate regard for the criteria specified under subsection 51(24) of the *Planning Act*, including the suitability of the land for the purpose for which it is to be subdivided, as well as the requested variances of the lots considered under minor variance applications D08-02-24/A-00145, D08-02-24/A-00146 which are also refused.
- [16] THE COMMITTEE OF ADJUSTMENT therefore does not grant the provisional consent.

*Simon Coakeley*  
SIMON COAKELEY  
ACTING PANEL CHAIR

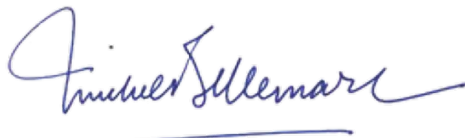
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*Sharon Lécuyer*  
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MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated July 26, 2024.



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 August 15, 2024, delivered by email at [cofa@ottawa.ca](mailto:cofa@ottawa.ca) and/or by mail or courier to the following address:

Secretary-Treasurer, Committee of Adjustment,  
101 Centrepointe Drive, 4<sup>th</sup> 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](mailto: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 the Planning, Development and Building Services 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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