

**DECISION  
CONSENT/SEVERANCE**

<b>Date of Decision:</b>	August 16, 2024
<b>Panel:</b>	2 - Suburban
<b>File No.:</b>	D08-01-24/B-00110
<b>Application:</b>	Consent under Section 53 of the <i>Planning Act</i>
<b>Applicants':</b>	Tristan Joshua Philippe and Huguette Denise Rochon
<b>Property Address:</b>	882 and 884 Smyth Road
<b>Ward:</b>	18 – Alta Vista
<b>Legal Description:</b>	Lot 353A Registered Plan 643 and Lot 314 Registered Plan 627
<b>Zoning:</b>	R2F
<b>Zoning By-law:</b>	2008-250
<b>Heard:</b>	August 6, 2024, in person and by videoconference

**APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION**

- [1] The Applicants want to subdivide their property into two separate parcels of land to establish separate ownership for each half of the existing semi-detached dwellings. It is proposed to construct a coach house on each newly created parcel.

**CONSENT IS REQUIRED FOR THE FOLLOWING**

- [2] The Applicants requires the Committee's consent to sever land. The property is shown as Parts 1 to 4 on a draft 4R-plan filed with the applications and the separate parcels will be as follows:
- [3] The land to be severed, shown as Parts 1 & 2 on a draft 4R-plan, will have a frontage of 11.73 meters, a depth of 30.48 metres, and contain a lot area of 356.3 square metres. This parcel contains one half of the existing semi-detached dwelling and is known municipally as 882 Smyth Road.
- [4] The land to be retained is shown as Parts 3 & 4 on a draft 4R-plan, and will have a frontage of 11.34 metres, a depth of 30.48 metres, and contain a lot area of 346.9 square metres. This parcel contains one half of the existing semi-detached dwelling and is known municipally as 884 Smyth Road.
- [5] The application indicates that the property is subject to an easement OT14663.

- [6] Approval of this application will have the effect of creating separate parcels of land in which the purposed 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-00159 & D08-02-24/A-00162) have been filed and will be heard concurrently with these applications.

## **PUBLIC HEARING**

- [7] At the outset of the hearing, the Committee called the Applicants' Agent forward to determine if an adjournment of the applications would be necessary to allow time for the Applicant to consult with the City's Forestry and Planning departments regarding the location of the coach house that would require revisions to the plan filed. Chris Jalkotzy, Agent for the Applicant, requested that the Committee proceed to hear the applications.
- [8] The Committee agreed to hear the applications without delay.

### **Oral Submissions Summary**

- [9] Mr. Jalkotzy provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. He highlighted that the Official Plan calls for intensification, and that the proposal is a pleasant and sensitive way to intensify. He further highlighted that the proposed development would provide privacy for neighbours while maintaining amenity space for the residents.
- [10] In response to questions from the Committee, Mr. Jalkotzy confirmed that the vinyl sheds at the rear of the property would be removed, and he did not object to that being included as a condition of provisional consent.
- [11] In response to the concerns raised by the City's Forestry department regarding the removal of a tree in the rear yard, Mr. Jalkotzy advised that regardless of the location of the proposed coach it would have an impact on the tree.
- [12] The Applicant, Tristan Joshua Philippe, also provided a slide presentation, which is available from the Committee Coordinator upon request.
- [13] City Planner Penelope Horn was also present and advised that City Planning had concerns with the removal of distinctive trees.
- [14] Planning Forester Nancy Young expressed concerns regarding the proposed removal of the healthiest trees on the site. Ms. Young but could not confirm that if the proposed coach houses met the requirement of the Zoning Bylaw the trees could be retained without further investigation by her department.
- [15] The Committee also heard oral submissions from the following individuals:

- R. Ringuette and D. Perrault, neighbours, noted concerns with the impact on property value, reduced privacy, lack of parking, and garbage accumulation.

[16] Mr. Jalkotzy requested that the condition of provisional consent regarding road widening in the City's Planning Report be removed as it was his interpretation of the draft reference plan provided that this condition was already met.

[17] City Planner Penelope Horn confirmed that she had no concerns with the removal of the condition for a road widening.

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

## **DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED**

### **Application Must Satisfy Statutory Tests**

[1] 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**

[2] 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, parcel abstract, tree information report, and a sign posting declaration.
- City Planning Report received July 31, 2024, with concerns; revised report received July 31, 2024, with concerns.
- Rideau Valley Conservation Authority email received August 2, 2024, with no objections.
- Hydro Ottawa email received August 2, 2024, with conditions.
- Hydro One email received July 24, 2024, with no comments.

- H. Poulin, neighbour, email received July 30, 2024, opposed; received August 6, 2024, in support of tree removal.
- R. Clement and C. Clement, neighbours, email received July 31, 2024, with comments.
- J. and J.C. Besner, residents, email received August 1, 2024, opposed.
- D. Perrault, resident, email received August 2, 2024, with comments.
- M. Ringuette, resident, email received August 2, 2024, with comments.

### **Effect of Submissions on Decision**

- [3] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [4] The Committee notes that the City's Planning Report raises "no concerns" regarding the application subject to the requested conditions agreed to by the Applicants' Agent.
- [5] 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.
- [6] 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/Applicant(s) provide a tree planting plan, prepared to the satisfaction of the **Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or their designate(s)**, showing the location(s) and species or ultimate size of all compensation trees required under the Tree Protection By-law and/or one new tree (50 mm caliper) per lot, whichever is greater. This condition may be waived if the plans are changed to retain existing trees.

2. That the Owner/Applicant(s) provide a revised Site Plan and Servicing Plan with the proposed elements (services, retaining walls, etc.) designed and located to ensure the adequate protection of Protected Trees as identified in the Tree Information Report. This may result in relocation of these structures, and the owner may be required to revise their plans accordingly to the satisfaction of the **Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or their designate(s)**. The Tree Information Report may require revision to reflect these changes.
3. That the Owner/Applicant(s) 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 **Manager of the relevant branch within Planning, Real Estate, and Economic Development Department, or their designate(s)**. A development agreement is to be registered on Title of the property (where applicable). The agreement will include the tree protection requirements outlined in the Tree Protection By-law and associated specifications based on the Tree Information Report prepared by Dendron Forestry Services, dated April 3, 2024, and associated securities for tree protection. The securities, which will be based on the value of the City tree(s) to be protected (Trees 2 & 3) shall be retained for 2 years following issuance of an occupancy permit, and thereafter returned to the owner only upon the City having received a report from an arborist or appropriate professional confirming that the identified tree(s) is/are healthy, retainable, and remain(s) structurally stable. The Owner(s) agree(s) that if, in the opinion of the **City Forester** and/or the **Manager of the relevant Branch within Planning, Real Estate, and Economic Development**, the report indicates that any tree is declining and must be removed, the Security for that tree, in its entirety, will be forfeited. If the servicing plan shows that separate services exist and do not need further maintenance, this condition may be waived.
4. That the Owner(s) provide a servicing plan or other evidence, to the satisfaction of the **Development Review Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, or their 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.
5. That the Owner(s) enter into a Joint Use, Maintenance and Common Elements, 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, 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 **Development Review All Wards Manager within Planning, Development and Building Services Department, or their designate, and City Legal Services**. The Committee requires written confirmation that the Agreement is satisfactory to Development Review All Wards Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, or their 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.

6. 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 **Development Review All Wards Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, or their 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 Development Review All Wards Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate.
7. That the Owner(s) provide evidence to the satisfaction of the **Development Review Manager of the Relevant Branch within Planning, Development and Building Services Department, or their designate**, to be confirmed in writing from the Department to the Committee, that the accessory structures have been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law.
8. That the Owner(s) satisfy the requirements of Hydro Ottawa with respect to the relocation of the existing overhead services or grant an easement as required, the consent to which is hereby granted.
9. 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.
10. 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 a Conveyance for which the Consent is required.

*Absent*  
FABIAN POULIN  
VICE-CHAIR

*Jay Baltz*  
JAY BALTZ  
ACTING PANEL CHAIR

*George Barrett*  
GEORGE BARRETT  
MEMBER

*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 **August 16, 2024**



Matthew Garnett  
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 **September 5, 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**  
City of Ottawa  
[Ottawa.ca/CommitteeofAdjustment](http://Ottawa.ca/CommitteeofAdjustment)  
[cofa@ottawa.ca](mailto:cofa@ottawa.ca)  
613-580-2436



**Comité de dérogation**  
Ville d'Ottawa  
[Ottawa.ca/Comitedederogation](http://Ottawa.ca/Comitedederogation)  
[cded@ottawa.ca](mailto:cded@ottawa.ca)  
613-580-2436