

**DECISION
CONSENT/SEVERANCE**

Date of Decision:	August 16, 2024
Panel:	2 - Suburban
File No.:	D08-01-24/B-00125
Application:	Consent under section 53 of the <i>Planning Act</i>
Applicants:	Tony and Lisa Tegano
Property Address:	267 Marilyn Avenue
Ward:	16 – River
Legal Description:	Lot 34, Registered Plan 564
Zoning:	R1GG
Zoning By-law:	2008-250
Heard:	August 6, 2024, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Applicants want to subdivide their property into two separate parcels of land to create two new lots for residential development, as shown on the plans filed with the Committee. The existing dwelling will be demolished.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Applicants require the Committee's consent to sever land.
- [3] The severed land is shown as Parts 1 and 2 on the Draft 4R-Plan. This parcel will have a frontage of 14.45 metres, an irregular depth, and an area of 720.5 square metres. This lot will be known municipally as 265 Marilyn Avenue.
- [4] The retained land is shown as Parts 3 & 4 on said plan and will have a frontage of 14.45 square metres, an irregular depth, and an area of 670 square metres. This lot will be known municipally as 267 Marilyn Avenue.
- [5] The application indicates that Parts 2 and 4 are subject to an existing easement as set out in Instrument OT6888.
- [6] Approval of this application will have the effect of creating separate parcels of land that will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance applications (File Nos. D08-02-24/A-00177 & D08-02-24/A-00178) have been filed and will be heard concurrently with this application.

PUBLIC HEARING

Oral Submissions Summary

- [7] Angelo Montenegro, Agent for the Applicants, provided an overview of the application and responded to questions from the Committee. Mr. Montenegro confirmed that he was aware of the changes required to the preliminary drawings provided with the application to bring the proposed dwelling into compliance.
- [8] Mr. Montenegro provided evidence of other lots in the neighbourhood that have a lot width less than 18 metres.
- [9] City Planner Penelope Horn was also present.
- [10] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Tests

- [11] 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

[12] 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, parcel register, plans, tree information, photo of the posted sign, and a sign posting declaration.
- City Planning Report received July 31, 2024, with no concerns.
- Rideau Valley Conservation Authority email received August 2, 2024, with no objections.
- Hydro Ottawa email received August 2, 2024, with no objections.

- Hydro One email received July 24, 2024, with no comments.
- M. Belzille, resident, email received July 30, 2024, opposed.
- C. and J. Robar, neighbours, email received July 31, 2024, with comments.
- K. Pratt, neighbour, email received August 6, 2024, with comments.

Effect of Submissions on Decision

- [13] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [14] The Committee notes that the City's Planning Report raises "no concerns" regarding the application subject to the requested conditions agreed to by the Applicant's Agent.
- [15] 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.
- [16] 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 the accompanying Minor Variance Application (D08-02-24/A-00177 & D08-02-24/A-00178) has been approved, with all levels of appeal exhausted.
 2. 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.
 3. 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 at least one new tree (50 mm caliper) per lot, in addition to any compensation trees required under the Tree Protection By-law.

4. That the Owner(s) provide proof 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 the existing dwelling/building has been removed.
5. That the Owner(s) provide evidence to the satisfaction of both the **Chief Building Official and Development Review Manager, Planning, Development and Building Services 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 to 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.
6. That the Owner(s) enter into an Agreement with the City, at the expense of the Owner(s), which is to be registered on the Title of the property, to deal with the following covenant/notice that shall run with the land and bind future owners on subsequent transfers:

“The property is located next to lands that have an active railway line now, or may have one in the future, and may therefore be subjected to noise, vibration, and other activities associated with this use.”

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 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 airport) and may therefore be subject to noise and other activities associated with that use”

The Agreement shall be 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**. The Committee requires a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title.

8. 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.**
9. That the Owner(s) enter into a resurfacing agreement with the City to the satisfaction of the Program Manager, Right of Way Branch within **Planning, Development and Building Services Department, or their designate**, and provide financial security in accordance with the Road Activity By-law, as amended, to install an asphalt overlay over the roadway surface of Marilyn, fronting the subject lands, to the limits shown on the approved Site Servicing Plan. Where the approved Site Servicing Plan demonstrates that resurfacing is not required based on the City's Road Cut Resurfacing Policy, the Development Review Manager of the All-Wards Branch **within Planning, Development and Building Services Department, or their designate**, shall deem this condition satisfied.
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 Application 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 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 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 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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