

## DECISION CONSENT/SEVERANCE

<b>Date of Decision:</b>	October 25, 2024
<b>Panel:</b>	1 - Urban
<b>File Nos.:</b>	D08-01-24/B-00287 to D08-01-24/B-00289 and D08-01-24/B-00292
<b>Application:</b>	Consent under Section 53 of the <i>Planning Act</i>
<b>Applicant:</b>	Prestwick Building Corp.
<b>Property Address:</b>	290 Holmwood Avenue
<b>Ward:</b>	17 – Capital
<b>Legal Description:</b>	Lots 89 & 90, Registered Plan 108654
<b>Zoning:</b>	R3P[1474]
<b>Zoning By-law:</b>	2008-250
<b>Heard:</b>	October 16, 2024, in person and by videoconference

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

- [1] The Applicant wants to subdivide their property to create two new parcels of land for the construction of a three-storey, semi-detached dwelling. The existing dwelling will be demolished.
- [2] On December 13, 2023, the Committee adjourned the hearing of these applications to allow time for the Applicant to receive permission for the removal of the jointly owned tree by the adjacent property owner, or to revise their plans. The Applicant subsequently revised its plans.

### CONSENT IS REQUIRED FOR THE FOLLOWING

- [3] The Applicant requires the Committee's consent to sever land. The property is shown as Parts 1 and 2 on a draft 4R-plan filed with the applications. The separate parcels will be as follows:

*Table 1 Proposed Parcels*

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00287	6.09 m	27.47 m	167.33 sq. m	1	292B Holmwood Avenue (one half of the proposed semi-detached)

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00288	6.10 m	27.48 m	167.59 sq. m	2	292A Holmwood Avenue (one half of the proposed semi-detached)

- [4] Approval of these applications will have the effect of creating two separate parcels of land for a proposed semi-detached dwelling. The proposed development will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance applications (File Nos: A-00269-270 & A-00273-274) have been filed and will be heard concurrently with these applications.

## PUBLIC HEARING

- [5] On October 2, 2024, the Committee adjourned the scheduled hearing of the applications to allow the Applicant more time to consult with residents and for City Staff to provide an updated Planning Report based on revised tree information provided by the Applicant.

### Oral Submissions Summary

- [6] Jennifer Adams and Todd Duckworth, 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. In his presentation, Mr. Duckworth addressed his discussions with the City and immediate neighbours regarding trees, and indicated that the neighbour to the east did not agree to the removal of their shared boundary tree. Mr. Duckworth also highlighted that the footprint of the proposed semi-detached dwelling could be located in compliance with the Zoning By-law but was sited at the maximum permitted front yard setback to better align with the streetscape. He stated that there was no plan to develop the retained lot to the east, but it could be developed in the future without disruption to the boundary tree, and six trees surrounding the boundary tree would also be protected.
- [7] Responding to the Committee's questions, Mr. Duckworth confirmed that the proposed rear yard setback exceeds that of the existing building by 1.3 metres and noted that the requested variances did not directly necessitate the removal of trees.
- [8] City Infill Forester Nancy Young responded to the Committee's questions and confirmed that, when the vacant retained lot is developed in the future, tree removal permits would be issued for any tree requiring removal to accommodate any development that complies with the Zoning By-law, except for the boundary tree which would require the neighbour's permission to be removed. She noted that other trees close to the boundary tree, which share a common critical root zone, would therefore also be protected.

- [9] City Planner Margot Linker confirmed she had no concerns with the proposed attached front facing garage or the landing and step projections, and some concerns with the proposed rear yard.
- [10] A. Bauman, resident, highlighted concerns with the removal of four large Colorado spruce trees and safety concerns related to the proposed front facing garages, noting that the proposed development fronts on the intersection of Holmwood Avenue and Gordon Street, as well as concerns with snow removal.
- [11] Following the public hearing, the Committee reserved its decision.

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

### **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:

- Applications and supporting documents, including cover letter, plans, parcel abstract, photo of the posted sign, and a sign posting declaration.
- City Planning Report received October 11, 2024, with some concerns; received September 26, 2024, requesting an adjournment.
- Rideau Valley Conservation Authority email received October 9, 2024, with no comments; received September 25, 2024, with no comments.
- Hydro Ottawa email received October 11, 2024, with comments; received September 27, 2024, with comments.
- Hydro One email received October 9, 2024, with no comments; received September 25, 2024, with no comments.

- K. Ferguson, resident, email received October 11, 2024, with comments; received September 25, 2024, with comments; received email October 1, 2024.
- A. Bauman, resident, email received October 11, 2024, with comments; received September 18, 2024, with comments.
- B. Sutton, resident, email received October 15, 2024, with comments.
- M. Tobin, resident, email received September 19, 2024, with comments.
- D. Gragg and T. Reilly, residents, email received September 23, 2024, with comments.
- B. and G. Greenwood, resident, email received September 25, 2024.
- G. Slack and R. Ewing, resident, email received September 30, 2024, with comments.
- S. Keating, resident, email received October 1, 2024, with comments.
- T. Reilly, resident, email received October 1, 2024, with comments.

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

- [14] The Committee considered all written and oral submissions relating to the applications in making its decision and granted the applications.
- [15] The Committee notes that the City's Planning Report highlights "no concerns with the proposed consent," subject to the requested conditions agreed to by the Applicant's agent.
- [16] 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.
- [17] 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. The Owner(s) provide evidence that the accompanying minor variance applications (D08-02-23/A-00269 & D08-02-23/A-00270 and D08-02-23/A-00273 & D08-02-23/A-00274) have 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(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.
4. 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.
5. That the Owner(s) enter into a Joint Use, Maintenance and Operating Agreement, 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 Operating 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, common driveways 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, or 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, or 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 provide a Slope Stability Report, for 292A & 292B Holmwood Avenue (Parts 1 & 2 on Draft R-plan), prepared by a Professional Geotechnical Engineer currently licensed in the Province of Ontario, that is satisfactory to 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 PDBS to the Committee, demonstrating that all parcels to be created by this application are, or can be made, suitable for residential purposes.
8. 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, 290 Holmwood Avenue (Part 3 on the Draft R-plan), to deal with the following covenant/notice that shall run with the land and bind future owners on subsequent transfers:

“The lot is located adjacent to lands with slope stability concerns. Additional engineering and slope stability measures may be required prior to issuance of Building Permits for development on the lot.”

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

9. That the Owner(s) enter into an Infrastructure Agreement with the City of Ottawa to extend the municipal services on Holmwood Avenue, for 292A & 292B Holmwood Avenue (Parts 1 & 2 on Draft R-plan), at their own costs and post the necessary securities for the work on the City Right-of-Way to the satisfaction of the City’s Planning, Development and Building Services Department’s Infrastructural Approvals Branch and to the satisfaction of City Legal Services. The Owner(s) must also receive the approval of the Ontario Ministry of the Environment Conservation and Parks for the extension of the municipal services. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title. Where the approved Site Servicing Plan demonstrates that an Infrastructure

Agreement to extend the municipal services on Holmwood Avenue is not required, 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 provide a revised site plan for Parts 1 and 2 on the draft reference plan with the locations of proposed elements (buildings, driveways, services, grading, etc.) designed to reduce any excavation within the Critical Root Zones of protected trees and/or to provide sufficient soil volume to plant new trees, to the satisfaction of **the Development Review Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or his/her designate**. The Tree Information Report must be revised to reflect changes to the site plan and to show the accurate tree protection areas and mitigation measures.
11. That the Owner/Applicant(s) provide a combined Grading & Drainage, Site Servicing and Tree Information Plan, including the locations of existing and proposed trees, as well as tree protection measures outlined in the Tree Information Report, to the satisfaction of **the Development Review Manager, Planning, Development and Building Services Department, or their designates**. The plans can be shown on one or multiple sheets but must include all standard grading information along with measurements from the trunks of existing protected trees to the nearest limit of excavation or grade changes. In the case of a vacant parcel being created, the plan(s) must show a conceptual building envelope to establish that the lot can be graded to a sufficient and legal outlet, has access to services with adequate capacity, and follows the recommendations of the Tree Information Report.
12. The Owner/Applicant(s) shall prepare and submit a tree planting plan, prepared to the satisfaction of **the Development Review Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or his/her designate**, showing the location(s) of the specified number of compensation trees (50mm caliper) required under the Tree Protection By-law, assuming that all proposed tree removals are permitted.
13. That the Owner(s) satisfy the requirements of Hydro Ottawa with respect to the provision of a Common Elements Agreement to provide each property with mutual access, maintenance, and cost sharing responsibilities for the electrical supplies.
14. 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.



15. 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 conveyances for which the consent is required.

*“Simon Coakeley”*  
SIMON COAKELEY  
ACTING PANEL CHAIR

*“John Blatherwick”*  
JOHN BLATHERWICK  
MEMBER

*“Ann M. Tremblay”*  
ANN M. TREMBLAY  
CHAIR

*“Arto Keklikian”*  
ARTO KEKLIKIAN  
MEMBER

*“Sharon Lécuyer”*  
SHARON LÉCUYER  
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **October 25, 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 **November 14, 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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