

DECISION CONSENT/SEVERANCE

Date of Decision	September 15, 2023
Panel:	1 - Urban
File No(s):	D08-01-23/B-00169, B-00170 & B-00173
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Hassani Raja Mohammad Reza & Siadatmousavi Haleh
Property Address:	470 Mutual Street
Ward:	13 – Rideau-Rockcliffe
Legal Description:	Lot 131 and Part of Lot 130, Registered Plan 300
Zoning:	R3A
Zoning By-law:	2008-250
Hearing Date:	September 6, 2023, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owners want to subdivide their property into three separate parcels of land for the construction of three new two-storey townhouse dwellings, as shown on plans filed with the Committee. The existing dwelling will be demolished.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owners require the Committee's consent to subdivide the property into three separate parcels. 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:

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00169	6.39 m	33.31m	213 sq. m	1	468 Mutual St.
B-00170	5.47 m	33.37 m	182.7 sq. m	2	470 Mutual St.
B-00173	6.41 m	33.42 m	214.2 sq. m	3 & 4	472 Mutual St.

- [3] It is proposed to establish an easement/right-of-way over Part 4 to provide access for benefit of Part 2.
- [4] Approval of these applications 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 D08-02-23/A-00154, A-00155 & A-00159 have been filed and will be heard concurrently with these applications.

PUBLIC HEARING

- [5] On August 2, 2023, the Committee considered an adjournment request from Michael Segreto, Agent for the Applicants, seeking more time to respond to concerns of City staff regarding soft landscaping and tree planting, and to revise the application. The Committee agreed and the hearing was adjourned to September 6, 2023.

Oral Submissions Summary

- [6] Mr. Segreto raised concerns with a condition of provisional consent requested by the City that would require a development agreement for the installation of an asphalt overlay. It was his opinion that this requirement should be addressed during construction. The Panel Chair noted that this is a standard condition where multiple new lots are proposed. Mr. Segreto therefore agreed to the requested condition.
- [7] City Planner Margot Linker noted that the City had reviewed the revised plans submitted by the Applicant and had no further concerns with the applications.
- [8] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Applications Must Satisfy Statutory Tests

- [9] 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

[10] 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 a cover letter, plans, a tree information report, a tree planting plan, a parcel register, photos, a photo of the posted sign, and a sign posting declaration.
- City Planning Report received July 28, 2023, with some concerns; received August 31, 2023, with no concerns.
- Rideau Valley Conservation Authority email dated July 27, 2023, with no objections; dated August 31, 2023, with no objections.
- Hydro Ottawa email dated July 28, 2023, with comments; dated September 1, 2023, with comments.
- Hydro One email dated July 24, 2023, with no comments.
- Ministry of Transportation email dated August 1, 2023, with no comments.
- Ottawa International Airport Authority email dated August 22, 2032, with no comments.

Effect of Submissions on Decision

[11] The Committee considered all written and oral submissions relating to the application in making its decision and granted the applications.

[12] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications.

[13] 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.

[14] 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. 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 of one new 50mm tree to be planted on each lot wing construction, with a minimum of 2 in the property frontage or right-of-way, to enhance the urban tree canopy and streetscape.
3. That the Owner(s) provide proof to the satisfaction of the Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her 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 the Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate, to be confirmed in writing from the Department to the Committee, that the accessory structure has been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law
5. 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 Central Branch within Planning, Real Estate 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 Select Branch within Planning, Real Estate and Economic Development Department, or his/her designate.
6. That the Owner(s) provide a servicing plan or other evidence, to the satisfaction of the Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her 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.

7. That the Owner(s) enter into a Development Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate, to require that an asphalt overlay will be installed, at the Owner(s) expense, on Mutual Street, fronting the subject lands, over the entire public driving surface area within the limits of the overlay, if the approved Site Servicing Plan shows three or more cuts within the pavement surface. The overlay must be carried out to the satisfaction of the Development Review Manager of the Central Branch within Planning, Real Estate 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.

If the Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate determines that a Development Agreement requiring an asphalt overlay is no longer necessary, this condition shall be deemed as fulfilled.

8. 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 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, 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 the Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate, and City Legal Services. The Committee requires written confirmation that the Agreement is satisfactory to the Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her 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.

9. The Owner(s) shall prepare a noise attenuation study (or noise and vibration attenuation study if applicable) in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of the General Manager, Planning, Infrastructure and Economic Development Department, or his/her designate. The Owner(s) shall enter into an agreement with the City that requires the Owner to implement any noise control (and vibration if applicable) attenuation measures recommended in the approved study. The Agreement will also deal with any covenants/notices recommended in the approved study, that shall be registered on the land title and bind future owners on subsequent transfers, warning purchasers and/or tenants of expected noise levels due to the

existing source of environmental noise (within 100m of Transit Priority Corridor on McArthur Ave, and within 100m of stationary noise sources (car dealerships) located at 435 McArthur Ave and 440 McArthur Ave.)The Agreement shall be to the satisfaction of the General Manager, 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.

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 the conveyances and grant of easement/right-of-way for which the consent is required.

“Ann M. Tremblay”
ANN M. TREMBLAY
CHAIR

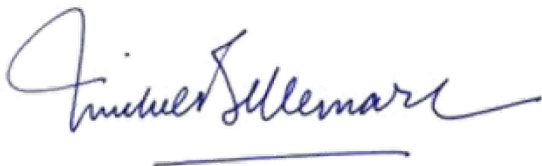
“John Blatherwick”
JOHN BLATHERWICK
MEMBER

Absent
SIMON COAKELEY
MEMBER

“Arto Keklikian”
ARTO KEKLIKIAN
MEMBER

“Sharon Lecuyer”
SHARON LECUYER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **September 15, 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 **October 5, 2032**, 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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613-580-2436



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