

DECISION CONSENT/SEVERANCE

Date of Decision:	October 11, 2024
Panel:	1 - Urban
File Nos:	D08-01-24/B-00111 & D08-01-24/B-00112
Application:	Consent under Section 53 of the <i>Planning Act</i>
Applicants:	Daniel Knapp and Catherine Higginson
Property Address:	130 Kenilworth Street & 372A Holland Avenue
Ward:	15 – Kitchissippi
Legal Description:	Part of Lots 250 & 251, Registered Plan 207509
Zoning:	R3I
Zoning By-law:	2008-250
Heard:	October 2, 2024, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Applicants want to subdivide the property into two separate parcels of land to create separate ownership for each half of an existing semi-detached dwelling and establish an Easements/Rights-of-Ways for parking and access.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Applicants requires the Committee's consent to sever land and establish an easement/right-of-way.
- [3] The property is shown as Parts 1 to 6 on a Draft 4R-Plan 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-00111	11.44 m	15.37 m	176.6 sq. m	1 & 2	372A Holland Avenue
B-00112	14.2 m	21.8 m (irregular)	250.7 sq. m	3, 4, 5 & 6	130 Kenilworth Street

- [4] It is proposed to establish an easement/right-of-way over Part 5 & 6 in favor of Parts 1 & 2 for parking and access.
- [5] The applications indicate the property is subject to existing easements as set out in instruments N578875 and N715551.

- [6] 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 (File No: D08-02-24/A-00161& D08-02-24/A-00192) has been filed and will be heard concurrently with this these applications.

PUBLIC HEARING

- [7] On August 21, 2024, the scheduled hearing of the applications was adjourned to allow the Applicants more time to discuss conditions with City Staff. With the concurrence of all parties, the applications were adjourned to October 2, 2024

Oral Submissions Summary

- [8] Arjan Soor, Agent for the Applicants, and City Planner Elizabeth King were present.
- [9] There were no objections to granting these unopposed applications as part of the Panel's fast-track consent agenda.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Applications Must Satisfy Statutory Tests

- [10] 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

[11] 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 a cover letter, plans, parcel abstract, photo of the posted sign, and a sign posting declaration.
- City Planning Report received September 25, 2024, with no concerns; received August 16, 2024, with no concerns; received August 15, 2024, with no concerns.

- Rideau Valley Conservation Authority email received September 25, 2024, with no comments; received August 19, 2024, with no comments.
- Hydro Ottawa email received September 27, with comments; received August 19, 2024, with comments.
- Hydro One email received September 25, 2024, with no comments.
- Ontario Ministry of transportation email received August 13, 2024, with no comments.

Effect of Submissions on Decision

- [12] The Committee considered all written and oral submissions relating to the applications in making its decision and granted the applications.
- [13] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications subject to the requested conditions agreed to by the Applicant's agent.
- [14] 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.
- [15] 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 (D08-02-24/A-00161 & D08-02-24/A-00192) have been approved, with all levels of appeal exhausted.
 2. That the Owner(s) provide evidence to the satisfaction of both the **Chief Building Official and Development Review Manager, All Wards, 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 with 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.

3. That the Owner(s) agree to provide a Servicing Plan showing the locations of existing services and existing protected trees. New services, if required, must be located based on the least impact to protected trees and tree cover to the satisfaction of the **Manager of the Development Review All Wards Branch, or their designate**. A Tree Information Report is required if proposed services are within the Critical Root Zone of a protected tree.
4. 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 **Manager of the Development Review All Wards Branch** 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 the **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 confirmation that it has been or will be registered on title.

5. 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 (major collector) 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.

6. That the Owner convey a 3 m x 9 m corner sight triangle located at the intersection of Kenilworth St. and Holland Ave. to the City, with all costs to be borne by the Owner(s), to the satisfaction of the Surveys and Mapping Branch

of the City. This area will be free of all structures, plantings, etc. and will allow a proper sighting distance for motorists when performing turning movements within the intersection. The Committee must receive written confirmation from **City Legal Services** that the transfer of the lands to the City has been registered.

7. That the Owner acknowledges and agrees to convey to the City, at no cost to the City, an unencumbered road widening across the complete frontage of the lands, measuring 13 meters from the existing centerline of pavement/the abutting right-of-way along Holland Avenue, pursuant to Section 50.1(25)(c) of the Planning Act and Schedule C16 of the City's new Official Plan, if required. The exact widening must be determined by legal survey. The Owner shall provide a reference plan for registration, indicating the widening, to the City Surveyor for review and approval prior to its deposit in the Land Registry Office. Such reference plan must be tied to the Horizontal Control Network in accordance with the municipal requirements and guidelines for referencing legal surveys. The Owner(s) must provide to the City Surveyor a copy of the Committee of Adjustment Decision and a draft Reference Plan that sets out the required widening. The Committee requires written confirmation from **City Legal Services** that the transfer of the widening to the City has been registered. All costs shall be borne by the Owner.
8. 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.
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 the conveyances and grant of easement/right of way for which the consent is required.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

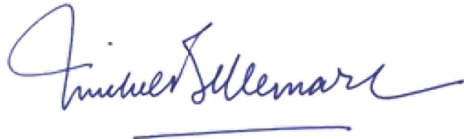
"John Blatherwick"
JOHN BLATHERWICK
MEMBER

"Simon Coakeley"
SIMON COAKELEY
MEMBER

"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 11, 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 **October 31, 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 APPLICANTS

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
cofa@ottawa.ca
613-580-2436



Comité de dérogation
Ville d'Ottawa
Ottawa.ca/Comitedederogation
cded@ottawa.ca
613-580-2436