



**COMMITTEE OF ADJUSTMENT
FOR THE CITY OF OTTAWA
COMITÉ DE DÉROGATION
POUR LA VILLE D'OTTAWA**

**DECISION/DÉCISION
CONSENT/AUTORISATION**

(Section 53 of the *Planning Act*)

(Article 53 de la *Loi sur l'aménagement du territoire*)

File No./Dossier n°: D08-01-18/B-00461 and D08-01-18/B-00462
Owner(s)/Propriétaire(s): 10947342 Canada Inc.
Location/Emplacement: 121, (123 A) & (123 B) Carruthers Avenue
Ward/Quartier: 15 - Kitchissippi
Legal Description/ Lot 16, Reg. Plan 35
Description officielle:
Zoning/Zonage: R4S
Zoning By-law/Règlement: 2008-250

Notice was given and a Public Hearing was held on February 6, 2019 and March 6, 2019, as required by the *Planning Act*.

PURPOSE OF THE APPLICATION/OBJET DE LA DEMANDE:

At the Hearing on February 6, 2019, the Committee of Adjustment adjourned these applications in order to allow the Owner time to amend the accompanying Minor Variance applications (D08-02-18/A-00445 and D08-02-18/A-00446).

The Owner wants to subdivide its property into two separate parcels of land. One of the parcels will contain a proposed three-storey, long semi-detached dwelling and the existing two-storey duplex dwelling will remain on the other parcel. The existing garage will be demolished.

CONSENT IS REQUIRED FOR THE FOLLOWING/AUTORISATION REQUISE:

In order to do this, the Owner requires the Consent of the Committee for Conveyances, Maintenance and Joint Use Agreement and Grant of Easements/Right-of-Ways.

The lands to be severed, shown as Parts 1 to 6 on a Draft 4R-Plan filed with the applications are as follows:

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File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00461	8.15 m	30.08 m	245.8 m2	1, 2	121 Carruthers, (existing duplex dwelling)
B-00462	7.14 m	30.08 m	213.6 m2	3, 4, 5, 6	123 and 125 Carruthers Ave. (proposed three- storey, long semi- detached dwelling)

It is proposed to create an easement over Part 2 for the benefit of Parts 3 to 6 for access and an easement over Part 4 for the benefit of Parts 1 and 2 for access.

Approval of these applications will have the effect of creating two separate parcels of land. The newly created parcels and existing and proposed dwellings will not be in conformity with the requirements of the Zoning By-law and therefore, Minor Variance Applications (D08-02-18/A-00445 and D08-02-18/A-00446) have been filed and will be heard concurrently with these applications.

PUBLIC HEARING/AUDIENCE PUBLIQUE:

Prior to the February 6, 2019 Hearing, the Committee received correspondence from Mr. A. Bruni, Agent for the Owner, who requested the applications be adjourned *Sine Die*. At the Hearing, the Committee called the application forward. Mr. Bruni was not in attendance. With the Committee is agreement, the applications were adjourned *Sine Die*.

At the renewed Hearing on March 6, 2019, the Committee heard from Mr. Bruni, who appeared along with Mr. H. Lacoste, Owner of the property. Also in attendance was Ms. V. Bissonnette, of the City's Planning, Infrastructure and Economic Development Department (PLEDD).

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED DÉCISION ET MOTIFS DU COMITÉ: DEMANDE ACCORDÉE

The Committee, having considered the evidence presented and reviewed the plans and correspondence on file, and having had regard to the matters set out in Section 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, as amended, is satisfied that, in this instance, a plan of subdivision is not necessary or desirable for the proper and orderly development of the Municipality. The Committee therefore grants the provisional consent, subject to the following conditions, **which must be fulfilled within a one-year period from the date of this Decision:**

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1. That the Owner(s) grant to **Hydro Ottawa**, without cost, such easements and/or a Common Elements Agreement, as may be required, the consent to the registration of which is hereby granted.
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. 2009-95, as amended.
3. That the Owner(s) provide evidence (servicing plan), to the satisfaction of the **General Manager of the Planning, Infrastructure and Economic Development Department, or his/her designate**, to be confirmed in writing from the Department to the Committee, that both the severed and retained parcels can have their own independent water, sanitary and sewer connection, as appropriate, and that these services do not cross the proposed severance line and are connected directly to City infrastructure. If they do cross the proposed severance line, or they are not independent, the Owner(s) will be required to relocate or construct new services from the city sewers and/or watermain at his/her own costs.

In the case of a vacant parcel being created, the Owner(s) shall provide evidence (servicing plan), to the satisfaction of the General Manager of the Planning, Infrastructure and Economic Development Department, or his/her designate, to be confirmed in writing from the Department to the Committee, that the parcel has access to sufficient services with adequate capacity.

4. That the Owner(s) provide evidence to the satisfaction of the **General Manager of the Planning, Infrastructure 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) 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.

(Where applicable add: 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(s) shall ensure that the Agreement is binding upon all the unit owners and successors in title and shall be to the satisfaction of the City's **General**

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Manager of the Planning, Infrastructure and Economic Development Department, or his/her designate, and City Legal Services. The Committee requires written confirmation that the Agreement is satisfactory to the City's **General Manager of the Planning, Infrastructure 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.**

6. That the Owner(s) enter into a **Private Easement Agreement with adjacent landowners** that provides access for the purpose of maintaining and/or repairing services located within shared driveways. The costs for repair and/or maintenance of the services and related shared driveway repair and/or maintenance shall be the sole responsibility of the Owner of the services to be maintained and/or repaired.

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 **City's General Manager of the Planning, Infrastructure and Economic Development Department, or his/her designate, and City Legal Services.** The Committee requires written confirmation that the Agreement is satisfactory to the **City's General Manager of the Planning, Infrastructure 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**

7. That the Owner(s) enter into an Agreement with the City, at the expense of the Owner of **121 Carruthers Avenue**, 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, warning purchasers and/or tenants of expected noise levels due to the existing source of environmental noise (within 100 metres of Scott Street (Arterial)). 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.

8. The Owner(s) of **123 Carruthers Avenue** and **125 Carruthers Avenue** shall:
- a. Prepare a noise attenuation study 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 also enter into an agreement with the City that requires the Owner to implement any noise control 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

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owners on subsequent transfers, warning purchasers and/or tenants of expected noise levels due to the existing source of environmental noise. 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.;

OR

- b. Design the dwelling units with the provision for adding central air conditioning at the occupant's discretion and 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, warning purchasers and/or tenants of expected noise levels due to the existing source of environmental noise (within 100 metres of Scott Street (Arterial)). The following two conditions will be included in the above-noted Agreement:

Notices-on-Title respecting noise:

- i. "The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns acknowledges being advised that this dwelling unit has been fitted with a forced air heating system and the ducting, etc. was sized to accommodate central air conditioning. Installation of central air conditioning by the Purchaser/Lessee will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the City of Ottawa's and the Ministry of the Environment and Climate Change's noise criteria;" and
- ii. "The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns acknowledges being advised that noise levels due to increasing roadway traffic may be of concern, occasionally interfering with some activities of the dwelling occupants as the outdoor sound level exceeds the City of Ottawa's and the Ministry of the Environment and Climate Change's noise criteria."

9. 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 **General Manager of the Planning, Infrastructure 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

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the severed and retained properties, to the satisfaction of the **General Manager of the Planning, Infrastructure and Economic Development Department, or his/her designate.**

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 Applications for Consent.

11. That upon completion of the above conditions, and **within the one-year period outlined above**, the Owner(s) file with the Committee, the "electronic registration in preparation documents" for the Conveyances, Maintenance and Joint Use Agreement and Grant of Easements/Right-of-Ways for which the Consent is required.

The Consent lapses one year from the date of this Decision.

All technical studies, including reports to demonstrate the adequacy of an aquifer, shall be submitted to Planning, Infrastructure 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.

Please note that if a major change to a condition or conditions is requested, you will be entitled to receive Notice of the changes only if you have made a written request to be notified.

NOTICE OF RIGHT TO APPEAL/AVIS DE DROIT D'APPEL:

To appeal this Decision to the Local Planning Appeal Tribunal, an Appeal Form along with a certified cheque or money order payable to the Ontario Minister of Finance must be filed with the Secretary-Treasurer of the Committee of Adjustment by the **4th day of April, 2019**, delivered 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 Tribunal's website at www.eltO.gov.on.ca. The Tribunal has established a filing fee of \$300.00 per type of application with an additional filing fee of \$25.00 for each secondary application. 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.

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Only individuals, corporations and public bodies may appeal Decisions in respect of applications for consent to the Local Planning Appeal Tribunal. A notice of appeal may not be filed by an unincorporated association or group. However, a Notice of Appeal may be filed in the name of an individual who is a Member of the Association or group on its behalf.

NOTICE TO APPLICANT/AVIS AU RÉQUÉRANT:

Applicants are advised to take note of comments received from City departments and other technical agencies like Hydro Ottawa and to consult where appropriate.

DECISION SIGNATURE PAGE
PAGE DE SIGNATURE DE LA DÉCISION

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Owner(s)/Propriétaire(s): 10947342 Canada Inc.

Location/Emplacement: 121, (123 A) & (123 B) Carruthers Avenue

We, the undersigned, concur in the decision and reasons of the Committee of Adjustment.

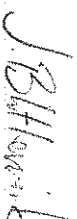
Nous, soussignés, sousscrivons à la décision et à la justification ci-devant rendues par le Comité de dérogation.



Helena Prockiw
Chair/ Présidente



Dennis Carr



John Blatherwick

ABSENT



Stan Wilder

Grant Lindsay

I, Krista Libman, Secretary-Treasurer of the Committee of Adjustment for the City of Ottawa, certify that the attached is a true copy of the Decision of the Committee with respect to the application recorded.

Je, soussignée, Krista Libman, secrétaire-trésorière du Comité de dérogation pour la Ville d'Ottawa, confirme que l'énoncé ci-joint est une copie conforme de la décision rendue par le Comité à l'égard de la demande visée.

March 15, 2019

Date of Decision:

Date de la décision:



Krista Libman
Secretary-Treasurer/
Secrétaire-trésorière

