



**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°:** D08-01-17/B-00427 to D08-01-17/B-00430  
**Owner(s)/Propriétaire(s):** Joey Theberge Development Land Holdings Ltd.  
(Under Agreement of Purchase and Sale)  
**Location/Emplacement:** (19), 21, (23, 25) Withrow Avenue  
**Ward/Quartier:** 8 - College  
**Legal Description/  
Description officielle:** Lots 407, 408, 409, 410, 411, 412 & 413 and Part of  
Lot 414 and Part of Adjacent Lane (Closed By Judge's  
Order CR294685) and Part of St. Helen's Place  
(Closed by Judge's Order Inst. CR294865), Reg. Plan  
375  
**Zoning/Zonage:** R1FF [632]  
**Zoning By-law/Règlement:** 2008-250

Notice was given and Public Hearings were held February 7, 2018, March 7, 2018, April 4, 2018 and May 2, 2018 as required by the *Planning Act*.

**PURPOSE OF THE APPLICATION/OBJET DE LA DEMANDE:**

The parcel includes seven whole lots on a Plan of Subdivision, part of a closed lane adjacent to the lots and part of St. Helen's Place, a closed road allowance. In order to facilitate the creation of four new residential lots for development. The Owner wants to subdivide half of the rear lane adjacent to the seven lots into four separate parcels of land. The newly created parcels will be added to seven lots from the originally established Plan of Subdivision (No. 375).

Part 4 on the Reference Plan (Lot 407 on Plan No. 375) will be combined with part of St. Helen's Place, a closed road allowance, to form the fourth new lot. Each of the newly created parcels will contain a proposed two-storey detached dwelling.

**CONSENT IS REQUIRED FOR THE FOLLOWING/AUTORISATION REQUISE:**

In order to do this, the Owner requires the Consent of the Committee for Conveyances. The property is shown as Parts 1 to 8 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-00427	45.9 <b>15.94</b> m	29 m	460.6 m <sup>2</sup>	1 & 5	49 <b>25</b> Withrow Ave., proposed detached dwelling
B-00428	45.2 <b>15.24</b> m	29 m	441.5 m <sup>2</sup>	2 & 6	24 <b>23</b> Withrow Ave., proposed detached dwelling
B-00429	45.2 <b>15.24</b> m	29 m	441.5 m <sup>2</sup>	3 & 7	23 <b>21</b> Withrow Ave., proposed detached dwelling
B-00430	45.2 <b>15.24</b> m	29 m	441.5 m <sup>2</sup>	4 & 8	25 <b>19</b> Withrow Ave., proposed detached dwelling

Approval of these applications will have the effect of creating four separate parcels of land. The parcels as well as the proposed development on the parcels will not be in conformity with the requirements of the Zoning By-law and therefore, Minor Variance Applications (D08-02-17/A-00345 to D08-02-17/A-00348) have been filed and will be heard concurrently with these applications.

**PUBLIC HEARING/AUDIENCE PUBLIQUE:**

At its Hearing on February 7, 2018, the Committee heard from Mr. B. Holzman, Agent for the Owner, who spoke to a written request on file requesting an adjournment. Mr. Holzman agrees with the written report filed by the City's Planning, Infrastructure and Economic Development Department seeking an adjournment in order to allow time for the subject and retained lands to continue through its Zoning By-law Amendment and Plan of Subdivision processes and to allow time to review the information related to the proposed development. The Committee agreed to adjourn the application to March 7, 2018.

Prior to the March 7<sup>th</sup> Hearing, the Committee was in receipt of revised plans and additional information filed by Mr. Holzman and of an adjournment request made by the City View Community Association and area residents. The request was made to allow more time to view the proposal and documents filed with the Applications.

At its Hearing on March 7, 2018, the Committee heard from Mr. Holzman, who disagreed with the adjournment request by the City View Community Association and area residents, as in his opinion there has been ample time to review the submitted documentation. In light of this, he wished to proceed with the hearing of the applications. The following individuals made presentations in opposition to the proposal: Ms. N. Wilson and Mr. N. Tinker, representing the City View Community Association, Mr. P. Ludwig, 10 Parkglen, Ms. M. S. Haliburton, 1 Withrow, Ms. A. Wardle, 107 Chippewa, Ms. J. Prot, 63 Canter, Mr. B. Glossop, 1463 Kingsdale, and Mr. K. Timmins, 17 Tower Road.

Ms. N. Wilson, representing the City View Community Association, pointed out that revisions to the plans had been submitted as recently as March 2<sup>nd</sup> and 6<sup>th</sup> and that there has not been sufficient time to review these complex documents. As a result, the Committee felt it was appropriate to adjourn these applications to the April 4, 2018 Hearing, to allow additional time to review the submitted information, and to permit further discussions between the Agent, area residents and the Community Association regarding the overall development proposal.

Ms. A. Marsh of the City's Planning, Infrastructure and Economic Development Department (PIEDD) was also in attendance.

Prior to its Hearing on April 4<sup>th</sup>, the Committee was in receipt of a further adjournment request made by Mr. Ludwig.

At its Hearing on April 4, 2018, the Committee heard a presentation by Ms. J. Clark from the City View Community Association, by Ms. Wilson, by Ms. Haliburton, by Ms. Prot, by Mr. Ludwig, by Mr. Tinker, and by Mr. Glossop. The Committee also heard from Mr. Holzman and Mr. A. Foubert of DSCL Engineering. A presentation was also made by Ms. M. Howsman, Owner of the property. Also in attendance was Ms. Marsh from PIEDD

Ms. Clark spoke to the written request on file seeking an adjournment. Ms. Clark and area residents explained that it is the view of the Community that in light of recent submissions relating to the application, that there was inadequate time to respond. Mr. Ludwig added in particular that an adjournment was sought in order to analyse and research the response made by the City Solicitor relating to the heritage status of the lands surrounding the existing dwelling, which they stated was not delivered in due time. Ms. Wilson also noted for consideration that an application for heritage status has been submitted. Area residents shared concerns that generally related to the heritage status of the lands, the application for the plan of subdivision and concerns relating to access.

They also noted their collective efforts to interpret and keep up with information submitted by the Agent for the applicant.

Ms. Marsh clarified that no new documents had been submitted, and that the documents in question were revisions in response to comments made by the PIEDD in the associated Plan of Subdivision.

Mr. Holzman summarised the events since the previous Hearing, noting that no changes had been made to the applications. He further noted that the subject property is part of a two-phase development, which, in his opinion are separate from one another. In response to a question posed by the Committee, Mr. Holzman and Ms. Marsh both confirmed that the second submission of the Plan of Subdivision is currently under review with the City.

The Committee also heard a presentation from Ms. Howsman who presented her objections to the request for a further adjournment.

In deliberating on the adjournment request, the Majority of the Committee agreed to adjourn the applications in order to allow time for the Applicant and the community to hold further discussions and to provide the residents an opportunity to review the current plans. The dissenting Member on the adjournment was Ms. A. Tremblay.

Prior to the May 2, 2018 Hearing, the Committee was in receipt of a further adjournment request made by Mr. Ludwig.

At the outset of the May 2 Hearing, the Committee heard from Mr. Ludwig who was requesting a further adjournment of the applications. His request was based on concerns with due process and the continuity of the Committee Members. The Committee also heard from Mr. Holzman and the current owners of the property who were in opposition to the adjournment request.

After deliberation on the matter of a further adjournment, the Committee denied Mr. Ludwig's request and stepped the applications down to be heard later in the Hearing.

Upon recall, the Committee heard a thorough presentation made by Mr. Holzman. Mr. Holzman explained the difference between the proposed four lots fronting along Withrow Avenue and the Plan of Subdivision Application for the retained portion of the parcel of land. He also explained why the proponent has decided to apply for Consent to sever the property through the Committee of Adjustment, rather than including these proposed parcels and their respective Minor Variance Applications as a part of the Plan of Subdivision.

Through this, the Committee noted that it had the authority and jurisdiction to deliberate on the Consent and Minor Variance Applications as a separate entity from the Plan of Subdivision Application.

The Committee also heard from Ms. Marsh who had confirmed that, in the opinion of the City's PIEDD, the Applications before the Committee were not premature and that they appropriate to be heard by the Committee as presented.

The following individuals made presentations in opposition to the applications: Ms. J. Clark, Mr. N. Tinker, Ms. G. Davidson of 95 St. Claire Avenue, Ms. S. A. Doohar of 30 Rita Avenue, Mr. R. Wardle of 107 Chippewa Avenue, Ms. Haliburton, Mr. G. Neville of 908 Iroquois Road, Ms. D. Luckert of 57 Rita Avenue, Mr. T. Hutchins of 121 Lotta Avenue, Ms. Wilson, Ms. Prot and Mr. Ludwig.

In reviewing all of the written correspondence on file and in hearing the oral submissions made at the Hearings, the Committee noted a brief summary of the concerns. They were generally related to the preservation of the mature trees, the proposed building height, the proposed lot sizes, the grading and drainage of the site and potential impacts on existing infrastructure, the lack of parkland in the area, the proposed density and loss of greenspace, and concerns with this proposal being heard separately from the portion of the property undergoing the Plan of Subdivision Application.

In addressing some of the concerns raised by the parties, the Committee noted that, while sympathetic to these concerns, the preservation of trees, the lack of parkland in the immediate area, and concerns with the potential impact that infill development has on existing infrastructure, are items that are not within its purview.

The Committee also noted from Ms. Marsh's written report on file that the Public Notice contained some clerical errors in the addresses and some dimensions, and the following clarifications were made:

A-00345: 49 ~~25~~ Withrow Avenue, Parts 1 and 5 on the Draft 4R-Plan filed with the applications, proposed detached dwelling.

- a) To permit a reduced lot width of ~~45-9~~ **15.86** metres whereas the By-law requires a minimum lot width of 19.5 metres.
- b) To permit a reduced lot area of ~~464~~ **460.6** square metres whereas the By-law requires a minimum lot area of 600 square metres.
- c) To permit an increase in building height to ~~8-9~~ **9.0** metres from average grade whereas the By-law permits a maximum building height of 8.5 metres from average grade.

A-00346: 24 ~~23~~ Withrow Avenue, Parts 2 and 6 on the plan filed, proposed detached dwelling.

- d) To permit a reduced lot width of ~~45-2~~ **15.24** metres whereas the By-law requires a minimum lot width of 19.5 metres.

e) No Change

f) To permit an increase in building height to ~~9.0~~ **9.1** metres from average grade whereas the By-law permits a maximum building height of 8.5 metres from average grade.

A-00347: 23 21 Withrow Avenue, Part 3 and 7 on the plan filed, proposed detached dwelling.

g) To permit a reduced lot width of ~~15.2~~ **15.24** metres whereas the By-law requires a minimum lot width of 19.5 metres.

h) No Change

i) No Change

A-00348: 25 19 Withrow Avenue, Parts 4 and 8 on the plan filed, proposed detached dwelling.

j) To permit a reduced lot width of ~~15.2~~ **15.24** metres whereas the By-law requires a minimum lot width of 19.5 metres.

k) No Change

l) No Change

The Applications were amended accordingly.

<b>DECISION AND REASONS OF THE COMMITTEE:</b>	<b>APPLICATIONS REFUSED AS AMENDED</b>
<b>DÉCISION ET MOTIFS DU COMITÉ:</b>	<b>DEMANDES REFUSÉES TELLES QUE MODIFIÉES</b>

In deliberating on the applications, 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, the Committee acknowledges that it has the jurisdiction to consider the applications outside of the Plan of Subdivision Application. In this instance, however, the applications for minor variances to create the lots having failed, these applications must also fail.

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

To appeal this Decision to the Ontario Municipal Board, 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 **31<sup>st</sup> day of May, 2018**, delivered to the following address:

File No./Dossier n°: D08-01-17/B-00427 to D08-01-17/B-00430

Secretary-Treasurer, Committee of Adjustment,  
101 Centrepointe Drive, 4<sup>th</sup> floor, Ottawa, Ontario, K2G 5K7

The Appeal Form is available on the Board's website at [www.omb.gov.on.ca](http://www.omb.gov.on.ca). The Board has established a filing fee of \$300.00 for an appeal with an additional filing fee of \$25.00 for each secondary application. If you have any questions about the appeal process, please refer to the Board's website or contact the Committee of Adjustment office by calling 613-580-2436 or by email at [cofa@ottawa.ca](mailto:cofa@ottawa.ca).

Only individuals, corporations and public bodies may appeal Decisions in respect of applications for consent to the Ontario Municipal Board. 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

File No./Dossier n°: D08-01-17/B-00427 to D08-01-17/B-00430  
Owner(s)/Propriétaire(s): Joey Theberge  
Location/Emplacement: (19), 21, (23, 25) Withrow Avenue (Under Agreement of Purchase and Sale)

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

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

ABSENT

Ann M. Tremblay, Chair  
Vice-Chair/ vice-présidente

Nadine Tischhauser

Guillaume Vincent

ABSENT  
Gino Nicolini

Pierre Maheu

(Acting Vice-Chair / vice-président intérimaire)

I, Warna Brenning, 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, Warna Brenning, 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.

May 11, 2018

Date of Decision  
Date de la décision

Warna Brenning  
Secretary-Treasurer/Secrétaire-trésorière