



## COMMITTEE OF ADJUSTMENT OF THE CITY OF OTTAWA

### DECISION CONSENT

(Section 53 of the *Planning Act*)

**File No.:** D08-01-22/B-00173 and D08-01-22/B-00174  
**Owner(s):** Wayne Avery  
**Location:** 6446 Prince of Wales Drive  
**Ward:** 21-Rideau-Goulbourn  
**Legal Description:** Lot 18, Concession 3  
**Zoning:** V1C[309r]  
**Zoning By-law:** 2008-250

Notice was given and a Public Hearing was held on **July 6, 2022**, as required by the *Planning Act*.

#### PURPOSE OF THE APPLICATIONS:

The Owner wants to subdivide his property into three separate parcels of land to create two new residential lots.

#### CONSENT IS REQUIRED FOR THE FOLLOWING:

The Owner requires the Consent of the Committee for Conveyances.

The property is shown on a sketch filed with the applications and the separate parcels will be as follows:

File No.	Frontage	Depth	Area	Municipal Address
B-00173	93 m Harbour Road	139 m (irregular)	6,072 m <sup>2</sup>	6458 Prince of Wales Drive (vacant parcel)
B-00174	51 m Harbour Road	169 m (irregular)	7,820 m <sup>2</sup>	6452 Prince of Wales Drive (vacant parcel)

The retained land will have a frontage of 133 metres on Prince of Wales Drive, to an irregular depth of 157 metres and will contain an area of 9,640 square metres. This

parcel contains an existing dwelling and accessory structure and will be known municipally as 6446 Prince of Wales Drive.

The applications indicate that the Property is not the subject of any other current application under the *Planning Act*.

### **PUBLIC HEARING:**

The Panel Chair administered an oath to Kamal Chaouni, Agent for the Owner, who confirmed that the statutory notice posting requirements were satisfied.

In address the conditions requested by the City's Planning, Real Estate and Economic Development Department, and specifically the requirement for a tree planting plan, Mr. Chaouni suggested that it would be premature to identify new tree locations on the property when development plans had not yet been finalized. In response, the Committee heard from Sean Harrigan, a City Planner, who explained that the requirement was for only one new tree for each lot and submitted that there would be ample space along the street frontage to locate those trees, while leaving a sufficient area for future development.

The Committee agreed that, if the application is approved, this condition would be imposed.

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

The Committee considered any written and oral submissions relating to the applications in making its Decision.

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).

The Committee notes that the City's planning report raises "no concerns" regarding the applications.

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.

The Committee 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 enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of **Development Review Manager of the relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, which provides the following covenant/notice that runs with the land and binds future Owner(s) on subsequent transfers:

“The City of Ottawa does not guarantee the quality or quantity of the groundwater. If, at some future date, the quality or the quantity of the groundwater becomes deficient, the City of Ottawa bears no responsibility, financial or otherwise, to provide solutions to the deficiency, such solutions being the sole responsibility of the home owner.”

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

2. That the Owners provide a report, to the satisfaction of the City of Ottawa, demonstrating the adequacy of the aquifer with respect to quality and quantity to support the proposed development, failing which the Owners construct a new well on the severed lot and provide a report, to the satisfaction of the City of Ottawa, to demonstrate the adequacy of the aquifer with respect to quality and quantity to support the proposed development. The report must include a septic impact assessment to evaluate the water quality impact of the on-site septic system on the receiving aquifer.

The Owners' report must demonstrate the following to the City of Ottawa:

- a. That the construction of any new well on the severed parcel is in accordance with the Ministry of the Environment, Conservation and Parks
- b. That the quality of the water meets the Ministry of the Environment, Conservation and Parks Regulations, Standards, Guidelines and Objectives;
- c. That the quantity of water meets all the Ministry of the Environment, Conservation and Parks requirements.
- d. That the septic impact assessment meets the Ministry of the Environment, Conservation and Parks requirements.

A qualified Professional Engineer or Professional Geoscientist must prepare the report. It is the Owner's responsibility to coordinate the person drilling a new well, if required, and the professional noted herein in order to properly satisfy this condition.

If the accepted report recommends specific mitigation measures or design requirements, the Owners shall enter into a Development Agreement with the City, at the expense of the Owners, which is to be registered on the title of the property, which includes those recommendations. In instances where the subject site has sensitive soils, the drilling of a well or the conveyance of a 30-centimetre reserve may be required. Both the report and any required Development Agreement shall be prepared to the satisfaction of **Development Review Manager of the relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate.**

The Report shall be prepared as per Procedure D-5-4 "Technical Guideline for Individual On-Site Sewage Systems: Water Quality Impact Risk Assessment" and Procedure D-5-5 "Technical Guideline for Private Wells: Water Supply Assessment".

3. That the Owner(s) convey, if required, at no charge to the City of Ottawa, sufficient frontage across the severed and retained lands to provide for a road right-of-way measuring 11.5 metres from the centreline of Prince of Wales Drive. 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.

If the Owner's Surveyor determines that the widening condition has already been satisfied, it must be indicated on the Draft Reference Plan and submitted to the **City Surveyor** for approval. The Committee requires **written confirmation from the City Surveyor** confirming that the widening is not required.

If the Owner(s) wish to temporarily retain any existing fencing within the widening lands until the City develops the widening lands, the Owner(s) shall enter into (and register, if necessary) an encroachment agreement and/or letter of tolerance to the satisfaction of the General Manager, Planning, Infrastructure, and Economic Development. The Committee requires written confirmation from City Legal Services confirming either that a letter of tolerance/encroachment agreement has been executed (and registered if necessary) or will not be required

4. That the Owner(s) provide evidence (payment receipt) to the Committee that payment has been made to the City of Ottawa of cash-in-lieu of the conveyance of land for park or other public recreational purposes, plus applicable appraisal costs. The value of the 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. Information regarding the appraisal process can be obtained by contacting the Planner.
5. That the Owner enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of **Development Review Manager of the**

**relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, which provides the following covenant/notice that runs with the land and binds future Owner(s) on subsequent transfers:

“The City of Ottawa has identified that there are potential sensitive marine clay soils within the area that may require site specific detailed geotechnical engineering solutions to allow for development, the City of Ottawa bears no responsibility, financial or otherwise, to provide solutions to the deficiency, such solutions being the sole responsibility of the home owner.”

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(s) provide proof to the satisfaction of **Development Review Manager of the Relevant 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 parcel has its own independent private sewage system, storm/foundation drainage, and well and that they do not cross the proposed severance line. If the systems cross the proposed severance line, are not independent, or do not meet the minimum spacing requirements of the Ontario Building Code and City of Ottawa Hydrogeological and Terrain Analysis Guidelines, the Owner(s) will be required to relocate the existing systems or construct new systems, at his/her own cost.
7. That the Owner(s) provide evidence that the following vegetation has been planted, at the Owner(s) expense and to the satisfaction of the **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, to be confirmed in writing from the Department to the Committee:
  - a. 25 metres of continuous hedges measuring one metre tall along the two new interior lot lines between the severed and retained lots starting at the front lot line.
  - b. One new tree of a locally appropriate large tree species variety in the front yard of each severed and retained lot. The location and species should be confirmed with the City Infill Forester before planting.

The Owner(s) shall enter into a Development Agreement, at the expense of the Owner(s) and to the satisfaction of **Development Review Manager of the relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, that requires the new vegetation be protected through appropriate measures during any future development.

8. 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.

9. 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 a Conveyance for which the Consent is required.

**The Consent lapses two years from the date of this Decision.**

All technical studies shall 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.

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:**

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 **August 4, 2022**, 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 OLT 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 individuals, corporations and public bodies may appeal Decisions in respect of applications for consent to the OLT. 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.

Please note that there are no provisions for the Committee of Adjustment or the OLT 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.

**NOTICE TO APPLICANT:**

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°:** D08-01-22/B-00173 and D08-01-22/B-00174

**Owner(s) / Propriétaire(s):** Wayne Avery

**Location / Emplacement:** 6446 Prince of Wales Drive

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.

***“Fabian Poulin”***

**FABIAN POULIN  
VICE-CHAIR / VICE-PRÉSIDENT**

***“Terence Otto”***

**TERENCE OTTO  
MEMBER / MEMBRE**

***“Steven Lewis”***

**STEVEN LEWIS  
MEMBER / MEMBRE**

***“Martin Vervoort”***

**MARTIN VERVOORT  
MEMBER / MEMBRE**

***“Jocelyn Chandler”***

**JOCELYN CHANDLER  
MEMBER / MEMBRE**

This is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa-

Celle-ci est une copie conforme de la décision rendue par le Comité de dérogation de la Ville d'Ottawa.

**Date of Decision / Date de la décision  
July 15, 2022 / 15 juillet 2022**



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**Matthew Garnett  
Acting Secretary-Treasurer / Secrétaire-  
trésorier intérimaire**