



COMMITTEE OF ADJUSTMENT OF THE CITY OF OTTAWA

DECISION CONSENT

(Section 53 of the *Planning Act*)

File No.:	D08-01-21/B-00326 & D08-01-21/B-00327
Owner(s):	Antonio Spadaccini
Location:	1250 Trenton Avenue
Ward:	16-River
Legal Description:	Part of Lot 66, Registered Plan 294
Zoning:	R2G
Zoning By-law:	2008-250

Notice was given and a Public Hearing was held on **November 17, 2021 and August 3, 2022**, as required by the *Planning Act*.

PURPOSE OF THE APPLICATIONS:

At its hearing on November 17, 2021, the Committee adjourned this application *sine die* to allow the Owner time to revise his applications in response to comments from the City's Planning, Real Estate and Economic Development Department.

The Owner now wants to proceed with these applications to subdivide the property into two separate parcels of land to create separate ownership for two proposed two-storey, long semi-detached dwellings, with one on each of the newly created parcels. The existing detached dwelling will be demolished.

CONSENT IS REQUIRED FOR THE FOLLOWING:

The Owner requires the Consent of the Committee for Conveyances, Grants of Easements/Rights of Way and a Maintenance and Joint-Use Agreement.

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-00326	10.67 m	30.47 m	324.9 sq. m	1 & 2	(1254) & (1256) Trenton Avenue
B-00327	10.67 m	30.47 m	324.9 sq. m	3 & 4	1250 & (1252) Trenton Avenue

It is proposed to create reciprocal easements/rights-of-way and maintenance over Part 2 for the benefit of Parts 3 & 4 and over Part 3 for the benefit of Parts 1 & 2 for access to parking at the rear of the proposed dwellings.

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

PUBLIC HEARING:

Prior to the Hearing on November 17, 2021, the Committee received an adjournment request from Michael Segreto, Agent for the Applicant, to allow time to come to a solution and/or compromise with the City's Planning officials. At the Hearing, the Committee heard from Craig Hamilton, City Planner, who supported an adjournment *sine die*. With the concurrence of all parties, the application was adjourned *sine die*.

Prior to the Hearing on August 3, 2022, the Committee received the Planning Report from Craig Hamilton of the City's Planning, Real Estate and Economic Development Department (PRED) with concerns regarding the removal of a City-owned tree located on the property. At the hearing, Mr. Hamilton reiterated concerns regarding the removal of the City-owned tree and the view that a redesign of the proposal would allow for the tree to be retained. Nancy Young, the City's Infill Forester, confirmed that the municipality does not have the ability to impact the building permit process for a tree. She further advised that she did not have any concerns with the severance of the property and any issues regarding the tree and driveway location would be addressed through the conditions of consent. Michael Segreto expressed his preference to proceed with the application. Brian McRae, of 1238 Trenton Avenue, was in favour of an adjournment of the application.

The Committee stepped the applications down to be recalled later in the Public Hearing.

Upon recall, the Panel Chair administered an oath to Mr. Segreto, who confirmed that the statutory notice posting requirements were satisfied. Mr. Segreto presented an

overview of the application and confirmed that he was in agreement with all of the conditions requested by the planning department.

Mr. McRae advised that while he had no concerns with the severance of the property, his concerns related to four houses being constructed. The Committee advised Mr. McRae that the only application before them was for the severance of the property and issues relating to construction would be dealt with at the building permit stage.

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 "concerns" regarding the applications, specifically the impact on the City-owned tree. The Committee also notes that, at the hearing, the City confirmed that development would be appropriate subject to the tree protection condition.

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(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.

2. That the Owner(s) provide proof 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**, to be confirmed in writing from the Department to the Committee, that the existing dwelling has been removed, that the existing sewer services are capped at the sewer and that the existing water service is blanked at the watermain.
3. That the Owner(s) provide evidence (servicing plan), 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**, to be confirmed in writing from the Department to the Committee, that both the severed and retained parcels 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.
4. That the Owner(s) provide evidence 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**, 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 relevant Branch within the 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 relevant Branch within the Planning, Real Estate and Economic Development Department, or his/her designate**.
6. That the Owner(s) enter into a Joint Use, Maintenance and Common Elements, 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 **City's Development Review Manager of the relevant Branch within the 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 **City's Development Review Manager of the relevant Branch within the 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.

7. That the Owner(s) enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the General Manager, Planning, Real Estate and Economic Development Department, or his/her designate to address the following:
 - a) The owners agree to provide a revised site and/or grading plan with the driveways, services, retaining walls, and grading situated to reduce any excavation within the Critical Root Zones of protected trees and/or to provide sufficient soil volume to plant new trees, to the satisfaction of the General Manager of the Planning, Real Estate and Economic Development Department, or his/her designate. The Tree Information Report must be revised to show the accurate tree protection areas and to reflect these changes.
 - b) The Owner(s) agree to provide securities for a period of 3 years following the completion of construction, which is equivalent to the value of the tree(s) to be protected (tree #1). The Owner(s) agree that the security shall be returned to the owner only upon the City having received a report from an arborist or appropriate professional confirming that tree #1 remains in good health and condition, and structurally stable. The Owner(s) acknowledge and agree that if, in the opinion of the City Forester and/or the **General Manager, Planning, Real Estate, and Economic Development**, the report indicates that tree #1 is declining and must be removed, the Security for that tree, will be forfeited.
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 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.

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 **September 1, 2022**, 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 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.

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°: D08-01-21/B-00326 & D08-01-21/B-00327
Owner(s) / Propriétaire(s): Antonio Spadaccini
Location / Emplacement: 1250 Trenton Avenue

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

Nous, soussignés, souscrivons à la décision et aux motifs rendus par le Comité de dérogation.

“John Blatherwick”

JOHN BLATHERWICK
VICE-CHAIR / VICE-PRÉSIDENT

“Stan Wilder”

STAN WILDER
MEMBER / MEMBRE

“Heather MacLean”

HEATHER MACLEAN
MEMBER / MEMBRE

“Bonnie Oakes Charron”

BONNIE OAKES CHARRON
MEMBER / MEMBRE

“Michael Wildman”

MICHAEL WILDMAN
MEMBER / MEMBRE

I certify that this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa.

Je certifie que 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
August 12, 2022 / 12 août 2022



Michel Bellemare
Secretary-Treasurer / Secrétaire-trésorier