



COMMITTEE OF ADJUSTMENT OF THE CITY OF OTTAWA

DECISION CONSENT

(Section 53 of the *Planning Act*)

File Nos.: D08-01-22/B-00180, D08-01-22/B-00181
Owner(s): Stephany Alexandra Morehouse Watson
Location: 1335 Kitchener Avenue
Ward: 16-River
Legal Description: Lot 13, Registered Plan 322
Zoning: R1S
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 her property into two separate parcels for the construction of a new detached dwelling on the newly created parcel. The existing detached dwelling will remain on the other parcel.

CONSENT IS REQUIRED FOR THE FOLLOWING:

The Owner requires the Consent of the Committee for Conveyance and Grant of Easement/Right-of-Way. The property is shown as Parts 1 to 4 on 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-00180	9.53 metres	43.19 43.17 metres	410 square metres	1 and 2	1333 Kitchener Avenue (proposed detached dwelling)
B-00181	12.41 metres	43.19 metres	526 square metres	3 and 4	1335 Kitchener Avenue (existing dwelling to remain)

It proposed to grant easements over Part 2 for the benefit of Parts 3 and 4 and over Part 3 for the benefit of Parts 1 and 2 for vehicular and pedestrian access.

Approval of these applications will have the effect of creating two separate parcels of land, one of which will not be in conformity with the requirements of the Zoning By-law and therefore Minor Variance Application (D08-02-22/A-00155) has been filed and will be heard concurrently with these applications.

PUBLIC HEARING:

The Panel Chair administered an oath to Michael Segreto, Agent for the Owners, who confirmed that the statutory notice posting requirements were satisfied.

The Committee noted that the lot depth for Parts 1 and 2 should be amended to read as follows: ~~43.19~~ **49.17 metres**. With the concurrence of Mr. Segreto, the application was amended accordingly.

In response to questions from the Committee, Mr. Segreto confirmed that the proposed parking configuration is to avoid front yard parking and to maximize soft landscaping for the new severed lot by sharing the existing driveway. It was noted that front yard parking for the existing dwelling would not be possible. Mr. Segreto also confirmed that he would ask his client about including permeable pavers as part of the proposal.

The Committee also heard from Norman Payne, representing the Ridgemont Community Association, who expressed concerns with the proposed parking configuration. In summary, the shared driveway and parking arrangement will be problematic for existing and future homeowners, and would negatively impact abutting neighbours at the rear, in terms of expansion of parking spaces, loss of greenspace and trees.

With reference to the conditions requested by the City's Planning, Real Estate and Economic Development Department (PRED) and in response to Mr. Payne's concerns, Mr. Segreto confirmed that he had no concerns with the requested conditions and that his client has been informed with the condition that only one legal parking space is permitted for each parcel.

In response to questions from the Committee, Siobhan Kelly, City Planner, was also in attendance and confirmed that the required minimum lot area for a R1S Zone is 360 square metres.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED AS AMENDED

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(s) provide evidence that the accompanying Minor Variance Application (D08-02-22/A-00155) has been approved, with all levels of appeal exhausted.
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. Information regarding the appraisal process can be obtained by contacting the Planner.
3. That the Owner(s) agree to implement the tree protection and mitigation measures outlined in the Tree Information Report prepared by Dendron Forestry

Services, dated June 12, 2022, for the retention and protection of Trees #1, 3, and 4.

4. That the Owner(s) shall prepare and submit a tree planting plan prepared to the satisfaction of the Development Review Manager of the South Branch within Planning, Infrastructure and Economic Development Department, or his/her designate, showing the location of one new 50mm tree to be planted on the property frontage or right-of-way following construction, to enhance the urban tree canopy and streetscape.
5. That the Owner(s) provide evidence to the satisfaction of the Chief Building Official, or his/her designate by providing design drawings or other documentation prepared by a qualified designer and/or architect that the two lots comply with the Ontario Building Code, O. Reg 332/12, as amended, regarding the limiting distance along the newly imposed lot line. The Owner(s) must also provide calculations prepared by a qualified designer and/or architect of the existing building face area and glazed openings that face the new lot line to demonstrate compliance with Section 9.10.15.
6. That the Owner(s) provide evidence (servicing plan), to the satisfaction of the Development Review Manager of the South 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 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.
7. 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 South Branch within 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 South Branch within Planning, Real Estate and Economic Development Department, or his/her designate.
8. That the Owner(s) enter a Joint Use, Maintenance and Common Elements 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 Common Elements Agreement shall set forth the joint use and maintenance of all common elements including, but not limited to the common driveway and landscaping. The Agreement shall include terms that the respective owners will not obstruct the 3.0 metre easement (shown as Part 2 & 3 on the Draft R Plan) by any means to allow the owners to gain access to the rear yard parking.

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 Development Review Manager of the South Branch within 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 Select Manager of the Manager of the South Branch within 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.

9. That the Owner(s) enter into an Agreement with the City, at the expense of the Owner(s), which is to be registered on the Title of the property, to deal with the following covenant/notice that shall run with the land and bind future owners on subsequent transfers:

“The Purchaser/Lessee, executors, administrators, and successors acknowledges that the single detached dwelling being sold and or rented has one legal parking space on-site.”

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

10. That the Owner(s) enter into an Agreement with the City, at the expense of the Owner(s), which is to be registered on the Title of the property, to deal with the following covenant/notice that shall run with the land and bind future owners on subsequent transfers:

“The property is located next to lands that have an active railway line now, or may have one in the future, and may therefore be subjected to noise, vibration, and other activities associated with this use.”

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

11. That the Owner(s) satisfy the requirements of Hydro Ottawa with respect to the relocation of the existing overhead services or grant an easement as required, the consent to which is hereby granted.

12. 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.
13. 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 and Grant of Easement/Right-of-Way 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 **August 4, 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°: D08-01-22/B-00180. D08-01-22/B-00181
Owner(s) / Propriétaire(s): Stephany Alexandra Morehouse Watson
Location / Emplacement: 1335 Kitchener 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.

“Ann M. Tremblay”

**ANN M. TREMBLAY
CHAIR / PRÉSIDENTE**

“Kathleen Willis”

**KATHLEEN WILLIS
MEMBER / MEMBRE**

“Scott Hindle”

**SCOTT HINDLE
MEMBER / MEMBRE**

“Colin White”

**COLIN WHITE
MEMBER / MEMBRE**

“Julia Markovich”

**JULIA MARKOVICH
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
July 15, 2022 / 15 juillet 2022



Michel Bellemare
Secretary-Treasurer / Secrétaire-trésorier