



COMMITTEE OF ADJUSTMENT OF THE CITY OF OTTAWA

DECISION CONSENT

(Section 53 of the *Planning Act*)

File Nos.: D08-01-22/B-00108 & D08-01-22/B-00109
Owner(s): Casa Verde Construction Inc.
Location: 41 Rebecca Crescent
Ward: 11 - Beacon Hill-Cyrville
Legal Description: Lot 112, Judge's Plan 652
Zoning: R1AA
Zoning By-law: 2008-250

Notice was given and a Public Hearing was held on **May 18 and January 12, 2022**, as required by the *Planning Act*.

PURPOSE OF THE APPLICATIONS:

At its hearing on May 18, 2022, the Committee adjourned applications D08-01-22/B-00108 & D08-01-22/B-00109 to allow the Owner time to identify additional variances. The Owner has submitted revised material and wishes to proceed with the applications.

The Owner wants to subdivide its property into two separate parcels of land. It is proposed to construct two new detached dwellings, one on each of the newly created parcels. The existing dwelling is to be demolished.

CONSENT IS REQUIRED FOR THE FOLLOWING:

The Owner requires the Consent of the Committee for Conveyances. The property is shown as Parts 1 and 2 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-00108	26.4 m (Rebecca Crescent) 27.3 m (Combermere Lane)	35.83 m	1,316 sq. m	2	41 Rebecca Cres (proposed detached dwelling)

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00109	33.6 m	45.69 m	1,078 sq. m	1	(39) Rebecca Cres (proposed detached dwelling)

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, a Minor Variance Application (D08-02-22/A-00100) has been filed and will be heard concurrently with these applications.

PUBLIC HEARING:

The Panel Chair administered an oath to Laura McElligott, one of the Owners of the property, who confirmed that the statutory notice posting requirements were satisfied.

Ryan Poulton, Agent for the Owners, provided the Committee with a presentation, which included aerial photographs, a site plan, tree planting plan, building envelope plan, and a list of corner lot severances within the Greenbelt. He advised that the wording of the requested variance was modified in accordance with the Zoning By-law, to permit both the front wall *and* driveway to face Rebecca Crescent. It was noted that following the adjournment from May 18, 2022, a similar presentation was provided to the Rothwell Heights Property Owners Association and area residents.

The Committee also heard from Murray Chown, also representing the Owners, who emphasized that the proposed severance complies with the applicable Zoning By-law provisions, including lot width and lot area. He also stated that the Minor Variance Application is not required for the Consent Applications. Instead, the main purpose of the requested variance is to protect the mature trees. In response to comparisons made between Rothwell Heights and Rockcliffe Park, Mr. Chown pointed out that, while City Council exempted Rockcliffe Park from the alternative corner lot provisions introduced in 2015, Rothwell Heights remains subject to these new provisions.

In response to questions from the Committee, Mr. Poulton confirmed that the new development will have full City services.

The Committee heard presentations in opposition to the applications from:

- Lucie Clermont, 62 Rebecca Crescent
- Robert Batemen, 13 Massey Lane
- François Baril, 2A Delong Drive

The Committee also received 38 written submissions opposing the consent and minor variance applications from area residents, the Rothwell Heights Property Owners Association, and the Ward Councillor, as well as a petition signed by 135 individuals. In summary, objections and concerns relate to the impact of the proposal on mature trees and the streetscape character, setting a negative precedent in the neighbourhood, and the belief that it is inappropriate to apply alternative corner lot provisions in Rothwell Heights.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

The Committee considered all written and oral submissions relating to the consent and minor variance 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. The report highlights that: "In 2015, as part of the [Infill II zoning amendment](#) (By-law 2015-228), alternative corner lot provisions were introduced to allow for compatible intensification on certain large corner lots, 665 square metres and up, on full municipal services." The report confirms these new corner lot provisions apply to the subject property which can therefore be severed in half, with each new lot required to be no less than 49 percent of the minimum lot area required and maintain the required minimum lot width.

The report also highlights that: "It is critical to design the future development plans to minimize the impacts to protected trees outside of the building envelopes, including siting the driveways and services where there are existing gaps and lower-priority trees, as identified as 'Cs' in the Tree Information Report (TIR). Keeping the location of the existing driveway onto Rebecca rather than Combermere is supported, in order to minimize the impacts to the existing trees and the neighbourhood benefit."

The Committee also notes that the planning report refers to the following Council amendment: "When the corner lot provisions were adopted on [June 24, 2015](#) motion 14/5 directed *the City's Committee of Adjustment Planners to consider the negative impacts of corner lot severances where variances are sought to remove distinctive trees located on the property while reviewing the applications and providing comments to the Committee of Adjustment.*" The planning report also provides a helpful link to review Council's policy decision-making in this matter.

The Committee further notes that the notion that Rothwell Heights should essentially be exempted from the alternative corner lot provisions runs contrary to the intent of City Council when the latter did adopt certain area exceptions to the policy. As Mr. Chown pointed out, while Council exempted Rockcliffe Park from the alternative corner lot provisions introduced in 2015, the Rothwell Heights neighbourhood remains subject to this relatively new policy. Another amendment unanimously adopted by Council—motion 14/4 (1) (ff)—indicates other apparent geographic exemptions to the corner lot provisions that do not include Rothwell Heights: “A new document, attached hereto, be added as Document 5, being Schedule XYY which relates to the area of Alta Vista, Faircrest Heights and Riverview Park excluded from the provisions of corner lot severance.” The Committee can therefore find no basis to exempt Rothwell Heights from the corner lot provisions in question because Council’s intent reveals otherwise.

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 Owners provide evidence that the accompanying Minor Variance application (D08-02-22/A-00100) have been approved, with all levels of appeal exhausted.
2. That the Owner(s) provide proof (demolition permit and inspection report) to the satisfaction of the Development Review Manager of the East 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 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 proof to the satisfaction of the Development Review Manager of the East 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 the existing sewer and water services

were capped/blanked outside of the Critical Root Zone of any protected trees, where possible. Further, that written confirmation is submitted from a City Inspector that confirms that tree protection and mitigation measures were followed during the demolition process.

4. That the Owner(s) provide evidence (servicing plan), to the satisfaction of the Development Review Manager of the East 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.
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 East 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 East Branch within Planning, Real Estate and Economic Development Department, or his/her designate.
6. That the Owner enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the Development Review Manager of the East 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 detached dwelling, 41 Rebecca Crescent, shall have the driveway accessible from Rebecca Crescent only. Access to Combermere Lane is prohibited."
7. That the Owner(s) enter into a Development Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the Development Review Manager of the East Branch within Planning, Real Estate and Economic Development Department, or his/her designate, to require that an asphalt overlay will be installed, at the Owner(s) expense, on Rebecca Crescent, fronting the subject lands, over the entire public driving surface area within the limits of the overlay, if the approved Site Servicing Plan shows three or more cuts within the pavement surface. The overlay must be carried out to the satisfaction of the Development Review Manager of the East Branch within Planning, Real Estate

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.

If the Development Review Manager of the East Branch within Planning, Real Estate and Economic Development Department, or his/her designate determines that a Development Agreement requiring an asphalt overlay is no longer necessary, this condition shall be deemed as fulfilled.

8. That the Owner convey a 3 m x 3 m corner sight triangle located at the intersection of Rebecca Crescent and Combermere Lane to the City, with all costs to be borne by the Owner(s), to the satisfaction of the Surveys and Mapping Branch of the City. This area will be free of all structures, new plantings, etc. and will allow a proper sighting distance for motorists when performing turning movements within the intersection. The Committee must receive written confirmation from City Legal Services that the transfer of the lands to the City has been registered.
9. 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.
10. The Owner enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the Development Review Manager of the East Branch within Planning, Real Estate and Economic Development Department, or his/her designate to address the following:
 - a. The Owner agrees that the location of the driveways, services, and grading/drainage located at 41 Rebecca Crescent and 39 Rebecca Crescent will account for the protection of high and medium priority trees, including the reduction of excavation within the Critical Root Zones. This may result in a requirement to relocate driveways, services, and grading/drainage. Prior to the issuance of a Building Permit, written confirmation is required from a City Infill Forester that confirms that they are satisfied with the location of the driveways, services, and grading/drainage.
 - b. The Owner(s) agree to provide securities for a period of three years following the completion of construction, which is equivalent to the value of the trees to be protected (Tree 1 and 6). 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 for both Trees 1 and 6, that they are in good health and condition, and remain

structurally stable. The Owner(s) acknowledge and agree that if, in the opinion of the City Forester and/or the Development Review Manager of the East Branch within Planning, Real Estate and Economic Development Department, or his/her designate, the report indicates that either or both Trees 1 or 6 are declining and must be removed, the Security for that tree, will be forfeited

- c. If the Tree Information Report (TIR) submitted with the building permit indicates that adjacent or boundaries tree(s) will be impacted, then the Owner is to provide a signed letter of permission from the owner of identified adjacent or boundary tree(s), for the proposed removal or operations impacting the tree(s). The applicant acknowledges that a tree removal permit cannot be issued without the permission of all owners of a tree, and that if a permission letter cannot be produced, then the development plan must be revised to allow for the retention and protection of the adjacent or boundary.
11. 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.
12. 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 **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-00108 & D08-01-22/B-00109
Owner(s) / Propriétaire(s): Casa Verde Construction Inc.
Location / Emplacement: 41 Rebecca Crescent

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