



COMMITTEE OF ADJUSTMENT OF THE CITY OF OTTAWA

DECISION CONSENT

(Section 53 of the *Planning Act*)

File No.:	D08-01-22/B-00193
Owner(s):	Bouchra Elalami Elhlimi, Samir Elamri & Abdelahad Alami Hlimi
Location:	13 Bell Park Street
Ward:	6 - Stittsville
Legal Description:	Lot 12, Registered Plan 655
Zoning:	R1D
Zoning By-law:	2008-250

Notice was given and a Public Hearing was held on **July 20, 2022**, as required by the *Planning Act*.

PURPOSE OF THE APPLICATION:

The Owners want to subdivide the property into two separate parcels of land for the construction of two new detached dwellings with secondary dwelling units, with one detached dwelling on each newly created parcel, as shown on plans filed with the Committee.

CONSENT IS REQUIRED FOR THE FOLLOWING:

The Owners require the Consent of the Committee for Conveyance.

The land to be severed is shown as Part 1 on a Draft 4R-Plan filed with the application, will have frontage of 16 metres on Bell Park Avenue, a depth of 42.03 metres and a lot area of 671.75 square metres and is known municipally as 13, 13B Bell Park Street.

The lands to be retained, shown as Part 2 on the plan, will have frontage of 16 metres on Bell Park Avenue, a depth of 42.04 metres and a lot area of 671.75 square metres and is known municipally as 15, 15B Bell Park Street.

Approval of this application will have the effect of creating two separate parcels of land which will not be in conformity with the requirements of the Zoning By-law and therefore, Minor Variance Applications (D08-02-22/A-00169 & D08-02-22/A-00170) have been filed and will be heard concurrently with this application.

PUBLIC HEARING:

The Panel Chair administered an oath to Dustin Poole, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied.

Also in attendance was Sean Harrigan of the City's Planning, Real Estate and Economic Development Department.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

The Committee considered any written and oral submissions relating to the application in making its Decision, including written letters in opposition submitted by area residents.

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 (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.

2. That the Owner(s) provide evidence (servicing plan), 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, 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.

In the case of vacant parcels being created, the Owner(s) shall provide evidence (servicing plan), 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, that the parcel has access to sufficient services with adequate capacity.

3. 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 **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. The grading and drainage plan shall delineate existing and proposed grades for both the severed and retained properties, to the satisfaction of **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**.
4. 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 Relevant 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 Bell Park Street, fronting the subject lands, over the entire public driving surface area within the limits of the overlay, as shown on the approved Site Grading and Servicing Plan 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 Relevant Branch within Planning, Infrastructure 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 Select Manager of the Select 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.

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 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, that the existing dwelling has been removed along with all secondary structures, that the existing sewer services are capped at the sewer and that the existing water service is blanked at the watermain.
7. That the Owner(s) provide evidence as to whether the two (2) City owned trees still exist within the municipal right-of-way in front of the properties. If the two City owned trees still exist, the Owner(s) shall provide a revised site plan and Tree Information Report (TIR) to the satisfaction of the **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**. This report shall be prepared by an Arborist, identifying all trees protected under the City's Tree Protection by-law, and meeting the standards of the City's Tree Information Report Guidelines, including specific mitigation measures where work is proposed within the Critical Root Zone of a protected tree. If no City trees remain, this condition will be deemed satisfied.
8. That the Owner(s) provide a tree planting plan, 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**, showing the location of one new 50mm tree or the required number of compensation trees to be planted on each lot following construction. The Owner(s) shall enter into an Agreement with the City, to the satisfaction of the **Development Review Manager of the Relevant Branch within Planning,**

Real Estate and Economic Development Department, or his/her designate, which requires the planting of the trees proposed in the tree planting plan.

9. That the Owner(s) provide evidence, to the satisfaction of the **Director, Infrastructure Services Branch, or his/her designate**, to be confirmed in writing from the Branch to the Committee, that all outstanding Local Improvement charges (i.e. water, sewer, road) and all outstanding water frontage fees (at a rate of \$190/m) applicable to both the severed and retained parcels have been paid in full. Payment shall be made to the Infrastructure Management Division. A copy of proof of payment must be provided to the satisfaction of the **General Manager of the Planning Infrastructure and Economic Development Department, or his/her designate**.
10. 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.
11. 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 18, 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-00193
Owner(s) / Propriétaire(s): Bouchra Elalami Elhlimi, Samir Elamri & Abdelahad Alami Hlimi
Location / Emplacement: 13 Bell Park Street

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**

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 29, 2022 / 29 juillet 2022

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