



COMMITTEE OF ADJUSTMENT OF THE CITY OF OTTAWA

DECISION CONSENT

(Section 53 of the *Planning Act*)

File Nos.: D08-01-22/B-00083 & D08-01-22/B-00192
Owner(s): Kathryn Moore and Frank Johnston-Main
Location: 261, 263 Cambridge Street North
Ward: 14-Somerset
Legal Description: Lot 145, Reg. Plan No. 3459
Zoning: R4UB
Zoning By-law: 2008-250

Notice was given and a Public Hearing was held on **July 6 and July 20, 2022**, as required by the *Planning Act*.

PURPOSE OF THE APPLICATIONS:

The Owners want to subdivide their property into two separate parcels to create separate ownerships for the proposed long semi-detached dwelling. The existing detached dwelling is to be demolished.

CONSENT IS REQUIRED FOR THE FOLLOWING:

The Owners require the Consent of the Committee for Conveyance and Grant of Easement/Rights-of-Way. The property is shown as Parts 1 to 7 on a Draft 4R-Plan filed with the applications and the separate parcels will be as follows:

File No.	Frontage	Depth	Area	Part Nos.	Municipal Address
B-00083	10.06 m 7.46 m	12.6 m	127 sq. m. 94.3 sq. m.	1	263 Cambridge St. N. (One half of the proposed long semi- detached dwelling)
B-00192	2.4 m 2.6 m	17.56 m	177.3 sq. m. 209.9 sq. m.	2 to 7	261 Cambridge St. N (The other half of the proposed long semi- detached dwelling)

It is proposed to create Easements/Right-of-Ways over Parts 2, 4, 6 and 7 for the benefit of the owner of Part 1 for vehicular and pedestrian access.

Approval of these applications will have the effect of creating two separate parcels of land which, along with the proposed development, will not be in conformity with the requirements of the Zoning By-law and therefore, Minor Variance Applications (D08-02-22/A-00096 and D08-02-22/A-00168) have been filed and will be heard concurrently with these applications.

PUBLIC HEARING:

Prior to the Hearing on July 6, 2022, the Committee received an adjournment request from Margot Linker, of the City's Planning, Real Estate and Economic Development Department (PRED), to allow for time for the applicant to revise the plans to address non-compliance issues, including changing the width of the driveway. At the Hearing, the Committee heard from Ms. Linker, who reiterated her request for adjournment. The Committee also heard from Kathryn Moore and Frank Johnson-Main, Owners of the property, who agreed with the adjournment requested by PRED.

With the concurrence of all parties the applications were adjourned to the Hearing scheduled for July 20, 2022.

At the renewed Hearing on July 20, 2022, the Panel Chair administered an oath to Ms. Moore, who confirmed that the statutory notice posting requirements were satisfied. Ms. Moore, who appeared along with Frank Johnston-Main, the other owner of the property, provided the Committee with a brief presentation.

The Committee noted that as per the City's planning report on file and the revised plans filed, the frontage and area of both the severed and retained lands should be amended as follows:

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B-00083	10.06 m 7.46 m	12.6 m	127 sq. m. 94.3 sq. m.	1	263 Cambridge St. N. (One half of the proposed long semi-detached dwelling)
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With all parties in agreement, the applications were amended accordingly.

The Committee also heard from Ms. Linker, who confirmed that, with the submission of the revised plans, she had no concerns with the applications.

**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 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. The Owner(s) agree to implement the tree protection and mitigation measures outlined in the Tree Information Report prepared by Integrated Forestry Services Inc., dated March 28, 2022, for the retention and protection of tree #1.

3. 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 of Adjustment, that the existing dwellings have been removed, that the existing sewer and water services are 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. The Owner/Applicant(s) shall prepare and submit a tree planting plan, prepared to the satisfaction of the General Manager of the Planning, Real Estate, and Economic Development Department, or his/her designate, showing the location of one new 50mm tree to be planted on the new lot following construction, to enhance the urban tree canopy and streetscape.
5. 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 of Adjustment, 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.
6. 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 of Adjustment, 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) enter into a Joint Use, Maintenance and Operating 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 Operating 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 of Adjustment 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.

8. 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 of Adjustment. 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**.
9. The Owner(s) shall: *(less than 30 metres from Bronson Avenue)*
 - a. Prepare a noise attenuation study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of the General Manager, Planning, Real Estate and Economic Development Department, or his/her designate. The Owner(s) shall also enter into an agreement with the City that requires the Owner to implement any noise control attenuation measures recommended in the approved study. The Agreement will also deal with any covenants/notices recommended in the approved study, that shall be registered on the title and bind future owners on subsequent transfers, warning purchasers and/or tenants of expected noise levels due to the existing source of environmental noise. The Agreement shall be to the satisfaction of the General Manager, Planning, Real Estate and Economic Development Department, or his/her designate. The Committee of Adjustment requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.
 - or**
 - b. Design the dwelling units with central air conditioning and enter into an Agreement with the City, at the expense of the Owner, which is to be registered on title to deal with the covenants/ notices that will bind future

owners on subsequent transfers, warning purchasers and/or tenants of expected noise levels due to the existing source of environmental noise. The following two conditions will be included in the above-noted Agreement.

Notices-on-Title respecting noise:

- i. "The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns acknowledges being advised that this dwelling unit has been supplied with a central air conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the City of Ottawa's and the Ministry of the Environment and Climate Change's noise criteria."
 - ii. "The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns acknowledges being advised that despite the inclusion of noise control features in this development and within building units, noise levels from increasing roadway traffic may be of concern, occasionally interfering with some activities of the dwelling occupants as the outdoor sound level exceeds the City of Ottawa's and the Ministry of the Environment and Climate Change's noise criteria."
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 the Conveyance and Grant of Easement/Rights-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 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.

File Nos.: D08-01-22/B-00083 and D08-01-22/B-00192

**DECISION SIGNATURE PAGE
PAGE DE SIGNATURE DE LA DÉCISION**

File No. / Dossier n°: D08-01-22/B-00083 & D08-01-22/B-00192
Owner(s) / Propriétaire(s): Kathryn Moore and Frank Johnston-Main
Location / Emplacement: 261, 263 Cambridge Street North

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**

Absent / Absent

**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
July 29, 2022 / 29 juillet 2022

Matthew Garnett
Acting Secretary-Treasurer /
Secrétaire-trésorier intérimaire