



## COMMITTEE OF ADJUSTMENT OF THE CITY OF OTTAWA

### DECISION CONSENT

(Section 53 of the *Planning Act*)

**File No.:** D08-01-22/B-00220 & D08-01-22/B-00221  
**Owner(s):** 13516989 Canada Inc.  
**Location:** 83 Ontario Street  
**Ward:** 13 - Rideau-Rockcliffe  
**Legal Description:** Lot 28, Registered Plan 453  
**Zoning:** R3M  
**Zoning By-law:** 2008-250

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

#### PURPOSE OF THE APPLICATIONS:

The Owner wants to subdivide its property into two separate parcels of land. The existing detached dwelling will be demolished and replaced with a semi-detached dwelling, with one dwelling unit on each of the newly created parcels.

#### CONSENT IS REQUIRED FOR THE FOLLOWING:

The Owner requires the Consent of the Committee for Conveyance.

The property is shown as Parts 1 and 2 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-00220	7.62 metres (Ontario Street)	26.55 metres	202.2 square metres	1	83 Ontario Street
B-00221	7.62 metres (Ontario Street)	26.55 metres	202.4 square metres	2	85 Ontario Street

Approval of this application will have the effect of creating two separate parcels of land for a semi-detached dwelling. 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-00201 & D08-02-22/A-00202) have been filed and will be heard concurrently with these applications.

### **PUBLIC HEARING:**

The Panel Chair administered an oath to Caleb Miller, Agent for the Owner, who confirmed that the statutory notice posting requirements were satisfied.

The Committee heard from Margot Linker, from the City's Planning, Real Estate and Economic Development Department, who summarized the concerns outlined in her written report on file, noting that the proposed setback is not a common mid-block condition and is not compatible with the existing pattern within the neighbourhood and the conflict between the proposed parking space and the access to the secondary dwelling unit.

In his presentation to the Committee, Mr. Miller advised the Committee that it was his client's desire to construct a dwelling of the proposed size that would fit on a typical size lot, with windows on the second floor towards the centre of the dwelling to avoid potential overlook issues. It was his understanding that the apparent conflict between the access to the secondary dwellings and the parking would be addressed as part of the building permit process. In response to questions from the Committee, Mr. Miller advised that it was his client's intentions to protect tree #1, as shown on the plans filed. He further advised that in his opinion the rear-yard character of the dwellings in the area is not very different from that of the proposed dwellings.

Nancy Young, Forester with the City's Planning Real Estate and Economic Development Department (PRED), confirmed that the department would be satisfied if the services are capped outside of the critical root zone to protect the tree.

Also in attendance was Adam Thompson, also acting as Agent for the Owner. He advised that it would be difficult to have a functional floor plate for the dwelling that would fit on a 30-metre lot and still provide adequate rear-yard amenity area as they are limited by the irregular and shallow dimensions of the lots.

### **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 "no concerns" regarding the consent 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 consents, subject to the following conditions, **which must be fulfilled within a two-year period from the date of this Decision:**

1. The Owner(s) agree(s) to 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, that the tree protection fencing around the Critical Root Zone of the protected tree is installed as shown in the Tree Information Report, prior to capping of services, to prevent any excavation within this zone. The sanitary and storm services if present, must be abandoned and capped outside of the Critical Root Zone of the City tree and clearly demonstrated on the Existing Conditions, Removals, and Decommissioning plan.
2. The Owners agree to provide a Grading and Servicing Plan showing that proposed structures such as services, retaining walls, projections, etc. will be designed to allow for the retention and protection of tree #1, identified in the Tree Information Report.
3. That the Owner(s) provide evidence to the satisfaction of the **Chief Building Official, or designate**, that the existing detached dwelling has been demolished or relocated under the authority of a building permit.

4. 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.
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, 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, 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) 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.
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. 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. 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 Planning, Real Estate and Economic Development Department, or to his/her designate**, to require that an asphalt overlay will be installed, at the Owner(s) expense, on Ontario Street, 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 relevant Branch within the Planning, Real Estate and Economic Development Department, or to 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 relevant Branch within the Planning, Real Estate and Economic Development Department, or to his/her designate** determines that a Development Agreement requiring an asphalt overlay is no longer necessary, this condition shall be deemed as fulfilled.

10. 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 storm sewer laterals, 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.

11. The Owner(s) shall:

- 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 land 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 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 the provision for adding central air conditioning at the occupant's discretion 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 shall run with the land 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 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 fitted with a forced air heating system and the ducting, etc. was sized to accommodate central air conditioning. Installation of central air conditioning by the Purchaser/Lessee 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;" and
- ii) "The Purchaser/Lessee, for himself, his heirs, executors, administrators, successors and assigns, acknowledges being advised that noise levels due to 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."

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 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 15, 2022**, delivered by email at [cofa@ottawa.ca](mailto:cofa@ottawa.ca) and/or by mail or courier to the following address:

Secretary-Treasurer, Committee of Adjustment,  
101 CentrepoinTE Drive, 4<sup>th</sup> 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](mailto: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:**



File No.: D08-01-22/B-00220 & D08-01-22/B-00221

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-00220 & D08-01-22/B-00221  
**Owner(s) / Propriétaire(s):** 13516989 Canada Inc.  
**Location / Emplacement:** 83 Ontario Street

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**

***Absent / Absente***

**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 26, 2022 / 26 août 2022**



**Michel Bellemare**  
**Secretary-Treasurer / Secrétaire-trésorier**