



## COMMITTEE OF ADJUSTMENT OF THE CITY OF OTTAWA

### DECISION CONSENT

(Section 53 of the *Planning Act*)

**File Nos.:** D08-01-22/B-00164 to D08-01-22/B-00167  
**Owner(s):** 75 Aylen Inc.  
**Location:** 75 Aylen Avenue  
**Ward:** 7 - Bay  
**Legal Description:** Lot 26 and Part Lot 27, Registered Plan 232  
**Zoning:** R2F  
**Zoning By-law:** 2008-250

Notice was given and a Public Hearing was held on **June 15 and July 20, 2022**, as required by the *Planning Act*.

#### PURPOSE OF THE APPLICATIONS:

The Owner wants to subdivide its property into four separate parcels of land for the construction of two long semi-detached dwellings, with one dwelling unit on each newly created parcel. The existing detached dwelling will be demolished.

#### CONSENT IS REQUIRED FOR THE FOLLOWING:

The Owner requires the Consent of the Committee for Conveyances, Maintenance and Joint-Use Agreements and Grants of Easements/Rights-of-Ways. The property is shown as Parts 1 to 10 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-00164	7.65 m	21.73 m	166.4 sq. m	1 & 2	(75A) Aylen Avenue  (front unit of a long semi-detached dwelling)
B-00165	1.5 m	50.9 m	299.6 sq. m	3, 4, 5	(75B) Aylen Avenue  (rear unit of a long semi-detached dwelling)

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00166	7.65 m	21.73 m	166.4 sq. m	9 & 10	(77A) Aylen Avenue (front unit of a long semi-detached dwelling)
B-00167	1.5 m	50.9 m	299.6 sq. m	6, 7, 8	(77B) Aylen Avenue (rear unit of along semi-detached dwelling)

It is proposed to establish easements and rights-of-way as follows:

(75A) Aylen Avenue:

- Over Part 2 in favour of Parts 3 to 5, 6 to 8 and 9 & 10 for maintenance, services, access, and drainage.

(75B) Aylen Avenue:

- Over Part 3 in favour of Parts 1 & 2, 6 to 8 and 9 & 10 for maintenance, services, access, and drainage.
- Over Part 5 in favour of Parts 6 to 8 for access and drainage.

(77A) Aylen Avenue:

- Over Part 9 in favour of Parts 1 & 2, 3 to 7 and 6 to 8 for maintenance, services, access, and drainage.

(77B) Aylen Avenue:

- Over Part 6 in favour of Parts 1 & 2, 3 to 5 and 9 & 10 for maintenance, services, access, and drainage.
- Over Part 7 in favour of Parts 3 to 5 for access and drainage.

Approval of these applications will have the effect of creating four separate parcels of land. The proposed parcels and development will not be in conformity with the requirements of the Zoning By-law and therefore, Minor Variance Applications (D08-02-22/A-00139 and D08-02-22/A-00140) have been filed and will be heard concurrently with these applications.

## **PUBLIC HEARING:**

Prior to the Hearing on June 15, 2022, the Committee received an adjournment request from Deborah Belfie, Agent for the Owner, seeking additional time to consider engineering conditions requested by the City's Planning, Real Estate and Economic Development Department and to confirm there would be no impact on the site layout

and building design. At the Hearing, the Committee heard from Ms. Belfie, who reiterated her request for adjournment. With the concurrence of all parties, the applications were adjourned to the Hearing scheduled for July 20.

At the renewed Hearing, the Panel Chair administered an oath to Ms. Belfie, who confirmed that the statutory notice posting requirements were satisfied. She provided the Committee with a presentation, with reference to architectural renderings, photographs, an aerial plan, a draft reference plan, a sun study plan and a site plan, and spoke to the proposal's compatibility with the surrounding area.

The Committee also heard presentations in opposition to the applications from Susan Glass of the Woodroffe North Community Association and from Michael Buzzell of 75 Aylen Avenue. The concerns raised were numerous and included the elevated grade onsite and the risk of flooding to abutting properties, the loss of privacy and sunlight due to the reduced side yard setback, sightlines to and from windows, the location of parking and its impact on Mr. Buzzell's enjoyment of his property, and the incompatibility of the proposed development with the overall character of the neighbourhood. Ms. Glass also raised concerns regarding the tree located at 71 Aylen Avenue and requested that it be protected throughout the duration of construction.

In response to questions from the Committee, Ms. Belfie indicated that water runoff would be directed to a shared driveway onsite and towards the street, rather than onto abutting properties. She also confirmed that, in accordance with Zoning By-law requirements, a 2-metre-tall fence was proposed to be constructed to enclose the carport, to reduce privacy, noise and light impacts on the abutting neighbours. It was also noted that tree protection measures would be discussed between the applicant and the neighbour, as required. Ms. Belfie also explained that the size and configuration of the easements proposed for the carport area had been considered and would allow a sufficient turning radius for vehicles to maneuver appropriately.

The Committee also heard from Nancy Young, the City's Infill Forester. In response to questions from the Committee, Ms. Young acknowledged that the tree located at 71 Aylen Avenue was not identified in the Tree Information Report. She suggested that it may have been omitted on the basis that it measures less than 30 centimetres in diameter. She also noted that the protection of this privately owned tree would be a civil matter between the Owner and the abutting neighbour.

Siobhan Kelly, the City Planner, was also in attendance.

#### **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 applications. Based on the evidence, the majority of the Committee (Chair A. M. Tremblay dissenting for the reasons noted below) 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 majority of 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 majority of 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 majority of 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 Applications (D08-02-22/A-00139 & D08-02-22/A-00140) have been filed and will be heard concurrently with this application.) have 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. The Owner/Applicant(s) shall prepare and submit a tree planting plan, prepared to the satisfaction of the Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate, showing the location of one new 50mm tree to be planted on each

new lot following construction, to enhance the urban tree canopy and streetscape.

4. That the Owner(s) submit a Stormwater Management Plan prepared by a Professional Civil Engineer licensed in the Province of Ontario, for approval by the Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate, to be confirmed in writing from the Department to the Committee, demonstrating adequate on-site control of the property's stormwater including:

- a. Roof control to a 2-year release rate with a runoff coefficient of 0.5, and
- b. Evidence that there is no increase in flow rate onto neighbouring properties

If the accepted report recommends specific mitigation measures or design requirements, the Owner(s) shall enter into a Development Agreement with the City, at the expense of the Owner(s), which is to be registered on title to the property which includes those recommendations. Any such development agreement shall be prepared to the satisfaction of the Development Review Manager of the West Branch within the Planning, Real Estate and Economic Development Department, or his/her designate.

5. That the Owner(s) provide proof to the satisfaction of the Development Review Manager of the West 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.
6. That the Owner(s) provide evidence (servicing plan), to the satisfaction of the Development Review Manager of the West 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. The Owner(s) shall prepare a noise attenuation study (or noise and vibration attenuation study if applicable) in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of the Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate. The Owner(s) shall enter into an

agreement with the City that requires the Owner to implement any noise control (and vibration if applicable) attenuation measures recommended in the approved study. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.

8. That the Owner(s) enter into 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 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 Development Manager of the West 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 the Development Review Manager of the West Branch within Planning, Infrastructure 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) 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 West 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 West Branch within Planning, Real Estate and Economic Development Department, or his/her designate.
10. 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 West 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 Aylen Avenue, 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 West 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 West 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.

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 Conveyances, Maintenance and Joint-Use Agreements and Grants of Easements/Rights-of-Ways for which the Consent is required.

*Chair A. M. Tremblay dissents. In her view, the proposal represents overdevelopment that is not compatible with the surrounding area and would create an unacceptable adverse impact on abutting properties and the neighbourhood in general.*

**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](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:**

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-00164 to D08-01-22/B-00167  
**Owner(s) / Propriétaire(s):** 75 Aylen Inc.  
**Location / Emplacement:** 75 Aylen 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.

**Dissent / Dissidente**

**ANN M. TREMBLAY  
CHAIR / PRÉSIDENTE**

***“Kathleen Willis”***

**KATHLEEN WILLIS  
MEMBER / MEMBRE**

***“Scott Hindle”***

**SCOTT HINDLE  
MEMBER / MEMBRE**

***“Colin White”***

**COLIN WHITE  
MEMBER / MEMBRE**

**Absent / Absente**

**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 29, 2022 / 29 juillet 2022**

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