



## COMMITTEE OF ADJUSTMENT OF THE CITY OF OTTAWA

### DECISION CONSENT

(Section 53 of the *Planning Act*)

<b>File No.:</b>	D08-01-22/B-00210
<b>Owner(s):</b>	Eddy Malouf
<b>Location:</b>	2653 and 2655 Don Street
<b>Ward:</b>	7-Bay
<b>Legal Description:</b>	Part of Lots 40 & 41, Plan 427924
<b>Zoning:</b>	R2F
<b>Zoning By-law:</b>	2008-250

Notice was given and a Public Hearing was held on **August 3, 2022**, as required by the *Planning Act*.

#### **PURPOSE OF THE APPLICATION:**

The Owner wants to sever his property into two separate parcels to obtain separate ownership for each half of the existing semi-detached **dwelling**.

#### **CONSENT IS REQUIRED FOR THE FOLLOWING:**

The Owner requires the Consent of the Committee for Conveyance and a Joint Use and Maintenance Agreement.

The severed land, shown as Parts 1 and 2 on a Draft 4R-Plan filed with the application, will have a frontage of 9.14 metres, a depth of 29.28 metres and will contain a lot area of 278.7 square metres. This parcel will contain one half of the proposed semi-detached dwelling and will be known municipally as 2655 Don Street.

The retained land, shown as Part 3 and 4 on said plan, will have a frontage of 9.14 metres, a depth of 29.28 metres and will contain a lot area of 278.7 square metres. This parcel will contain the other half of the proposed semi-detached dwelling and will be known municipally as 2653 Don Street.

**The application indicates that there is an existing easement, Instrument No. 430476, being a Transfer Easement in favor of Hydro Ottawa and Bell Canada.**

The application indicates that the Property is not the subject of any other current application under the *Planning Act*.

**PUBLIC HEARING:**

The Panel Chair administered an oath to Jordan Tannis, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied. Also in attendance was Mike Segreto, also representing the Owner.

The Committee noted that the Purpose of the Application should be amended to read as follows: The Owner wants to sever his property into two separate parcels to obtain separate ownership for each half of the existing semi-detached **dwelling**. Also, the application should be amended to highlight an existing easement:

**The application indicates that there is an existing easement, Instrument No. 430476, being a Transfer Easement in favor of Hydro Ottawa and Bell Canada.**

With the concurrence of Mr. Tannis, the application was amended accordingly.

Responding to a question regarding the conditions requested by the City's Planning, Real Estate and Economic Development Department (PRED), Nancy Young, the City's Infill Forester, explained that the Trees in Trust application process aims to plant trees in urban conditions at no cost to residents.

Also in attendance was Siobhan Kelly, City Planner.

**DECISION AND REASONS OF THE COMMITTEE: APPLICATION 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 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. The Owner(s) submit a Trees In Trust application for one new 50 mm tree to be planted in the right-of-way in front of each lot to enhance the urban tree canopy and streetscape. Information regarding the application is available at the following link: <https://ottawa.ca/en/living-ottawa/environment-conservation-and-climate/trees-and-urban-forests/tree-planting#trees-trust>
2. That the Owner(s) provide proof to the satisfaction of the Development Review Manager of the West Branch within Planning, Infrastructure and Economic Development Department, or his/her designate, to be confirmed in writing from the Department to the Committee, that each existing parcel has its own independent storm, sanitary and water services connected to City infrastructure and that these services do not cross the proposed severance line. If they do cross or are not independent, the Owner(s) will be required to relocate the existing services or construct new services from the City sewers/watermain, at his/her own cost.
3. 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, Infrastructure 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.

4. That the Owner(s) satisfy the requirements of Hydro Ottawa with respect to the relocation of the existing overhead services or grant an easement as required, the consent to which is hereby granted.
5. 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.
6. 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 and a Joint Use and Maintenance Agreement 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 1, 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-00210  
**Owner(s) / Propriétaire(s):** Eddy Malouf  
**Location / Emplacement:** 2653 and 2655 Don 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.

***“Ann M. Tremblay”***

**ANN M. TREMBLAY  
CHAIR / PRÉSIDENTE**

**Absent / Absente**

**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***  
**August 12, 2022 / 12 août 2022**



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