



COMMITTEE OF ADJUSTMENT OF THE CITY OF OTTAWA

DECISION CONSENT

(Section 53 of the *Planning Act*)

File Nos.: D08-01-22/B-00203 and D08-01-22/B-00204
Owner(s): 13414311 Canada Inc. and 13413322 Canada Inc.
Location: 1691 (1689) Rosebella Avenue
Ward: 10-Gloucester-Southgate
Legal Description: Part of Lots 606, 607 and 608, Registered Plan 326
Zoning: R1WW
Zoning By-law: 2008-250

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

PURPOSE OF THE APPLICATIONS:

The Owners want to subdivide their property into two separate parcels of land for the construction of two proposed detached dwellings with one dwelling on each of the newly created parcels. The existing dwelling is to be demolished.

CONSENT IS REQUIRED FOR THE FOLLOWING:

The Owners require the Consent of the Committee for Conveyances. 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-00203	11.405 m	30.13 m	343.5 sq. m	1	(1689) Rosebella Avenue (one proposed detached dwelling)
B-00204	11.405 m	30.13 m	343.5 sq. m	2	1691 Rosebella Avenue (one proposed detached dwelling)

Approval of these applications 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-00185 and D08-02-22/A-00186) have been filed and will be heard concurrently with these applications.

PUBLIC HEARING:

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

In response to questions from the Committee, Mr. Segreto confirmed that area residents were consulted, including the owner of the commercial property, and that measures would be taken to protect the trees.

Siobhan Kelly, of the City's Planning, Real Estate and Economic Development Department (PRED), was also in attendance. In response to questions from the Committee, she confirmed that it is difficult for lots to comply with the Zoning By-law because the minimum lot width is 9 metres and minimum lot area is 450 square metres. The zoning requirements for this area are therefore undergoing a review. Ms. Kelly also confirmed that the City has concerns relating to tree protection. However, the City has no concerns with the proposed driveway because it complies with the zoning requirements.

Also in attendance was Nancy Young, the City's Infill Forester. In response to questions from the Committee, she expressed concerns regarding the location of the proposed driveway in proximity to the City-owned tree. She further confirmed that the requested conditions address these concerns.

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, with respect to the requested variances for reduced lot area, the City's Planning Report raises no concerns, stating that: "As proposed, the size of the

two lots accommodate the detached dwellings, which conform with the required setbacks. Staff note that the applicant is not seeking relief from other zoning provisions. The two lots also provide space for amenity areas and soft landscaping.”

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 the accompanying Minor Variance Applications (D08-02-22/A-00185 and D08-02-22/A-00186) 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(s) agree to provide proof of the existing services being capped outside of the Critical Root Zone of the protected tree, as part of the demolition process. The sanitary service, and storm service if present, must be abandoned and capped outside of the Critical Root Zone of the protected tree(s), within private property. This must be clearly demonstrated on the Existing Conditions, Removals, and Decommissioning plan.
4. The Owners agree to provide a revised tree information report to address the required setback of the notch as well as the method of excavation in proximity to tree #4, and the driveway design in proximity to tree #1, to the satisfaction of the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department. 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. The site plan may require revision to address changes recommended in the Tree Information Report.

5. The Owners agree that the location of proposed underground services located on a Grading & Servicing Plan, will be determined by the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate, based on the least impact to protected trees and tree cover. The Owner(s) further acknowledges and agrees that this review may result in relocation of these structures and agrees to revise their plans accordingly to the satisfaction of the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department.
6. Prior to the issuance of building permit(s), the Owner/Applicant(s) shall enter into a Development Agreement with the City of Ottawa, at the expense of the Owner/Applicant(s), to be registered on the Title of the property, which will include the mitigation measures outlined in the required revised Tree Information Report, and associated security for tree protection. The Development Agreement shall be to the satisfaction of the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department. The Owner(s) agree to provide securities for a period of 3 years following the final occupancy permit, which is equivalent to the value of the trees to be protected (tree #1). The Owner(s) agree that the security shall be returned to the owner only upon the City having received a report from an arborist or appropriate professional confirming that tree #1 remains in good health and condition, and structurally stable. The Owner(s) acknowledge and agree that if, in the opinion of the City Forester and/or the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, the report indicates that tree #1 is declining and must be removed, the Security, in its entirety, will be forfeited.
7. The Owner/Applicant(s) shall prepare and submit a tree planting plan, prepared to the satisfaction of the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate, showing the location of one new 50 mm tree to be planted on the new lot following construction, to enhance the urban tree canopy and streetscape.
8. That the Owner(s) provide proof (i.e., demolition permit and inspection report) to the satisfaction of the Development Review Manager of the South 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.

9. That the Owner(s) provide evidence to the satisfaction of the Development Review Manager of the South 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 accessory structures have been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law.
10. That the Owner(s) provide evidence (i.e., servicing plan), to the satisfaction of the Development Review Manager of the South 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.
11. That the Owner(s) enter into an Agreement with the City, at the expense of the Owner(s), which is to be registered on the Title of the property, to deal with the following covenant/notice that shall run with the land and bind future owners on subsequent transfers:
 - a. *"Purchasers/tenants are advised that due to the proximity of the airport, noise from the airport and individual aircraft may at times interfere with outdoor or indoor activities."*
 - b. *"The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns acknowledge 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."*
 - c. *"The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns acknowledge 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."*

The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.

12. 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 South 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 South Branch within Planning, Real Estate and Economic Development Department, or his/her designate.
13. 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 South 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 Rosebella 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 South 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 South 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.
14. 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.
15. 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 1, 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-00203 and D08-01-22/B-00204

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

File No. / Dossier n°: D08-01-22/B-00203 and D08-01-22/B-00204
Owner(s) / Propriétaire(s): 13414311 Canada Inc. and 13413322 Canada Inc.
Location / Emplacement: 1691 Rosebella 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.

“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


Michel Bellemare
Secretary-Treasurer / Secrétaire-trésorier