



**COMMITTEE OF ADJUSTMENT  
OF THE CITY OF OTTAWA**

**DECISION  
CONSENT**

(Section 53 of the *Planning Act*)

<b>File No.:</b>	D08-01-22/B-00247
<b>Owner(s):</b>	Sherbrooke Urban Developments Ltd.
<b>Location:</b>	424 (426) Avondale Avenue
<b>Ward:</b>	15 - Kitchissippi
<b>Legal Description:</b>	Part of Cole Avenue (closed by the Judge's order Inst. No. NP64454) Registered Plan 257
<b>Zoning:</b>	R4UA[2686] H(8.5)
<b>Zoning By-law:</b>	2008-250

Notice was given and a Public Hearing was held on **September 7 and September 21, 2022**, as required by the *Planning Act*.

**PURPOSE OF THE APPLICATION:**

The Owner wants to subdivide their property into two separate parcels of land for the construction of two proposed detached dwellings. The existing dwelling and garage are to be demolished.

**CONSENT IS REQUIRED FOR THE FOLLOWING:**

The Owner requires the Consent of the Committee for a Conveyance.

The lands to be severed, shown as Part 1 on the Draft Plan filed with the application, will have frontage of 8.85 metres on Avondale Avenue, a depth of 34.75 metres and an area of 307.7 square metres. This property will contain a proposed detached dwelling and will be known municipally as 426 Avondale Avenue.

The lands to be retained, shown as Part 2 on said plan will have frontage of 8.85 metres on Avondale Avenue, a depth of 34.75 metres and an area of 307.7 square metres. This property will contain a proposed detached dwelling and will be known municipally as 424 Avondale Avenue

Approval of this application will have the effect of creating two separate parcels of land. The proposed dwellings and lots will not be in conformity with the requirements of the Zoning By-law and therefore, Minor Variance Applications (D08-02-22/A-00237 & D08-02-22/A-00238) have been filed and will be heard concurrently with this application.

**PUBLIC HEARING:**

Prior to the Hearing on September 7, 2022, the Committee received an adjournment request from Jessica D'Aoust, Agent for the Applicant, for additional time to consult with Bell Canada regarding the requested easement. At the Hearing, the Committee heard from Ms. D'Aoust, who reiterated her request for the adjournment. With the concurrence of all parties the application was adjourned to the Hearing scheduled for September 21, 2022.

At the renewed Hearing on September 21, 2022, the Panel Chair administered an oath to Ms. D'Aoust, who confirmed that the statutory notice posting requirements were satisfied.

The Committee confirmed that the zoning description should be amended to read as follows: R4UA[2686] H(8.5).

With the concurrence of Ms. D'Aoust, the application was amended accordingly.

Ms. D'Aoust provided the Committee with a full presentation which included a breakdown of the development, elevations, a lot fabric plan, and a streetscape rendering of the proposed addition to the neighbourhood. She advised that the existing grade of the subject property is currently below the average grade within the community and will be raised appropriately to level with the surrounding area. Once the grading is corrected and raised, the measurement from the new grade to the height of the dwelling will be 8.5 metres, which will comply with the Zoning By-law.

In response to questions from the Committee, Justin Seguin, also representing the Applicant, confirmed that the placement of the garage door complies with the zoning requirement that the front façade be recessed an additional 0.6 metres from the front setback line.

The Committee also heard from Heather Mitchell of the Westboro Community Association who acknowledged the consultation efforts of the Owners and Ms. D'Aoust, and highlighted support for the proposed development as compatible with the neighbourhood.

In response to questions from the Committee regarding the Bell easement, Ms. D'Aoust advised that her client's initial concerns related to the uncertainty surrounding the impact of the easement, however following advice received from her lawyer, the Applicant no longer objects to the condition.

Ms. D'Aoust asked that the City's requested condition for a revised site and/or grading plan to reduce excavation within the Critical Root Zone be deleted as it had already been provided to the City Planner. She also requested that the wording for the tree securities condition be amended to two years rather than three years. City Planner Craig Hamilton agreed the condition could be deleted.

Also in attendance was Nancy Young, the City's Infill Forester. She concurred with modifying the securities condition to two years. With all the parties in agreement, the Committee agreed to change the conditions accordingly.

### **DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED**

The Committee considered any written and oral submissions relating to the application 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 "some concerns" with the concurrent minor variance applications regarding the introduction of a front-facing garage because it does not reflect the dominant streetscape character.

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-00237 & D08-02-22/A-00238) 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. 2022-280.

3. The Owner/Applicant(s) shall prepare and submit a tree planting plan, prepared 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**, showing the location of one new 50mm tree to be planted on each lot following construction, to enhance the urban tree canopy and streetscape.
4. Prior to the stamping of the deed(s)/issuance of a building permit, the Owner/Applicant(s) shall enter into a Development Agreement or a Letter of Undertaking (LOU) with the City of Ottawa, at the expense of the Owner/Applicant(s), and to the satisfaction of the **General Manager of the Planning, Real Estate, and Economic Development Department**, or his/her designate. A development agreement is to be registered on Title of the property (where applicable), which will include the mitigation measures outlined in the Tree Information Report prepared by IFS Associates, dated September 14, 2022, and associated security for tree protection. The securities, which will be based on the value of the tree(s) to be protected (tree #1) shall be retained for 2 years following completion of construction, and returned to the owner only upon the City having received a report from an arborist or appropriate professional confirming that the trees identified are in good health and condition, and remain structurally stable.
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 within the 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 Avondale Avenue, fronting the subject lands, over the entire public driving surface area within the limits of the overlay, as shown on the approved Site Grading and Servicing Plan. 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. Agreement requiring an asphalt overlay is no longer necessary, this condition shall be deemed as fulfilled.
10. That the Owner(s) grant to Bell Canada without cost, such easements as may be required, the consent to the registration of which is hereby granted.
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 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 **October 20, 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-00247  
**Owner(s) / Propriétaire(s):** Sherbrooke Urban Developments Ltd.  
**Location / Emplacement:** 424 (426) Avondale 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.

***“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***  
**September 29, 2022 / 29 septembre 2022**

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