



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

**DECISION
CONSENT**

(Section 53 of the *Planning Act*)

File No.: D08-01-21/B-00084 &
D08-01-21/B-00085
Owner(s): Iouri Mitnik
Location: 127, (127 B & 127 B, Unit 2) Britannia Road
Ward: 7 - Bay
Legal Description: Lot 14, Reg. Plan 71; **Parts 13 and 14, Plan 5R-11970**
Zoning: R10
Zoning By-law: 2008-250

Notice was given and a Public Hearing was held on **May 19, June 2 and June 16, 2021**, as required by the *Planning Act*.

PURPOSE OF THE APPLICATION:

The Owners want to demolish the detached garage and to subdivide their property into two separate parcels of land. One parcel will contain the existing detached dwelling, and it is proposed to construct a two-storey detached dwelling, with a roof top patio and a Secondary Dwelling Unit, on the other parcel.

CONSENT IS REQUIRED FOR THE FOLLOWING:

The Owners require the Consent of the Committee for Conveyances. The property is shown as Parts 1 to 6 on a Draft 4R-Plan filed with the applications and the separate parcels will be as follows:

File No.	Frontage	Depth	Area	Part Nos.	Municipal Address
B-00084	10.06 m	39.82 m	397.9 sq. m	2, 3 & 5	127 B & 127 B, Unit 2 Britannia Rd. (proposed detached dwelling)

B-00085	10.06 m	39.82 m	398.8 sq. m	1, 4 & 6	127 Britannia Rd. (existing detached dwelling)
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Approval of these applications will have the effect of creating two separate parcels of land. The proposed parcels and the proposed dwelling will not be in conformity with the requirements of the Zoning By-law, and therefore Minor Variance Applications (D08-02-21/A-00098 & D08-02-21/A-00099) have been filed and will be heard concurrently with these applications.

PUBLIC HEARING:

Prior to the Hearing on May 19, 2021, the Committee received an adjournment request from Ms. L. Ramirez, of the City's Planning, Infrastructure and Economic Development Department (PIEDD), advising that a Tree Information Report (TIR) would be required. At the Hearing, the Committee heard from Ms. S. Shahzadeh, Agent for the Owners, who confirmed that they were in agreement with the Department's request. With the concurrence of all parties, the Committee adjourned the applications to June 2, 2021.

Prior to the June 2, 2021 Hearing, the Committee received a further adjournment request from Ms. Ramirez for the applicant to provide more information including the distances from the trees to the proposed excavation. At the Hearing, the Committee heard from Ms. Shahzadeh, who confirmed that they were in agreement with the department's request. With the concurrence of all parties, the Committee adjourned the applications to June 16, 2021.

At the renewed Hearing on June 16, 2021, The Chair administered an oath to Ms. Shahzadeh, who confirmed that the statutory notice posting requirements were satisfied.

The Committee heard from Ms. Shahzadeh, who appeared along with Mr. M. Chown, both acting as Agent for the Owner. Ms. Shahzadeh provided the Committee with a brief presentation which included the site plan and elevations for the proposed dwelling.

The Committee noted that the legal description set out in the notice should be amended to, Lot 14, Reg. Plan 71; **Parts 13 and 14, Plan 5R-11970.**

With confirmation from Ms. Shahzadeh, the applications were amended accordingly.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

The Committee considered any written and oral submissions relating to the applications in making its Decision.

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 a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality. In addition, 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 one-year period from the date of this Decision:**

1. That the Owner(s) provide evidence that the accompanying Minor Variance Applications (D08-02-21/A-00098 & D08-02-21/A-00099) have been approved, with all levels of appeal exhausted.
2. That the Owner(s) prepares and submits a *revised* Environmental Impact Statement (EIS) to satisfaction of the **Development Review Manager of the relevant Branch within Planning, Infrastructure and Economic Development Department, or his/her designate.**
3. 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 Planning, Infrastructure and Economic Development Department, or his/her designate** to address the following
 - i. The Owner agrees to implement the specific mitigation measures or other requirements outlined in the accepted Environmental Impact Statement (EIS).
 - ii. The Owner agree to implement the tree protection and mitigation measures outlined in the revised Tree Information Report (TIR), including the plans and drawings which reflect the approved Tree Information Report and the associated mitigation measures dated June 3, 2021 and the foundation and tree setback distances from plan 2053R_A1-V2 dated June 4, 2021.

The Development Agreement will be to the satisfaction of the **Development Review Manager of the relevant 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 relevant 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) provide evidence (servicing plan), to the satisfaction of the **Development Review Manager of the relevant Branch within Planning, Infrastructure 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.
5. That the Owner(s) provide evidence to the satisfaction of the **Development Review Manager of the relevant Branch within Planning, Infrastructure and Economic Development Department, or his/her designate**, to be confirmed in writing from the Department to the Committee, that the existing structure straddling the proposed severance line has been demolished in accordance with the demolition permit, or relocated in conformity with the Zoning By-law.
6. 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 **Development Review Manager of the relevant Branch within Planning, Infrastructure 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 **Development Review Manager of the relevant Branch within Planning, Infrastructure 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."
7. 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 Planning, Infrastructure 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 Planning, Infrastructure and Economic Development Department, or his/her designate**.
8. That the Owner(s) provide evidence (payment receipt) to the Committee that payment has been made to the City of Ottawa of cash-in-lieu of the conveyance of land for park or other public recreational purposes, plus applicable appraisal costs. The value of the 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.

9. 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.
10. That upon completion of the above conditions, and **within the one-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 one year from the date of this Decision.

All technical studies must be submitted to Planning, Infrastructure 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),, an appeal form along with a certified cheque or money order payable to the Ontario Minister of Finance must be filed with the Secretary-Treasurer of the Committee of Adjustment by **July 15, 2021**, delivered 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 Local Planning Appeal Tribunal has established a filing fee of \$400.00 per type of application with an additional filing fee of \$25.00 for each secondary application. 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.

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°: D08-01-21/B-00084 & D08-01-21/B-00085
Owner(s) / Propriétaire(s): Mitnik
Location / Emplacement: 127 Britannia Road

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

KATHLEEN WILLIS
MEMBER / MEMBRE

"Scott Hindle"

SCOTT HINDLE
MEMBER / MEMBRE

"Colin White"

COLIN WHITE
MEMBER / MEMBRE


"Julia Markovich"

JULIA MARKOVICH
MEMBER / MEMBRE

I, Michel Bellemare, Secretary-Treasurer of the Committee of Adjustment for the City of Ottawa, certify that the attached is a true copy of the Decision of the Committee with respect to the application recorded.

Je, soussigné, Michel Bellemare, secrétaire-trésorier du Comité de dérogation pour la Ville d'Ottawa, confirme que l'énoncé ci-joint est une copie conforme de la décision rendue par le Comité à l'égard de la demande visée.

Date of Decision / Date de la décision
June 25, 2021/ 25 juin 2021



Michel Bellemare
Secretary-Treasurer / Secrétaire-trésorier