



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

**DECISION
CONSENT**

(Section 53 of the *Planning Act*)

File No.:	D08-01-22/B-00233
Owner(s):	Knee Dheep Inc.
Location:	5758 First Line Road
Ward:	21-Rideau-Goulbourn
Legal Description:	Part of Lot 6, Concession 1 All of Block "A", Register Plan 694 Geographic Township of North Gower
Zoning:	RC2[707r]
Zoning By-law:	2008-250

Notice was given and a Public Hearing was held on **September 21 and October 5, 2022**, as required by the *Planning Act*.

PURPOSE OF THE APPLICATION:

The Owner wants to convey a portion of its property to the abutting property owner to the west, known municipally as 1476 Century Road.

CONSENT IS REQUIRED FOR THE FOLLOWING:

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

The severed land, shown as Parts 6, 7 and 8 on a sketch filed with the application, will have frontage of 12.3 metres on Fallowfield Road, a depth of 30.3 metres and will contain an area of 372.1 square meters. This vacant land will be conveyed to the owner of the property to the west at 1476 Flewellyn Road.

The retained land, shown as Part 1 on said sketch, will have frontage of 11.8 metres on First Line Road, a depth of 72.5 metres and will contain a lot area of 1,434 square metres. This parcel contains an existing dwelling and accessory structure and will be known municipally as 5758 First Line Road.

It should be noted that the property is the subject of an existing easement Instrument No. NG7823 for the Hydro-Electric Commission Power Commission of Ontario.

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

PUBLIC HEARING:

Prior to the Hearing on September 21, 2022, the Committee received an adjournment request from Tracy Zander, Agent for the Owner, seeking more time to provide additional information to the City's Planning, Real Estate and Economic Development Department and to address its concerns with the application. With the concurrence of all parties, the application was adjourned to the Hearing scheduled for October 5, 2022.

At the renewed Hearing, the Panel Chair administered an oath to Chris Clarke, also representing the Owner, who confirmed that the statutory notice posting requirements were satisfied.

Mr. Clarke provided an overview of the application and explained that the intent is to restore the property at 1476 Flewellyn Road to its previous configuration, prior to a previous conveyance of the severed lands. Mr. Clarke also acknowledged that the proposed lot line adjustment would result in split zoning on the recipient lands, which would be addressed through a Zoning By-law Amendment to create one uniform zoning designation.

Mr. Kukkonen was also in attendance and summarized the City's objections to the application, as outlined in the City's Planning Report on file. Mr. Kukkonen noted that the property is designated Agricultural Resource Area under the Official Plan, and that lot line adjustments are only permitted in this area for legal or technical reasons. It was his submission that no valid legal or technical reason had been provided. He also explained that an exception zone applies to this property that requires a minimum lot area of 1,500 square meters, and this proposal would therefore bring the subject property out of zoning conformity by reducing the area of the retained lands to 1,434 square metres

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 “objects” to the application, as outlined in its Planning Report on file and summarized by Mr. Kukkonen at the Hearing. However, under the circumstances, the Committee is satisfied that the intent to reverse an earlier conveyance and to restore these lots to their previous configuration is an appropriate technical reason for this lot line adjustment, and notes that matters related to zoning conformity will be addressed through the required Zoning By-law Amendment application.

Based on the evidence, the majority of the Committee (Member J. Chandler dissenting) 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) file with the Secretary-Treasurer of the Committee of Adjustment the following:
 - a. A copy of the Reference Plan and/or legal description of the severed land and the deed or instrument conveying the severed land to the owner of the abutting property to the west, known municipally as 1476 Century Road, East, so that no new lot is being created, in accordance with paragraph (b) below;
 - b. A Certificate of Official attached to the deed/transfer required by paragraph (a) above containing the following endorsement:

“The lands to be severed are for the purpose of a lot addition only to the abutting lands owned by (*insert name*) described as PIN (*insert property identification number*) being Part(s) (*insert numbers*) on Plan (*insert plan number*), not for the creation of a new lot, and any subsequent transfer, charge or other transaction involving the lands to be severed shall be subject to compliance with Section 50(3) or Section 50(5) of the *Planning Act*, as applicable. Neither the lands to be severed nor the abutting lands are to be transferred, charged or otherwise re-conveyed in the future

without the other parcel unless a further consent is obtained. The Owner shall cause the lands to be severed to be consolidated on title with the abutting lands and for this condition to be entered on the parcel register for the consolidated parcel as a restriction”;

- c. An Undertaking from a solicitor authorized to practice law in the Province of Ontario, and in good standing with the Law Society of Upper Canada, as follows:

“In consideration of, and notwithstanding the issuance of the Certificate under Section 50(12) of the *Planning Act* in respect to the subject Application for Consent, I undertake on behalf of the Owner, within **30** days of the registration on title of the transfer document containing the endorsement set out in the Certificate of Official issued by the Committee of Adjustment, to file an Application to Consolidate Parcels including the severed land (Part of PIN (insert number) and the abutting land (PIN insert number). This PIN consolidation is intended to reinforce the *Planning Act* stipulation in the condition outlined above that both parcels have merged on Title and cannot be conveyed separately in the future. I further undertake to forward a copy of the registered Application to Consolidate Parcels and a copy of the Consolidated Parcel abstract page(s) to the Committee office within 21 days of the registration of the Application to Consolidate Parcels”.

- d. Where the parcel consolidation stipulated in paragraph (b) and the solicitor’s Undertaking in paragraph (c) above cannot be reasonably completed because the parcels of land to be merged have different estate qualifiers, an Application to Annex Restrictive Covenant under the *Land Titles Act* must be registered on the Title of both the severed lands and on the abutting parcel that is to be merged. The Covenant, which is to be to the satisfaction of the Secretary-Treasurer of the Committee, shall advise all future purchasers that the parcels must be dealt with together and not separately, and contain wording set out below or similar wording acceptable to the Secretary-Treasurer of the Committee:

“These lands have been merged and may not be dealt with separately, without applying for a Consent of the Committee of Adjustment”.

In lieu of the Undertaking provided in paragraph (c), a replacement Undertaking by the solicitor must be filed undertaking on behalf of the Owner to register the Restrictive Covenant on both property Titles within 30 days of the registration of the transfer document containing the endorsement of the Certificate of Official issued by the Committee of Adjustment for this application and to file a copy of the registered

Restrictive Covenant with the Committee within 21 days of the registration of the document.

2. That the Owner(s) convey, if required, at no charge to the City of Ottawa, sufficient frontage across the severed and retained lands to provide for a road right-of-way measuring 13 metres from the centerline of First Line Road and 13 metres from the centreline of Century Road, East. The Owner(s) must provide to the City Surveyor a copy of the Committee of Adjustment Decision and a draft Reference Plan that sets out the required widening. The Committee requires written confirmation from City Legal Services that the transfer of the widening to the City has been registered.

If the Owner's Surveyor determines that the widening condition has already been satisfied, it must be indicated on the Draft Reference Plan and submitted to the City Surveyor for approval. The Committee requires written confirmation from the City Surveyor confirming that the widening is not required.

If the Owner(s) wish to temporarily retain the existing fence within the widening lands until the City develops the widening lands, the Owner(s) shall enter into (and register, if necessary) an encroachment agreement and/or letter of tolerance to the satisfaction of the General Manager, Planning, Infrastructure, and Economic Development. The Committee requires written confirmation from City Legal Services confirming either that a letter of tolerance/encroachment agreement has been executed (and registered if necessary) or will not be required.

3. That the Owner(s) provide proof to the satisfaction of 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 each existing parcel has its own independent private sewage system, storm/foundation drainage, and well and that they do not cross the proposed severance line. If the systems cross the proposed severance line, are not independent, or do not meet the minimum spacing requirements of the Ontario Building Code and City of Ottawa Hydrogeological and Terrain Analysis Guidelines, the Owner(s) will be required to relocate the existing systems or construct new systems, at his/her own cost.
4. That the Owner(s) obtain a Zoning By-law Amendment, satisfactory to 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 retained lands be rezoned to an appropriate zone to ensure compliance for minimum lot area and interior side yard setback, with all levels of appeal exhausted.

5. That the Owner(s) obtain a Zoning By-law Amendment, satisfactory to 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 severed lands be rezoned to create a uniform zone with the recipient lands setback, with all levels of appeal exhausted.
6. 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.
7. 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.

Member J. Chandler dissents on the application.

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 **November 3, 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.

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

File No. / Dossier n°: D08-01-22/B-00233
Owner(s) / Propriétaire(s): Knee Dheep Inc.
Location / Emplacement: 5758 First Line 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.

“Fabian Poulin”

**FABIAN POULIN
VICE-CHAIR / VICE-PRÉSIDENT**

“Terence Otto”

**TERENCE OTTO
MEMBER / MEMBRE**

“Steven Lewis”

**STEVEN LEWIS
MEMBER / MEMBRE**

“Martin Vervoort”

**MARTIN VERVOORT
MEMBER / MEMBRE**

Dissent / Dissidente

**JOCELYN CHANDLER
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
October 14, 2022 / 14 octobre 2022



Michel Bellemare
Secretary-Treasurer / Secrétaire-trésorier