

DECISION

CONSENT

Section 53 of the *Planning Act*

Date of Decision	December 16, 2022
File No(s):	D08-01-22/B-00296
Owner(s):	Luc & Julie Martin
Location:	5134 Piperville Road
Ward:	19 – Cumberland
Legal Description:	Part of Lot 11, Concession 8, Geographic Township of Gloucester
Zoning:	RU
Zoning By-law:	2008-250
Hearing Date:	December 7, 2022

PURPOSE OF THE APPLICATION

- [1] The Owners want to subdivide their property into two separate parcels of land to create one new lot for the future construction of a new municipal transformer station.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owners require the Consent of the Committee for a Conveyance.
- [3] The land to be severed, shown on a sketch filed with the application, will have a frontage of 58.4 metres on Piperville Road, an irregular depth of 152 metres, and a lot area of 16,300 square metres. This parcel is currently vacant and will be known municipally as 5136 Piperville Road.
- [4] The land to be retained, shown on the said sketch, will have a frontage of 98.38 metres on Piperville Road, a depth of 265.4 metres, and an area of 48,881.41 square metres. This parcel contains the existing detached dwelling and accessory structures, known municipally as 5134 Piperville Road.
- [5] The application indicates that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [6] Prior to the Hearing, the Committee received an adjournment request from the City's Planning, Real Estate, and Economic Development Department (PRED), to allow time for the applicant to complete an Environmental Impact Statement (EIS).
- [7] At the hearing, the Committee heard from Barrett Wagar, Agent for the Applicants, who stated he was not in support of the adjournment request and asked that the hearing of the application proceed.
- [8] Also in attendance was Stephan Kukkonen, of PRED, who reiterated the department's request that an EIS be required prior to the hearing of the application, as there are significant natural heritage features on the subject site that would be fragmented by the proposed severance.
- [9] Mr. Wagar explained that the proposed municipal transformer station on the land to be severed will be subject to the *Environmental Assessment Act*, through which a Class EA approval will be required, which itself requires an EIS to be conducted, together with other technical studies.
- [10] The application was stepped down to be heard later in the agenda.
- [11] Upon recall, the Panel Chair administered an oath to Mr. Wagar who confirmed that the statutory notice posting requirements were satisfied. In his presentation to the Committee, Mr. Wagar indicated that the proposed development on the severed land would go through a rigorous study review process and any EIS would exceed the standard required by the City. He further indicated that Hydro Ottawa was willing to take the risk should the EIS not be satisfactory and the severance not perfected.
- [12] Mr. Kukkonen spoke to the request for an Environmental Impact Statement. He highlighted that it would be preferable to have an EIS completed before the Committee's decision on the application. However, if the Applicants are aware of the risk that they might not be able to fulfill this condition, then the planning department is prepared to proceed provided the EIS becomes a condition of approval. Mr. Kukkonen also noted that the City has different environmental considerations than other regulating bodies, so the EIS would require a separate review by the City's environmental planner.
- [13] Also in attendance was Aurel Lebel, resident of 5137 Piperville Road who indicated his written concerns submitted prior to the hearing had been addressed by Fraser Bastien of Hydro Ottawa. Mr. Bastien was also in attendance.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

- [14] The Committee considered any written and oral submissions relating to the application in making its Decision.

- [15] 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):

[16] **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).

[17] The Committee notes that the City's Planning Report raises "concerns" regarding the application, and highlights the potential presence of natural heritage features, and requests that an Environmental Impact Statement be provided prior to hearing the application. However, the Committee finds that it is appropriate to grant an exception in this case because the proposed development will go through a rigorous environmental assessment process.

[18] 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.

[19] THE COMMITTEE OF ADJUSTMENT 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) 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 an appropriate zone to capture the future proposed use, with all levels of appeal exhausted.
2. That the Owner(s) submit a professionally prepared Environmental Impact Study to the satisfaction of **Development Review Manager of the Relevant Branch within Planning, Real Estate, and Economic Development Department, or his/her designate**.

If the report recommends specific mitigation measures the Owner(s) shall 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, Real Estate and Economic Development Department, or his/her designate**, to implement the recommended mitigation measures as described in the approved Environmental Impact Statement.

3. That pursuant to Section 50.1(25)(c) of the *Planning Act* and Annex 1 of the City's current Official Plan and Schedule C16 of the City's new Official Plan, the Owner acknowledges and agrees to convey to the City, at no cost to the City, an unencumbered road widening across the complete Piperville Road frontage of the lands, measuring 13 metres from the existing centreline of pavement/the abutting right-of-way. The exact widening must be determined by legal survey. The Owner shall provide a reference plan for registration, indicating the widening, to the City Surveyor for review and approval prior to its deposit in the Land Registry Office. Such reference plan must be tied to the Horizontal Control Network in accordance with the municipal requirements and guidelines for referencing legal surveys. 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. All costs shall be borne by the Owner.
4. That the Owner enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, which provides the following covenant/notice that runs with the land and binds future Owner(s) on subsequent transfers:

"The City of Ottawa has identified that there is potential and inferred karst topography, organic soils, bedrock outcrops, and thin soils within the area that may require site specific detailed geotechnical engineering solutions to allow for development, the City of Ottawa bears no responsibility, financial or otherwise, to provide solutions to the deficiency, such solutions being the sole responsibility of the home owner."

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

5. That the Owner(s) provide proof to the satisfaction of **Development Review Manager of the Relevant 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 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.

6. 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. 2022-280, as amended. Information regarding the appraisal process can be obtained by contacting the Planner.
7. 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.
8. 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.

"Fabian Poulin"
FABIAN POULIN
VICE-CHAIR

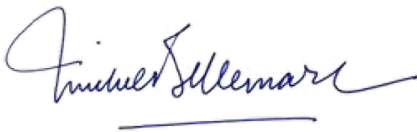
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TERENCE OTTO
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"Steven Lewis"
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MEMBER

"Martin Vervoort"
MARTIN VERVOORT
MEMBER

"Jocelyn Chandler"
JOCELYN CHANDLER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **December 16, 2022**.



Michel Bellemare
Secretary-Treasurer

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 **January 5, 2023**, 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 Ontario Land 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. 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 the applicant, the Minister or a specified person or public body that has an interest in the matter may appeal the decision to the Ontario Land Tribunal. A "specified person" does not include an individual or a community association.

There are no provisions for the Committee of Adjustment or the Ontario Land Tribunal 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.

If a major change to condition(s) is requested, you will be entitled to receive Notice of the changes only if you have made a written request to be notified.

NOTICE TO APPLICANT(S)

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.

Ce document est également offert en français.

Committee of Adjustment
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