

DECISION**CONSENT**Section 53 of the *Planning Act*

Date of Decision	March 10, 2023
File No(s):	D08-01-22/B-00339
Owner(s):	Alain & Denise Quirion
Location:	6682 Fernbank Road
Ward:	21 - Rideau-Jock
Legal Description:	Part of Lot 19, Concession 9, Geographic Township of Goulbourn
Zoning:	RU
Zoning By-law:	2008-250
Hearing Date:	March 1, 2023

PURPOSE OF THE APPLICATION

- [1] The Owners want to subdivide their property into two separate parcels of land to create one new lot for future residential development. The existing dwelling is to remain on the retained lot.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owners require the Consent of the Committee for a Conveyance.
- [3] The severed land, shown as Part 1 on a draft 4R plan filed with the application, will have a frontage of 60.96 metres, an irregular depth of 121.9 metres and will contain a lot area of 2.1 acres. This parcel is vacant and will be known municipally as 6700 Fernbank Road.
- [4] The retained lands, shown on said draft plan, will have a frontage of 103.92 metres, a depth of 645 metres and will contain a lot area of 44 acres. This parcel contains the existing dwelling which is to remain and is known municipally as 6682 Fernbank Road.
- [5] The application indicates that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [6] The Acting Panel Chair administered an oath to Rod Price, Agent for the Owners, who confirmed that the statutory notice posting requirements were satisfied.
- [7] In addressing the irregular shape of the severed lands, Mr. Price explained that the dimensions and shape of the lot was supported by the findings of an Environmental Impact Statement and would accommodate a functional building envelope. He also noted that there would be no further subdivision of the land, and therefore the irregular shape was unlikely to pose a problem for future development.
- [8] Mr. Price questioned the need for the conveyance of land to the City for a road widening across both the severed and retained lands, as requested by the City as a condition of consent. It was his opinion that the requirement for a road widening should be restricted to the severed land only.
- [9] City Planner Jack Graham summarized his concerns with the shape of the proposed lot and submitted that a more regular shape would be preferable for future planning purposes.
- [10] The Committee agreed that any forthcoming approval would be subject to all conditions requested in the City's Planning Report, except for the condition requiring a revised survey or sketch, which would not be imposed.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

- [11] The Committee considered all written and oral submissions relating to the applications in making its Decision.
- [12] 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):

[13] 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).

- [14] The Committee notes that the City's Planning Report raises "minor concerns" with the application, specifically concerning the shape of the severed lot. However, the Committee finds that the irregular shape of the lot is justified in this case and will have no impact on future development.
- [15] 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.

[16] 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) enter into an 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**, which provides the following covenant/notice that runs with the land and binds future Owner(s) on subsequent transfers:

“The City of Ottawa does not guarantee the quality or quantity of the groundwater. If, at some future date, the quality or the quantity of the groundwater becomes deficient, the City of Ottawa bears no responsibility, financial or otherwise, to provide solutions to the deficiency, such solutions being the sole responsibility of the homeowner.”

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

2. 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 are potential organic soils and karst topography 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 homeowner.”

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

3. That the Owner(s) acknowledges and agrees to convey to the City, at no cost to the City, and unencumbered road widening across the complete Fernbank

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.

The Owner is advised that the required road widening described in 1a above may be reduced or waived under certain situations, as described in Schedule C16 s.2.1.1 (c) of the Official Plan or where the right-of-way requirement exceeds the front yard setback or corner side yard setback, or where an existing building or structure encroaches into the required road widening, as of the day the Consent to Sever application was deemed complete, as applicable, and determined by the Director, Transportation Planning, Planning, Real Estate and Economic Development Department.

4. The Owner acknowledges and agrees to enter into a permanent Encroachment Agreement to permit the encroachment of the fence constructed within the City's Fernbank Road right-of-way. Furthermore, the Owner requires that a copy of the Encroachment Agreement and written confirmation from **City Legal Services** that it has been registered on title. Moreover, the Owner shall, at its expense, provide a reference plan for registration, indicating the approved encroachments, and the Owner shall submit the draft reference plan to the **City's Surveyor** for review and approval prior to its deposit in the Land Registry Office. The Owner further acknowledges and agrees that the cost of preparation and registration of the Encroachment Agreement will be borne by the Owner
5. That the Owner, or any subsequent owners, provides written confirmation acknowledging that the private approach, including temporary construction access to the severed land, shall be designed and located in accordance with and shall comply with the City's Private Approach By-Law, being By-law No. 2003-447, as amended, and shall be subject to approval of the **Right-of-Way Management Department and the General Manager, Planning, Real Estate and Economic Development**. Furthermore, if required, the Owner shall submit a letter of written permission from the area **Conservation Authority**, which confirms that the construction of the temporary or permanent private approach conforms to the legal standards set out in the Conservation Authority Acts.
6. That the Owner(s) provide evidence to the satisfaction of both the Chief Building Official and **Development Review Manager, Planning, Real Estate and Economic Development Department, or designates**, that both severed

and retained parcels have their own independent water, sanitary and storm connection as appropriate, and that these services do not cross the proposed severance line and are connected directly to City infrastructure. Further, the Owner(s) shall comply to 7.1.5.4(1) of the Ontario Building Code, O. Reg. 332/12 as amended. If necessary, a plumbing permit shall be obtained from Building Code Services for any required alterations

7. That the Owners provide a report, to the satisfaction of the City of Ottawa, demonstrating the adequacy of the aquifer with respect to quality and quantity to support the proposed development, failing which the Owners construct a new well on the severed lot and provide a report, to the satisfaction of the City of Ottawa, to demonstrate the adequacy of the aquifer with respect to quality and quantity to support the proposed development. The report must include a septic impact assessment to evaluate the water quality impact of the on-site septic system on the receiving aquifer.

The Owners' report must demonstrate the following to the City of Ottawa:

- a) That the construction of any new well on the severed parcel is in accordance with the Ministry of the Environment, Conservation and Parks
- b) That the quality of the water meets the Ministry of the Environment, Conservation and Parks Regulations, Standards, Guidelines and Objectives;
- c) That the quantity of water meets all the Ministry of the Environment, Conservation and Parks requirements.
- d) That the septic impact assessment meets the Ministry of the Environment, Conservation and Parks requirements.

A qualified Professional Engineer or Professional Geoscientist must prepare the report. It is the Owner's responsibility to coordinate the person drilling a new well, if required, and the professional noted herein in order to properly satisfy this condition.

If the accepted report recommends specific mitigation measures or design requirements, the Owners shall enter into a Development Agreement with the City, at the expense of the Owners, which is to be registered on the title of the property, which includes those recommendations. In instances where the subject site has hydrogeologically sensitive soils, the drilling of a well or the conveyance of a 30-centimetre reserve may be required. Both the report and any required Development Agreement shall be prepared to the satisfaction of **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate.**

The Report shall be prepared as per Procedure D-5-4 “Technical Guideline for Individual On-Site Sewage Systems: Water Quality Impact Risk Assessment” and Procedure D-5-5 “Technical Guideline for Private Wells: Water Supply Assessment”.

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. 2022-280, as amended. Information regarding the appraisal process can be obtained by contacting the Planner.
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 his/her designate**, that the Owners abide by the recommendations and mitigation measures in the Environmental Impact Study provided by Muncaster Environmental Planning Inc. dated November 12, 2022.
10. 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.
11. 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 the Conveyance for which the Consent is required.

Absent
FABIAN POULIN
VICE-CHAIR

Absent
TERENCE OTTO
MEMBER

"Steven Lewis"
STEVEN LEWIS
MEMBER

"Martin Vervoort"
MARTIN VERVOORT
ACTING CHAIR

"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 March 10, 2023.



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 **March 30, 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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