

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

Date of Decision	March 24, 2023
File No(s):	D08-01-22/B-00366
Owner(s):	Estate of Stirling Miller Barr
Location:	3901 John Shaw Road
Ward:	5 – West Carleton-March
Legal Description:	East ½ of Lot 12, Concession 7, Geographic Township of Fitzroy
Zoning:	AG
Zoning By-law:	2008-250
Hearing Date:	March 15, 2023

PURPOSE OF THE APPLICATION

- [1] The Owner wants to subdivide the property into two separate parcels of land to create a new lot for a surplus farm dwelling.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Consent of the Committee for Conveyance.
- [3] The severed land, shown on a sketch filed with the application, will have a frontage of 98 metres, a depth of 85 metres, and a lot area of 0.83 hectares. This parcel contains the existing dwelling, detached garage, barn and sheds (now storage), and is known municipally as 3901 John Shaw Road.
- [4] The retained land, shown on said sketch, has a frontage of 455 metres and a lot area of 39.5 hectares. This parcel contains an existing drive shed, but otherwise will be vacant for continued agricultural purposes. It will be known municipally as 3955 John Shaw Road.
- [5] The application indicate that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [6] At the hearing on March 1, 2023, the Committee heard from Daniel Mayo, Agent for the Applicant, who stated that the public notification sign had not been posted as the requirements of the *Planning Act*. With the concurrence of all parties the application was adjourned to March 15, 2023, to allow for the sign to be posted the required number of days.
- [7] At the hearing on March 15, 2023, the Panel Chair administered an oath to Alyssa Barr, representing the Owner/Applicant, who confirmed that the statutory notice posting requirements were satisfied.
- [8] Mr. Mayo questioned the need for the conditions requested by the City relating to the road widening, the rezoning of the retained lands and the confirmation of the accessory structure being Zoning By-law compliant. In his opinion, these conditions were onerous on the Applicant.
- [9] In response to Mr. Mayo's questions, City Planners Luke Teeft and Sean Harrigan explained that John Shaw Road is a collector road, and the City can request a road widening along the entire subject property. Modifications to the extent of widening would be considered based on site conditions, including the dwelling's proximity to John Shaw Road. The condition requesting the rezoning of the retained lands was requested to restrict any future residential development. Mr. Teeft noted that the City had some concerns regarding the accessory structure on the retained parcel, but these concerns could be addressed with the requested condition. Also, a photograph demonstrating the shed is not used as a barn would be sufficient to fulfill the requested condition.
- [10] The Committee agreed that any approval would be subject to all conditions requested in the City's Planning Report with the understanding that condition 2 (potential sensitive marine clays) would apply to the severed land only and that road widening condition 5 would be as determined to be applicable by the City's Director, Transportation Planning.

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):

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).

[13] 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.

[14] 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 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 has identified that there are potential sensitive marine clays and organic 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 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) obtain a Zoning By-law Amendment, satisfactory to the **General Manager of the Planning, Infrastructure and Economic Development Department, or his/her designate**, to be confirmed in writing from the Department to the Committee, that re-zones the retained lands to prohibit residential development, with all levels of appeal exhausted.
4. That the Owner(s) provide evidence 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 be confirmed in writing from the Department to the Committee, that the accessory structure is zoning compliant or that it has been demolished in accordance with the demolition permit, or relocated in conformity with the Zoning By-Law.
5. That the Owner acknowledges and agrees to convey to the City, at no cost to the City, an unencumbered road widening across the complete 553 metre frontage of the lands on John Shaw Road, measuring 13 metres from the existing centerline 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.
 - a) The Owner is advised that the required road widening described in Condition #5 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.

6. That the Owner(s) acknowledges and agrees to enter into a permanent Encroachment Agreement to permit the encroachment of any features constructed within the City's 26 metre 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.
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 the Conveyance for which the Consent is required.

"Fabian Poulin"
FABIAN POULIN
VICE-CHAIR

"Terence Otto"
TERENCE OTTO
MEMBER

"Steven Lewis"
STEVEN LEWIS
MEMBER

"Martin Vervoort"
MARTIN VERVOORT
MEMBER

Absent
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 24, 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 **April 13, 2023**, delivered by email at cofa@ottawa.ca and/or by mail or courier to the following address:

Secretary-Treasurer, Committee of Adjustment,
101 Centrepointhe 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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