

Committee of Adjustment
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City of Ottawa | Ville d'Ottawa
Comité de dérogation



Consent and Minor Variance
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
Panel 2

Site Address:	28 Oakridge Boulevard
Legal Description:	Part of Lot 32, Concession 1 (Rideau Front), Geographic Township of Nepean
File No.:	D08-01-22/B-00373, D08-01-22/B-00374, D08-02-22/A-00350 & D08-02-22/A-00351
Date: April 14, 2023	Hearing Date: April 19, 2023
Planner:	Cass Sclauzero
Official Plan Designation:	Outer Urban Transect, Neighbourhood
Zoning:	R1FF

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **has no concerns** with the application.

DISCUSSION AND RATIONALE

At its hearings on February 1 and March 15 2023, the Committee granted an adjournment of the application so that the agent could provide Forestry and Planning staff with an updated Tree Information Report (TIR) and/or make revisions to the application such that a number of trees subject to the Tree Protection By-law could be retained. Retention of these trees would better align the proposed development with Official Plan policy related to retention of the urban forest canopy.

Sections 53 (12) and 54 (6) of the *Planning Act*, R.S.O. 1990, c.P.13 permit the criteria under Section 51 (24) of the *Act* to be considered by a committee of adjustment when determining whether provisional consent is to be granted. Among other evaluation criteria under S. 51 (24), (c) speaks to regard for conformity with an official plan.

The property is designated Neighbourhood within the Outer Urban Transect of the Official Plan (OP). Although the zoning continues to restrict new residential



development to detached dwellings only, Section 5.3 of the OP encourages increased density in Neighbourhoods. Creating two new lots from one large lot supports this policy. Infill development within the built-up urban area is in keeping with the growth management strategy under Section 2.2.1 that includes a 60 per cent intensification target by 2046.

The property is zoned Residential First Density, subzone FF. The requested minor variances to permit reduced lot widths are consistent with the intent of the R1FF zone, which are, among others, to “restrict building form to detached dwellings” and “regulate development in a manner that is compatible with existing land use patterns so that the detached dwelling, residential character of a neighbourhood is maintained or enhanced”. A variance to permit reduced lot width and area is indeed minor in nature and would still provide for appropriate development of one detached dwelling on each lot. Despite the reduction in lot width, both lots exceed the minimum lot area requirements and no other variances are being sought to reduce setbacks or increase lot coverage.

Staff initially expressed concerns that variances to permit reduced lot width and area, and the resulting siting of the proposed dwellings, location and size of the proposed driveway, resulted in removal of most trees from the site. Staff were of the opinion, therefore, that the consent and minor variance applications were not in conformity with Section 4.8.2 of OP related to maintaining the urban forest canopy, or keeping with the intent of the Zoning By-law.

The agent has since revised their plans to relocate the dwellings and reconfigure the driveways to minimize the impact to Tree 1 and staff are satisfied that the consent application satisfies evaluation criteria under Section 51 (24)(c) of the *Planning Act* and that the requested minor variances satisfy the “four tests”.

While staff still note concerns with the proposed removal of trees in the rear yard, the proposed impact to these trees is not related to the consent or minor variances being sought and any request for their removal will be evaluated by Forestry staff during the building permit application phase.

ADDITIONAL COMMENTS

Stormwater Management

The City engaged Robinson Consultants Inc. (RCI) to complete the “City View and Lakeview Drainage Study: Existing Conditions Report”, dated April 2022. An update to this report, titled “City View and Lakeview Drainage Study: Final Report”



and dated November 2022, was provided to City staff in December 2022 and outlined existing conditions and remediation strategies to return the drainage system to proper operational capacity. The RCI report and City engineering staff specify that the predominant cause of drainage issues within City View relate to blocked culverts and ditches as a result of lack of maintenance and modifications made by area residents (i.e. extension of culverts, or installing ditch piping likely for the benefit of flat front yards). These causes have resulted in a loss of stormwater conveyance and storage volume within the ditches. The City's next steps include a detailed design and phased implementation of that detailed design over a 10-year timeline, as budgets permit. The RCI report does not, however, provide recommendations for infill development within City View.

The City acknowledges that the increase in imperviousness related to infill development plays a role in exacerbating the existing drainage problems within City View. City staff have discussed these problems and potential solutions among various stakeholder departments, and found that motion PLC-ARAC 2021-5-53, presented by Councillor Brockington at the October 27, 2021 City Council meeting, specifically relates to imposing stormwater management requirements on infill development in areas where the existing ditch systems are underperforming. This motion was subsequently carried by Council and as such, the City recommends inclusion of a stormwater management condition on all applications to the Committee in the City View area.

Presently, the City imposes requirements for ditch reinstatement, where possible, through Grading and Servicing review of Consent and Building Permit applications. Inspections are also conducted during construction to ensure ditches are reinstated per the approved plans. Further, City Council approved an update to the City's Ditch Alteration Policy in July 2022. The update alters the means by which the City may address unauthorized ditch alterations, now permitting such alterations to be enforced under the Use and Care of Roads By-law and/or Site Alteration By-law. The policy update also clearly outlines that the only options for legal ditch alteration are either by Local Improvement or Development Agreement processes.

Forestry

The plans as revised require the removal of 8 of the 15 existing trees on site, though 13 are still proposed for removal. Significant modifications have been made to the proposed driveway and building location of 28 Oakridge Boulevard to allow for retention of Tree 1.

Five trees in the rear yard are not impacted by the proposed development but are



proposed for removal due to safety concerns; no further detail has been provided for justification. The condition of these trees will be reviewed by Forestry Services, but permits will not be issued if there is no justification of safety concerns.

Permission must be provided from shared owners for the removal of any jointly-owned trees, otherwise permits cannot be issued and plans must be revised. Removal of all proposed trees would require the planting of 25 compensation trees for the significant loss of canopy cover. The scale of tree loss proposed is not in keeping with policy 4.8.2 of the Official Plan which strongly prioritizes tree retention through development to meet the goal of 40% canopy cover, and much of this loss is avoidable with proper planning and assessment of tree risk.

The Tree Information Report plan must be further updated to clearly show which trees are to be retained and which are to be protected, along with the location of tree protection fencing; additional information must also be provided regarding the condition of the trees in the rear yard to evaluate justification for removal.

CONDITIONS OF APPROVAL

The Department further requests that the following conditions be imposed on the consent application if approved:

1. That the Owner(s) provide evidence that payment has been made to the City of Ottawa for cash-in-lieu of the conveyance of land for park or other public recreational purposes, plus applicable appraisal costs. The value of 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. Information regarding the appraisal process can be obtained by contacting the Planner.
2. Prior to the issuance of a building permit, the Owner(s) shall enter into a Development Agreement with the City of Ottawa, at the expense of the Owner/Applicant(s), and to the satisfaction of the General Manager of the Planning, Real Estate and Economic Development Department, or his/her designate. A development agreement is to be registered on Title of the property.
 - a) The Owner(s) agrees to provide a revised site and servicing plan with the driveways, services, retaining walls, projections, and grading situated to reduce any excavation within the Critical Root Zones of protected trees (specifically Trees 1 and 4), 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. The Tree Information Report must be revised to show the accurate tree protection areas and mitigation recommendations to reflect these changes, and to provide a detailed assessment of the condition of trees in the rear yard.

- b) The Owner(s) agrees to provide proof of the existing services being capped outside of the Critical Root Zone of the protected tree, as part of the demolition process. The sanitary service, and storm service if present, must be abandoned and capped outside of the Critical Root Zone of the protected tree(s), within private property. This must be clearly demonstrated on the Existing Conditions, Removals, and Decommissioning plan.
- c) The Owner(s) agrees to confirm ownership of Trees 6 and 8. If Trees 6 and 8 are determined to be boundary or adjacent trees, the Owner(s) shall provide a signed letter of permission from the joint owner, for the proposed removal or operations impacting the tree(s). The applicant acknowledges that a tree removal permit cannot be issued without the permission of all owners of a tree, and that the development plan must be revised to allow for the retention and protection of the adjacent or boundary trees if this letter cannot be produced.
- d) The Owner(s) agrees to prepare and submit a planting plan showing the required number of compensation trees 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, and to provide securities in the amount of \$400 per tree for a period of one year from the issuance of the final occupancy permit. Compensation for any trees which cannot be planted on site will be paid to Forestry Services with the tree permit application. The Owner(s) agrees that the security shall be returned to the original payee only upon the City having received a report from an arborist or appropriate professional confirming that all replacement trees are in good health; any of the replacement trees which have died or are in poor condition must be replaced.
- e) The Owner(s) agree to provide securities for a period of three years following the completion of construction, which is equivalent to the value of the trees to be protected (Trees 1 and 4). The Owner(s) agree that the security shall be returned to the owner only upon the City having



received a report from an arborist or appropriate professional confirming for both Trees 1 and 4 that they are in good health and condition, and remain structurally stable. The Owner(s) acknowledge and agree that if, in the opinion of the City Forester and/or the Development Review Manager of the relevant Branch within Planning, Real Estate, and Economic Development, the report indicates that either or both Trees 1 or 4 are declining and must be removed, the Security for that tree will be forfeited.

3. That the Owner(s) provide proof to the satisfaction of the Development Review Manager of the West 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 existing dwelling has been removed, that the existing sewer services are capped at the sewer and that the existing water service is blanked at the watermain.
4. That the Owner(s) provide evidence (servicing plan), to the satisfaction of the Development Review Manager of the West 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 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 Real Estate. 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 West 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 has been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law.
6. That the Owner(s) 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 West Branch within Planning, Real Estate 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 West Branch within Planning, Real Estate and Economic Development Department, or his/her designate.

7. 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 West Branch within Planning, Real Estate and Economic Development Department, or his/her designate, to require that an asphalt overlay will be installed, at the Owner(s) expense, on Oakridge Boulevard, fronting the subject lands, over the entire public driving surface area within the limits of the overlay, if the approved Site Servicing Plan shows three or more cuts within the pavement surface. The overlay must be carried out to the satisfaction of the Development Review Manager of the West Branch within Planning, Real Estate 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.

If the Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate, determines that a Development Agreement requiring an asphalt overlay is no longer necessary, this condition shall be deemed as fulfilled.

8. That the Owner(s) shall obtain a Private Approach Permit to legally establish driveway access for each of the newly created lots from the Right of Way Management Department. In addition, the driveways shall be constructed in accordance with the provisions of By-law No. 2003-447 Private Approach By-law. Furthermore, the Owner(s) shall obtain road cut permits in accordance with the provisions of By-law 2003-445 being the City's Road Activity By-law or a successor by-law thereto.
9. That the Owner(s) submit a Stormwater Management Brief prepared by a Professional Civil Engineer licensed in the Province of Ontario, for approval by the Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate, to be confirmed in writing from the Department to the Committee, demonstrating a design for post-development stormwater peak flows that are controlled to pre-development peak flows for all stormwater events up to and including the 100 year storm event. The Owner(s) also agrees to enter into a Development Agreement with the City to implement any proposed



stormwater system including posting required securities. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.

If applicable, the Owner(s) must obtain an Environmental Compliance Approval from the Ontario Ministry of Environment, Conservation and Parks and, if required by the Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate, approval of the Committee to grant easement(s) for access and maintenance of the stormwater system or register a Joint Use and Maintenance Agreement on title of the properties, all at the Owner(s) costs.

A handwritten signature in black ink, appearing to read "C Schlauzero".

Cass Schlauzero
Planner I, Development Review,
East Branch
Planning, Real Estate and Economic
Development Department

A handwritten signature in blue ink, appearing to read "Lisa Stern".

Lisa Stern, MCIP, RPP
Planner III (A), Development Review,
West Branch
Planning, Real Estate and Economic
Development Department