

DECISION CONSENT/SEVERANCE

Date of Decision	May 12, 2023
File No(s):	D08-01-23/B-00092 and D08-01-23/B-00093
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Albert Veninga
Property Address:	1867 Donald B. Munro Drive
Ward:	5 – West Carleton-March
Legal Description:	Part of Lot 26, Concession 6, Geographic Township of Huntley
Zoning:	AG2
Zoning By-law:	2008-250
Hearing Date:	May 3, 2023

APPLICANT PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [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 a Conveyance and a Grant of Easement/Right-of-way.
- [3] The land to be severed, shown on a sketch filed with the application, will have a frontage of 38 metres on Donald B. Munro Drive, a depth of 524 metres, and a lot area of 4 hectares. This parcel contains the existing dwelling, three accessory structures and four silos and is known municipally as 1867 Donald B. Munro Drive.
- [4] The retained land, shown on said sketch, will have a broken frontage of 271 metres on Donald B. Munro Drive and 10 metres on Shanna Road, a depth of 1349 metres, and a lot area of 34 hectares. This parcel contains vacant farmland and will be known municipally as 1855 Donald B. Munro Drive.
- [5] It is also proposed to create an easement for overhead utilities over a portion of the retained land in favour of the severed land (D08-01-23/B-00093), as shown on a sketch filed with the application. The easement land will have a frontage of 6 metres on Donald B. Munro Drive, a depth of 313 metres, and an area of 0.2 hectares.

- [6] The applications indicate that the property is subject to an existing utility easement as set out in Instrument HU10467, in favour of The Hydro-Electric Power Commission of Ontario.
- [7] The applications indicate that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [8] On May 2, 2023, the Committee received a revised City Planning Report requesting an additional condition to address the location of an existing accessory structure (shed) on the severed land and its setback to the proposed lot line, to verify Ontario Building Code compliance. On May 3, the Committee received a written request for adjournment from Jeff Shipman, Agent for the Owner, to allow more time for consultation with City staff regarding their requested conditions.
- [9] The Committee heard from Mr. Shipman, who reiterated his request for adjournment. As an alternative, he requested that the above-noted condition be modified to require a development agreement with the City to prohibit future construction on that portion of the retained land, to mitigate concerns regarding limiting distance along the north property line. The Committee agreed to proceed with the applications, which were stepped down in the agenda.
- [10] Upon recall, the Panel Chair administered an oath to Mr. Shipman, who confirmed that the statutory notice posting requirements were satisfied.

Oral Submissions Summary

- [11] Mr. Shipman provided an overview of the application and responded to questions from the Committee.
- [12] City Planner Jack Graham submitted that a development agreement prohibiting construction on the retained land could address the City's concerns but indicated that he would not be comfortable removing the condition as worded in the revised report without consulting with Building Code Services staff. He also indicated that a sketch showing the approximate location of existing services and a scoped EIS would be satisfactory to the City and explained that the intent of the request for a revised sketch was to reduce the size of the severed parcel, to minimize the fragmentation of natural features.
- [13] The Committee also heard from Brittany Moy of the Mississippi Valley Conservation Authority, who indicated she had no concerns with the application.
- [14] The Committee agreed unanimously that, if the applications were approved, they would be subject to a revised condition requiring the Owner to enter into a development agreement with the City, as proposed by Mr. Shipman, and a revised severance sketch would not be required.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Applications Must Satisfy Statutory Tests

[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):

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).

Evidence

[16] Evidence considered by the Committee included any oral submissions made at the hearing, as highlighted above, and the following written submissions held on file with the Secretary-Treasurer and available from the Committee Coordinator upon request:

- Application and supporting documents, including a cover letter, plans, aerial images and photographs.
- City Planning Report received April 27, 2023, with some concerns.
- Revised City Planning Report received May 2, 2023, with some concerns.
- Applicant email dated May 2, 2023, requesting adjournment
- Mississippi Valley Conservation Authority email dated April 26, 2023, with no objections.
- Hydro Ottawa email dated April 26, 2023, with no comments.
- Hydro One email dated April 28, 2023, with no comments.
- Ministry of Transportation email dated April 25, 2023, with no comments.

Effect of Submissions on Decision

[17] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.

[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 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 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 acknowledges and agrees to convey to the City, at no cost to the City, an unencumbered road widening across the complete frontage of the lands, measuring 13 meters from the existing centerline of pavement/the abutting right-of-way along Donald B. Munro Drive and Shanna Road, pursuant to Section 50.1(25)(c) of the Planning Act and Schedule C16 of the City's new Official Plan. 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.
3. 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.

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 restricts residential development on the retained lands and permits a reduced lot width on the severed lands, with all levels of appeal exhausted.
5. That the Owner(s) provide proof, to the satisfaction of the Development Review Manager of the Relevant Branch within Planning, Infrastructure and Economic Development Department, or his/her designate, of the purchase of the lands to be consolidated by the farm operator or a legally binding agreement of purchase and sale.
6. That the Owner(s) prepares and submits a scoped Environmental Impact Study (EIS) to the satisfaction of the Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate. If the accepted report recommends specific mitigation measures or other requirements, the Owner shall enter into a Development Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the General Manager of the Planning, Infrastructure and Economic Development Department, or his/her designate, which is to be registered on the title of the property, which includes those recommendations.
7. 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, to prohibit any future construction on the portion of the retained land to the north of severed land.
The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.
8. 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.
9. 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 and Grant of Easement/ Right-of-way 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 **May 12, 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 **June 1, 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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