

**DECISION
CONSENT/SEVERANCE**

Date of Decision	September 15, 2023
Panel:	3 - Rural
File No(s):	D08-01-23/B-00183
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owners/Applicants:	Bradley Angelo, Philip Derick and Mary Derick
Property Address:	5482 & 5486 Old Richmond Road
Ward:	21 - Rideau-Jock
Legal Description:	Part of Lot 23, Concession 5 (Rideau Front), Geographic Township of Nepean
Zoning:	V1J
Zoning By-law:	2008-250
Hearing Date:	September 5, 2023, in person and by videoconference

APPLICANTS' PROPOSAL AND 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.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owners require the Committee's consent to sever.
- [3] The severed property is shown as Parts 3 and 4 on the Draft 4R Plan filed with the application. This lot will have a frontage of 25.14 metres, a depth of 130.47 metres, and a lot area of 0.78 hectares. This Parcel will be known municipally as 8 Khymer Court.
- [4] The retained property is shown as Parts 1 and 2 on said Draft 4R Plan. This lot will have a frontage of 40.54 metres on Old Richmond Road and 111.94 metres on Khymer Court, a depth of 99.18 metres, and a lot area of 0.4 hectares. This parcel will be known municipally as 5486 Old Richmond Road.

PUBLIC HEARING

Oral Submissions Summary

- [5] Jacob Bolduc, Agent for the Applicants requested that the Committee not impose the condition outlined in the City's Planning Report requiring a Mineral Resource Impact Assessment (MRIA), as this report had already been submitted as part of the application materials. Mr. Bolduc explained that any noise impact related to the proximity to the mineral extraction site would be identified through the noise study, also requested as a condition in the City's Planning Report, and the study would be the subject of a development agreement.
- [6] City Planner Jack Graham requested that the condition remain. Mr. Graham stated that the City did review and provide comments concerning the initial MRIA prepared by the Applicants. Mr. Graham stated that he would like to see the MRIA revised to incorporate the comments from the first review and to address the conclusions of the noise study. The Committee agreed that any approval would be subject to all conditions requested in the City's Planning Report

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Tests

- [7] 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

[8] Evidence considered by the Committee included all 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, Parcel Abstract, and a sign posting declaration.
- City Planning Report received August 31, 2023, with no concerns.
- Ottawa International Airport Authority email dated August 22, 2023, with no objections.

- Hydro Ottawa email dated September 1, 2023, with comments.

Effect of Submissions on Decision

- [9] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [10] The Committee notes that the City's Planning Report raises "no concerns" regarding the application.
- [11] 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.
- [12] 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 Owners 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, as amended. Information regarding the appraisal process can be obtained by contacting the Planner.
 2. That That the Owner enter into an Agreement with the City, at the expense of the Owners 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 Owners 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.

3. That the Owner enter into an Agreement with the City, at the expense of the Owners and to the satisfaction of **Development Review Manager of the Rural 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 Owners on subsequent transfers:

“The City of Ottawa has identified that there are potential 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 home owner.”

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

4. 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 17 meters from the existing centerline of pavement/the abutting right-of-way along Old Richmond Road and 10 meters from the existing centerline of pavement/the abutting right-of-way along Khymer Court, 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 Owners 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 Owners 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.
5. That the Owner convey a 5 m x 5 m corner sight triangle located at the intersection of Old Richmond Road and Khymer Court to the City, with all costs to be borne by the Owners, to the satisfaction of the Surveys and Mapping Branch of the City. This area will be free of all structures, plantings, etc. and will allow a proper sighting distance for motorists when performing turning movements within the intersection. The Committee must receive written confirmation from City Legal Services that the transfer of the lands to the City has been registered.
6. That the Owners provide a Mineral Resource Impact Assessment report, to the satisfaction of the **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, demonstrating that the existing mineral aggregate operation, and potential future expansion of the operation in depth or extent,

will not be affected by the development. The report must include a review of the impact of the development upon the current mineral extraction or future expansion. The report shall be prepared in accordance with the Province of Ontario's Aggregate Resource Policies and Procedures and the City of Ottawa Official Plan.

7. The Owners shall prepare a noise attenuation study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of the **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate.** The Owners shall enter into an agreement with the City that requires the Owner to implement any noise control (and vibration if applicable) attenuation measures recommended in the approved study. 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 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:

- That the construction of any new well on the severed parcel is in accordance with the Ministry of the Environment, Conservation and Parks
- That the quality of the water meets the Ministry of the Environment, Conservation and Parks Regulations, Standards, Guidelines and Objectives.
- That the quantity of water meets all the Ministry of the Environment, Conservation and Parks requirements.
- 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 Owners 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 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 Rural Branch within Planning, Real Estate and Economic Development Department, or his/her designate.**

9. That the Owners prepares and submits an 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 Owners 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.
10. That the Owners 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 Owners file with the Committee, the “electronic registration in preparation documents” for a Conveyance for which the Consent is required.

“William Hunter”
WILLIAM HUNTER
VICE-CHAIR

“Terence Otto”
TERENCE OTTO
MEMBER

Absent
BETH HENDERSON
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 **SEPTEMBER 15, 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 **OCTOBER 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
City of Ottawa
Ottawa.ca/CommitteeofAdjustment
cofa@ottawa.ca
613-580-2436



Comité de dérogation
Ville d'Ottawa
Ottawa.ca/Comitedederogation
cded@ottawa.ca
613-580-2436