

**DECISION
CONSENT/SEVERANCE**

Date of Decision	October 13, 2023
Panel:	2 - Suburban
File No.:	D08-01-23/B-00221
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner/Applicant:	2710390 Ontario Inc.
Property Address:	1704 Boyer Road
Ward:	2 – Orleans West-Innes
Legal Description:	Lots 4 and 5, Concession 2 (Ottawa Front) Geographic Township of Gloucester
Zoning:	R1W
Zoning By-law:	2008-250
Hearing Date:	October 3, 2023, in person and by videoconference

APPLICANT PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owner wants to subdivide their property into two parcels of land and construct two new single detached dwellings with secondary dwelling units. The existing dwelling and garage will be demolished.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner/Applicant requires the Committee's consent to sever.
- [3] The severed lot is shown as Part 1 on the survey plan filed with the application. This lot will have a frontage of 11.43 metres, a depth of approximately 56.89 metres, and an area of 649.8 square metres. This lot will be known municipally as 1702 Boyer Road.
- [4] The retained lot is shown as Part 2 on said survey plan, and will have a frontage of 11.43 metres, a depth of approximately 56.83 metres, and an area of 648.5 square metres. This lot will be known municipally as 1704 Boyer Road.

PUBLIC HEARING

Oral Submissions Summary

- [5] Jessica D'Aoust, Agent for the Applicant, provided an overview of the application, noting that both proposed lots exceed the requirements of the Zoning By-law for lot width and lot area, and responded to questions from the Committee.

- [6] City Planner Jerrica Gilbert stated that, prior to the hearing, the Applicant had provided the revised Tree Information Report required by condition 4 of the City's Planning Report, and therefore requested that the condition be amended to require that services and other features be located as shown on the revised site plan and Tree Information Report.
- [7] Ms. D'Aoust agreed to the amendment of condition 4 and the other requested conditions of provisional consent.
- [8] The Committee noted that it had received two letters in opposition to the application from area residents, both highlighting concerns over the compatibility of the proposal with the character of the neighbourhood. In response, Jerrica Gilbert explained that the proposal is in keeping with the infill and intensification objectives of the City's Official Plan and is compatible with existing development in the area, particularly on adjacent streets. In addition, Ms. D'Aoust highlighted that the proposed lots are similar in width to existing lots on the east side Boyer Road and reiterated that they exceed the minimum width and area prescribed by the Zoning By-law for lots in this area.
- [9] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Tests

- [10] 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

[11] 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, Tree Information Report, Parcel Register, photo of the posted sign, and a sign posting declaration.
- City Planning Report received September 28, 2023, with no concerns.

- Rideau Valley Conservation Authority email dated September 27, 2023, with no objections.
- Hydro One email dated September 28, 2023, with no comments or concerns.
- Ministry of Transportation email dated September 28, 2023, with no comments.
- R. Cormier & B. Cormier email dated October 1, 2023, with objections.
- A. Page email dated September 29, 2023, with objections.

Effect of Submissions on Decision

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

[13] The Committee notes that the City's Planning Report raises "no concerns" regarding the application.

[14] 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.

[15] 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 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 the Owner provide evidence to the satisfaction of the Chief Building Official, or their designate, to be confirmed in writing from the Department to the

Committee, that the existing house and accessory structure has been demolished or relocated under the authority of a building permit.

3. That the Owner provide evidence to the satisfaction of both the Chief Building Official and Development Review Manager, Planning, Real Estate and Economic Development Department, or their 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.
4. That the Owner agree to provide a Grading and Servicing Plan showing that proposed features such as services, retaining walls, driveway projections, etc., will be designed to allow for the retention and protection of existing trees, as detailed in the revised site plan accompanying this application and in the Tree Information Report prepared by Dendron Forestry Services on October 2, 2023.
5. That the Owner provide a combined Grading and Drainage Plan and Site Servicing Plan including, where applicable, the tree locations and protection recommendations from the approved Tree Information Report to the satisfaction of the Managers of the relevant branches of Planning, Real Estate, and Economic Development, or their designate. The plans can be shown on one sheet or multiple sheets, but must include the following information:
 - a. The Grading and Drainage Plan must be prepared by a relevant professional: Professional Engineer (P.Eng.), Certified Engineering Technologist (CET), Ontario Land Surveyor (OLS), Professional Landscape Architect (OLA), or Professional Architect (OAA) and adhere to the following:
 - i. Minimum Grading and Servicing Plan Specifications Infill Serviced Lots.
 - ii. City of Ottawa Standard Drawings, By-laws, and Guidelines, as amended.
 - b. The Site Servicing Plan must be prepared by a relevant professional: Professional Engineer (P.Eng.), Certified Engineering Technologist (CET), or Ontario Land Surveyor (OLS) and adhere to the requirements as noted for the Grading and Drainage Plan.
 - c. In the case of a vacant parcel being created, the plan(s) must show a conceptual building envelope to establish that the lot can be graded to a sufficient and legal outlet, has access to services with adequate

capacity, and follows the recommendations of the Tree Information Report.

- d. The following information from the Tree Information Report must be included on both the Grading and Servicing Plans to ensure that these elements are designed to follow the recommendations within the TIR:
 - i. Surveyed locations of all protected trees on and adjacent to the subject site.
 - ii. Location of tree protection fencing.
 - iii. Measurements from the tree(s) trunks to nearest limit of excavation or grade changes.
 - iv. Any notes related to excavation or grade changes within the Critical Root Zone, as recommended in the TIR (e.g., use of hydrovac, directional boring, or capping of services outside of the Critical Root Zone).
 - v. Proposed planting locations from the associated Tree Planting Plan, if provided.

6. That the Owner enter into a Development Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the Manager of the East Branch within Planning, Real Estate and Economic Development Department, or their designate, to require that an asphalt overlay will be installed, at the Owner(s) expense, on Boyer Road, 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 the Manager of the East 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 the Agreement has been registered on title.

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

7. The Owner/Applicant shall prepare and submit a tree planting plan, prepared to the satisfaction of the Development Review Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or their designate, showing the location(s) of the specified number of compensation trees (50mm caliper) required under the Tree Protection By-law, assuming that all proposed tree removals are permitted.

8. That the Owner 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 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

“Jay Baltz”
JAY BALTZ
MEMBER

“George Barrett”
GEORGE BARRETT
MEMBER

“Heather MacLean”
HEATHER MACLEAN
MEMBER

“Julianne Wright”
JULIANNE WRIGHT
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **October 13, 2023**



Matthew Garnett
Acting 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 **NOVEMBER 2, 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

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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