

2023-09-14



**CONSENT APPLICATION
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
PANEL 3**

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 1876 Division Street
Legal Description: Part of Lots 5 & 6 S/S Division Street Registered Plan 150P,
Former Geographic Township of Cumberland
File No.: D08-01-23/B-00199
Report Date: September 14, 2023
Hearing Date: September 19, 2023
Planner: Luke Teeft
Official Plan Designation: Rural Transect, Village Core
Zoning: VM

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **has some concerns with** the application.

DISCUSSION AND RATIONALE

Section 53 (12) of the *Planning Act*, R.S.O. 1990, c .P.13, as amended, permits the criteria for the subdivision of land listed in Section 51 (24) to be considered when determining whether provisional consent may be granted by a committee of adjustment. With respect to the criteria listed in Section 51 (24), staff have concerns with the proposed consent.

The subject property is zoned VM – Village Mixed-Use, and designated Village Core in both the Official Plan and Vars Secondary Plan. Staff have concerns with the capacity of each lot to locate a new septic system in the event of the existing systems failing. Under the official Plan, a village lot must have at least 800 square metres of empty space where a septic system can be located. Both lots are adjacent to an active railway. The garage located in the front yard of 1876 Division Street is also appears to be encroaching on the city Right-of-way. Staff have no additional concerns with the application as submitted subject to the following conditions.

ADDITIONAL COMMENTS

Right of Way Management

- The Right-of-Way Management Department has no concerns with the proposed Lot Line Adjustment, as there are no requested changes to the private approach/driveway.

CONDITIONS

If approved, the Planning, Real Estate and Economic Development Department requests that the

Committee of Adjustment impose the following conditions on the application:

1. 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 retained and severed lands, measuring 13 meters from the existing centerline of pavement/the abutting right-of-way of Rockdale Road and 10 meters from the existing centerline of pavement/the abutting right-of-way of Division Street, 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.

2. That the Owner file with the Secretary-Treasurer of the Committee of Adjustment the following:

a. A copy of the Reference Plan and/or legal description of the severed land and the deed or instrument conveying the severed land to the owner of the abutting property to the _____, known municipally as _____, so that no new lot is being created, in accordance with paragraph (b) below;

b. A Certificate of Official attached to the deed/transfer required by paragraph (a) above containing the following endorsement:

"The lands to be severed are for the purpose of a lot addition only to the abutting lands owned by (insert name) described as PIN (insert property identification number) being Part(s) (insert numbers) on Plan (insert plan number), not for the creation of a new lot, and any subsequent transfer, charge or other transaction involving the lands to be severed shall be subject to compliance with Section 50(3) or Section 50(5) of the Planning Act, as applicable. Neither the lands to be severed nor the abutting lands are to be transferred, charged or otherwise re-conveyed in the future without the other parcel unless a further consent _____ is _____ obtained. The Owner shall cause the lands to be severed to be consolidated on title with the abutting lands and for this condition to be entered on the parcel register for the consolidated parcel as a restriction";

c. An Undertaking from a solicitor authorized to practice law in the Province of Ontario, and in good standing with the Law Society of Upper Canada, as follows:


"In consideration of, and notwithstanding the issuance of the Certificate under Section 50(12) of the Planning Act in respect to the subject Application for Consent, I undertake on behalf of the Owner, within **30 days** of the registration on title of the transfer document containing the endorsement set out in the Certificate of Official issued by the Committee of Adjustment, to file an Application to Consolidate Parcels including the severed land (Part of PIN (insert number) and the abutting land (PIN (insert number)). This PIN consolidation is

intended to reinforce the Planning Act stipulation in the condition outlined above that both parcels have merged on Title and cannot be conveyed separately in the future. I further undertake to forward a copy of the registered Application to Consolidate Parcels and a copy of the Consolidated Parcel abstract page(s) to the Committee office within 21 days of the registration of the Application to Consolidate Parcels”.

- d. Where the parcel consolidation stipulated in paragraph (b) and the solicitor’s Undertaking in paragraph (c) above cannot be reasonably completed because the parcels of land to be merged have different estate qualifiers, an Application to Annex Restrictive Covenant under Section 118 of the *Land Titles Act* must be registered on the Title of both the severed lands and on the abutting parcel that is to be merged. The Covenant, which is to be to the satisfaction of the Secretary-Treasurer of the Committee, shall advise all future purchasers that the parcels must be dealt with together and not separately, and contain wording set out below or similar wording acceptable to the Secretary-Treasurer of the Committee:

“These lands have been merged and may not be dealt with separately, without applying for a Consent of the Committee of Adjustment”.

In lieu of the Undertaking provided in paragraph (c), a replacement Undertaking by the solicitor must be filed undertaking on behalf of the Owner to register the Restrictive Covenant on both property Titles within 30 days of the registration of the transfer document containing the endorsement of the Certificate of Official issued by the Committee of Adjustment for this application and to file a copy of the registered Restrictive Covenant with the Committee within 21 days of the registration of the document.



Luke Teeft
Planner I, Development Review, Rural
Planning, Real Estate and Economic
Development Department



Cheryl McWilliams
Planner III, Development Review, Rural
Planning, Real Estate and Economic
Development Department