

**DECISION
CONSENT/SEVERANCE**

Date of Decision	November 24, 2023
Panel:	3 - Rural
File No(s):	D08-01-23/B-00214 and B-00215
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Thomas and Lois Carroll
Property Address:	1380 Howie Road
Ward:	5 – West Carleton – March
Legal Description:	Lot 13, Concession 7, former Geographic Township of West Carleton
Zoning:	RU
Zoning By-law:	2008-250
Hearing Date:	November 14, 2023, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owners want to subdivide their property into three separate parcels of land to create two new lots for future residential development. The existing dwelling will remain on the third parcel.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owners require the Committee's consent to sever the land. The property is shown on a Sketch filed with the applications and the separate parcels will be as follows:

File No.	Frontage	Depth	Area	Municipal Address
B-00214	107 metres	191 metres	20,328 sq. m	1285 Bearhill Road (vacant parcel)
B-00215	257 metres	473.1 metres	121,561 sq. m	1380 Howie Road (existing dwelling)

The land to be retained, shown on said Sketch, will have a frontage of 353.5 metres on Howie Road, an irregular depth and a lot area of 653,213 square metres. This parcel is vacant and will be known municipally as 1425 Howie Road.

PUBLIC HEARING

- [3] At the request of the City, and with the agreement of the Applicants, the hearing of these applications was adjourned on October 3 and October 31, 2023, to allow the Applicants additional time to submit an Environmental Impact Study, a Phase 1 Environmental Site Assessment, a geotechnical investigation, a noise study, and a Mineral Resource Impact Assessment, and for City staff to complete its review of the required studies and reports.

Oral Submissions Summary

- [4] Prior to the scheduled hearing on November 14, 2023, the Committee received a request from the City for a further adjournment to allow the City to review the Mineral Resource Impact Assessment and for the Applicants to submit a Phase 2 Environmental Site Assessment.
- [5] City Planner Luke Teeft explained that the conclusions of those reports could determine the viability of the lots to support development.
- [6] Tracy Zander, Agent for the Applicants, confirmed that a Phase 2 Environmental Site Assessment was being prepared and a Mineral Resource Impact Assessment had been filed and was currently under review. She highlighted that any outstanding concerns could be appropriately addressed through the conditions requested by the City.
- [7] The Committee also heard from the Applicants, Thomas, and Lois Carroll.
- [8] The Committee agreed to hear the applications without delay.
- [9] Ms. Zander provided a brief overview of the applications. In response to a question from the Committee, Ms. Zander noted that the creation of the new lot on Bearhill Road will not affect future mineral extraction on the lands to the north, as there is no remaining material close to that lot and clarified that the Applicants also own the mineral resource lands.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Applications 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:

- Applications and supporting documents, including a planning rationale, plans, Environmental Impact Study, Phase 1 Environmental Site Assessment, Preliminary Geotechnical Investigation, Hydrogeological and Terrain Analysis report, Environmental Noise Control Study, photos of the posted sign, and a sign posting declaration.
- City Planning Report received November 9, 2023, requesting an adjournment; received October 26, 2023, requesting an adjournment; received; received September 29, 2023, requesting an adjournment.
-  Mississippi Valley Conservation Authority report received October 20, 2023, with no objection; received September 26, 2023, with no objection.
- Hydro One email received November 14, 2023, with no concerns; received October 25, 2023, with no concerns; received September 29, 2023, with no concerns.
- Ministry of Transportation email received September 21, 2023, with no comments.

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 applications.

[13] The Committee notes that the City's Planning Report raises "concerns" regarding the applications but finds that these concerns can be adequately addressed through the requested conditions of provisional consent, which will require all necessary reports to be completed to the City's satisfaction.

[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(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, as amended. Information regarding the appraisal process can be obtained by contacting the Planner.
2. 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 their 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.

3. 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 Howie 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.

4. 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 their 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.
5. The Owner(s) shall prepare a Noise Attenuation Study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of Select Manager of the **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or their designate**. The Owner(s) shall enter into an agreement with the City that requires the Owner to implement any noise control 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.
6. That the Owner(s) submit a Phase 2 Environmental Site Assessment prepared by a qualified person who meets the qualifications prescribed by the regulations, for approval by the **Development Review Manager of the Relevant Branch within Planning, Infrastructure and Economic Development Department, or their designate**, to be confirmed in writing from the Department to the Committee, outlining the assessment of the property and determining the likelihood that one or more contaminants have affected any land or water, in or under the property.
7. That the Owner(s) provide a Geotechnical Report prepared by a Professional Civil Engineer licensed in the Province of Ontario, that is satisfactory to both **Development Review Manager of the Relevant Branch within Planning, Infrastructure and Economic Development Department, or their designate and to the Mississippi Valley Conservation Authority** to be confirmed in writing from the PREDD and the Authority to the Committee, demonstrating the following:
 - a. That all parcels to be created by this application are or can be made suitable for residential purposes (slope stability, erosion protection, and building limits adjacent to slopes);
 - b. That there are no adverse environmental impacts

The Geotechnical Report shall, as a minimum, determine the limit of organic soils and karst topography present on the severed and retained parcels and provide recommendations for construction methods based on the soil types encountered.

8. That the Owner(s) 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 the 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 Owner's 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 their designate.**

9. That the Owner(s) enter into an Agreement with the City, to the satisfaction of the **Development Review Manager of the relevant Branch within Planning,**

Real Estate and Economic Development Department, or his/her designate, to be placed on title that includes the development envelopes and mitigation measures identified in the “Proposed Severances – 1380 Howie Road Environmental Impact Study” provided by Muncaster Environmental Planning Inc. and dated July 7, 2023. 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.

10. That the Owner(s) complete a Road Opening Application, at the owner(s) expense and to the satisfaction of the **Development Review Manager of the relevant Branch within Planning, Infrastructure and Economic Development Department, or their designate,** to extend Bearhill Road in accordance with the approved applications and such that the severed lot at the northern corner of the parcel is zoning compliant. The road must be constructed to a point that an in-service memo has been issued by the City and that each severed and retained lot can obtain a private approach permit before this condition can be cleared.
11. That the Owner(s) demonstrate that the uses on the retained lands meet the Zoning By-law to the satisfaction of the Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or their designate.

OR

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 their designate,** to be confirmed in writing from the Department to the Committee, to rezone the retained lands to permit the existing uses.

12. 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.
13. 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 Conveyances for which the Consent is required.

"William Hunter"
WILLIAM HUNTER
VICE-CHAIR

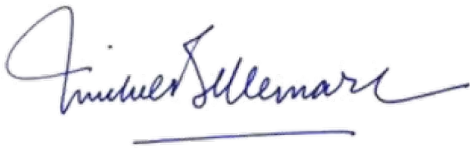
"Terence Otto"
TERENCE OTTO
MEMBER

"Beth Henderson"
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 **November 24, 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 **December 14, 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 APPLICANTS

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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