

**DECISION
CONSENT/SEVERANCE**

Date of Decision	December 22, 2023
Panel:	3 - Rural
File Nos.:	D08-01-21/B-00422 & D08-01-23/B00423
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner/Applicant:	Irina Guevorkian
Property Address:	3 Rock Forest Road
Ward:	5 – West Carleton-March
Legal Description:	Part of Lot 10, Concession 6, Geographic Township of Torbolton
Zoning:	RU
Zoning By-law:	2008-250
Hearing Date:	December 12, 2023, in person and by videoconference

APPLICANT’S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owner wants to subdivide their property into three separate parcels of land to create two new lots for residential development.
- [2] At its Hearings on December 8, 2021, February 1, 2023, April 5, 2023 and October 31, 2023, the Committee adjourned this application to allow the Owner time to address concerns raised by the City’s Planning Department. The Owner has since revised their plans and is now ready to proceed with the application.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [3] The Owner requires the Committee’s consent to sever land. The property is shown as on a sketch filed with the applications and the separate parcels will be as follows:

Table 1 Proposed Parcels

File No.	Frontage	Depth	Area	Municipal Address
B-00422	108 m 109 m	129 m	1.4 ha	530 Rock Forest Road (proposed detached dwelling)

B-00423	409 m 101 m	129 m	4.2 ha 1 ha	510 Rock Forest Road (proposed detached dwelling)
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The retained land, shown on said sketch, will have a frontage of **568 metres** ~~560 metres~~ on Rock Forest Road and 309 metres on Greenland Road, a depth of 923 metres and a lot area of **25.55 hectares** ~~23.9 hectares~~. This parcel is vacant and is known municipally as 3 Rock Forest Road.

- [4] The applications indicate that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [5] On October 31, 2023, further to the City's request and with the Applicant concurring, the Committee adjourned the hearing to December 12, 2023, to allow time for the Applicant to address concerns raised by the City's Planning Services and to revise the proposed lot configuration accordingly..

Oral Submissions Summary

- [6] Ryan Poulton, Agent for the Applicant, responded to questions from the Committee. He questioned the need for two of the conditions outlined in the City's Planning Report, one requiring an agreement registered on title warning of potential thin soils, bedrock outcrops, organic soils and karst topography, and a second condition requiring a geotechnical report. In his opinion, the City's Planning Report only noted karst topography on the subject site, and that the conditions were 'too broad in nature', and should focus specifically on karst topography. Mr. Poulton suggested revising the conditions to specifically address only karst topography, he then read his suggested wording into the record.
- [7] City Planner Luke Teeft was also present and advised that, although the report only noted Karst topography, the City's mapping did identify the potential for the other organic soil conditions. He recommended no change in wording to the City's requested conditions.
- [8] Mr. Poulton confirmed the need to amend the applications in accordance with the revised sketch that addresses the concerns the City had with the original lot line configuration intersecting a wetland. Specifically, the area of frontage of the proposed lots should be amended as follows:

File No.	Frontage	Depth	Area	Municipal Address
B-00422	408 m 109 m	129 m	1.4 ha	530 Rock Forest Road (proposed detached dwelling)

B-00423	409 m 101 m	129 m	4.2 ha 1 ha	510 Rock Forest Road (proposed detached dwelling)
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The retained land, shown on said sketch, will have a frontage of **568 metres** ~~560 metres~~ on Rock Forest Road and 309 metres on Greenland Road, a depth of 923 metres and a lot area of **25.55 hectares** ~~23.9 hectares~~. This parcel is vacant and is known municipally as 3 Rock Forest Road.

[9] The Committee agreed to amend the applications as highlighted above.

[10] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED AS AMENDED

Applications Must Satisfy Statutory Tests

[11] 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

[12] 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 cover letter/planning rationale, plans, parcel register, photo of the posted sign, and a sign posting declaration.
- City Planning Report received December 4, 2023, with no concerns; received November 30, requesting an adjournment; received October 26, 2023, requesting adjournment; received March 30, 2023, requesting adjournment; received January 26, 2023, requesting adjournment; received December 3, 2021, requesting adjournment.

- Mississippi Valley Conservation Authority email received December 5, 2023, with no objections; received October 23, 2023, with concerns; received March 29, 2023, with no objections; received January 20, 2023, with concerns; received December 1, 2021, with no concerns.
- Hydro Ottawa email received December 6, 2023, with no comments; received October 19, 2023, with no comments; received March 29, 2023, with no comments, received January 25, 2023, with no comments; received December 1, 2021, with no comments.
- Hydro One email received December 5, 2023, with no concerns; received October 25, 2023, with no concerns; received March 24, 2023, with no comments.
- Ministry of Transportation email received October 30, 2023, with no comments; dated March 22, 2023, with no comments.
- D. Hellyer & A. Courchaine email received January 20, 2023, in support.
- E. Moser & J. Zehnder email received January 19, 2023, in support.
- P. Jennings and V. Jennings email received January 19, 2023, in support.

Effect of Submissions on Decision

- [13] The Committee considered all written and oral submissions relating to the applications in making its decision and granted the applications.
- [14] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications.
- [15] Vice-Chair W. Hunter and Member T. Otto favour revised wording to the City's requested conditions 3 and 4 (soil quality notice registered on title and a geotechnical report, respectively) as suggested by the Applicant's Agent. However, Members Henderson and Vervoort disagree. Pursuant to Rule 20.2 of the Committee's *Rules of Practice and Procedure*, "[a]ny proposition on which there is a tie vote shall be deemed to be defeated."
- [16] 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.

[17] 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 the **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 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 home owner.”

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 Owner(s) 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 Owner(s) on subsequent transfers:

“The City of Ottawa has identified that there are potential thin soils, bedrock outcrops, organic soils, and 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 provide a Geotechnical Report prepared by a Professional Civil Engineer licensed in the Province of Ontario, that is satisfactory **to Development Review Manager of the Rural Branch within Planning, Real Estate and Economic Development Department, or his/her designate and to the Mississippi Valley Conservation Authority** to be confirmed in writing from the **PRED 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, karst topography, 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 karst topography present on the severed parcel and provide recommendations for construction methods based on the soil types encountered.

5. 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 on Greenland Road and 10 meters from the existing centerline of pavement/the abutting right-of-way on Rock Forest 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.
6. 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 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 his/her designate.**

The Report shall be prepared as per Procedure D-5-4 "Technical Guideline for Individual On-Site Sewage Systems: Water Quality Impact Risk Assessment" and Procedure D-5-5 "Technical Guideline for Private Wells: Water Supply Assessment".

7. That the Owner convey a 5 m x 5 m corner sight triangle located at the intersection of Rock Forest Road and Greenland Road to the City, with all costs to be borne by the Owner(s), 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.
8. 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 – 3 Rock Forest Road Environmental

Impact Study - Updated” provided by Muncaster Environmental Planning Inc. and dated November 30, 2023.

9. 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 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 a Conveyance 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

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 **DECEMBER 22, 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 **JANUARY 11, 2024**, 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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