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October 13, 2023

City of Ottawa
Committee of Adjustment
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Committee of Adjustment

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City of Ottawa | Ville d'Ottawa

Comité de dérogation

Attention: Michel Bellemare, Secretary-Treasurer

**Reference: 6079 McVagh Road, Vars, Ontario
Applications for Consent for Lot Line Adjustment, Severance and Easement
Our File No.: 122155**

Novatech has been retained by the owner of 6079 McVagh Road (the 'Subject Site' hereafter) to prepare and file Consent applications for Severance and Easement applications. The Subject Site contains agricultural lands and a farm dwelling which are used by separate parties.

The owner of the Subject Site owns the neighbouring property at 6105 McVagh Road which also contains agricultural lands and a "land-locked" farm surplus dwelling. These applications for Consent are submitted concurrently with the applications for Consent for Lot Line Adjustment, Severance and Easement for the neighbouring property, 6105 McVagh Road.

The owner wishes to sever the farm surplus dwellings and to rationalize the existing farm operations on both properties and therefore requires the following:

- Consent for lot line adjustment between the Subject Site and 6105 McVagh Road;
- Consent to sever the farm surplus dwelling on the Subject Site;
- Consent to create a reciprocal easement over the shared driveway between the Subject Site and 6105 McVagh Road; and
- Consent to create easements for private hydro services.

The following letter describes the existing conditions of the Subject Site, the proposed applications, and the rationale in support of the applications.

Existing Conditions

The Subject Site is located within Ward 19 – Cumberland of the City of Ottawa approximately 2 km southwest of the village of Vars and immediately south of Highway 417, as shown in Figure 1. The Subject Site has approximately 460.3 m of frontage along McVagh Road and an area of 26.06 ha.

6079 McVagh Road is legally described as:

*PT LT 26 CON 8 CUMBERLAND; PT LT 27 CON 8 CUMBERLAND PT 2, 50R124;
CUMBERLAND*



Figure 1: Subject Site with markup by Novatech (GeoOttawa, 2017)

A review of aerial photography through GeoOttawa shows that the dwelling, structures and farm have been in operation since 1976, if not earlier.

In the 2010s, the Subject Site accommodated a small hobby farm, and then the Penny Lane Farm animal sanctuary.

The Subject Site is currently used by separate parties for crop-related agricultural operations and a single-detached residential dwelling with two accessory structures on the property: one is a converted garage used for storage, the other is an unoccupied barn used for storage, as shown in Figure 2.

Surrounding uses include:

- to the north: Devine Road, Highway 417 and existing agricultural lands and severed farm surplus dwellings;
- to the east: Highway 417 and existing agricultural lands and severed residential lots;
- to the south: additional lands owned by the applicant at 6105 McVagh Road and existing agricultural lands and severed residential lots; and
- to the west: McVagh Road and existing agricultural lands and severed residential lots.



Figure 2: The exterior and interior of the vacant barn on the Subject Site (Novatech, June 2023).

Proposed Consents

The proposed lot line adjustment is shown on *Consent Sketch 1* submitted with this application and shown as Figure 3 below. Parts 3 and 6 on the draft Reference Plan will convey an area of approximately 7,333.6 m² from the Subject Site to 6105 McVagh Road. Part 3 will ensure that the future severed surplus farm dwelling on 6105 McVagh Road has sufficient frontage on a public road and access over the shared driveway, while Part 6 includes the portion of the farmland on the Subject Site that is currently farmed by 6105 McVagh (Figure 4).

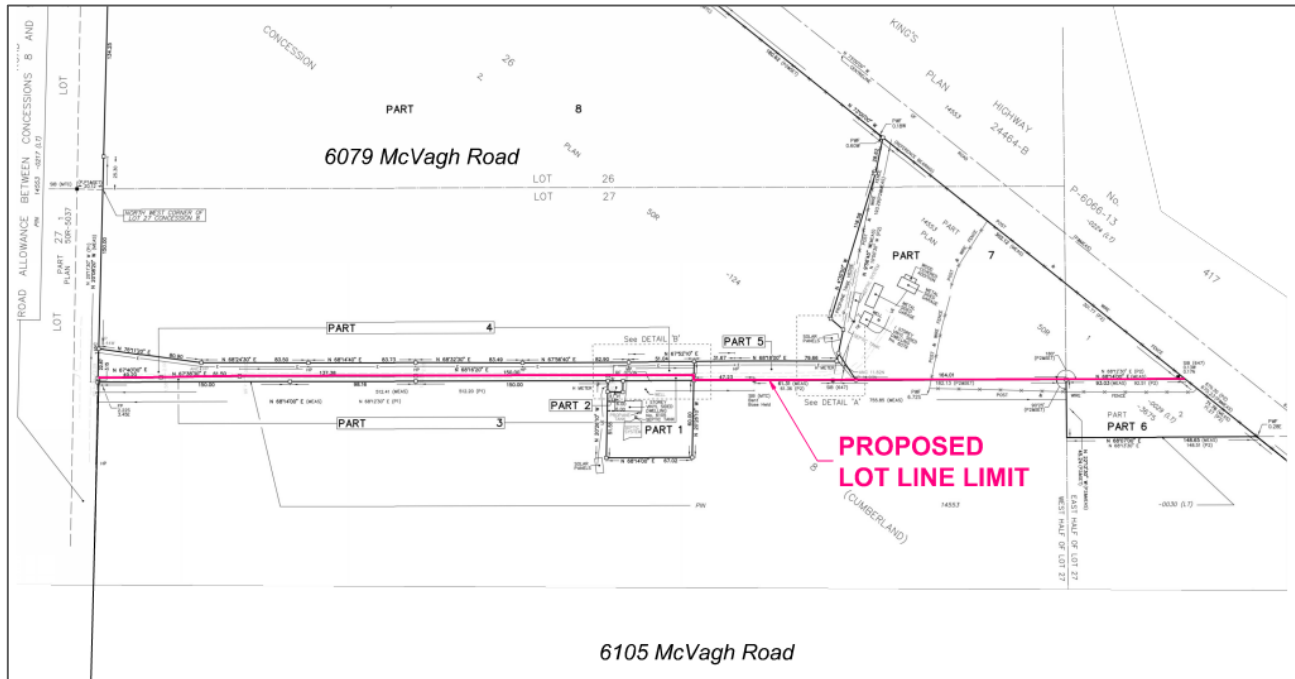


Figure 3: Excerpt of *Consent Sketch 1 - Lot Line Adjustment* prepared by Novatech showing the Proposed Lot Line Limit.



Figure 4: Image of Subject Site looking south-east towards Part 6 on the draft Reference Plan (Novatech, June 2023).

As shown on *Consent Sketch 2* in Figure 5 below, the proposed severed and retained lots are indicated as *Lands to be Severed* and *Lands to be Retained*, with the *Proposed Easements*. On the draft Reference Plan, Parts 4, 5, and 7 will be severed and Part 8 will be retained.

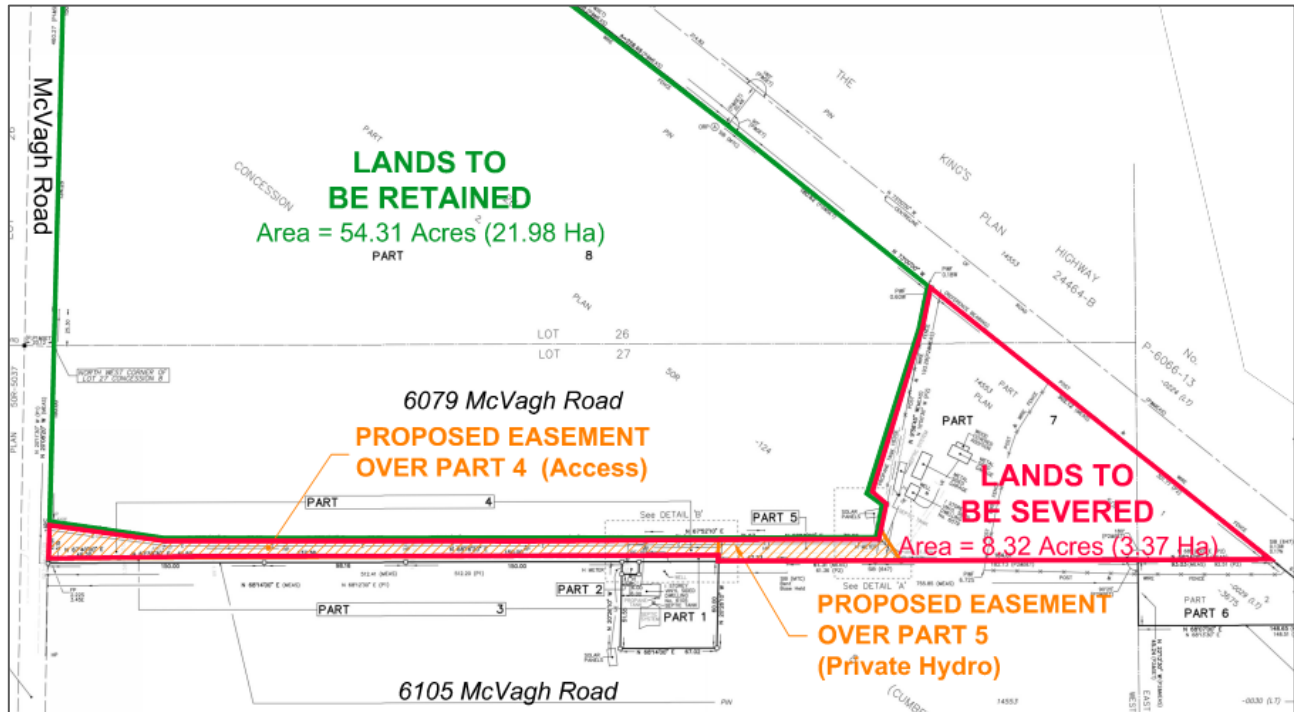


Figure 5: Excerpt of *Consent Sketch 2 - Severance and Easement*, markup prepared by Novatech showing Parts 4, 5, 7, and 8 on the draft Reference Plan.

The retained agricultural parcel will have a total area of approximately 219,819.6 m² (21.9 ha) and a frontage of approximately 460.3 m on McVagh Road.

The severed residential parcel is proposed to be approximately 3.4 ha with a frontage of approximately 22.9 m on McVagh Road. The proposed severed lot is an irregular shape and larger than the desired minimum lot size of 0.8 ha in order to recognize various existing conditions described below, as well as to ensure that the proposed severed farm surplus dwelling on the neighbouring lot at 6105 McVagh Road will meet the desired minimum lot size of 0.4 ha.

The proposed severed lot accommodates the existing detached dwelling and accessory structures, and includes an area of 7,171 m² (0.7 ha) for the shared driveway, private hydro lines and sufficient area for maintenance of these elements within Parts 4 and 5 on the draft reference plan. The proposed easement for access over the shared driveway is identified as Parts 3 and 4 on the draft reference plan, while Parts 4 and 5 will accommodate an easement for existing private hydro services.

Part 7 of the draft reference plan corresponds to the portion of the severed lot around the house measuring approximately 26,533.2 m² (2.6 ha). The intention of the owner is to provide sufficient area on the property for a hobby farm or animal sanctuary use. Part 7 also includes a large, vegetated berm that provides separation from Highway 417 to the rear of the severed lands (Figure 6). This large berm is constraint on the property, and the proposed lot reflects the shape of the feature.



Figure 6: Image of the Subject Site looking south-west from Highway 417 (Google Streetview, June 2023).

In summary, the consent applications will:

- 1) adjust the lot line between the Subject Site and 6105 McVagh Road to:
 - a. provide street frontage to the “land-locked” farm surplus dwelling at 6105 McVagh Road, and
 - b. rationalize the existing agricultural operation at 6105 McVagh Road that crosses the shared property line to the northeast;
- 2) sever the farm surplus dwelling from the Subject Site; and
- 3) create reciprocal easements over the shared driveway between the Subject Site and 6105 McVagh Road, and
- 4) create easements for private hydro services for both the severed and retained portions of the Subject Site and 6105 McVagh Road.

Rationale

The following rationale demonstrates the appropriateness of the consent applications to facilitate the lot line adjustment, the proposed severance and the reciprocal easements.

Proposed Consents

The evaluation of consents in Ontario is regulated by the *Planning Act*. *Subsection 53(1)* of the *Planning Act* states:

An owner of charge of land, or such owner’s or chargee’s agent duly authorized in writing, may apply for a consent as defined in subsection 50(1) and the council or the Minister, as the case

may be, may, subject to this section, give a consent if satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality. 1994, c. 23, s. 32.; 2020, c. 34, Sched. 20, s. 2(2).

The proposed consents do not necessitate the construction of new public infrastructure, including roads and services. A plan of subdivision is not required for the proper and orderly development of the municipality.

Subsection 53(12) of the Planning Act states:

A council or the Minister in determining whether a provisional consent is to be given shall have regard to the matters under subsection 51(24) and has the same powers as the approval authority has under subsection 51(25) with respect to the approval of a plan of subdivision and subsections 51(26) and (27) and section 51.1 apply with necessary modifications to the granting of provisional consent. 1994, c. 23, s. 32.

This rationale addresses the following criteria outlined in subsection 51(24) of the Planning Act.

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;

The proposed consents are intended to rationalize existing land uses over a shared property line, to create a lot for an existing building and to create easements over the shared driveway and existing private services.

The proposed consents have regard for the following matters of provincial interest as listed in Section 2 of the *Planning Act*:

- *the protection of the agricultural resources of the Province;*
- *the orderly development of safe and healthy communities; and*
- *the protection of ecological systems, including natural areas, features and functions;*

The *Provincial Policy Statement 2020 (PPS)* provides policy direction on matters of provincial interest related to land use planning and development.

- Locally appropriate residential development on rural lands is permitted per *Policy 1.1.5.2(c) and (d)*. This letter will address the policies in the *City of Ottawa Official Plan* to determine if the proposed severance is locally appropriate.
- This application seeks to rationalize existing uses over a shared property line and to sever a farm surplus dwelling, while protecting prime agricultural land for long-term use in accordance with *Policy 2.3.1*.
- Lot creation in proximity to livestock facilities shall comply with Minimum Distance Separation formular, per *Policy 2.3.3.3*. This application severs the existing farm surplus dwelling from the Subject Site, which has existed in this location since at least the 1970s. The nearest livestock facility to the Subject Site is located at 1458 Devine Road, approximately 740 m from the

residential dwelling. Section 4 of the *OMAFRA Minimum Distance Separation Document (Publication 853)* outlines scenarios for when an MDS I Setback is required. *Subsection 9(1)* states that an MDS I setback is not required for the consent application *where the existing dwelling to be severed and the nearby livestock facility or anaerobic digester are located on separate lots prior to the consent*. Due to the continuation of existing uses, no minimum distance separation calculation is required.

- Per *Policy 2.3.4.1*, lot creation in prime agricultural areas for a residence surplus to a farming operation may be permitted where the new lot will be the minimum size to accommodate the use and private services, and where future residential development is prohibited on the agricultural lands. The new residential lot is proposed to be approximately 3.4 ha, which accommodates the existing shared driveway, private hydro lines, a vegetated berm for separation from Highway 417 and sufficient area to accommodate a hobby farm or animal sanctuary type use. As a condition of these consent applications, it is anticipated that the agricultural portions of the Subject Site will be rezoned to prohibit future residential development.
- *Policy 2.3.4.2* states that “*lot line adjustments in prime agricultural areas may be permitted for legal or technical reasons*”. The purpose of the lot line adjustment in this application is to ensure frontage on McVagh Road for the farm surplus dwelling at 6105 McVagh Road and to realign the shared lot line with the edge of the northeast agricultural field.

The proposed severance is consistent with the *Provincial Policy Statement*.

(b) Whether the proposed subdivision is premature or in the public interest;

The proposed severed and retained lots provide sufficient land area to meet the minimum area requirements of the City of Ottawa *Official Plan* and *Zoning By-law (2008-250)*. The proposed consent creates a new lot for a farm surplus dwelling in an area characterized by severed residential lots thereby representing a compatible and efficient use of land that avoids development on Prime Agricultural lands in the rural area.

Based on the foregoing, the proposed severance is not premature and is in the public interest.

(c) Whether the plan conforms to the official plan and adjacent plans of subdivision, if any;

The City of Ottawa’s new *Official Plan* was approved by the Minister of Municipal Affairs and Housing on November 4, 2022.

The Subject Site is designated *Agricultural Resource Area* within the *Rural Transect* on *Schedule B9*.

Section 9.1 of the new *Official Plan* details the policies related to the *Agricultural Resource Area* designation. Per *Policy 9.1.3(1a)*, residential uses are permitted in the form of a detached dwelling on a lot fronting an existing public road.

Policy 9.1.3 of the new *Official Plan* details policies for lot creation, specifically:

- 2) *Lot line adjustments are permitted on lands designated as Agricultural Resource Area for legal or technical reasons only.*
- 3) *Lot creation is prohibited unless all of the following are met:*
 - a. *The new lot contains an existing habitable dwelling made surplus through farm consolidation;*
 - b. *As a condition of severance, the retained lands are zoned to prohibit residential uses;*

- c. *The severed lot is of a size that minimizes the loss of agricultural land;*
 - d. *The new lot can be adequately serviced;*
 - e. *Where the new lot may only contain buildings or structures including a dwelling unit that are accessory or secondary to the principal residential use; and*
 - f. *Where only one lot may be created.*
- **The consent for lot line adjustment is permitted on the Subject Site for legal or technical reasons, including the creation of an easement and a minor boundary adjustment. The new lot will contain an existing occupied residential dwelling that is surplus to an existing agricultural operation.**
 - **The rezoning of the agricultural parcel to prohibit future residential development is anticipated as a condition of severance.**
 - **The severed lot has been designed to minimize the loss of agricultural land, while maintaining the existing areas for private hydro services, the shared driveway and residential yards.**
 - **The severed lot has existing private services.**
 - **The new lot will contain two accessory structures used for personal storage. No additional dwelling units are located in either the principal or secondary buildings.**
 - **Only one lot will be created from the Subject Site.**

Policy 9.1.3(4) states that “applications for Consent to Sever a farm surplus dwelling shall only be considered after the purchase of lands to be consolidated by the farm operator or where a legally binding agreement of purchase and sale is demonstrated”. The agricultural lands on the Subject Site are owned by a farm operator who has another farm and alternative accommodation within approximately 3 km of the Subject Site and has historically operated other farms locally.

The proposed severance conforms to the policies of the new Official Plan.

(d) *The suitability of the land for the purposes for which it is to be subdivided;*

The proposed consents seek to rationalize the existing separate uses of the residential dwelling and agricultural lands. The Subject Site is zoned *Agricultural, Subzone 2 – AG2* in the *City of Ottawa Zoning By-law 2008-250*. The *Agricultural* zone permits one detached dwelling per lot and, pursuant to *Section 211(5)*, allows for an agricultural use accessory to a detached dwelling on lots larger than 0.8 ha.

As noted previously, it is anticipated that as a condition of severance, the retained parcel will be rezoned to prohibit residential uses. The severed parcel will contain an existing building, accessory structures, and private water and sanitary services while maintaining an appropriate size to minimize the loss of agricultural lands. The proposed lot is therefore suitable for the proposed severance.

The proposed severance will satisfy the applicable Zoning By-law provisions and is suitable for the purpose 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;*

Not applicable. No affordable housing units are proposed.

- (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;*

McVagh Road is identified as a Local road on Schedule C9 – Rural Road Network in the Official Plan. Schedule C16 identifies that Rural Local Roads shall be designed to have a Right-of-Way of 20 m. As the draft Reference Plan indicates the existing Right-of-Way is 20.12 m, no further road widening is required.

- (f)** *The dimensions and shapes of the proposed lots.*

The proposed consents will result in a lot that complies with the general intent and purpose of the *Agricultural* zone provisions for new lots created for farm surplus dwellings. As shown in Consent Sketch 2, the dimension and shape of the proposed lot is suitable.

- (g)** *The restrictions or proposed restrictions, if any, on the land proposed to be subdivided and or the buildings and structure proposed to be erected on it and the restrictions if any, on the adjoining land;*

The rezoning of the retained parcel to prohibit residential uses is anticipated as a condition of severance. The draft reference plan submitted with this application demonstrates the proposed easements on the proposed severed lot.

Easements shown as Parts 3 and 4 will be required for the severed lot to facilitate access along the driveway shared with 6105 McVagh Road. Parts 4 and 5 will accommodate easements for existing private hydro services above and below ground along the shared driveway.

The proposed consents avoid the creation of an additional driveway or the unnecessary expansion of the shared driveway between the Subject Site and 6105 McVagh Road. As a result, the proposed consents facilitate the use of existing infrastructure and thereby represents an efficient use of land.

- (h)** *Conservation of natural resources and flood control;*

Not applicable. The proposed lot is not within or adjacent to natural resource areas or watercourses.

- (i)** *The adequacy of utilities and municipal services;*

No new demand for utilities or municipal services results from the proposed severance application. The existing dwelling is serviced by private septic, well and hydro services.

- (j)** *The adequacy of school sites;*

No new demand for school sites results from the proposed consent applications.

- (k)** *The area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;*

Not applicable. No land is to be dedicated or conveyed for public purposes. It is anticipated that cash-in-lieu of parkland will be a condition of approval.

- (l)** *The extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and*

The severed and retained lots are designed to accommodate the existing solar panel on the retained lands. The solar panel provides a renewable energy source for the local Hydro One service area.

(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).

Not applicable. No new development is proposed.

Conclusion

The proposed consents will create a new lot for a farm surplus dwelling in an area characterized by this type of lot creation. The proposed consents thereby represent a compatible and efficient use of land that avoids development on Prime Agricultural lands in the rural area. Based on the foregoing, the proposed consents represent good land use planning.

In support of the combined applications for lot line adjustment, severance, and easement, please find enclosed the following documents:

- One copy of this Cover Letter;
- Complete Consent Application Form 1 (Lot Line Adjustment);
- Complete Consent Application Form 2 (6079 Severance and Easement);
- Consent Sketch 1 – Lot Line Adjustment (one full size and one 8½x11 copy);
- Consent Sketch 2 – Consent and Easement (one full size and one 8½x11 copy);
- Correspondence from Dueck Law dated October 12, 2023, supporting the request for Certificate for the Retained Lands;
- Draft Reference Plan prepared by J.D. Barnes dated September 2023;
- Parcel Abstract; and
- Cheque for Municipal Application fees;

Should you have any questions regarding this application, please contact the undersigned.

Sincerely,

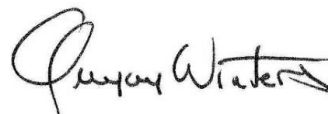
NOVATECH

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