

**DECISION  
CONSENT/SEVERANCE**

<b>Date of Decision</b>	February 16, 2024
<b>Panel:</b>	3 - Rural
<b>File No(s):</b>	D08-01-23/B-00327
<b>Application:</b>	Consent under Section 53 of the <i>Planning Act</i>
<b>Owner(s)/Applicant(s):</b>	Ellwood Ivan Lee Craig
<b>Property Address:</b>	5600 William McEwen Drive
<b>Ward:</b>	21 – Rideau-Jock
<b>Legal Description:</b>	Part of Lot 3, Concession 2, Geographic Township of North Gower
<b>Zoning:</b>	AG
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	February 6, 2024, in person and by videoconference

**APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATION**

- [1] The Owner wants to convey a portion of their property to the abutting property owner to the west, known municipally as 5613 Third Line Road North.

**CONSENT IS REQUIRED FOR THE FOLLOWING**

- [2] The Owner requires the Committee's consent for a lot line adjustment.
- [3] The property, shown on a sketch filed with the application, is landlocked and will contain an area of approximately 0.32 hectares. This parcel contains an existing accessory building, and it will merge with the property to the west, known municipally as 5613 Third Line Road.
- [4] The retained land, shown on said sketch, will have a frontage of 122 metres with a depth of 2064 metres and will contain a lot area of 42 hectares. This parcel contains the dwelling, barn and accessory structure and is known municipality as 5600 William Mc Ewen Drive.

**PUBLIC HEARING**

- [5] Prior to the hearing the Committee received an adjournment request from City Planning staff to allow time for the Applicant to provide information on the existing easement and the size of the accessory structure and how it will function.

- [6] The Committee heard from Jeff Shipman, Agent for the Applicant, who requested the application proceed and confirmed that there was alternative legal access to the farmland. He further confirmed that the accessory building meets the requirements under the Zoning Bylaw for an accessory structure and the proposed lot line adjustment will improve the situation by removing it from the agricultural parcel.
- [7] City Planner, Stephan Kukkonen, confirmed the request for adjournment was in relation to the impact on access for the retained lands and the size of the accessory structure.
- [8] The Committee agreed to hear the application without delay.

### **Oral Submissions Summary**

- [9] Mr. Shipman provided an overview of the application and responded to questions from the Committee, highlighting that the application respects official plan policies for lot line adjustments, as the adjustment in property lines are minor, which constitutes a technical reason. He further submitted that previously used access remains on both sides of the lot, that the hydro servicing on the property is an existing situation, and that an easement or a relocation of the hydro lines could be undertaken in the future, if necessary.
- [10] Mr. Shipman also requested that the City's condition of a road widening not be imposed on the William McEwen Drive road frontage. It was his opinion that the condition was not required as the application does not create new lots.
- [11] City Planner Stephan Kukkonen advised that a private approach permit condition may be adequate to address concerns regarding access to the site. He further advised that staff are satisfied that the applicant can manage hydro servicing and that the application may qualify as a technical reason due to its minor nature on the retained lands, however the lands benefiting from the adjustment may not be considered minor in nature.
- [12] Mr. Kukkonen expressed concern with the size of the existing accessory structure in relation to the dwelling. He further requested that the road widening condition be applied to both retained and severed lands as a condition of provisional consent.

## **DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED**

### **Application Must Satisfy Statutory Tests**

- [13] 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**

[14] 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, a plan, a parcel register, and a sign posting declaration.
- City Planning Report received February 1, 2024, requesting adjournment.
- Rideau Valley Conservation Authority email received January 31, 2024, with no objections.
- Hydro Ottawa email received January 30, 2024, with no comments.
- Ministry of Transportation email received February 2, 2024, with no comments.

### **Effect of Submissions on Decision**

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

[16] The Committee notes that the City's Planning Report "requests adjournment" of the application, to allow time for the Applicant to provide clarity on access to the retained land, and greater rationale on the existing accessory structure.

[17] 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.

[18] The Committee agreed with the Applicant's request to amend the road widening condition to only have it apply to the Third Line Road frontage as no new lot was

being created. The Committee also to impose a condition for a private approach permit on the retained lands to ensure access.

[19] 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) 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 west, known municipally as 5613 Third Line Road North, 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 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.

2. That the Owner acknowledges and agrees to convey to the City, at no cost to the City, an unencumbered road widening across the frontage of the lands, measuring 13 meters from the existing centerline of pavement/the abutting right-of-way along Third Line Road North, 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.
3. That the Owner(s) provide plans, drawings or reports as may be required to demonstrate, to the satisfaction of the **Manager, Right-of-Way, Heritage, and Urban Design Department or his/her designate** that a private approach that conforms with the Private Approach By-law (2003-447) can reasonably be

established on the retained land, to be confirmed in writing from the Department to the Committee.

4. 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.
5. 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 Lot Line Adjustment for which the Consent is required.

*“William Hunter”*  
WILLIAM HUNTER  
VICE-CHAIR

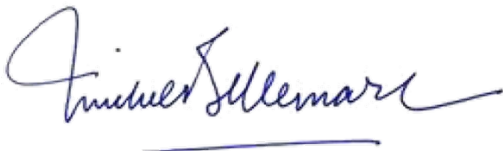
*Absent*  
TERENCE OTTO  
MEMBER

*“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 **February 16, 2024**.



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 **March 7, 2024**, delivered by email at [cofa@ottawa.ca](mailto:cofa@ottawa.ca) and/or by mail or courier to the following address:

Secretary-Treasurer, Committee of Adjustment,  
101 Centrepointe Drive, 4<sup>th</sup> 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](mailto: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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