

**DECISION
CONSENT/SEVERANCE**

Date of Decision	April 12, 2024
Panel:	3 - Rural
File No.:	D08-01-24/B-00031
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner)/Applicant:	2865875 Ontario Inc.
Property Address:	2808 Donald B. Munro Drive
Ward:	5 - West Carleton-March
Legal Description:	Part of the West half of Lot 7, Concession 7, Geographic Township of Fitzroy
Zoning:	AG1
Zoning By-law:	2008-250
Hearing Date:	April 2, 2024, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owner wants to subdivide the property into two separate parcels of land to create a new lot for a surplus farm dwelling.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Committee's consent to sever the land.
- [3] The severed land, shown on a sketch filed with the application, will have a frontage of 12 metres, a depth of 417 metres, and a lot area of 1.39 hectares. This parcel contains the existing dwelling and accessory buildings and is known municipally as 2808 Donald B. Munro Drive.
- [4] The retained land, shown on said sketch filed, will have a frontage of 595 metres, an irregular depth of 648 metres, and a lot area of 30.5 hectares. This parcel contains vacant farmland and will be known municipally as 2850 Donald B. Munro Drive.
- [5] The application indicates that the property is subject to an existing utility easement as set out in Instrument FY12799, in favour of The Bell Telephone Company of Canada

PUBLIC HEARING

Oral Submissions Summary

- [6] Anthony Hommik, Agent for the Applicant, responded to the concerns outlined in the City's Planning Report and confirmed that the shed on the retained lands is currently used as storage and that the Applicant intends to demolish it. Mr. Hommik also explained that the structures located on the severed parcel would be set back 3 metres from the proposed lot line. This was done to reduce the amount of agricultural land included in the severed lot. Mr. Hommik acknowledged that the Zoning By-law requires a minimum interior side yard setback of 5 metres and he confirmed that the Applicant would be willing to address this deficiency through a Zoning By-law amendment.
- [7] In response to questions from the Committee, City Planner, Luke Teeft confirmed that the condition requiring a Zoning By-law amendment could be modified to include the reduced interior side yard setback.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Tests

- [8] 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

[9] 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 cover letter, parcel registry, plans, photo of the posted sign, and a sign posting declaration.
- City Planning Report received March 26, 2024, with some concerns.
- Mississippi Valley Conservation Authority email received March 26, 2024, with no objections.

- Hydro Ottawa email received March 26, 2024, with no comments.
- Ottawa MacDonald-Cartier International Airport Authority email received March 20, 2024, with no comment.
- Ontario Ministry of Transportation email received March 22, 2024, with no comment.

Effect of Submissions on Decision

- [10] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [11] The Committee notes that the City's Planning Report raises "some concerns" regarding the application, highlighting that "[t]he severed parcel does not meet the minimum lot width requirements of the AG zone." However, the Committee notes this concern will be addressed through the City's requested conditions of provisional consent.
- [12] 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.
- [13] 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) obtain a Zoning By-law Amendment, satisfactory to the **General Manager of the Planning, Infrastructure and Economic Development Department, or his/her designate**, to be confirmed in writing from the Department to the Committee, that restricts residential development on the retained lands, and permits a reduced lot width and reduced interior side yard setback on the severed lands, with all levels of appeal exhausted accommodating the reduced side yard setbacks as shown on the sketch to three metres.
 2. That the Owner(s) provide a copy of a legally binding agreement of purchase and sale or a letter indicating the current owner is a licensed farmer, satisfactory to the **General Manager of the Planning, Infrastructure and**

Economic Development Department, or his/her designate, to be confirmed in writing from the Department to the Committee, that demonstrates that the newly created lot is being sold.

3. That the Owner enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the General Manager of the Relevant 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 homeowner.”

“The property is located next to lands that have an existing source of environmental noise (railway) and may therefore be subject to noise and other activities associated with that use.”

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 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 Donald B. Munro Drive, pursuant to Section 50.1(25)(c) of the Planning Act and Schedule C16 of the City’s new Official Plan, if required. 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.
5. 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.

6. 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 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

“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 **April 12, 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 **May 2, 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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