

2023-08-10



**CONSENT APPLICATION
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
PANEL 3**

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 5812 Malakoff Road
Legal Description: Part of Lot 2, Concession 9, Geographic Township of Marlborough
File No.: D08-01-23/B-00161
Report Date: August 10, 2023
Hearing Date: August 15, 2023
Planner: Jack Graham
Official Plan Designation: Agricultural Resource Area
Zoning: AG – Agricultural Zone

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **has no concerns with** the application.

DISCUSSION AND RATIONALE

Section 53 (12) of the *Planning Act*, R.S.O. 1990, c .P.13, as amended, permits the criteria for the subdivision of land listed in Section 51 (24) to be considered when determining whether provisional consent may be granted by a committee of adjustment. With respect to the criteria listed in Section 51 (24), staff have no concerns with the proposed consent.

The subject site is designated as Agricultural Resource Area and zoned as AG – Agricultural Zone. The purpose of this designation and zone is to preserve agricultural land in the rural area and to allow for limited development that is in keeping with the agricultural uses.

The applicant is seeking to sever an existing dwelling from the agricultural parcel. Surplus farm house severances are permitted under Official Plan Section 9.1.3 Policy 3:

- 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.*

As conditions of approval, the applicant will have to provide proof that the retained farm land is being transferred to a bona fide farmer and that the retained land will be rezoned to prohibit residential development. The proposed severance dimensions minimize the loss of agricultural land.

The severed lands include several accessory buildings. As the applicant has drawn the severance to minimize the loss of agricultural land, the resultant severed lot does not meet zoning requirements for total size of all accessory buildings. As such, the required zoning by-law amendment must also permit the increased size of the accessory buildings, from 5% to 6%.

With the requested conditions, staff have no concerns with the proposal as submitted.

CONDITIONS

If approved, the Planning, Real Estate and Economic Development Department requests that the Committee of Adjustment impose the following conditions on the application:

1. 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 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 Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.

2. 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 15 meters from the existing centerline of pavement/the abutting right-of-way along Century Road West, 13 meters from the existing centerline of pavement/the abutting right-of-way along Malakoff Road, and 13 meters from the

existing centerline of pavement/the abutting right-of-way along Harbison 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.

3. 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 his/her designate**, to be confirmed in writing from the Department to the Committee, that restricts residential development on the retained lands and permits an increased accessory building lot coverage area on the severed lands, with all levels of appeal exhausted.
4. That the Owner(s) provide proof, to the satisfaction of the **Development Review Manager of the Relevant Branch within Planning, Infrastructure and Economic Development Department, or his/her designate**, of the purchase of the lands to be consolidated by the farm operator or a legally binding agreement of purchase and sale.



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