

**DECISION  
CONSENT**

<b>Date of Decision</b>	August 25, 2023
<b>Panel:</b>	3 - Rural
<b>File No(s):</b>	D08-01-23/B-00157
<b>Application:</b>	Consent under Section 53 of the <i>Planning Act</i>
<b>Owner(s)/Applicant(s):</b>	Ivan and Jocelyne Garland
<b>Property Address:</b>	3363 Devine Road
<b>Ward:</b>	20 - Osgoode
<b>Legal Description:</b>	Part of Lot 25, Concession 2, Geographic Township of Cumberland
<b>Zoning:</b>	RU
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	August 15, 2023, in person and by videoconference

**APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION**

- [1] The Owners want to subdivide their property into two separate parcels of land to create a new lot for residential development.

**CONSENT IS REQUIRED FOR THE FOLLOWING**

- [2] The Owners require the Committee's consent to sever land. The property is shown on a sketch filed with the application and the separate parcels will be as follows:
- [3] The severed property is shown on a sketch filed with the application, will have a frontage of 79 metres on Devine Road and 110 metres on Garlandside Road, and a lot area of 0.9 hectares. This parcel will be known municipally as 3289 Devine Road.
- [4] The land to be retained, shown on said sketch, will have a frontage of 350 metres on Devine Road and 500 metres on Garlandside Road, and a lot area of 35.57 hectares. This parcel will be municipally known as 3363 Devine Road.

**PUBLIC HEARING**

- [5] Prior to the scheduled hearing on August 15, 2023, the Committee received an adjournment request from the City's Planning, Real Estate and Economic Development Department, seeking additional time to allow the City to correct an

error in the Official Plan relating to the severance criteria for lots designated Rural Countryside.

- [6] The Committee agreed to hear the application as scheduled.

### **Oral Submissions Summary**

- [7] Luc Landry, Agent for the Applicants, requested that condition 4 in the City's Planning Report be modified to replace "retained lot" with "severed lot," since the condition would require a hydrogeological report and the drilling of a well and there were no immediate plans to develop the retained lot.
- [8] City Planner Luke Teeft was also present and stated that a hydrogeological report was necessary to confirm the adequacy of the aquifer to support future development on the retained lot. He also noted that the City is aware of an issue with the quality and quantity of groundwater in the area. When asked by the Committee, he confirmed that, if the results were satisfactory, a hydrogeological report based on the well on the severed land or surrounding parcels may be accepted to clear this condition.
- [9] The Committee agreed to modify the condition to indicate that the drilling of a well on the retained land would only be required if necessary.

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

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

- [10] 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**

[11] 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, plans, Minimum Distance Separation (MDS) report, a parcel registry, and a Sign Posting Declaration.
- City Planning Report received August 10, 2023, with a request for an adjournment.
- South Nation Conservation Authority email dated August 1, 2023, with no objections.
- Hydro Ottawa email dated August 15, 2023, with no comments.
- Hydro One email dated August 4, 2023, with no comments.
- Ministry of Transportation email dated August 10, 2023, with no comments.

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

- [12] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [13] 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.
- [14] 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 homeowner.”

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 sensitive marine clays and thin soils 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 homeowner.”

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 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 retained lot, if necessary, 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:

- a. That the construction of any new well on the retained parcel is in accordance with the Ministry of the Environment, Conservation and Parks if necessary.

- b. That the quality of the water meets the Ministry of the Environment, Conservation and Parks Regulations, Standards, Guidelines and Objectives;
- c. That the quantity of water meets all the Ministry of the Environment, Conservation and Parks requirements.
- d. 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 **the General Manager of the Planning, Infrastructure 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."

- 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 a Conveyance for which the Consent is required.

*Absent*  
WILLIAM HUNTER  
VICE-CHAIR

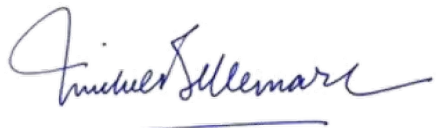
*"Terence Otto"*  
TERENCE OTTO  
MEMBER

*"Beth Henderson"*  
BETH HENDERSON  
MEMBER

*"Martin Vervoort"*  
MARTIN VERVOORT  
ACTING PANEL CHAIR

*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 **August 25, 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 **September 14, 2023**, 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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