

**DECISION  
CONSENT/SEVERANCE**

<b>Date of Decision</b>	August 16, 2024
<b>Panel:</b>	3 - Rural
<b>File Nos.:</b>	D08-01-24/B-00121 & D08-01-24/B-00122
<b>Application:</b>	Consent under Section 53 of the <i>Planning Act</i>
<b>Applicants:</b>	Loraine Hogg and Allen Wharry
<b>Property Address:</b>	8597 Franktown Road
<b>Ward:</b>	21 – Rideau-Jock
<b>Legal Description:</b>	Part of Lot 1, Plan 4M-360, Geographic Township of Goulbourn
<b>Zoning:</b>	RR2 [197r]
<b>Zoning By-law:</b>	2008-250
<b>Heard:</b>	August 6, 2024, in person and by videoconference

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

- [1] The Applicants want to subdivide their property into three separate parcels of land to create two new lots for residential development.

**CONSENT IS REQUIRED FOR THE FOLLOWING**

- [2] The Applicants require the Committee's consent to sever the land. The property is shown on a sketch filed with the applications and the separate parcels will be as follows:

*Table 1 Proposed Parcels*

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00121	59.5 m	155 m	0.9 ha	1	25 Skeel Court
B-00122	51 m	155 m	0.8 ha	2	27 Skeel Court

- [3] The retained land, shown on said sketch, will have a frontage of 47.6 metres, a depth of 159.6 metres, and a lot area of 0.9 hectares and is known municipally as

8597 Franktown Road. This land will contain the existing single dwelling and accessory buildings.

- [4] Approval of these applications will have the effect of creating separate parcels of land that will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance application (File No D08-02-24/A-00175) has) been filed and will be heard concurrently with these applications.

## **PUBLIC HEARING**

- [5] At the outset of the hearing, the Committee called the Applicant's Agent forward to determine if an adjournment of the applications would be necessary to confirm that the septic system does not cross the proposed property lines. Jordan Jackson, Agent for the Applicants, and City Planner, Luke Teeft, both confirmed that the conditions requested in the City's report would address the septic system and confirm that it does not cross the property line.
- [6] The Committee agreed to hear the applications without delay.

### **Oral Submissions Summary**

- [7] Ms. Jackson provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. She highlighted concerns with the imposition of a Mineral Resource Impact Assessment report as a condition of approval, as she indicated that the assessment was already filed with the applications. She further requested that an Environmental Impact Study as a condition of approval be removed as the development envelopes had been provided within a 30 metres setback from any watercourse.
- [8] Mr. Teeft confirmed that a condition requiring a Mineral Resource Impact Assessment would be required due to the sand and gravel overlay in close proximity to the proposed parcels. He further confirmed that he would be agreeable to the condition for an Environmental Impact Study not being imposed.

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

### **Applications Must Satisfy Statutory Tests**

- [9] 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**

[10] 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:

- Applications and supporting documents, including cover letter, plans, parcel abstract, photo of the posted sign, and a sign posting declaration.
- City Planning Report received August 1, 2024, with no concerns.
- Rideau Valley Conservation Authority email received August 2, 2024, with comments.
- Hydro Ottawa email received August 2, 2024, with no concerns.
- Hydro One email received July 24, 2024, with no comments.

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

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

[12] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications subject to the requested conditions agreed to by the Applicant's Agent.

[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 the accompanying Minor Variance Application (D08-02-24/A-00175) has been approved, with all levels of appeal exhausted.
2. 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.
3. That the Owner enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the **manager of the Development Review All Wards Branch, or their designate**, which provides the following covenants/notices that run with the land and bind future Owner(s) on subsequent transfers:

"The property is located within an area designated as Rural Countryside, in close proximity to an existing livestock facility, and therefore may become subject to odor, noise, and other activities associated with agricultural and livestock operations."

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

"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 City of Ottawa has identified that there are potential thin soils, sensitive marine clay soils, organic soils, and karst topography 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 Owner(s) provide proof to the satisfaction of the **manager of the Development Review All Wards Branch, or their designate**, to be confirmed in writing from the Department to the Committee, that each existing parcel has its own independent private sewage system, storm/foundation drainage, and well and that they do not cross the proposed severance line. If the systems cross the proposed severance line, are not independent, or do not meet the

minimum spacing requirements of the Ontario Building Code and City of Ottawa Hydrogeological and Terrain Analysis Guidelines, the Owner(s) will be required to relocate the existing systems or construct new systems, at their own cost.

5. That the Owner convey a 3m x 9m corner sight triangle located at the intersection of Franktown and Skeel Court to the City, with all costs to be borne by the Owner(s), to the satisfaction of the **Surveys and Mapping Branch** of the City. This area will be free of all structures, plantings, etc. and will allow a proper sighting distance for motorists when performing turning movements within the intersection. The Committee must receive written confirmation from **City Legal Services** that the transfer of the lands to the City has been registered.
6. 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 Franktown, 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.

7. That the Owner provide a Geotechnical Report prepared by a Professional Civil Engineer licensed in the Province of Ontario, that is satisfactory to both the **manager of the Development Review All Wards Branch, or their designate and to the Rideau Valley Conservation Authority** to be confirmed in writing from **PDBS and the Authority** to the Committee, demonstrating the following:
  - (a) That all parcels to be created by this application are or can be made suitable for residential purposes (slope stability, erosion protection, and building limits adjacent to slopes);
  - (b) That there are no adverse environmental impacts.

The Geotechnical Report shall, as a minimum, determine the limit of organic soils/karst topography/sensitive marine clays present on the severed parcel and provide recommendations for construction methods based on the soil types encountered.

8. That the Owner(s) provide a Mineral Resource Impact Assessment report, to the satisfaction of the **manager of the Development Review All-Wards Branch, or their designate**, demonstrating that the potential future expansion of an extraction operation in depth or extent, will not be affected by the development. The report must include a review of the impact of the development upon the current mineral extraction or future expansion. The report shall be prepared in accordance with the Province of Ontario's Aggregate Resource Policies and Procedures and the City of Ottawa Official Plan.
9. 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 severed lot 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 severed parcel is in accordance with the Ministry of the Environment, Conservation and Parks
- 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 and/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 **manager of the Development Review All Wards Branch, or their 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”.

10. 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.
11. 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.

*Terence Otto*  
TERENCE OTTO  
VICE-CHAIR

*Gary Duncan*  
GARY DUNCAN  
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 **August 16, 2024.**



Matthew Garnett  
Acting 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 5, 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 the Planning, Development and Building Services 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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