

**DECISION  
CONSENT/SEVERANCE**

<b>Date of Decision</b>	July 26, 2024
<b>Panel:</b>	3 - Rural
<b>File No.:</b>	D08-01-23/B-00276
<b>Application:</b>	Consent under Section 53 of the <i>Planning Act</i>
<b>Applicant:</b>	Romay Automotive Limited
<b>Property Address:</b>	6105 McVagh Road
<b>Ward:</b>	20 - Osgoode
<b>Legal Description:</b>	Part of Lot 27, Concession 8, Geographic Township of Cumberland
<b>Zoning:</b>	AG2
<b>Zoning By-law:</b>	2008-250
<b>Heard:</b>	July 16, 2024, in person and by videoconference

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

- [1] The Applicant is receiving a portion of land from the Owner of 6079 McVagh Road through a lot line adjustment application (D08-01-23/B-00279). The Applicant then wants to subdivide their enlarged property into two separate parcels of land to create a new lot for a surplus farm dwelling.
- [2] At its hearing on December 12, 2023, the Committee adjourned the application to allow the Applicant time to revise the size of severed lands and to confirm the location of the septic system and its distance from the proposed lot lines.

**CONSENT IS REQUIRED FOR THE FOLLOWING**

- [3] The Applicant requires the Committee's consent to sever the land and for a grant of Easement/Right-of-Way.
- [4] The land to be severed is shown as Parts 1, 2 and 3 on a draft 4R-Plan filed with the application, will have a frontage of 3.15 metres, an irregular depth, and a lot area of 6121 square metres. This parcel contains the existing dwelling and accessory structures, known municipally as 6105 McVagh Road.

- [5] The land to be retained, shown on a sketch with the application, will have a frontage of 298 metres, and irregular depth, and a lot area of 32.7 hectares. This parcel will be known municipally as 6113 McVagh Road.
- [6] Parts 2 and 3 will be subject to an easement in favour of 6079 McVagh Road for access to the shared driveway and for the existing hydro services.

## **PUBLIC HEARING**

- [7] Miranda Virginillo and Greg Winters, agents for the Applicant and City Planner, Stephan Kukkonen were present.
- [8] There were no objections to granting this unopposed application as part of the Panel's fast-track consent agenda.

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

### **Application(s) 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:

- Application and supporting documents, including cover letter, plans, photo of the posted sign, and a sign posting declaration.
- City Planning Report received July 12, 2024, with no concerns; received December 7, 2023, requesting an adjournment.
- South Nation Conservation Authority email received July 11, 2024, with no objections; received December 8, 2023, requesting an adjournment.
- Hydro Ottawa email received July 10, 2024, with no comments; received December 6, 2023, with no comments.

- Hydro One email received July 9, 2024, with no concerns; received December 5, 2023, with no concerns.
- Ontario Ministry of Transportation email received July 10, 2024, with no concerns.
- Forestry Services email received December 6, 2023, with no concerns.

### **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 application.
- [12] The Committee notes that the City's Planning Report raises "no concerns" regarding the application, subject to the requested conditions agreed to by the Applicant or their 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 to the satisfaction of both the **Chief Building Official and the Manager of the Development Reviews All Wards Branch, or their designates**, that both severed and retained parcels have their own independent water, sanitary and storm connection as appropriate, and that these services do not cross the proposed severance line and are connected directly to City infrastructure. Further, the Owner(s) shall comply with 7.1.5.4(1) of the Ontario Building Code, O. Reg. 332/12 as amended. If necessary, a plumbing permit shall be obtained from Building Code Services for any required alterations.
  2. That the Owner(s) satisfy the **Chief Building Official, or designate**, by providing design drawings or other documentation prepared by a qualified designer, that as a result of the proposed severance the existing buildings on 'severance and easement plan' shall comply with the Ontario Building Code, O. Reg. 332/12 as amended, in regards to the limiting distance along the proposed

property lines. If necessary, a building permit shall be obtained from Building Code Services for any required alterations.

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 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.

4. That the Owner(s) obtain a Zoning By-law Amendment, satisfactory to the **General Manager of the Planning, Development and Building Services Department, or their designate**, to be confirmed in writing from the Department to the Committee, that re-zones the retained lands to prohibit residential development, with all levels of appeal exhausted.
5. 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 **Manager of the Development Review All Wards Branch, or their designate**, to be confirmed in writing from the Department to the Committee, that demonstrates that the newly created lot is being sold.
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 13 meters from the existing centerline of pavement/the abutting right of-way along McVagh Road, 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 or 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(s) enter into a Joint Use, Maintenance and Operating Agreement, at the expense of the Owner(s), setting forth the obligations between the Owner(s) and the proposed future owners. Joint Use, Maintenance and Operating Agreement shall set forth the joint use and maintenance of all common elements including, but not limited to, the common party walls, common structural elements such as roof, footings, soffits, foundations, common areas, common driveways and common landscaping.

The Owner shall ensure that the Agreement is binding upon all the unit owners and successors in title and shall be to the satisfaction of Development Review All Wards **Manager within Planning, Development and Building Services Department, or their designate**, and **City Legal Services**. The Committee requires written confirmation that the Agreement is satisfactory to Development Review All Wards Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate, and is satisfactory to **City Legal Services**, as well as a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title.

8. 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.
9. 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.
10. 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 **JULY 26, 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 **AUGUST 15, 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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