

**DECISION
CONSENT/SEVERANCE**

Date of Decision	July 26, 2024
Panel:	3 - Rural
File Nos.:	D08-01-23/B-00279 and D08-01-23/B-00280
Application:	Consent under Section 53 of the <i>Planning Act</i>
Applicant:	Romay Automotive Limited
Property Address:	6079 McVagh Road
Ward:	20 – Osgoode
Legal Description:	Part of Lot 26 and 27, Concession 8, Geographic Township of Cumberland
Zoning:	AG2
Zoning By-law:	2008-250
Heard:	July 16, 2024, in person and by videoconference

APPLICANT’S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owner/Applicant wants to want to convey a portion of their property to the abutting property owner to the south, known municipally as 6105 McVagh Road. The Applicant then wants to subdivide their remaining property into two separate parcels of land to create one new lot for a surplus farm dwelling.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Applicant requires the Committee’s consent for a lot line adjustment and to sever the land. The property is shown as Parts 3 through 8 on the Draft 4R-Plan 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-00279	3.15 m	Irregular	1.7 ha	3 & 6	Vacant land will merge with the property to the south, known municipally as 6105 McVagh Road.
B-00280	22.87 m	Irregular	2.38 ha	4, 5 & 7	6079 McVagh Road Existing dwelling and accessory structures

- [3] The land to be retained, shown as Part 8 on said Plan, will have a frontage of 434.25 metres, an irregular depth, and a lot area of 21.92 hectares. This parcel will contain the vacant farmland and be known municipally as 6001 McVagh Road.
- [4] Parts 4 and 5 will be subject to an easement in favour of 6105 McVagh Road for access to the shared driveway and for the existing hydro services.

PUBLIC HEARING

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

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Application(s) Must Satisfy Statutory Tests

- [7] 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

[8] 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, tree information, parcel register, 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.
- Ontario Ministry of Transportation email received July 9, 2024, with no concerns; received December 4, 2023, with no concerns.
- Forestry Services email received November 27, 2023, with no concerns.

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

[10] 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 or their Agent. The Committee also notes that the City is satisfied that the applications would not threaten the retention of viable agricultural land and therefore conform with the Official Plan.

[11] 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.

[12] 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 file with the Secretary-Treasurer of the Committee of Adjustment the following:
 - a. A copy of the Reference Plan and/or legal description of the severed land and the deed or Instrument conveying the severed land to the owner of the abutting property to the south, known municipally as 6105 McVagh Road, so that no new lot is being created, in accordance with paragraph (b) below;
 - b. A Certificate of Official attached to the deed/transfer required by paragraph (a) above containing the following endorsement:

"The lands to be severed are for the purpose of a lot addition only to the abutting lands owned by (insert name) described as PIN (insert property identification number) being Part(s) (insert numbers) on Plan (insert plan number), not for the creation of a new lot, and any subsequent transfer,

charge or other transaction involving the lands to be severed shall be subject to compliance with Section 50(3) or Section 50(5) of the Planning Act, as applicable. Neither the lands to be severed nor the abutting lands are to be transferred, charged or otherwise re-conveyed in the future without the other parcel unless a further consent is obtained. The Owner shall cause the lands to be severed to be consolidated on title with the abutting lands and for this condition to be entered on the parcel register for the consolidated parcel as a restriction”;

- c. An Undertaking from a solicitor authorized to practice law in the Province of Ontario, and in good standing with the Law Society of Upper Canada, as follows:

“In consideration of, and notwithstanding the issuance of the Certificate under Section 50(12) of the Planning Act in respect to the subject Application for Consent, I undertake on behalf of the Owner, within 30 days of the registration on title of the transfer document containing the endorsement set out in the Certificate of Official issued by the Committee of Adjustment, to file an Application to Consolidate Parcels including the severed land (Part of PIN (insert number) and the abutting land (PIN insert number). This PIN consolidation is intended to reinforce the Planning Act stipulation in the condition outlined above that both parcels have merged on Title and cannot be conveyed separately in the future. I further undertake to forward a copy of the registered Application to Consolidate Parcels and a copy of the Consolidated Parcel abstract page(s) to the Committee office within 21 days of the registration of the Application to Consolidate Parcels”.

- d. Where the parcel consolidation stipulated in paragraph (b) and the solicitor’s Undertaking in paragraph (c) above cannot be reasonably completed because the parcels of land to be merged have different estate qualifiers, an Application to Annex Restrictive Covenant under Section 118 of the Land Titles Act must be registered on the Title of both the severed lands and on the abutting parcel that is to be merged. The Covenant, which is to be to the satisfaction of the Secretary-Treasurer of the Committee, shall advise all future purchasers that the parcels must be dealt with together and not separately, and contain wording set out below or similar wording acceptable to the Secretary-Treasurer of the Committee:

“These lands have been merged and may not be dealt with separately, without applying for a Consent of the Committee of Adjustment”.

In lieu of the Undertaking provided in paragraph (c), a replacement Undertaking by the solicitor must be filed undertaking on behalf of the Owner to register the Restrictive Covenant on both property Titles within 30 days of the registration of the transfer document containing the

endorsement of the Certificate of Official issued by the Committee of Adjustment for this application and to file a copy of the registered Restrictive Covenant with the Committee within 21 days of the registration of the document.

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(s) provide evidence to the satisfaction of both the **Chief Building Official and the Manager of the Development Review 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.
4. 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.
5. 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.
6. 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.

7. 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 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.
8. 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.

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.

Terrence Otto
TERRENCE 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 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 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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