

**DECISION
CONSENT/SEVERANCE**

Date of Decision	August 16, 2024
Panel:	3 - Rural
File No.:	D08-01-24/B-00113
Application:	Consent under Section 53 of the <i>Planning Act</i>
Applicant:	James Flewellyn
Property Address:	3179 Carry's Side Road
Ward:	5 West Carleton-March
Legal Description:	Part Lot 8 and 9, Concession 6, Geographic Township of West Carleton
Zoning:	AG
Zoning By-law:	2008-250
Heard:	August 6, 2024, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Applicant wants to subdivide their property into two separate parcels of land to create one new lot for surplus farm dwellings. The existing sheds will remain on the agricultural land.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Applicant requires the Committee's consent for a Conveyance.
- [3] The severed land, shown on a sketch filed with the application, will have a frontage of 58 metres, a depth of 70 metres, and a lot area of 0.41 hectares. This parcel will contain the surplus farm dwelling and is known municipally as 3179 Carry's Side Road.
- [4] The retained land, shown on said sketch, has a frontage of 632 metres on Carry's Side Road, an irregular depth, and a lot area of 39 hectares. This parcel will be known municipally as 3135 Carry's Side Road and will continue to be used for agricultural purposes.
- [5] The application indicates that the property is subject to an easement as in FY12761.
- [6] The property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

Oral Submissions Summary

- [7] Paul Robinson, Agent for the Applicant, provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. Mr. Robinson asked that the City's requested condition in the Planning Report for a 15 metres road widening be amended to 13 metres, as Carry's Side Road is not an arterial road.
- [8] City Planner Luke Teeft confirmed that the road right of way should be noted as 26 metres and agreed to revise the wording of the condition to refer to 13 metres widening, noting that the condition would have to be met to the satisfaction of the City Surveyor.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application 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, parcel abstract, photo of the posted sign, and a sign posting declaration.
- City Planning Report received August 1, 2024, with no concerns.
- Mississippi Valley Conservation Authority email received July 30, 2024, with no comments.
- Hydro Ottawa email received August 2, 2024, with no comments.
- Hydro One email received July 24, 2024, 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, as amended as requested by the Applicant's Agent and agreed to by the City.
- [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 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 **General Manager of the Planning, Infrastructure and Economic Development Department, or his/her designate**, to be confirmed in writing from the Department to the Committee, that demonstrates that the newly created lot is being sold.
 2. That the Owner(s) obtain a Zoning By-law Amendment, satisfactory to the **manager of the Development Review All Wards Branch, or their designate**, residential development on the retained lands, with all levels of appeal exhausted.
 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 Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, which provides the following covenants/notices that run with the land and bind 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 City of Ottawa has identified that there are potential 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 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 Carry’s Side 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.

Should the widening be encumbered by a fence on the retained lands zoned Rural Countryside (RU) or Agricultural (AG) where the fence may be used for livestock the Owner must file a written acknowledgement that they are solely responsible for the maintenance, repair and any liability associated with the fence remaining and shall be responsible for its removal should the City require the use of the lands containing the encumbrance for road related works. The Owner further agrees to notify any subsequent purchasers of same. This shall be to the satisfaction of **City Legal Services**

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.

Terence Otto
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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 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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