



June 27, 2024

City of Ottawa
Committee of Adjustment
101 Centrepointe Drive
Ottawa, ON K2G 5K7

Committee of Adjustment
Received | Reçu le

2024-07-02

City of Ottawa | Ville d'Ottawa
Comité de dérogation

Attention: Michel Bellemare, Secretary-Treasurer

**Reference: Applications for Consent (Severance) and Minor Variance
8597 Franktown Road, Ashton ON
Our File No.: 123152**

Novatech has been retained to file consent and minor applications on behalf of Loraine Hogg and Allen Wharry for a property known municipally as 8597 Franktown Road. The subject property is located at the intersection of Franktown Road and Skeel Court, between Dwyer Hill Road and Ashton Station Road in the former Township of Goulbourn.

The subject property is located in a rural residential plan of subdivision created in the 1980s and is legally described as Part of Lot 1 Plan 4M-360 being Part 4 & 5 on 4R-19705, Geographic Township of Goulbourn, City of Ottawa. Lot 1 has a total area of approximately 2.7 ha and has approximately 160m of frontage on Franktown Road and approximately 173 m of frontage on Skeel Court. The property is currently developed with a single-detached dwelling on private services located on the southern portion of the property adjacent to Franktown Road. A drainage ditch runs along the northern property line that flows through the subdivision and eventually drains to the Jock River. The surrounding properties on Skeel Court are all rural residential lots ranging in size from 0.8 ha to 2.7 ha and surrounding lands are comprised of rural and agricultural land uses on larger lots, with residential land uses on some smaller lots.

The property is designated as *Rural Countryside* on Schedule B9 of the City of Ottawa's Official Plan. Lands in the area are predominantly zoned as Rural Countryside (RU), except that the subdivision lands are zoned Rural Residential (RR) with lots on the west side of Skeel Court zoned Rural Residential Subzone 2, Special Exception 197 (RR2[197r]). The special exception zone establishes a minimum setback requirement of 50 m for lots that abut lands zoned Mineral Extraction (ME3[1r]-h) on the neighbouring property to the west.

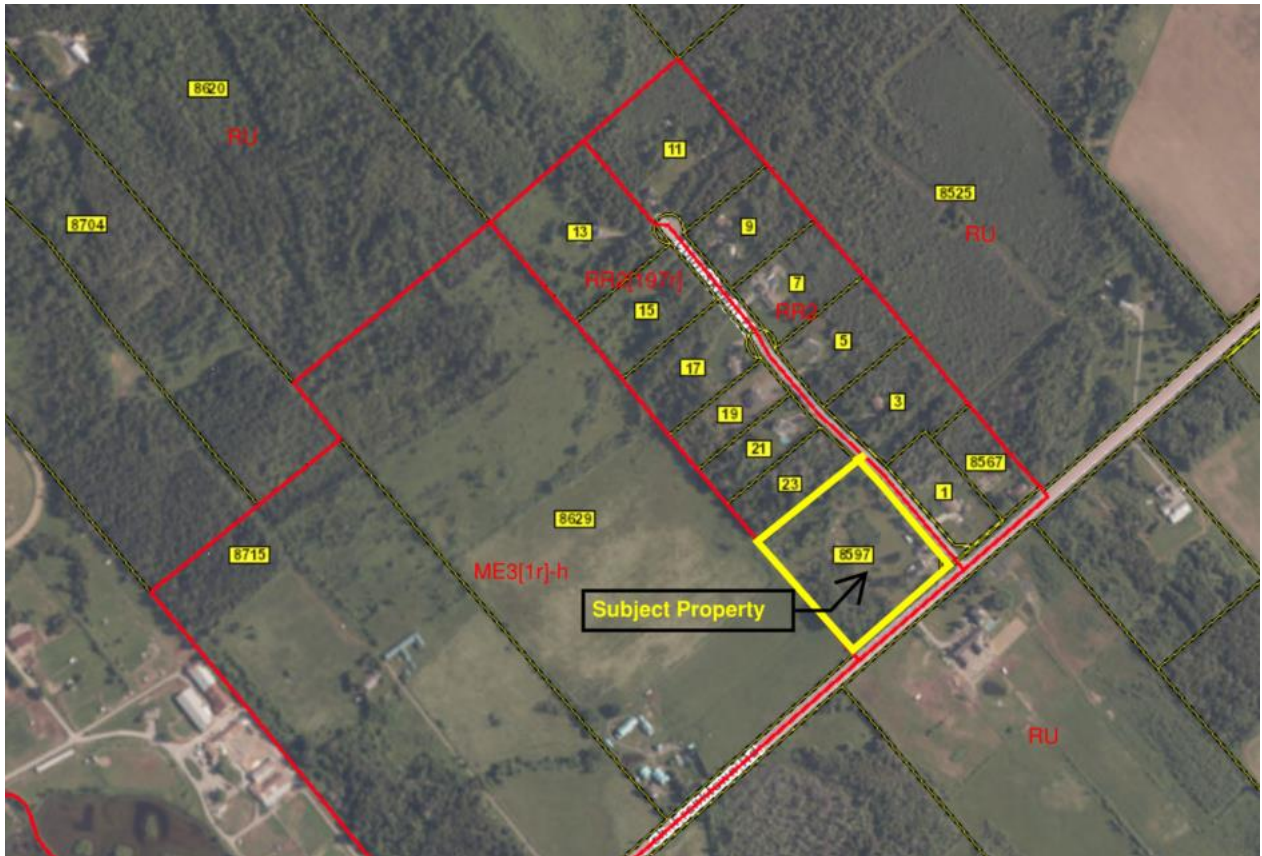


Figure 1: Surrounding Zoning (Source: GeoOttawa)

Project Description

The property owners wish to obtain consent approval to sever the subject lands to create two new residential lots fronting on Skeel Court. The severed lots would each have a minimum lot area of 0.9 ha and 0.8 ha respectively, and the retained lot, containing the existing dwelling, would have a lot area of approximately 0.9 ha. The lots to be severed will continue to be undeveloped at this time with the intent to be used for future residential purposes.

The subject lands are located within the influence area of an aggregate resource identified in the Official Plan and ME3[1r]-h zone on abutting lands to the west. Accordingly, the severances are supported by a Mineral Resource Impact Assessment (MRIA) to address the requirements of the Provincial Policy Statement and City of Ottawa Official Plan.

In order to accommodate the creation of one of the severed lots, a reduction to the Minimum Distance Separation (MDS) setback requirement in relation to a nearby livestock facility at 8594 Franktown Road is also required. The minor variance application includes an MDS analysis and provides a rationale for the proposed variance to the MDS requirements.

Proposed Consents

The purpose of the consent applications is to sever the subject lands into three separate land parcels to accommodate future residential development of single detached dwellings. The proposed severed and retained lots will be divided as follows, and as shown on the consent sketches submitted with the applications:

Consent #1 (Lot #1)

- The first consent application proposes to create one new land parcel of approximately 0.9 ha in area and a lot width of approximately 59.5 m on Skeel Court. The new land parcel is intended for future residential uses.
- The retained lands will have a lot area of approximately 1.78 ha with approximately 98.6m of frontage on Skeel Court and contain the existing single dwelling, accessory buildings and private services.

Consent #2 (Lot #2)

- The second consent application proposes to create a land parcel of approximately 0.8 ha in area and a lot width of approximately 51 m on Skeel Court. The new land parcel is intended for future residential uses.
- The retained lands will have a lot area of approximately 0.9 ha with a lot width of approximately 62 m on Skeel Court and will contain the existing single dwelling, accessory buildings and private services.
- This application relies on receiving provisional approval of Consent Application #1 and requires relief from MDS requirements in relation to a nearby livestock facility.

In conformity with Section 53 (42.1) of the Planning Act, this application requests certificates to the applicant for both the severed and retained lots resulting from the proposed consent. An accompanying letter from the client's solicitor is attached in support of this request.

Proposed Minor Variance Application

The purpose of the minor variance application is to seek relief from the Minimum Distance Separation requirements of Section 62(2) of the Zoning By-law in relation to a nearby livestock facility located at 8594 Franktown Road. The proposed minor variance application is as follows:

- a) To reduce the required MDS 1 setback requirement, as calculated in relation to 8594 Franktown Road, from 185m to 134m, whereas Section 62(2) of the Zoning By-law requires new development in proximity to existing livestock operations to comply with the Minimum Distance Separation formulae.

Rationale for Consents and Minor Variance

The following rationale assesses the appropriateness of the consent applications to facilitate the proposed severances and demonstrates that the proposed minor variance in relation to the second consent application meets the 'four tests' of the *Planning Act*.

Proposed Consents

Subsection 53(1) of the *Planning Act* states:

53. (1) An owner or chargee of land, or such owner's or chargee's agent duly authorized in writing, may apply for a consent as defined in subsection 50 (1) and the council or the Minister, as the case may be, may, subject to this section, give a consent if satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality. 1994, c. 23, s. 32; 2020, c. 34, Sched. 20, s. 2 (2).

- **The application proposes to create two new residential lots and to retain a developed parcel with an existing dwelling. All lots front onto a publicly maintained road and the proposed consent does not necessitate the construction of new public infrastructure. A plan of subdivision is not necessary for the proper and orderly development of the lands.**

Accordingly, the following rationale will address the criteria outlined in Subsection 53(12) of the *Planning Act* below:

51(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;

- **The Provincial Policy Statement permits residential development in rural areas and includes policies that direct residential development to be directed to areas that are locally appropriate and where matters of provincial interest, including natural heritage, mineral aggregate, and agricultural resources can be addressed.**
- **The proposed consent applications will not impact matters of provincial interest identified in relation to the subject lands. The applications are supported by applicable reports and analysis to address provincial interests that have been noted.**

(b) whether the proposed subdivision is premature or in the public interest;

- **The subject property is a large lot that is part of an existing rural residential plan of subdivision. Lot creation is supported by required studies/analysis, and subject to addressing private servicing requirements, the proposed lots will be consistent with other lots in the subdivision. The lots would provide an opportunity for infill within an existing development, which is in the public interest and is not premature.**

(c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;

- **The City's Official Plan describes the intent of the Rural Countryside designation as being to accommodate a variety of land uses that are appropriate for the rural location, limit residential development and to**

ensure that the character of the rural area is preserved. The policies permit the creation of lots within a registered plan of subdivision provided the severed and retained lot areas have a minimum lot size of 0.8 ha, and provided that the lots can be adequately serviced using private services. A hydrogeological study to support lot creation will be completed as a condition of severance.

- As noted, the subject lands are located within the 300m influence area of a Sand and Gravel Resource Area Overlay, as identified on Schedule C9 of the Official Plan. The proposed severances are supported by a Mineral Resource Impact Assessment, prepared by Gorrell Resource Investigations. The report provides a review and analysis of the surrounding mineral aggregate deposits. The report concludes that the adjacent deposits are considered tertiary grade, and more than 65% or more of the deposit area would not be used as aggregate due to insufficient thickness. The report notes that areas for possible extraction are sited more than 400m from the proposed severed lands.
- An MDS analysis has been completed in relation to nearby livestock facilities. An accompanying minor variance application, which addresses the four tests, is included with the severance application and addresses the 'four tests' to demonstrate support for reducing the MDS setback requirement.

(d) the suitability of the land for the purposes for which it is to be subdivided;

- **The proposed severed and retained parcels meet the zoning requirements of the existing RR2[197r] zone. The lots have suitable lot configurations for the proposed land uses and can accommodate building envelopes and setbacks from the drainage channel.**

(d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;

- **Not applicable. The proposed lots are not intended to accommodate 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;

- **Not applicable. The proposed lots front onto an existing municipal road serving a residential subdivision.**

(f) the dimensions and shapes of the proposed lots;

- **The dimensions and shapes of the proposed lots meeting the zoning requirements of the RR2[197r] zone. The lots provide suitable building envelopes to accommodate residential development and are consistent with existing development along Skeel Court.**

(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;

- **The proposed severed land parcels will accommodate future development as permitted by the RR2[197r] zone. No restrictions are proposed.**
- (h) conservation of natural resources and flood control;*
 - **The severed lands are of a suitable lot size to accommodate development outside the 30m watercourse setback requirement of the Zoning By-law. There are no floodplain hazards identified on the property. The retained lands are currently developed.**
- (i) the adequacy of utilities and municipal services;*
 - **Private services (well and septic system) will be required to support future development on the severed parcels and will be addressed through the fulfilment of conditions.**
- (j) the adequacy of school sites;*
 - **Not applicable.**
- (k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;*
 - **A road widening may be required as a condition of approval.**
- (l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and*
 - **Not applicable.**
- (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).*
 - **Not applicable.**

As noted, the subject lands do not require a plan of subdivision for the proper and orderly development of the lands and addresses criteria outlined in subsection 51(24) of the *Planning Act*. The subject lands are a large residential lot in a developed plan of subdivision. The proposed severances to further subdivide the subject lands will facilitate an efficient use of residential land at a location where residential subdivision and zoning has established the principle residential land use.

Proposed Minor Variance

Per Section 45(1) of the Planning Act, the proposed minor variance must meet the following four tests:

1. Is the general intent and purpose of the Official Plan maintained?

The subject property is designated as *Rural Countryside* within the Rural Transect in the City of Ottawa Official Plan. The intent of the Rural Countryside designation is to protect and enhance the rural character and limit fragmentation of rural lands. Section 9.2 of the Official

Plan states that *“The intent of this designation is to accommodate a variety of land uses that are appropriate for a rural location, limiting the amount of residential development and to support industries that serve local residents and the travelling public, while ensuring that the character of the rural area is preserved”*.

The requested variance will permit the creation of new residential lot within an existing country lot subdivision. The proposed lot would be located within a cluster of existing residential development as opposed to further fragmenting rural lands. The creation of an infill lot within the subdivision will result in a lot that is in keeping with the rural residential character of the subdivision, thereby maintaining the intent of the Official Plan with respect to lot creation in rural areas.

2. Is the general intent and purpose of the Zoning By-law maintained?

The subject property is zoned RR2 – Rural Residential Subzone 2 – Special Exception (RR2[197r]) by the City’s Zoning By-law 2008-250. The purpose of the Rural Residential zone is to:

- 1) *recognize and permit large-lot residential development in planned subdivisions and to acknowledge existing smaller lot development in areas designated as General Rural Area or Rural Natural Features in the Official Plan;*
- 2) *recognize clusters of existing residential development found in areas designated as Agricultural Resource Area or Greenbelt Rural in the Official Plan; Part 13 – Rural Zones (Sections 211-236) 13-31 City of Ottawa Zoning By-law 2008-250 Consolidation*
- 3) *permit residential-only uses as well as related and accessory uses;*
- 4) *regulate development in a manner that respects both the residential character of the area and the surrounding rural context.*

The intent of the Zoning By-law with respect to MDS is to implement OMAFRA’s Guidelines that are used by municipalities to review and establish setback distances between agricultural uses and non-agricultural uses in order to avoid incompatible land uses that are in proximity to one another. The OMAFRA document provides guidance for calculating setbacks and uses factors such as livestock type and size of livestock facility to calculate setbacks. The document is a Guideline and provides for some flexibility in calculating and applying setback requirements.

MDS Guideline #12 of OMAFRA document recognizes that there may be existing or approved development located near existing livestock facilities that do not conform to MDS I requirement. The Guideline also identifies that MDS setbacks may be reduced provided there are four or more residential uses or dwellings sited closer than the proposed development. Development may be allowed provided it is located no closer than the further case of non-conformance.

There are a total of three existing dwellings that do not meet the MDS I setback of 185m. The following existing dwellings do not meet the MDS setback of 185m:

- 8597 Franktown Rd – Existing Setback – approx. 97m
- 1 Skeel Court – Existing Setback – approx. 152m
- 8567 Franktown Rd – Existing Setback – approx. 178m

The subject livestock operation is a horse boarding facility that is located approximately 137m to the south and on the opposite side of Franktown Road. The facility is located approximately 97m from the existing dwelling on the subject lands and 152m and 178m from the nearest dwellings on other lots located with the subdivision. The required setback distance from the livestock facility is 185m, whereas the proposed lot would accommodate a setback of 134m. While only one existing dwelling falls within the intervening area of Lot #2, the two other existing dwellings (1 Skeel Court and 8567 Franktown Road) are within the required 185m setback requirement (Figure 2).

The proposed severance would create a new residential lot within an existing residential subdivision which is generally of the same lot area and width of existing adjacent parcels and will allow the lot to be developed for residential purposes consistent with the surrounding residential character. Given that there are three existing uses that do not comply with the current MDS requirement, the proposed lot will not further create any perceived impacts arising from a variance to the MDS requirement. The requested variance to reduce the setback requirement from 185m to 134m will not undermine the intent of the By-law. Infilling of oversized lots within an approved subdivision that is zoned for rural residential use will not undermine the intent of the MDS provision because the principle of residential use at this location has already been established. The variance maintains the general intent and purpose of the Zoning By-law.

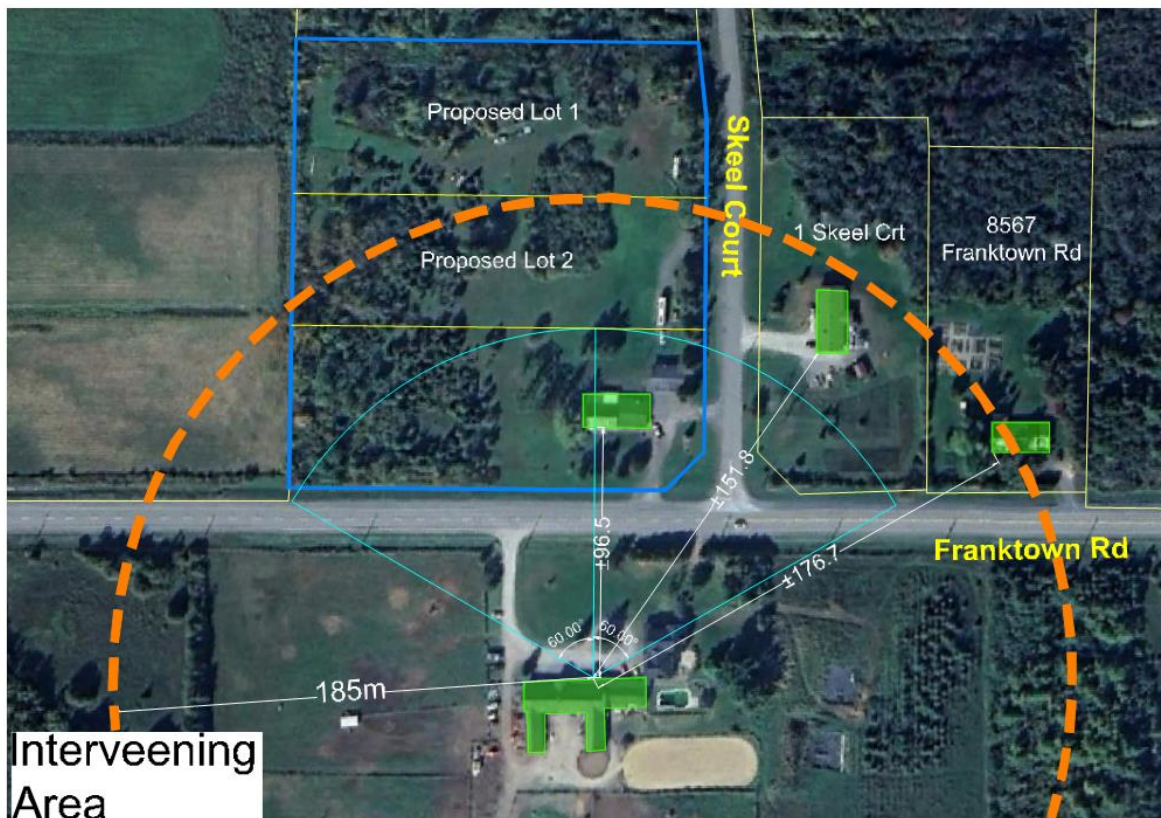


Figure 2: MDS Intervening Area (Source: MDS Sketch by Novatech)

3. Is the proposal desirable for the appropriate development or use of the land?

The proposed variance is considered suitable and desirable for development or use of the land as it allows for lot creation within an existing subdivision where the principle of residential development has been established. Infill development on an oversized rural residential lot is desirable as it supports an additional rural residential housing opportunity within residential clusters that avoids further fragmentation of the rural landscape.

While the proposed lot does not meet the MDS I setback requirements, the variance will not result in any impacts. The variance would accommodate lot creation within a subdivision cluster that includes other lots that do not meet MDS I setback requirements. The proposed variance provides an opportunity for infilling and intensification on a large rural lot that will maintain the low density, rural residential character of the subdivision. As such, the proposal is desirable and appropriate development.

Additionally, MDS setbacks are also applied in a reciprocal manner, in which proposed new livestock facilities are required to meet MDS II requirements. In this case, if the livestock facility at 8594 Franktown Road were to be expanded, the presence of the nearest non-agricultural land use will be a limiting factor by virtue of MDS II requirements. The proposed variance to accommodate a severance at a location that exceeds the setback distance of the nearest dwelling will not impact the opportunity for future expansion of the subject livestock facility.

4. Is the proposal minor?

The subject livestock facility is a horse boarding operation that has capacity for a range of 25-40 horses, among other animals. Based on the analysis using the MDS I formulae, a setback distance of 185m is required.

The subject lot is located in a low density rural residential development that contains three dwellings that do not comply with MDS setback requirements. The requested variance to reduce the MDS setback to 134m for one of the lots is considered to be minor in nature, as it will allow the creation of a 0.8 ha lot, consistent with other lots in the development, no closer to the subject livestock facility, and will not result in any impact on existing or future expansion of the livestock facility.

The requested variance for Lot #2 is minor in nature.

Conclusion

Based on the forgoing, the proposed consent applications filed for 8597 Franktown Road respond favorably to the criteria set out in Section 51(24) the *Planning Act* regarding consent applications. Additionally, the proposed minor variance that seeks relief from the MDS requirements in relation to Lot 2 meets the four tests set out in Section 45(1) of the *Planning Act*.

The creation of two new rural residential lots at this location represents good land use planning and development. The severances will facilitate the infilling and development of an underutilized parcel of land on lands already designated for residential development and will not create any undue impact on existing or future development.

In support of the consent applications, please find the following enclosed:

- Cover Letter (1 - 8 ½ x 11 copy);
- Consent Applications (1 original);
- Minor Variance Application (1 original);
- Consent Sketches (1 – 8 ½ x 11 copy and 1 – 11 x 17 copy);
- Minor Variance Sketch (1 – 8 ½ x 11 copy and 1 – 11 x 17 copy);
- MDS Compliance Sketch (1 - 8 ½ x 11 copy and 1 – 11 x 17 copy);
- MDS Calculations Report (1 copy)
- Mineral Resources Impact Assessment (1 copy)
- Parcel Abstract Page (PIN) of the Property (1 - 8 ½ x 11 copy);
- Lawyers Letter, dated June 25, 2024 for the additional certificate; and
- One Cheque in the amount of \$8,088 (\$5,823 for consent and minor variance and \$2,015 for secondary consent; \$250 for additional certificate).

Please do not hesitate to contact the undersigned in the event that you require either additional information or clarification with respect to the consent and minor variance applications filed for 8597 Franktown Road.

Yours truly,

NOVATECH



Jordan Jackson, RPP, MCIP
Project Manager