

**DECISION  
CONSENT/SEVERANCE**

<b>Date of Decision</b>	September 13, 2024.
<b>Panel:</b>	3 - Rural
<b>File Nos.:</b>	D08-01-24/B-00119 and D08-01-24/B-00120
<b>Application:</b>	Consent under Section 53 of the <i>Planning Act</i>
<b>Applicant:</b>	Martin Brazeau
<b>Property Address:</b>	612 Smith Road
<b>Ward:</b>	19 – Orléans South-Navan
<b>Legal Description:</b>	Part of Lot 10, Concession 10, Geographic Township of Cumberland
<b>Zoning:</b>	RU
<b>Zoning By-law:</b>	2008-250
<b>Heard:</b>	September 3, 2024, in person and by videoconference

**APPLICANT’S PROPOSAL AND PURPOSE OF THE APPLICATIONS**

- [1] The Applicant wants to subdivide their property into two separate parcels of land to create one new lot for future residential development and to convey a portion of their property to the abutting property to the south known municipally as 590 Smith Road.

**CONSENT IS REQUIRED FOR THE FOLLOWING**

- [2] The Applicant requires the Committee’s consent to sever land and for a lot line adjustment. The property is shown as Parts 1, 3, 4, 5, 6 and 7 on the Draft 4R-Plan and sketch filed with the applications and the separate parcels will be as follows:

*Table 1 Proposed Parcels*

<b>File No.</b>	<b>Frontage</b>	<b>Depth</b>	<b>Area</b>	<b>Part No.</b>	<b>Municipal Address</b>
B-00119	70 m	122 m	0.8 ha	4, 5 & 6	634 Smith Road  Vacant land for future residential development
B-00120	landlocked	Irregular	5.26 ha	7	To be merged with 590 Smith Road

- [3] The retained land is shown as Part 1 on said plan and will have a frontage of 112.46 metres, an irregular depth, and an area of 13.36 hectares. This lot contains a detached dwelling and an accessory building and is known municipally as 612 Smith Road.
- [4] The subject property is not the subject of any other current application under the *Planning Act*.

## **PUBLIC HEARING**

- [5] On August 6, 2024, the scheduled hearing of the applications was adjourned to August 20, 2024, at the request of City Planner Elizabeth King, to allow the Applicant time to complete minimum distance separation calculations to determine if minor variances were required. On August 20, 2024, the applications were further adjourned to September 3, 2024, at the request of the Ms. King.

### **Oral Submissions Summary**

- [6] Martin Brazeau, the Applicant, was present.
- [7] City Planner Elizabeth King confirmed she had no concerns with the applications.

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

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

- [8] 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**

[9] 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, environmental impact study, hydrogeological assessment and terrain analysis, photo of the posted sign, and a sign posting declaration.

- City Planning Report received August 28, 2024, requesting an adjournment; received August 29, 2024, with no concerns; received August 14, requesting an adjournment; received July 31, 2024, requesting an adjournment.
- South Nation Conservation Authority email received August 15, 2024, with no comment; received July 30, 2024, with no comments.
- Ottawa Septic Office email received July 30, 2024, requesting an adjournment.
- Ontario Ministry of Transportation email received August 13, 2024, with no comments.
- Hydro Ottawa email received August 2, 2024, with no comments.
- Hydro One, email received July 24, 2024, with no comments.

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

- [10] The Committee considered all written and oral submissions relating to the applications in making its decision and granted the applications.
- [11] 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.
- [12] 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.
- [13] 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 proof to **the satisfaction of Development Review Manager of All Wards within Planning, Development and Building Services Department, 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.

2. 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 All Wards within Planning, Development and Building Services Department, 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 property is located next to lands that have an existing source of environmental noise (collector road) and may therefore be subject to noise and other activities associated with that use”.

The Committee requires a copy of the Agreement and **written confirmation from City Legal Services** that it has been registered on title.

3. The Owner(s) shall prepare a noise and vibration attenuation study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of **Development Review All Wards Manager within Planning, Development and Building Services Department, or their designate**. The Owner(s) shall enter into an agreement with the City that requires the Owner to implement vibration and noise control attenuation measures recommended in the approved study. 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 a Rail Safety Report prepared by a suitably experienced Professional Engineer or Planner, licensed in the Province of Ontario, to the satisfaction of **the Development Review Manager of All Wards within Planning, Development and Building Services Department, or their designate**, to be confirmed in writing from the Department to the Committee.

The purpose of the report is to consult with the railway or operator, determine the building setbacks for new development, and to design and install the required mitigative measures with regards to rail safety. The report must meet the requirements of the Guidelines for New Development in Proximity to Railway Operations, as amended.

5. That the Owner(s) submit a **Phase 1 Environmental Assessment** prepared by a qualified person who meets the qualifications prescribed by the regulations, for approval by the Development Review Manager of All Wards within Planning, Infrastructure and Economic Development Department, or their designate, to be confirmed in writing from the Department to the Committee, outlining the assessment of the property and determining the likelihood that one or more contaminants have affected any land or water, in or under the property.
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 Smith Rd, pursuant to Section 50.1(25)(c) of the Planning Act and Schedule C16 of the City's 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 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 **Development Review All Wards Manager within Planning, Development and Building Services Department, 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".

8. 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.
9. That the Owner(s) 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, prepared in accordance with the City of Ottawa Hydrogeological and Terrain Analysis Guidelines, as amended. The Hydrogeological and Terrain Analysis report must demonstrate the following to the City of Ottawa:
  - That the construction of any new well(s) on the severed parcel(s) is/are in accordance with the Ministry of the Environment, Conservation and Parks regulation (O.Reg.903) and the City of Ottawa Hydrogeological and Terrain Analysis Guidelines;
  - That the quality of the water meets the requirements of the City's Hydrogeological and Terrain Analysis Guidelines;
  - That the quantity of water meets all the requirements of the City's Hydrogeological and Terrain Analysis Guidelines;

- That the septic impact assessment meets the requirements of the City's Hydrogeological and Terrain Analysis Guidelines.

A hydrogeologist (P.Geo. or P.Eng. with the required qualifications) must prepare the report. It is the Owner's responsibility to coordinate the person drilling a new well (or wells), if required, and the professional hydrogeologist noted herein in order to properly satisfy this condition. Lot creation will normally not be approved based on dug wells, unless it can be demonstrated, to the satisfaction of the City, that a drilled well is likely to produce unacceptable water quantity or quality. Technical pre-consultation is mandatory if dug wells are contemplated. The report provided with the application identifies that dug wells are contemplated, which will require technical pre-consultation with the City.

If the approved 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 approved Hydrogeological and Terrain Analysis report recommends specific requirements for well or septic system design and construction, the drilling of a well (or wells) and/or the conveyance of a 30-centimetre reserve shall be required. A potential alternative to conveying a 30cm reserve, for sites with specific recommendations in the approved Hydrogeological and Terrain Analysis report, would be to drill a well on each severed parcel and submit the required confirmation documents, which could include, but is not limited to, a Well Inspection Report (certified by a hydrogeologist, not only the well driller) and a copy of the approved Septic Permit from the Ottawa Septic System Office for each severed parcel, demonstrating compliance with the approved Hydrogeological and Terrain Analysis report.

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.**

10. 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 known municipally as 590 Smith 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”.

e. 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

11. That the Owner(s) enter into an Agreement with the City, to the satisfaction of **the Manager of the Development Review All Wards Branch, or their designate**, to be placed on title that includes the mitigation measures identified in the “590 Smith Road Lot Boundary Adjustment Environmental Impact Study” provided by Muncaster Environmental Planning and dated September 7, 2023.
12. 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.
13. 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 the conveyances for which the Consent is required.

*Absent*  
TERRENCE OTTO  
VICE-CHAIR

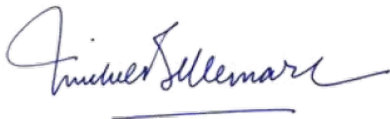
*Gary Duncan*  
GARY DUNCAN  
MEMBER

*Beth Henderson*  
BETH HENDERSON  
MEMBER

*Martin Vervoort*  
MARTIN VERVOORT  
ACTING PANEL CHAIR

*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 **September 13, 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 **October 3, 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 APPLICANTS

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**  
City of Ottawa  
[Ottawa.ca/CommitteeofAdjustment](http://Ottawa.ca/CommitteeofAdjustment)  
[cofa@ottawa.ca](mailto:cofa@ottawa.ca)  
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**Comité de dérogation**  
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