

**DECISION  
CONSENT/SEVERANCE**

<b>Date of Decision:</b>	November 29, 2024
<b>Panel:</b>	3 - Rural
<b>File No.:</b>	D08-01-24/B-00182
<b>Application:</b>	Consent under Section 53 of the <i>Planning Act</i>
<b>Applicants:</b>	Anthony and Margaret Pocket
<b>Property Address:</b>	5190 MacHardy Road
<b>Ward:</b>	5 – West Carleton-March
<b>Legal Description:</b>	Part of Lot 25, Concession 5 Geographic Township of Fitzroy
<b>Zoning:</b>	RU [19r]
<b>Zoning By-law:</b>	2008-250
<b>Heard:</b>	November 19, 2024, in person and by videoconference

**APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION**

- [1] The Applicants want to subdivide their property into two separate parcels of land to create one new lot for future residential development. The existing dwelling will remain.

**CONSENT REQUIRED**

- [2] The Applicants seeks the Committee's consent to sever land.
- [3] The property is shown as on a sketch filed with the application.
- [4] The severed land will have a frontage of 175 metres on Steen Lane and 236 metres on MacHardy Road, and a lot area of 4.5 hectares and is known municipally as 5230 MacHardy Road.
- [5] The retained land, shown on said sketch, has a frontage of 31 metres on Steen Lane and 140 metres on MacHardy Road, and a lot area of 10.35 hectares. This parcel will contain the existing single detached dwelling and is known municipally as 5190 MacHardy Road.
- [6] The property is not the subject of any other current application under the *Planning Act*.

## **PUBLIC HEARING**

- [7] On November 5, 2024, the hearing of the application was adjourned to allow time to consult with City staff.

### **Oral Submissions Summary**

- [8] Gabi Amos and Scott Alain, Agents for the Applicants, provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request.
- [9] City Planner Luke Teeft expressed some concerns regarding the existing maintenance agreement on MacHardy Road, as it is not a publicly maintained road, but noted that his concerns could be addressed through the requested condition for a maintenance and private agreement between the owners along MacHardy Road.
- [10] Mr. Alain questioned the need for the condition outlined in the City's Planning Report requiring a 3m x 3m corner sight triangle.
- [11] City Planner Erin O'Connell explained that a corner sight triangle is required to allow for future flexibility in road improvements, but noted that the in this instance, the condition could be removed.
- [12] With the concurrence of all parties, the Committee agreed not to impose the condition for a corner sight triangle.

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

### **Application(s) Must Satisfy Statutory Tests**

- [13] 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**

[14] 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, environmental impact statement, parcel abstract, photo of the posted sign, and a sign posting declaration.
- City Planning Report received November 13, 2024, with some concerns; received November 1, 2024, requesting an adjournment; received October 30, 2024, recommending refusal of the application.
- Mississippi Valley Conservation Authority email received November 15, 2024, with no comments; received November 1, 2024, with no comments.
- Hydro Ottawa email received November 1, 2024, with no comments.
- Hydro One email received November 13, 2024, with no comments; received October 31, 2024, with no comments.
- Ontario Ministry of Transportation email received October 18, 2024, with no comments.

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

- [15] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [16] The Committee notes that the City's Planning Report raises "no concerns" regarding the application, subject to the requested conditions agreed to by the Applicants' agent.
- [17] 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.
- [18] 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.
- [19] 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.
- [20] 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.
- [21] THE COMMITTEE OF ADJUSTMENT therefore grants the provisional consent, subject to the following conditions set out in Appendix "A" to this decision.

*“Terence Otto”*  
TERENCE OTTO  
VICE-CHAIR

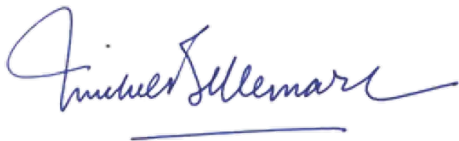
*“Gary Duncan”*  
GARY DUNCAN  
MEMBER

*“Beth Henderson”*  
BETH HENDERSON  
MEMBER

*“Martin Vervoort”*  
MARTIN VERVOORT  
MEMBER

*Absent*  
JOCELYN CHANDLER  
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **November 29, 2024**.



Michel Bellemare  
Secretary-Treasurer

## **NOTICE OF RIGHT TO APPEAL**

To appeal this decision to the Ontario Land Tribunal (OLT), a completed appeal form and the filing fee must be submitted via one of the below options and must be received no later than **3:00 p.m. on December 19, 2024**.

- **OLT E-FILE SERVICE** – An appeal can be filed online through the [E-File Portal](#) . First-time users will need to register for a My Ontario Account. Select [Ottawa (City): Committee of Adjustment] as the Approval Authority. To complete the appeal, fill in all the required fields and provide the filing fee by credit card.
- **BY EMAIL** - Appeal packages can be submitted by email to [cofa@ottawa.ca](mailto:cofa@ottawa.ca). The appeal form is available on the OLT website at [Forms | Ontario Land Tribunal](#). Please indicate on the appeal form that payment will be made by credit card.
- **IN PERSON** – Appeal packages can be delivered to the 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 [Forms | Ontario Land Tribunal](#). In person 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.

Please note only one of the above options needs to be completed. If your preferred method of appeal is not available at the time of filing, the appeal must be filed with one of the other two options.

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.

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 you have any questions about the appeal process, please visit [File an Appeal | Ontario Land Tribunal](#)

## NOTICE TO APPLICANT(S)

Should a Development Agreement be required, such request should be initiated 30 working days prior to lapsing date of the consent and should include all required documentation including that related to transfers, easements, and postponements, and all approved technical studies. If you do not fulfill the conditions of provisional consent within the two-year period, the *Planning Act* provides that your application “shall be deemed to be refused”.

*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)  
613-580-2436



**Comité de dérogation**  
Ville d'Ottawa  
[Ottawa.ca/Comitedederogation](http://Ottawa.ca/Comitedederogation)  
[cded@ottawa.ca](mailto:cded@ottawa.ca)  
613-580-2436

## APPENDIX "A"

1. 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.
2. That the Owner(s) provide proof to the satisfaction of the **Manager of the Development Review All Wards Branch, or their designate**, to be confirmed in writing from the Department to the Committee, of a private maintenance agreement for MacHardy Road along the entirety of the frontage of both the severed and retained lands, which includes the future landowner.
3. That the Owner(s) provide proof to the satisfaction of the **Manager of the Development Review All Wards Branch, 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.
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 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 thin soils 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.

5. 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:

- That the construction of any new well on the severed parcel is in accordance with the Ministry of the Environment, Conservation and Parks.
- That the quality of the water meets the Ministry of the Environment, Conservation and Parks Regulations, Standards, Guidelines and Objectives;
- That the quantity of water meets all the Ministry of the Environment, Conservation and Parks requirements.
- 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 Branch 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".

6. That the Owner(s) prepares and submits an Environmental Impact Study (EIS) to the satisfaction of the **Manager of the Development Review All Wards Branch, or their designate**. If the accepted report recommends specific mitigation measures or other requirements, the Owner shall enter into a Development 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 is to be registered on the title of the property, which includes those recommendations.

7. 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.
8. 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.