

**DECISION
CONSENT/SEVERANCE**

Date of Decision:	December 20, 2024
Panel:	3 - Rural
File No.:	D08-01-24/B-00183
Application:	Consent under section 53 of the <i>Planning Act</i>
Applicants:	Jane Blanchette and Linda Dumoulin
Property Address:	5940 Brophy Drive
Ward:	21 - Rideau-Jock
Legal Description:	Part of Lot 1, Concession 6, Rideau Front, Geographic Township of Nepean
Zoning:	AG
Zoning By-law:	2008-250
Heard:	December 10, 2024, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Applicants want to convey a portion of their property to the abutting property owner to the north, known municipally as 3325 Eagleson Road.

CONSENT REQUIRED

- [2] The Applicants seek the Committee's consent to sever land.
- [3] The severed land, shown on sketch filed with the application, will have a frontage of 95 metres onto Eagleson Road, an irregular depth of ~~2492~~ **2092** metres and will contain a lot area of 40.6 hectares. The vacant land will be merged with the property to the north, known municipally as 3325 Eagleson Road.
- [4] The retained land, shown on said sketch, will have a frontage of ~~440~~ **100** metres, a depth of ~~450~~ **155** metres and a lot area of 1.6 hectares. This parcel contains the existing dwelling and detached garage known as 5940 Brophy Drive.
- [5] The Application indicates the property is subject to existing easements as in NP47885, OC1087975 and OC1087976.

- [6] The property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [7] On October 15, 2024, and November 19, 2024, the hearing of the application was adjourned to allow time to address concerns raised by the Rideau Valley Conservation Authority on behalf of the Ottawa Septic System Office.

Oral Submissions Summary

- [8] The Committee noted that an amendment to the application was required as follows:

The severed land, shown on sketch filed with the application, will have a frontage of 95 metres onto Eagleson Road, an irregular depth of ~~2192~~ **2092** metres and will contain a lot area of 40.6 hectares. The vacant land will be merged with the property to the north, known municipally as 3325 Eagleson Road.

The retained land, shown on said sketch, will have a frontage of ~~440~~ **100** metres, a depth of ~~450~~ **155** metres and a lot area of 1.6 hectares. This parcel contains the existing dwelling and detached garage known as 5940 Brophy Drive.

- [9] With the concurrence of all parties, the application was amended accordingly.
- [10] City Planner Luke Teeft highlighted no concerns with the application as amended.
- [11] Kathryn Curry, agent for the Applicant, was also present.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED AS AMENDED

Application Must Satisfy Statutory Tests

- [12] 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

[13] 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, revised plans, parcel register abstract, septic system letter, photo of the posted sign, and a sign posting declaration.
- City Planning Report received December 5, 2024, with concerns; received November 13, 2024, with no concerns; received October 11, 2024, with no concerns; received October 10, 2024, with no concerns; received October 9, 2024, with no concerns.
- Rideau Valley Conservation Authority email dated December 9, 2024, with no objections; received November 15, 2024, requesting an adjournment; received October 9, 2024, requesting an adjournment.
- Hydro Ottawa email dated December 9, 2024, with no comments; received November 15, 2024, with no comments; received October 11, 2024, with no comments.
- Hydro One email dated December 3, 2024, with no comments; received November 13, 2024, with no comments; Hydro One email received October 8, 2024, with no comments.
- Ontario Ministry of Transportation email dated November 22, 2024, with no comments; received October 1, 2024, with no comments.

Effect of Submissions on Decision

[14] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application, as amended.

[15] The Committee notes that the City's Planning Report raises "no concerns" regarding the application, subject to the requested conditions agreed to by the Applicant's agent.

[16] 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.

[17] 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.

[18] 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.

[19] 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.

[20] THE COMMITTEE OF ADJUSTMENT therefore grants the provisional consent, subject to the conditions set out in Appendix "A" to this decision.

"Terence Otto"
TERENCE OTTO
VICE-CHAIR

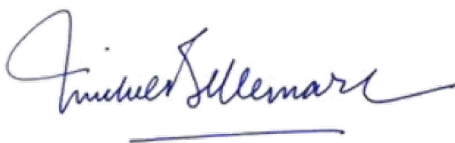
"Gary Duncan"
GARY DUNCAN
MEMBER

"Beth Henderson"
BETH HENDERSON
MEMBER

"Martin Vervoort"
MARTIN VERVOORT
MEMBER

"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 **December 20, 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 January 9, 2025**.

- **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. 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, 4th 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 APPLICANTS

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.

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APPENDIX “A”

1. 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 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 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:
 - a) “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.”

 - b) “The property is located next to lands that have an existing source of environmental noise (arterial 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. 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.

4. That the Owner(s) obtain a Zoning By-law Amendment, 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 prohibits residential development on the severed lands, with all levels of appeal exhausted.

5. 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 **Twin Elm Road**, 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 the City has been registered. All costs shall be borne by the Owner.

6. 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 North, known municipally as 3325 Eagleson 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.

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.