



## COMMITTEE OF ADJUSTMENT OF THE CITY OF OTTAWA

### DECISION MINOR VARIANCE / PERMISSION (Section 45 of the *Planning Act*)

<b>File No.:</b>	<b>D08-01-22/B-00022</b>
<b>Owner(s):</b>	William and Elizabeth Burden
<b>Location:</b>	3588 Highway 17
<b>Ward:</b>	5-West Carleton-March
<b>Legal Description:</b>	Part of Lots 8 and 9, Concession 4, Fitzroy & Part 1 on Plan 4R-24780, except Part 2 on 4R-24780 and Part 1 on 4R-33580
<b>Zoning:</b>	AG2 and RU
<b>Zoning By-law:</b>	2008-250

Notice was given and a Public Hearing was held on **April 20, 2022**, as required by the *Planning Act*.

#### **PURPOSE OF THE APPLICATION:**

The Owners want to convey a portion of their land to the abutting landowners to the north, known municipally as 3736 Highway 17.

#### **RELIEF REQUIRED:**

The Owners require the Consent of the Committee for a Conveyance.

The severed land, shown as Parts 2 and 5 on a sketch filed with the application, is landlocked and contains an area of 199,785 square metres. This parcel is currently vacant and will be conveyed to the landowner to the northwest, known municipally as 3736 Highway 17.

The retained lands, shown as Part 3 on said sketch, will have a frontage of 76.2 metres to an irregular depth and will contain a lot area of 43,908 square metres. This parcel is vacant and known municipally as 3514 Highway 17.

The application indicates that the property is subject to an existing access easement over Parts 4 & 5 on the sketch, in favour of the owners of 3736 Highway 17, as in Instrument # FY12190.

The Application indicates that the Property is not the subject of any other current application under the *Planning Act*.

### **PUBLIC HEARING:**

The Chair administered an oath to Anne Winch, Agent for the Owners, who confirmed that the statutory notice posting requirements were satisfied.

Sean Harrigan of the City's Planning, Real Estate and Economic Development Department was also in attendance. He confirmed that the Department had no concerns with the application but noted that the applicant would have to demonstrate that the existing easement is not a distinct parcel of land and will be merged and consolidated with the recipient lands. In response to questions from the Committee regarding the conditions requested in his written report, Mr. Harrigan explained that the condition requested for a notice on title to advise purchasers that the City cannot guarantee the quality or quantity of available water is intended to apply to the retained lands, which will be significantly reduced in area but still retain development potential.

Erica Ogden of the Mississippi Valley Conservation Authority was also in attendance. Ms. Ogden advised there is a watercourse located on the subject property but confirmed that she had no concerns with the proposal.

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

The Committee considered any written and oral submissions relating to the application in making its Decision.

The Committee notes that the City's planning report raises "no concerns" regarding the application.

Based on the evidence, the Committee is satisfied that the proposal is consistent with the Provincial Policy Statement that promotes efficient land use, focusing growth and development in urban and rural settlement areas; intensification and redevelopment within built-up areas, based on local conditions; residential development on rural lands, including lot creation, that is locally appropriate; as well as the protection of resources for the long term. The Committee is also satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality. In addition, 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.

The Committee 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 enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the **Development Review Manager of the**

**Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her 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 Committee requires a copy of the Agreement and **written confirmation from City Legal Services** that it has been registered on title.

2. 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 northwest, known municipally as 3736 Highway 17, 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 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.

3. That the Owner(s) enter into an Easement Agreement, at the expense of the Owner(s), setting forth the obligations between the Owner(s) and the proposed future owners.

The Owner shall ensure that the Agreement is binding upon all the owners and successors in title and shall be to the satisfaction of the **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate, and City Legal Services**. The Committee requires written confirmation that the Agreement is satisfactory to the Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate, and is satisfactory to City Legal Services, as well as a copy of the

Agreement and **written confirmation from City Legal Services** that it has been registered on title.

4. 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.
5. 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 Conveyance for which the Consent is required.

**The Consent lapses two years from the date of this Decision.**

All technical studies must be submitted to Planning, Real Estate and Economic Development 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.

Please note that if a major change to a condition or conditions is requested, you will be entitled to receive Notice of the changes only if you have made a written request to be notified.

**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 **May 19, 2022**, 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 OLT 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 individuals, corporations and public bodies may appeal Decisions in respect of applications for consent to the OLT. A notice of appeal may not be filed by an unincorporated association or group. However, a Notice of Appeal may be filed in the name of an individual who is a Member of the Association or group on its behalf.

Please note that there are no provisions for the Committee of Adjustment or the OLT 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.

**NOTICE TO APPLICANT:**

Applicants are advised to take note of comments received from City departments and other technical agencies like Hydro Ottawa and to consult where appropriate.

**DECISION SIGNATURE PAGE  
PAGE DE SIGNATURE DE LA DÉCISION**

**File No. / Dossier n°:** D08-01-22/B-00022  
**Owner(s) / Propriétaire(s):** William and Elizabeth Burden  
**Location / Emplacement:** 3588 Highway 17

We, the undersigned, concur in the decision and reasons of the Committee of Adjustment.

Nous, soussignés, souscrivons à la décision et à la justification ci-devant rendues par le Comité de dérogation.

***“Fabian Poulin”***

**FABIAN POULIN  
VICE-CHAIR / VICE-PRÉSIDENT**

***“Terence Otto”***

**TERENCE OTTO  
MEMBER / MEMBRE**

***“Steven Lewis”***

**STEVEN LEWIS  
MEMBER / MEMBRE**

***“Martin Vervoort”***

**MARTIN VERVOORT  
MEMBER / MEMBRE**

***“Jocelyn Chandler”***

**JOCELYN CHANDLER  
MEMBER / MEMBRE**

I certify that this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa.

Je certifie que celle-ci est une copie conforme de la décision rendue par le Comité de dérogation de la Ville d'Ottawa.

***Date of Decision / Date de la décision***  
**April 29 2022 / 29 avril 2022**



**Michel Bellemare**  
**Secretary-Treasurer / Secrétaire-trésorier**