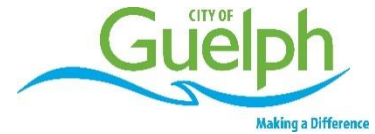


# Committee of Adjustment Comments from Staff, Public and Agencies

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## Application Details

Application Number: B-15/20, A-52/20 and A-53/20  
Location: 25 Heather Avenue  
Hearing Date: November 12, 2020  
Owner: Cynthia Van Hellemond and Mae Abdalla  
Agent: Jeff Buisman, Van Harten Surveying Inc.  
Official Plan Designation: Low Density Residential  
Zoning: Residential Single Detached (R.1B) Zone

## File B-15/20: Consent

**Request:** The applicant proposes to sever a parcel of land with frontage along Floral Drive of 15.3 metres and an area of 396 square metres. The retained parcel will have frontage along Floral Drive of 22.8 metres and an area of 585 square metres.

## File A-52/20: Minor Variance (severed parcel)

a) a minimum lot area of 396 square metres.

## File A-53/20: Minor Variance (retained parcel)

- a) a minimum rear yard setback of 2.7 metres; and
- b) the required parking space to be located a minimum distance of 1.8 metres from the street line and to the front of the front wall of the dwelling.

## The Bylaw Requires:

- a) a minimum lot area of 460 square metres in the Residential Single Detached (R.1B) Zone.
  - b) a minimum rear yard setback of 7.5 metres or 20 percent of the lot depth [being 5.2 metres], whichever is less;
  - c) that in a R.1, R.2 and R.3B zone, every required parking space shall be located a minimum distance of 6 metres from the street line and to the rear of the front wall of the main building.
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## **Staff Recommendation**

### **Refusal**

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## **Recommended Conditions**

Please refer to comments below

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## **Comments**

### **Planning Services**

#### **File B-15/20: Consent**

The applicant is proposing to sever the property to create a new residential lot and construct a single detached dwelling on the severed parcel. The applicant is also proposing to maintain the existing one-storey single detached dwelling on the retained parcel. Due to the creation of the new lot, minor variance applications associated with the severed and retained parcels have been submitted.

The subject property is designated "Low Density Residential" in the Official Plan. Official Plan policies encourage compatible residential lot infill, including the creation of new low density residential lots within the older established areas of the City provided that the proposed development is compatible with the surrounding residential environment. Policy 9.3 of the Official Plan provides several objectives to be achieved in the residential designations in the City. In providing new housing, consideration is to be given to the development of a full range of housing types, affordability and densities to meet a variety of lifestyles and diversity (9.3(b)). Further, several objectives emphasize the need to ensure compatibility in residential areas, including maintaining the general character of built form in existing established residential neighbourhoods while accommodating compatible residential infill and intensification (9.3 (f)). New development is also to be compatible with and preserve the general character of established neighbourhoods (9.3 (i) and (m)).

Official Plan policy 9.3.1.1 outlines development criteria for intensification proposals within existing residential neighbourhoods. Policy 9.3.1.1 speaks to building form, scale, height, setbacks, massing, appearance and siting being compatible in design, character and orientation with buildings in the immediate vicinity. The Official Plan defines "compatible" as being development or redevelopment which may not necessarily be the same as, or similar to, the existing development, and can co-exist with the surrounding area without an unacceptable adverse impact. The proposed severance appears to be "squeezing" in a lot between two existing houses. Lots surrounding the proposed new lot are significantly larger (some are more than twice the size of the lot proposed). The proposed severed lot is deficient in lot area and requires a variance to the Zoning By-law to allow for a minimum lot area of 396 square metres. Additional variances and the significant nature of them, are required on the "retained" parcel which would indicate that there is not enough room to accommodate a new lot. The proposed new lot will result in a new home

being built in the back yard of the existing house, which is not considered be desirable and could result in adverse impacts. Staff agree that a 396 square metre lot can accommodate a single detached residential dwelling, however, staff do not believe this new lot is compatible or maintains the general character and built form of the existing residential neighbourhood.

Policy 10.10.1 of the Official Plan provides criteria to consider when evaluating Consent applications. Below is an evaluation of these policies as it relates to the subject application:

**i. That all of the criteria for plans of subdivision are given due consideration.**

Staff have reviewed criteria for plans of subdivision and the proposed Consent is not considered to be appropriate.

**ii. That the application is properly before the Committee and that a plan of subdivision has been deemed not to be necessary for the proper and orderly development of the City.**

A plan of subdivision is not necessary, however, the proposed Consent is not considered to represent orderly development.

**iii. That the land parcels to be created by the Consent will not restrict or hinder the ultimate development of the lands.**

The proposed Consent is within an existing established neighbourhood in the City and is not considered to appropriate.

**iv. That the application can be supported if it is reasonable and in the best interest of the community.**

The application is not supportable and does not maintain the lot fabric or general character of the neighbourhood.

The Consent application does not meet the Consent policies as set out in the Official Plan or criteria outlined in Section 51(24) of the Planning Act. Staff recommend refusal of the Consent application.

**Files A-52/20 (severed parcel) and A-53/20 (retained parcel)**

The associated variance applications are only required if the Consent application is approved. Staff are recommending refusal of the Consent application and have provided an analysis of the "four tests" for the associated variances.

The subject property is designated "Low Density Residential" in the City's Official Plan. The "Low Density Residential" land use designation permits a range of housing types including single detached residential dwellings. The Official Plan also contains policies for residential infill and staff have discussed how this proposal does not meet the Official Plan policies above. The requested variances do not meet the general intent and purpose of the Official Plan.

### **Minimum Lot Area (File A-52/20: severed parcel)**

The applicant is seeking relief from the By-law requirements to permit a minimum lot area of 396 square metres, whereas 460 square metres is required in the Residential Single Detached (R.1B) Zone. The general intent and purpose of having a minimum lot area in the By-law is to ensure there is sufficient room for a dwelling with appropriate setbacks, landscaping and outdoor amenity area. In other areas of the City, a minor variance application for relief of 64 square metres in lot area may be considered to be appropriate depending on the lot fabric and existing development in the neighbourhood. The proposed severance creates a much smaller lot that does not maintain the general character of the neighbourhood.

### **Minimum Rear Yard (File A-53/20: retained parcel)**

The applicant is seeking relief from the By-law requirements to permit a minimum rear yard setback of 2.7 metres, whereas the By-law requires a minimum rear yard setback of 7.5 metres or 20 percent of the lot depth [being 5.2 metres], whichever is less. The general intent and purpose of the Zoning By-law relating to rear yard setbacks is to ensure a rear yard amenity space is maintained and to ensure the property is not overdeveloped. A reduced rear yard setback of 2.7 metres is not minor in context with the exiting development of the surrounding residential properties and is not desirable development of the property. Due to the proposed severance, the rear yard amenity area of the existing one-storey house will be replaced with a new dwelling and the legal rear yard is changed from Floral Drive to Heather Avenue (which is now considered to be the side yard setback). The requested variance does not meet the general intent and purpose of the Zoning By-law.

### **Location of Required Parking Space**

The applicant is seeking relief from the By-law requirements to permit the required parking space to be located a minimum distance of 1.8 metres from the street line and to the front of the front wall of the dwelling, whereas the By-law requires that in a R.1 and R.2 and R.3B zone, every required parking space shall be located a minimum distance of 6 metres from the street and to the rear of the front wall of the main building. The general intent and purpose of this regulation is to ensure the streetscape is not dominated by driveways and cars. The existing parking space for 25 Heather (the existing lot) meets the requirement of the Zoning By-law. Allowing this request to accommodate a new lot is changing the existing streetscape and creating an undesirable situation.

The requested variances do not conform to the general intent and purpose of the Official Plan, do not meet the general intent and purpose of the Zoning By-law, are not considered to be desirable for the appropriate development of the land and are not considered to be minor in nature. Staff recommend refusal of the variance applications.

Should the Committee wish to approve this application, Planning recommends the following conditions be imposed:

1. That a plan shall be submitted to, and approved by the General Manager of Planning and Building Services, prior to the issuance of a building permit for the new dwelling on the "severed" parcel indicating the location and design of the new dwelling.
2. That prior to the issuance of a building permit, elevation and design drawings for the new dwelling on the "severed" parcel shall be submitted to, and approved by the General Manager of Planning and Building Services.
3. That prior to the issuance of the Certificate of Official, the Owner shall enter into an agreement with the City, registered on title, agreeing to satisfy the above noted conditions and to develop the site in accordance with the approved plans.

## **Open Space Planning**

After review of Committee of Adjustment consent application to create one (1) new residential lot at 25 Heather Avenue, file number B-15/20, Open Space Planning have determined that the applicant shall be responsible for a payment in lieu of conveyance of parkland for the severed lot prior to the issuance of any building permits under the City of Guelph's Parkland Dedication Bylaw (2019)-20366 as amended by (2019)-20380 or any successor thereof.

## **Engineering Services**

### **File B-15/20: Consent**

The applicant proposes to sever a parcel of land with frontage along Floral Drive of 15.3 metres and an area of 396 square metres. The retained parcel will have frontage along Floral Drive of 22.8 metres and an area of 585 square metres.

Engineering has no concerns with the application. If the committee approves the application, we request the following conditions be imposed:

1. That prior to issuances of Certificate of Official, the Owner shall have a Professional Engineer design a stormwater management brief for the proposed development, satisfactory to the General Manager/City Engineer.
2. That prior to issuances of Certificate of Official, the Owner shall have a Professional Engineer design a grading/drainage and servicing plan for the site, satisfactory to the General Manager/City Engineer.
3. That prior to any construction or grading on the lands, the Owner shall construct, install and maintain erosion and sediment control facilities, satisfactory to the General Manager/City Engineer, in accordance with a plan that has been submitted to and approved by the General Manager/City Engineer.
4. That the Owner shall pay to the City the actual cost of the construction of the new driveways including the required curb cut and/ or fill and furthermore, prior to issuance of building permit or prior to any construction or grading on the lands, the Owner shall pay the City the estimated cost for constructing the new driveways including the required curb cut and/or fill, as determined by the General Manager/City Engineer.

5. That the Owner shall pay the City the actual cost of constructing, installing or removal of any service laterals required and furthermore, prior to issuance of building permit or prior to any construction or grading on the lands, the Owner shall pay the City the estimated cost of constructing, installing or removal of any service laterals, as determined by the General Manager/City Engineer.
6. That the Owner constructs the new buildings at such an elevation that the lowest level of the new buildings can be serviced with a gravity connection to the sanitary sewer.
7. That the Owner acknowledges that the City does not allow retaining walls higher than 1.0-metre abutting existing residential properties without the permission of the General Manager/ City Engineer.

#### **File A-52/20: Minor Variance (severed parcel)**

Engineering has no concerns with the request of seeking relief from the By-law requirements to permit a minimum lot area of 396 square metres.

We agree with the recommendations made by Planning and Building staff.

#### **File A-53/20: Minor Variance (retained parcel)**

Engineering has no concerns with the request of seeking relief from the By-law requirements to permit a minimum rear yard setback of 2.7 metres and the required parking space to be located a minimum distance of 1.8 metres from the street line and to the front of the front wall of the dwelling.

We agree with the recommendations made by Planning and Building staff.

### **Building Services**

This property is located in the Residential Single Detached (R.1C) Zone. The applicant is proposing to sever the vacant property to create a new residential lot and construct a single detached dwelling on the severed parcel and the retained parcel. Due to the creation of the new lot, a minor variance application has also been submitted (file A-51/20) to permit a minimum lot frontage of 10.8 metres for the severed parcel.

Building Services does not object to these applications. A building permit will be required prior to any construction, at which time requirements under the Ontario Building Code will be reviewed.

### **Alectra Utilities**

We have reviewed the applications scheduled for the November 12, 2020 hearing and wish to submit the condition noted below for the Committee's consideration (see attached).

### **Bell Canada**

Bell Canada has no concerns with Application for Consent B-15/20 regarding 25 Heather Avenue.

## **Committee of Adjustment Administration**

If the Committee approves the applications, the following conditions are recommended to be imposed:

### **File B-15/20: Consent**

1. That minor variance applications A-52/20 and A-53/20 are approved at the same time as the consent application, and become final and binding.
2. That all required fees and charges in respect of the registration of all documents required in respect of this approval and administration fee be paid, prior to the issuance of the Certificate of Official.
3. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to the issuance of the Certificate of Official, that he/she will provide a copy of the registered instrument as registered in the Land Registry Office within two years of issuance of the Certificate of Official, or prior to the issuance of a building permit (if applicable), whichever occurs first.
4. That prior to the issuance of the Certificate of Official, a Reference Plan be prepared, deposited and filed with the Secretary-Treasurer which shall indicate the boundaries of the severed parcel, any easements/rights-of-way and building locations. The submission must also include a digital copy of the deposited Reference Plan (version ACAD 2010) which can be forwarded by email ([cofa@guelph.ca](mailto:cofa@guelph.ca)).
5. That upon fulfilling and complying with all of the above-noted conditions, the documents to finalize and register the transaction be presented to the Secretary-Treasurer of the Committee of Adjustment along with the administration fee required for the issuance of the Certificate of Official

### **Application Files A-52/20 and A-53/20: Minor Variances**

1. That consent application B-15/20 receives final certification of the Secretary Treasurer and be registered on title.

## **Comments from the Public**

Yes (See Attached)

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## **Contact Information**

**Committee of Adjustment:** City Hall, 1 Carden Street, Guelph ON N1H 3A1  
519-822-1260 Extension 2524 [cofa@guelph.ca](mailto:cofa@guelph.ca)  
TTY: 519-826-9771 [guelph.ca/cofa](http://guelph.ca/cofa)