

Committee of Adjustment Comments from Staff, Public and Agencies



Application Details

Application Number: B-13/21, B-14/21, A-31/21 and A-32/21
Location: 124 Ferguson Street
Hearing Date: June 10, 2021
Owner: David Leo, Dominic Leo and Salvatore Leo
Agent: Jeff Buisman, Van Harten Surveying Inc.
Official Plan Designation: Low Density Residential
Zoning: Specialized Residential Single Detached (R.1B-10) Zone
and is within the Flood Fringe

Consent Applications: New Lot and Lot Addition

Request: The applicant proposes the following:

File B-13/21 – New lot (Lands to be severed 1)

- a) Severance of a parcel of land with frontage along Ferguson Street of 9.1 metres and an area of 410 square metres.

File B-14/21 – Lot Addition (Lands to be severed 2)

- b) Severance a parcel of land at the rear of 124 Ferguson Street with an area of 356 square metres as a lot addition to the rear of the abutting property known as 120 Ferguson Street. The retained parcel will have frontage along Ferguson Street of 11.0 metres and an area of 499 square metres.

Minor Variance Applications

Request: The applicant is seeking relief from the By-Law requirements to permit:

File A-31/21 - Severed Parcel (Lands to be Severed 1)

- a) a minimum lot frontage of 9.1 metres for the proposed severed parcel (shown as variance A on the public notice sketch);
- b) a minimum lot area of 410 square metres for the proposed severed parcel (shown as variance B on the public notice sketch); and
- c) a minimum left and right side yard setbacks of 1.2 metres for the proposed detached dwelling on the proposed severed parcel (shown as variances C and D on the public notice sketch).

File A-32/21 – Retained Parcel (Lands to be Retained)

- a) a minimum lot frontage of 11.0 metres for the proposed retained parcel (shown as variance E on the public notice sketch); and

- b) a minimum left side yard setback of 0.4 metres for the existing accessory building (single-car detached garage) on the proposed retained parcel (shown as variance F on the public notice sketch).

By-Law Requirements: The By-law requires:

- a) a minimum lot frontage of the average lot frontage established by the existing lots within the same City block face [being 12.2 metres], but in no case less than 9 metres;
 - b) a minimum lot area of 460 square metres;
 - c) a minimum side yard setback of 1.5 metres for 1 to 2 storey dwellings; and
 - d) that an accessory building or structure is not located within 0.6 metres of any lot line.
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Staff Recommendation

Approval with Conditions

Recommended Conditions

File B-13/21 – New lot (Lands to be severed 1)

Planning Services

1. That prior to the issuance of a building permit, a plan shall be submitted to, and approved by the General Manager of Planning and Building Services, that indicates the location of the new dwelling on the severed lot.
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.

Engineering Services

4. That prior to the issuance of the Certificate of Official, the Owners shall provide a servicing plan, showing the lateral service connections to the City's infrastructure for review and approval for both the severed lands and the retained lands, to the satisfaction of the General Manager / City Engineer.
5. That the Owner(s) agrees to design and construct the new dwelling at such an elevation that the building's lowest level can be serviced with a gravity connection to the City's sanitary sewer. If the Owner(s) satisfactorily demonstrates to the General Manager/City Engineer that a below-grade gravity connection is not achievable, the building's below-grade level may be allowed to pump sewage, in accordance with the Ontario Building Code, to the property line, and have a gravity connection from the property line to the City's sanitary sewer.

6. That prior to the issuance of the Certificate of Official, the Owners provide a grading plan for the severed lots and the retained lands to the satisfaction of the General Manager/City Engineer.
7. That the owner agrees to discharge the roof water leaders and sump pump of the proposed new dwelling on the lands to be severed to grade at the property's front yard towards Ferguson Street. The existing grading pattern shall be maintained and shall not adversely impact adjacent lands.
8. That prior to the issuance of the Certificate of Official, the owners shall provide a detailed noise report in accordance with the City's noise guidelines, to the satisfaction of the General Manager/City Engineer. If warning clauses/conditions are recommended in the noise report, the Owner agrees that these clauses/conditions will be included in a development agreement for the severed lot.
9. That prior to the issuance of the Certificate of Official, the developer shall submit a Phase One Environmental Site Assessment in accordance with O. Reg. 153/04 or CSA Z768-00 standard as per City Guideline, describing the current conditions of the subject property to the satisfaction of the City. If contamination is found, the consultant will determine its nature and indicate any necessary measures to manage the contamination at the developer's expense.
10. That prior to any construction or grading on the lands, the developer 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.
11. That prior to the issuance of any building permits on the proposed severed lands, the Owner shall pay the flat rate charge established by the City for tree planting for the proposed severed lands.
12. That prior to the issuance of a building permit, the Owner(s) shall pay the City the actual cost of construction of municipal services within the City's right-of-way, including such items as sanitary, water and storm laterals, driveways, curb cuts and/or curb fills, sidewalk and boulevard restoration.
13. That prior to the issuance of a building permit, the Owner(s) shall submit a stormwater management brief for the new severed lot.
14. That prior to the issuance of a building permit, the Owner(s) agree to apply and obtain an entrance permit for the new proposed driveway.

Committee of Adjustment Administration

15. 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.
16. 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.

17. 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).
18. 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.
19. That minor variance applications A-31/21 and A-32/21 receive approval from the Committee of Adjustment, and that such approval becomes final and binding.

File B-14/21 – Lot Addition (Lands to be severed 2)

Committee of Adjustment Administration

1. 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.
2. 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.
3. 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).
4. 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.
5. That the Owner shall consolidate the severed parcel with the abutting lands to which the severed parcel is to be added as a single parcel ("the consolidation") and that the Owner's solicitor shall provide a firm undertaking in writing to the Secretary-Treasurer of the Committee of Adjustment for the City of Guelph that the solicitor will attend to the consolidation and will provide within 30 days of the date of registration in the Land Registry Office for Wellington (No. 61), or prior to the issuance of a building permit [if applicable], whichever occurs first, a

copy of the registered electronic Transfer document including the Certificate of Official and the registered application Consolidation Parcels document.

6. That the Transferee take title of the severed lands in the same manner and capacity as he or she holds his or her abutting lands; and that Section 50(3) or Section 50(5) of the Planning Act, R.S.O. 1990, as amended, shall apply to any subsequent conveyance or any transaction involving the parcel of land that is subject of this consent.

File A-31/21 - Severed Parcel (Lands to be Severed 1)

Committee of Adjustment Administration

1. That consent application B-13/21 receives final certification of the Secretary-Treasurer and be registered on title.

File A-32/21 – Retained Parcel (Lands to be Retained)

Planning Services

1. That the minimum side yard setback of 0.4 metres apply only to the existing accessory building (detached garage) as shown on the public notice sketch.

Committee of Adjustment Administration

2. That consent application B-13/21 receives final certification of the Secretary-Treasurer and be registered on title.
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Comments

Planning Services

File B-13/21 – New lot (Lands to be severed 1)

The subject lands are designated “Low Density Residential” in the Official Plan. This designation applies to residential areas within the Built-Up Area of the City which are currently predominantly low-density in character. The predominant land use in this designation is residential and includes single detached, semi-detached, duplex dwellings and multiple unit residential buildings, such as townhouses and apartments. The subject lands are also identified as being within the “Two Zone Fringe” as shown on Schedule 3 – Development Constraints of the Official Plan. The Two Zone flood fringe for the Speed and Eramosa Rivers is defined as the lands that lie outside the floodway but within the regulatory floodlines.

Development/redevelopment is permitted within the flood fringe in accordance with the underlying land use designation (Low Density Residential) subject to the use, building and/or structure being floodproofed to the regulatory flood level as required by the Grand River Conservation Authority.

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 of new development 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)).

The applicant is proposing to sever the left portion of the subject property to create a new residential lot (shown as Lands to be severed 1 on the public notice sketch) with frontage along Ferguson Street of 9.1 metres and an area of 410 square metres. The applicant has applied for associated minor variance applications (files A-31/21 and A-32/21).

Planning staff are of the opinion that the proposed severance meets the objectives for the residential land use designation, and that the proposed severed and retained lots have an overall built form that is compatible with the surrounding established residential area. Ferguson Street is comprised of properties with single detached dwellings with varying lot frontages and lot areas.

Official Plan policy 9.3.1.1 outlines development criteria for intensification proposals within existing residential neighbourhoods. Planning staff have evaluated the severance application against this criteria and are satisfied that the proposed severed and retained lots are consistent and meets all criteria. Specifically, the building form, scale, height, setbacks, massing, appearance, parking layout and siting are compatible in design, character and orientation with buildings in the immediate vicinity. All properties surrounding the site are zoned for single detached dwellings.

The above policies, criteria and objectives, together with policies regarding development within the Built-up Area and Intensification (Section 3.7), encourage 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. The Official Plan defines "compatible" as being development or redevelopment which may not necessarily be the same as, or similar to, the existing development, but can co-exist with the surrounding area without an unacceptable adverse impact. Staff are recommending a condition that the applicant submit plans and elevation/design drawings for the proposed new dwelling for staff review and approval to ensure the new dwelling is compatible with 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 subdivision criteria of the Official Plan and are satisfied that the application conforms to the policies.

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.

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

The proposed severance does not restrict or hinder the ultimate development of the lands. The proposed severance represents a logical and compatible layout of lots. Staff are satisfied that the new lot is of an appropriate shape and size to accommodate one new single detached dwelling within the Built-up Area.

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

The proposed severance is considered to be reasonable and in the best interest of the community. The lot fabric is consistent with what currently exists in the surrounding neighbourhood. Further, the proposed development can be serviced by existing infrastructure and public and private amenities such as schools, parks and retail.

The subject property is zoned "Specialized Residential Single Detached" (R.1B-10) and is within the Flood Fringe according to Zoning By-law (1995)-14864, as amended. A single detached dwelling is a permitted use on this lot. The proposed severance will create one new residential building lot.

The subject lands have full municipal services (water and sanitary sewer) available. Planning staff is in agreement with comments and conditions provided by engineering staff.

Staff are satisfied that the proposed severance meets the Consent policies of the Official Plan and subdivision criteria as outlined in section 51(24) of the Planning Act. Staff recommend approval of the application subject to the conditions noted above.

File B-14/21 – Lot Addition (Lands to be severed 2)

The subject lands are designated "Low Density Residential" in the Official Plan. This designation applies to residential areas within the Built-Up Area of the City which are currently predominantly low-density in character. The predominant land use in this designation is residential and includes single detached, semi-detached, duplex dwellings and multiple unit residential buildings, such as townhouses and apartments. The subject lands are also identified to be within the "Two Zone Fringe" as shown on Schedule 3 – Development Constraints of the Official Plan. The Two Zone flood fringe for the Speed and Eramosa Rivers is defined as the lands that lie outside the floodway but within the regulatory floodlines.

Development/redevelopment is permitted within the flood fringe in accordance with the underlying land use designation (Low Density Residential) subject to the use, building and/or structure being floodproofed to the regulatory flood level as required by the Grand River Conservation Authority.

The applicant is proposing to sever the rear portion of the subject property as a lot addition to the abutting property at 120 Ferguson Street (shown as Lands to be severed 2 on the public notice sketch).

Planning staff are of the opinion that the proposed severance as a lot addition meets the objectives for the residential land use designations, and that the proposed severed and retained lots have an overall built form that is compatible with the surrounding established residential area.

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 subdivision criteria of the Official Plan and are satisfied that the application conforms to the policies.

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.

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

The severed parcel is located at the rear of 124 Ferguson and contains a large vegetable garden that is maintained by the owner and occupant of 120 Ferguson. The intent of this application is to merge the severed parcel with 120 Ferguson for continued use by the owner. No development is proposed other than adding the rear portion of land.

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

The proposed severance as a lot addition is considered to be reasonable and in the best interest of the community.

The subject property is zoned "Specialized Residential Single Detached" (R.1B-10) and is within the Flood Fringe according to Zoning By-law (1995)-14864, as amended.

Staff are satisfied that the proposed severance meets the Consent policies of the Official Plan and subdivision criteria as outlined in section 51(24) of the Planning Act. Staff are not recommending any conditions as the parcels are already developed and no new construction is proposed.

Files A-31/21 and A-32/21 – Minor Variance Applications

The subject lands are designated "Low Density Residential" in the Official Plan. This designation applies to residential areas within the Built-Up Area of the City which are currently predominantly low-density in character. The predominant land use in this designation is residential and includes single detached, semi-detached, duplex dwellings and multiple unit residential buildings, such as townhouses and apartments. The subject lands are also located within the "Two Zone Fringe" as identified on Schedule 3 – Development Constraints of the Official Plan. The Two

Zone flood fringe for the Speed and Eramosa Rivers is defined as the lands that lie outside the floodway but within the regulatory floodlines.

Development/redevelopment is permitted within the flood fringe in accordance with the underlying land use designation (Low Density Residential) subject to the use, building and/or structure being floodproofed to the regulatory flood level as required by the Grand River Conservation Authority. The requested variances conform to the general intent and purpose of the Official Plan.

The subject property is zoned "Specialized Residential Single Detached" (R.1B-10) and is within the Flood Fringe according to Zoning By-law (1995)-14864, as amended. The applicant has applied for the following variances in association with Consent applications B-13/21 and B-14/21.

File A-31/21 - Severed Parcel (Lands to be Severed 1)

Variance to minimum lot frontage:

A minimum lot frontage of 9.1 metres for the proposed severed parcel (shown as variance A on the public notice sketch) is requested, whereas the Zoning By-law requires a minimum lot frontage of the of the average lot frontage established by the existing lots within the same City block face [being 12.2 metres], but in no case less than 9 metres.

A reduced lot frontage of 9.1 metres is of sufficient size to accommodate a dwelling, front yard landscaping and driveway access. The requested variance is considered to meet the general intent and purpose of the Zoning By-law, is considered to be desirable for the appropriate development of the land and is considered to be minor in nature.

Variance to minimum lot area:

A minimum lot area of 410 square metres for the proposed severed parcel (shown as variance B on the public notice sketch) is requested, whereas a minimum lot area of 460 square metres is required.

The intent of minimum lot area is to ensure relative compatibility with the lot fabric of the surrounding area and to provide adequate outdoor amenity area for the property. The rear yard amenity area as shown as part of the application is considered adequate. In Staff's opinion, the severance application creates lots that are compatible to the lots in the surrounding area. This form of intensification is generally in keeping with the neighbourhood and is a desirable use of land. The requested variance is considered to meet the general intent of the Zoning By-law, is considered to be desirable for the appropriate development of the land and is considered to be minor in nature.

Variance to side yard setback:

A minimum left and right side yard setbacks of 1.2 metres for the proposed detached dwelling on the proposed severed parcel (shown as variances C and D on the public notice sketch) is requested, whereas a minimum side yard setback of 1.5 metres is required in the Zoning By-law.

The general intent and purpose of maintaining side yard setbacks is to ensure that there is an appropriate separation between the building and property lot line, to accommodate appropriate side/rear yard access, and for drainage if required. Staff don't have any concerns with the reduced side yard setbacks for the new dwelling and are satisfied that proper side/rear yard access and drainage can be accommodated. The requested variance is considered to meet the general intent and purpose of the Zoning By-law, is considered to be desirable for the appropriate development of the lands and is considered to be minor in nature.

File A-32/21 – Retained Parcel (Lands to be Retained)

Variance to minimum lot frontage:

A minimum lot frontage of 11.0 metres for the proposed retained parcel (shown as variance E on the public notice sketch) is requested, whereas the Zoning By-law requires a minimum lot frontage of the of the average lot frontage established by the existing lots within the same City block face [being 12.2 metres], but in no case less than 9 metres.

A reduced lot frontage of 11.0 metres is of sufficient size to accommodate the existing single detached dwelling, front yard landscaping and driveway access. The requested variance is considered to meet the general intent and purpose of the Zoning By-law, is considered to be desirable for the appropriate development of the land and is considered to be minor in nature.

Minimum setback to accessory building:

A minimum left side yard setback of 0.4 metres for the existing accessory building (single-car detached garage) on the proposed retained parcel (shown as variance F on the public notice sketch) is requested, whereas the Zoning By-law requires that no accessory building or structure be located within 0.6 metres of any lot line.

The general intent and purpose of maintaining a 0.6 metre setback to any lot line for accessory buildings is to ensure that there is an appropriate separation between the accessory building and property lot line, to accommodate appropriate access for maintenance and to allow for proper drainage. The requested variance is for an existing accessory structure and the variance is considered to be negligible (0.2 metres deficient). The requested variance is considered to meet the general intent and purpose of the Zoning By-law, is considered to be desirable for the appropriate development of the lands and is considered to be minor in nature.

The requested variances maintain the general intent and purpose of the Official Plan and Zoning By-law, are considered desirable for the development of the lands and are considered to be minor in nature.

Staff recommend approval of the variances subject to the condition noted above.

Engineering Services

Files B-13/21 and B-14/21 – Consent Applications

The applicant is proposing to sever the left portion of the subject property to create a new residential lot (shown as Lands to be severed 1 on the public notice sketch),

and to sever the rear portion of the subject property as a lot addition to the abutting property at 120 Ferguson Street (shown as Lands to be severed 2 on the public notice sketch). The applicant is also proposing to maintain the existing detached dwelling on the retained parcel and to construct a single detached dwelling on the proposed new lot (Lands to be severed 1). The applicant proposes the following: severance of a parcel of land with frontage along Ferguson Street of 9.1 metres and an area of 410 square metres (file B-13/21), and severance of a parcel of land at the rear of 124 Ferguson Street with an area of 356 square metres as a lot of addition to the rear of the abutting property known as 120 Ferguson Street (file B-14/21). It is noted that the retained parcel will have frontage along Ferguson Street of 11.0 metres and an area of 499 square metres.

Engineering has no concerns with the requested applications subject to the conditions noted above.

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

Files A-31/21 and A-32/21 – Minor Variance Applications

Engineering has no concerns with the requested variances.

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

Building Services

The property is located in the Specialized Residential Single Detached (R.1B-10) Zone and is within the Flood Fringe. The applicant is proposing to sever the left portion of the subject property to create a new residential lot, and to sever the rear portion of the subject property as a lot addition to the abutting property at 120 Ferguson Street. The applicant is also proposing to maintain the existing detached dwelling on the retained parcel and to construct a single detached dwelling on the proposed new lot. Due to the lot reconfiguration, minor variance applications have been submitted (files A-31/21 and A-32/21, see attached).

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.

Bell Canada

See attached correspondence received from Bell Canada. Please note that if consent approval is required for the requested easement, a separate consent application will be required.

Comments from the Public

Yes (See Attached)

Contact Information

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