

# Committee of Adjustment Comments from Staff, Public and Agencies

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## Application Details

Application Number: B-3/23, B-4/23, A-14/23, A-15/23 and A-16/23  
Location: 26 Forest Street  
Hearing Date: March 9, 2023  
Owner: 1000241393 Ontario Inc.  
Agent: Jeff Buisman, Van Harten Surveying Inc.  
Official Plan Designation: Low Density Residential  
Zoning Designation: Residential Single Detached (R.1B) Zone

## Consent Applications: New Lots

**Request:** The applicant proposes the following:

### File B-3/23 – Proposed Lands to be Severed 1

The applicant proposes to sever a parcel of land with frontage along Forest Street of 11.9 metres and an area of 614 square metres.

### File B-4/23 – Proposed Lands to be Severed 2

The applicant proposes to sever a parcel of land with frontage along Forest Street of 11.9 metres and an area of 614 square metres.

The retained parcel will have frontage along Forest Street of 11.9 metres and an area of 614 square metres.

## Minor Variance Applications

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

### File A-14/23 – Severed Parcel (Lands to be Severed 1)

1. a minimum lot frontage of 11.9 metres for the proposed severed parcel

### File A-15/23 – Severed Parcel (Lands to be Severed 2)

2. a minimum lot frontage of 11.9 metres for the proposed severed parcel

### File A-16/23 – Retained Parcel

3. a minimum lot frontage of 11.9 metres for the proposed retained parcel

## **By-law Requirements:**

The By-law requires a minimum lot frontage of 15 metres for properties located in the R.1B Zone.

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## **Staff Recommendation**

### **Approval with Conditions**

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## **Recommended Conditions**

### **Files B-3/23 and B-4/23 – New Lots**

#### **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, for the new dwellings on the "retained" and "severed" parcels indicating the location and design of the new dwellings.
2. That prior to the issuance of a building permit, elevation and design drawings for the new dwellings on the "retained" and "severed" parcels 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 existing house, accessory structures and pool shall be removed to the satisfaction of the Chief Building Official.
4. That prior to the issuance of a building permit, the applicant shall prepare and submit a Tree Inventory and Preservation Plan (TIPP) for City boundary trees to the satisfaction of the General Manager of Parks. If any trees are to be removed to accommodate the development, the applicant shall provide compensation either in the form of Cash in Lieu or Replacement Trees, or a combination of the two at the discretion of City staff. The applicant should contact Forestry staff to confirm requirements prior to preparing the TIPP.

#### **Engineering Services**

5. That prior to the issuance of the Certificate of Official, the Owner(s) shall extend the existing sanitary sewer along the frontage of the newly created lots and all costs associated with the design and construction shall be paid by the Owner(s). Further, the Owner(s) agree to obtain all necessary approvals associated with the sanitary sewer.
6. That prior to the issuance of the Certificate of Official, the Owner(s) shall provide to the City, to the satisfaction of the General Manager/City Engineer, the following studies, plans and reports:
  - a) A stormwater management report (Brief) and plans certified by a Professional Engineer in accordance with the City's Guidelines and the latest edition of the Ministry of the Environment's "Stormwater Management Practices Planning and Design Manual," which addresses the quantity and quality of stormwater discharge from the Site together with a monitoring and

maintenance program for the stormwater management facility to be submitted;

- b) Grading/Servicing Plan;
  - c) Erosion and Sediment Control Plan
  - d) Plan and profile drawings for the new sanitary sewer.
  - e) Design Sheets to be provided.
  - f) A cost estimate for the work within the City right-of-way is to be prepared by the consulting Engineer using the City's cost estimate Excel spreadsheet.
7. That prior to the issuance of the Certificate of Official, the Owner(s) agrees to obtain approval from the City's engineering department on the above-listed plans and reports.
  8. That prior to issuance of the Certificate of Official, the Owner(s) agree to pay 5% of the estimated cost of the works as a review fee of the overall design of the sanitary sewer.
  9. That prior to the issuance of the Certificate of Official, the Owner(s) agree to provide the City with an Environmental Site Assessment (ESA) Phase 1 report in accordance with the City's environmental guidelines.
  10. That prior to the issuance of a building permit, the Owner(s) pays first the estimated cost and then the actual cost of constructing of new service laterals to the severed and retained land, including but not be limited to the cost of any curb cuts or curb fills required, and all restoration works with the estimated cost of the works as determined necessary by the General Manager/City Engineer being paid.
  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 any building permit, the Owner shall construct, install, and maintain erosion and sediment control facilities satisfactory to the General Manager/City Engineer, according to a plan submitted to and approved by the General Manager/City Engineer.
  13. That prior to issuance of a building permit, the owner shall provide a stormwater management brief and a lot grading plan for the severed and the retained lands.

### **Alectra Utilities**

14. That prior to issuance of building permit(s), the applicant makes arrangement for provision of hydro servicing to the severed parcel(s), satisfactory to the ICI and Layouts Department of Alectra Utilities. This condition is included to ensure adequate arrangements are made to service the severed parcel(s) and appropriate financial securities are in place.

### **Committee of Adjustment Administration**

15. 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.

16. 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.
17. 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.
18. 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)).
19. 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.

### **Files A-14/23, A-15/23 and A-16/23 – Minor Variance Applications**

#### **Planning Services**

1. That the driveways of the “retained” and “severed” parcels be limited to a maximum width of 5 metres.
2. That the garage door of each new dwelling shall not project ahead of the front wall of the house.

#### **Committee of Adjustment Administration**

3. That consent applications B-3/23 and B-4/23 receives final certification of the Secretary-Treasurer and be registered on title.

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## **Comments**

### **Planning Services**

#### Consent Applications

The subject property is 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.

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 proposed severances will create one "retained" lot and two "severed" lots that will be developed with new single detached dwellings in accordance with the Low Density Residential land use designation. Official Plan policy 9.3.1.1 outlines development criteria for intensification proposals within existing residential neighbourhoods. Planning staff have evaluated the severances against this criteria and are satisfied that the severances 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 proposed infill development can be fully serviced and will not have an adverse impact on the safe operation of adjacent roads.

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.

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 applications:

**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 applications conform 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 severances do not restrict or hinder the ultimate development of the lands. The proposed development represents a logical and compatible lot layout that is appropriate to accommodate new single detached dwellings 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 severances are considered to be reasonable and in the best interest of the community. 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 "Residential Single Detached" (R.1B) according to Zoning By-law (1995)-14864, as amended, which permits single detached dwellings. The existing single detached dwelling, existing accessory structures and pool will need to be removed prior to the issuance of the Certificate of Official to ensure zoning regulations for main and accessory structures are met. Staff are recommending a condition to this effect.

The subject property is less than 0.2 hectares in size and therefore is not regulated by the Private Tree Protection By-law. However, consistent with the policies of the Official Plan, the City is committed to the protection and enhancement of its Urban Forest resources. Staff encourages the applicant to consult with an arborist in order to retain and protect as many trees as possible on the subject property. Staff note that boundary trees between two private properties are governed under the Forestry Act. Boundary trees can not be injured or destroyed without consent of both property owners.

Any proposal to injure or destroy a City boundary tree must be accompanied by a Tree Inventory and Preservation Plan, to the satisfaction of the General Manager of Parks. Please be aware that where preservation is not possible, as agreed to by the City, compensation is required either in the form of Cash in Lieu or Replacement Trees, or a combination of the two at the discretion of City staff. A condition has been included to this effect.

Staff are satisfied that the proposed severances meet 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 applications subject to the above noted conditions.

**Minor Variances**

The subject property is designated "Low Density Residential" in the Official Plan. The "Low Density Residential" land use designation permits single detached residential uses. The applicant has requested a variance for a reduced lot frontage on the "retained" and "severed" parcels. The newly created parcels will each accommodate one new single detached residential dwelling in accordance with the Low Density Residential land use designation. The immediate neighbourhood is comprised of varying lot shapes, lot areas and frontages. The requested variance for reduced frontage on each lot facilitates the creation of infill lots in compliance with Official Plan policies. The requested variance conforms to the general intent and purpose of the Official Plan.

The subject property is zoned "Residential Single Detached" (R.1B) according to Zoning By-law (1995)-14864, as amended. The applicant is requesting a minimum

lot frontage of 11.9 metres for the “retained” and “severed” parcels whereas Table 5.1.2, Row 4 of the Zoning By-law requires a minimum lot frontage of 15 metres. The intent of the minimum lot frontage regulation in the R.1B Zone is to ensure that sufficient lot frontage is available to accommodate the permitted uses and to establish a guideline for development based on context. A reduction in the lot frontage by 3.1 metres will not restrict the use of the proposed lot for a single detached dwelling. Each lot can adequately accommodate a house, driveway and landscaping. Staff note that there are varying lot frontages along Forest Street, but it is important to note that properties on the north side of Forest Street between Maple Street and Wolfond Crescent are zoned R.1A. The R.1A Zone requires a minimum lot frontage of 18 metres. The different zones along Forest Street allow for lot frontages that vary in size. The requested variance is considered to meet the general intent and purpose of the Zoning By-law.

The reduction of 3.1 metres in lot frontage does not negatively impact the lots created or the existing neighbourhood. Conditions imposed through the Consent application will ensure that the design of the proposed house is compatible with the neighbourhood. Although there are properties in the immediate area that exceed the minimum requirements of the Zoning By-law in terms of frontage and lot area, this is not a requirement as the R.1B Zone only requires a minimum lot frontage of 15 metres and a minimum lot area of 460 square metres. These minimums provide opportunities for the consideration of appropriate intensification and infill. The applicable test of compatibility is not replication or similarity in frontage but whether the proposed new lot can co-exist in the neighbourhood without unacceptable adverse impacts. It is staff opinion that the proposed new lots with a reduced lot frontage of 3.1 metres each will not adversely impact the surrounding area in an unacceptable way because it can adequately accommodate a single detached dwelling, driveway and front yard landscaping. The requested variance is considered to be desirable for the appropriate development of the lands and is also considered to be minor in nature.

Staff are recommending a condition that the driveway be limited to a maximum width of 5 metres, instead of the 6.5 metres that would be permitted as-of-right in the R.1B Zone. This will ensure that the new driveway does not dominate the new dwelling. Staff are also recommending a condition for each new dwelling to ensure that the garage door does not project ahead of the front wall of the house.

The requested variance is considered to meet the general intent and purpose of the Official Plan, 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. Staff recommend approval of the variance applications subject to the above noted conditions.

## **Engineering Services**

Engineering has reviewed the severance application; we have no concerns with the applicant request to sever the property and create two new residential lots with one retained residential lot. During the review we discovered that existing sanitary sewer does not extend along the entire frontage of the subject property. As such, the applicant shall design and extend the existing sanitary sewer to ensure that all

new lots can be serviced via a lateral connection. Engineering supports the application subject to the above-noted conditions being imposed.

Engineering has no concerns with all three of the minor variance applications.

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

## **Building Services**

The subject property is in the Residential Single Detached (R.1B) Zone which permits single detached dwellings. The lands are also within Defined Area Map 66, the older downtown area. The applicant is proposing to sever the property and create two new residential lots with one retained residential lot (a total of 3 lots). The existing single detached dwelling is proposed to be demolished and three new single detached dwellings are proposed to be constructed.

The two parcels to be severed and the parcel to be retained all meet the minimum 460 square metre lot area of the R.1B zone. The minimum frontage of the R.1B zone is 15 metres. The applicant is proposing a minimum lot frontage of 11.9 metres. The minimum lot frontage for a single detached dwelling is 9 metres under the R.1D zone.

Note that a demolition permit will be required prior to the demolition of the dwelling and a building permit will be required prior to the construction of the proposed single detached dwellings, at which time requirements under the Ontario Building Code will be reviewed.

Building Services supports Planning and Engineering recommendations.

## **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

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