



Committee of Adjustment
 Hamilton City Hall
 71 Main Street West, 5th floor
 Hamilton, ON L8P 4Y5
 Telephone (905) 546-2424, ext. 4221
 Fax (905) 546-4202

COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION

APPLICATION FOR CONSENT LAND SEVERANCE

APPLICATION NO. GL/B-15:108
SUBMISSION NO. B-108/15

IN THE MATTER OF The Planning Act, R.S.O. 1990, Chapter P13, Section 53(1);

AND IN THE MATTER OF the Premises known as Municipal number 5174 Berry Road, formerly in the Township of Glanbrook, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Benedict & Ferguson (c/o Ralph Benedict) on behalf of the owners David & Joan Barlow, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a parcel of land measuring 129.62m± x 91.5m± and having an area of 1.19ha± containing an existing dwelling for residential purposes, and to retain a vacant parcel of land having a frontage of 525.5m± and an area of 37.6ha± to be consolidated with a non-abutting farm parcel (known municipally as 1700 Hall Road) for agricultural purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application, as set out in paragraph three above, **IS APPROVED**, for the following reasons:

1. The proposal does not conflict with the intent of the Rural Hamilton Official Plan.
2. The Committee considers the proposal to be in keeping with development in the area.
3. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.

Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following conditions:

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in hard copy and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. That the applicant /owner apply for and receive final approval of a Zoning By-law Amendment application to prohibit the construction of a new single detached dwelling and to recognize the lot area of the retained parcel, to the satisfaction of the Manager of Development Planning, Heritage and Design.
3. The owner shall receive final approval of any necessary variances form the requirements of the Zoning by-law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
4. The owner/applicant shall submit survey evidence from a BCIN Qualified Designer (Part 8 Sewage System) or Professional Engineer that the existing septic system complies with the clearance requirements of Part 8 of the Ontario Building Code for the lands to be severed and or retained, to the satisfaction of the Planning and Economic Development Department (Building Division – Plan Examination Section).

GL/B-15:108

Page 2

5. The owner shall submit survey evidence that the lands to be severed, including the location of any existing structure(s), conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
6. The applicant/owner will be required to dedicate to the City of Hamilton sufficient lands across the frontage of the severed and retained lands on both Hall Road and Berry Road in order to achieve a right-of-way width of 18.28 m (60 feet) from the original centreline of the respective roadways to the satisfaction of Development Engineering (East) Division.
7. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.
8. The owner submit to the Committee of Adjustment office an administration fee of \$17.00 payable to the City of Hamilton to cover the costs of setting up a new tax account for the newly created lot.

DATED AT HAMILTON this 17th day of November, 2016.

M. Dudzic (Chairman)

N. Mieczko

D. Serwatak

M. Smith

D. Smith

W. Pearce

V. Abraham

P. Mallard

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS November 24th, 2016.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (November 24th, 2017) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS December 14th, 2016.

THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

NOTE (IF APPROVED):

1. "Prior to any further approvals under the *Planning Act*, the property owner shall carry out an archaeological assessment of the entire development property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning and the Ministry of Tourism, Culture and Sport confirming that all archaeological resource concerns have met licensing and conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Tourism, Culture and Sport.

The subject lands are considered to be of archeological potential, and should deeply buried archaeological remains be found on the property during any of the above

GL/B-15:108
Page 3

development activities the Ontario Ministry of Tourism, Culture and Sport (MTCS) should be notified immediately (519.675.7742). In the event that human remains are encountered during construction, the applicant/landowner should immediately contact both MTCS and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government Services (416.326.8392)."

2. Based on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be conveyed will remain as 5174 Berry Road, and the lands to be retained will be assigned the municipal address of 5200 Berry Road.