



Subject: Planning Report – B-02/24 – 17 and 19 McCarthy Street
Department: Infrastructure Services
Division: Committee of Adjustment
Meeting Date: 2024-09-04

Recommendations

That Planning Report – B-02/24 – 17 and 19 McCarthy Street be received;

And that Consent Application B-02/24 to sever a parcel of lands into two pre-existing parcels which have merged on-title the Planning Act, with the severed parcel being 17 McCarthy Street and the retained parcel being 19 McCarthy Street, be approved, subject to the following conditions:

- 1. That the applicant/owner submit a digital version of a draft Reference Plan (R-Plan) to the satisfaction of the Secretary-Treasurer, Committee of Adjustment.**
- 2. That the applicant/owner submit confirmation to the satisfaction of the Planning Division, that the severed and retained parcels, including the location of any existing structure(s) and parking areas thereon, conform to the requirements of the Zoning By-law or alternatively, the applicant/owner apply for and receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law.**
- 3. That any outstanding municipal taxes, fees or charges be paid in full.**
- 4. That all above conditions be fulfilled within two (2) years of the date of the Notice of Decision, so that the Town is authorized to issue the Certificate of Consent pursuant to Section 53(42) of the Planning Act.**

Introduction

Legal Description: Part of Lots 11 to 15, Block 13, Plan 213
Municipal Address: 17 and 19 McCarthy Street
Applicant(s): The Estate of John Ray Russell

Official Plan Designation:	Residential (Schedule "A"), Low Density Residential (Schedule "C")
Zoning (By-law 22-90):	Residential, Second Density (R2) Zone
Purpose (B-02/24):	The applicant is requesting a consent to sever a parcel of land that has inadvertently merged under the Planning Act by way of both properties sharing the same title of ownership. The Planning Act prohibits conveyance of any part of a lot(s) or block(s) not within a registered plan of subdivision while retaining ownership of the abutting part(s). The effect of this consent would sever the pre-existing parcel known as 17 McCarthy Street, with the retained pre-existing parcel known as 19 McCarthy Street.

Background and Analysis

The subject lands consist of two pre-existing lots located at the northeast corner of McCarthy Street and Faulkner Street. Each parcel contains a two-storey single-detached dwelling and the lands are situated within a mature residential area comprised predominantly of single-detached dwellings. The location of the subject lands is shown in the attached location map (Attachment No. 1)

The applicant is seeking a consent to sever the pre-existing parcels. The severed parcel is known as 17 McCarthy Street and would have a lot frontage of 19.8 metres / 65 feet and a lot area of approximately 603 square-metres / 6,490 square-feet. The retained parcel is known as 19 McCarthy Street and is situated at the immediate corner of McCarthy Street and Faulkner Street. It has a frontage of approximately 18.2 metres / 60 feet along McCarthy Street, an exterior side flankage of 45.7 metres / 150 feet along Faulkner Street and an irregular orientation resulting in a larger lot area of approximately 1,480.2 square metres / 15,930 square-feet, with rear-yard area abutting the adjacent properties of 17 McCarthy Street (i.e. severed parcel) and 13 McCarthy Street. The configuration of the proposed severance properties is shown on the Location Map included as Attachment No. 1.

Section 50 of the Planning Act (the "Act") regulates the division of land in Ontario. The Act prohibits an owner from transferring any part of a whole lot or block of land while retaining an interest in the remnant lands, unless a "consent" is given by the approval authority, or unless the transfer of part of the lands is occurring under specific circumstances (i.e. for a municipality or the province, a public utility, etc.) as prescribed by the Act. When abutting lots or blocks do not constitute whole lots or blocks within a plan of subdivision and are placed under the same title of ownership, they are deemed to have "merged on title" because any attempt to transfer abutting part(s) of the lots/blocks now creates circumstances where the transferor retains an interest in the abutting lands (i.e. owns the abutting parcel) and therefore contradicts Section 50 of the

Planning Act. A “consent” from the Town is therefore required in order to permit the severance and transfer of the “merged” parcel.

The proposed severed (17 McCarthy Street) and retained (19 McCarthy Street) lots were once independent properties. The applicant has explained how the properties have inadvertently merged through ownership succession and now share the same title of ownership. Because the legal descriptions for each property constitute “parts” of lots within the original subdivision Plan 213 for the area, they are not whole lots or blocks and as a result, any attempt to transfer such now contradicts Section 50 of the Planning Act because the transferor would retain ownership of the abutting “part” due to the same ownership title. As a result, this severance application is required to reinstate the two separate lots that existed independently.

Planning Analysis – Consent Application B-04-24

Section 51(24) of the Planning Act, R.S.O. 1990, as amended, provides a list of matters to be regarded in relation to the division of land. Staff have reviewed the consent application in light of the Planning Act criteria and is satisfied that the consents can meet all applicable criteria in Section 51(24).

1. Provincial Policy Statement, 2020 (PPS)

The current Provincial Policy Statement (PPS) came into effect on May 1, 2020. All planning decisions made as of this point forward must be consistent with the 2020 PPS. The subject lands are located within a “Settlement Area” pursuant to the policies of the PPS. Accordingly, the policies pertaining to development within settlement areas direct land use patterns to be based on a mix of land uses and densities, which support the efficient use of resources; are appropriate for the efficient use of infrastructure and public service facilities; and support active transportation. The proposed consent seeks to reinstate the previous lot fabric, recognizing the established single-detached dwellings located on the lands. It does not facilitate any further development or infrastructure demands. Staff are satisfied that this application is consistent with the policies of the 2020 PPS.

2. Town of Orangeville Official Plan

The Town’s Official Plan (OP) designates the subject property as ‘Residential’ (Schedule ‘A’: Land Use Plan) and ‘Low-Density’ (Schedule ‘C’: Residential Density Plan). The policies for Low Density Residential areas permit single detached and two-unit dwellings up to a maximum density of 25 units per net residential hectare. The proposed consent is facilitating an existing use permitted by the Low Density Residential policies of the Official Plan.

Section 17 of the Official Plan outlines general policies for considering where land division may occur by consent. The proposed consent satisfies these criteria based on the following:

- The subject lands are located within an area serviced with full municipal water and sanitary infrastructure and stormwater run-off is accommodated by overland flow into the municipal stormwater management network (Section 17.1). No new development or additional demand on Town infrastructure would be enabled by this consent application.
- The proposed consent will maintain existing lot frontage onto McCarthy Street, designated as a Local Road on Schedule 'E' of the Official Plan (Section 17.2).
- The proposed reinstatement of the pre-existing lots is consistent with the linear orientation of the surrounding lot fabric in the area and is appropriate to accommodate the existing detached dwellings (Section 17.3).

Staff are of the opinion that the proposed consent to reinstate the pre-existing lot fabric for the property conforms to the policies of the Town's Official Plan.

3. Town of Orangeville Zoning By-law No. 22-90, as amended

The subject lands are zoned Residential Second Density (R2) Zone on Schedule "A" of Zoning By-law No. 22-90, as amended. The R2 Zone permits only single-detached dwellings and home occupations, among other similar permitted uses.

The proposed consent intends to reinstate the pre-existing detached dwelling lot fabric. The detached dwellings are permitted by the R2 zone. However, staff are unable to confirm that the re-instatement of the pre-existing lot fabric will not create a contravention with the zone standards of the R2 zone, with respect to yard setbacks from the reinstated property boundaries. Confirmation as to whether the proposed lot fabric will comply with the provisions of the Zoning By-law is one of the key considerations when making a decision on a proposed consent. Staff recommend that a condition of approval be included to obtain confirmation from the applicant/owner that the location of existing structure(s), parking and landscaping (where applicable), conforms to the requirements of the Zoning By-law.

4. Parkland Dedication

Section 53 of the Planning Act and the Town's Parkland Dedication By-law (No. 47-2012) enable the acquisition of parkland dedication, or payment of cash in lieu thereof, in conjunction with the consent approval process. The proposed severance aims to reinstate the pre-existing lot fabric for the property. No additional new development lots are being created and no new dwelling construction will occur as a result of this application. Parkland dedication (or payment in lieu thereof) is therefore not applicable to this application.

Infrastructure Services – Transportation & Development Comments:

Transportation and Development has reviewed this application and has no objection to the proposed severance being requested by the Applicant. The Applicant is advised that all domestic water use must be plumbed in such a way that it passes through the water meter.

Strategic Alignment

Orangeville Forward – Strategic Plan

Priority Area: Sustainable Infrastructure

Objective: Plan for Growth

Sustainable Neighbourhood Action Plan

Theme: Land Use and Planning

Strategy: Co-ordinate land use and infrastructure planning to promote healthy, liveable and safe communities.

Respectfully submitted

Brandon Ward, MCIP, RPP
Manager of Planning
Infrastructure Services

Attachment(s): 1. Location Map with Proposed Severance Layout