

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: August 22, 2024

CASE NO(S).:

OLT-24-000534

PROCEEDING COMMENCED UNDER subsection 53(14) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:

Emily Davies

Subject:

Consent

Description:

To consent to sever the lot into two separate parcels of land for residential use

Reference Number:

B-12-24

Property Address:

551 Little Rideau Lake Road

Municipality/UT:

Rideau Lakes/Leeds and Grenville

OLT Case No.:

OLT-24-000534

OLT Lead Case No.:

OLT-24-000534

OLT Case Name:

Davies v. United Counties of Leeds and Grenville

Heard:

July 26, 2024 by Video Hearing

APPEARANCES:

Parties

Counsel/Representative

Emily Davies

Self-Represented

United Counties of Leeds & Granville

Spencer Putnam

DECISION DELIVERED BY KEN HEWITT AND ORDER OF THE TRIBUNAL

[Link to Order](#)

INTRODUCTION

[1] This decision arises from an application made by Emily Davies (“Applicant”) for a non-decision by the Township of Rideau Lakes (“Township”) within the United Counties of Leeds & Granville (“United Counties”) pursuant to section 53(14) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended (“Act”) for the property municipally known as 551 Little Rideau Lake Road (“Subject Land”). The appeal was filed with the Tribunal on May 7, 2024. On April 24, 2024, the Township determined that the consent application could be supported as applied for subject to the following 10 conditions:

1. Archaeological assessment;
2. Heritage Screening Report;
3. Survey confirming the road width is a minimum of 33 feet (“ft”) from the centre line to the lot line;
4. Registered survey conforming to the new lot be submitted;
5. A 5% cash in lieu payment be made for parkland dedication;
6. Hydrogeological Assessment and Terrain Analysis;
7. Confirmation by the Ontario Land Surveyor that structures and septic bed locations meet minimum setbacks;
8. Existing accessory structures be removed with proper approvals;
9. A Site Plan Control Amendment application be received; and

10. The Applicant enters into a development agreement with the Township.

[2] The Applicant has asked the Tribunal to review the above conditions and determine if they should all apply with the consent application. While the Applicant is in agreement with some of the proposed conditions, she is, however, against most. She believes they are an overstretch and, in some cases, duplicated and are not applicable to this application.

[3] Spencer Putnam, acting as counsel for the United Counties, introduced Malcolm Norwood, a registered planner for the Township, to present supporting material on the stated conditions. Mr. Norwood was affirmed with no objections. Mr. Norwood's credentials are entered within **Exhibit 1**, submitted by the Township. Mr. Norwood began providing planning justification behind the various conditions, starting with the Archaeological Assessment. Applications within 300 metres ("m") of any water body require a Stage 1 archaeological assessment. Based on comments from a local resident, it may be possible that there are archaeological items of significance. It was referenced that a study from Queen's University was completed; however, it cannot be confirmed.

[4] Mr. Norwood states the requirements within the United Counties Official Plan ("OP") where the Subject Land is located within provincially significant wetlands require a Natural Heritage Screening Report.

[5] Within the OP, it is expected that new development will provide for a minimum of 66 ft for road design. This allows for the safe and reasonable operation of emergency vehicles as well as winter maintenance vehicles.

[6] Except for conservation applications, section 7.6.5 of the OP states that all new developments are expected to provide a cash-in-lieu equivalent of 5% of the value of newly created lots to the Township, and this is a consistent policy with every application.

[7] Mr. Norwood further stated that the Hydrogeological Report is required to assess the terrain along with demonstrating the quality and quantity of water to support the future intended uses as per section 5.2.2 a) of the approved OP for lots under 0.8 hectares.

[8] Mr. Norwood explains that there is currently a Site Plan approved for SP-35-2022. This new application for consent will change the current Site Plan and could adversely affect those structures approved with setbacks not defined within the retained lot and the newly severed lot. Further, it is expected that all existing accessory structures need to be removed with the proper planning permits. Mr. Norwood contends that a development agreement to be entered into with the Township will be registered on title for the severed lot. This will provide Site Plan Control, ensuring that vegetation, trees, animals, and birds are protected, and best efforts will be made to minimize tree removal during construction.

[9] These requirements supported by Mr. Norwood are in the best interest of the public, are in keeping with good planning, are consistent with the policies of the Provincial Policy Statement, and conform with the policies of both the Township and the United Counties OPs.

[10] Mr. Putnam introduced a second witness, Elaine M. Mallory, a land use planning expert with the United Counties. After being sworn in with no objections, she was able to identify sections of the OPs that support the requirements requested by the staff of the land division office and Mr. Norwood's comments.

[11] The Applicant was sworn in with no objection and has chosen to be self-represented. The Applicant did state on the record that she has been a land use planner for seventeen years and is very well versed in the Act. It was agreed that the consent currently meets all planning requirements and setbacks and represents good land use planning. However, there was some considerable disagreement on the conditions sought by both the Township and the United Counties. The Applicant

asserted that an archaeological assessment was never brought up earlier in the planning discussion. She further explained that there is no archaeological significance of the Subject Land, that a Site Plan Agreement was entered into just two years ago (SP-35-2022), and that no archaeological assessment was required at that time. The Applicant further contends that a Natural Heritage Screening Report was completed as part of the 2022 Site Plan Approval for both the retained and severed properties. Within the Township OP, section 4.4 requires that all roads are to be a minimum of 20 m from the centre of the road to the property line. The Applicant states that the current road to the retained lands going past the severed lands meets that requirement. Considering the costs already absorbed and in efforts to meet the provincial mandates of keeping housing costs down, the Applicant would like the cash-in-lieu waived under this consent. The Applicant, by way of submission, believes that the study done should meet the requirements regarding adequate and clean water to meet the long-term needs and use.

[12] With respect to the Land Survey, by way of Appendix 14 and 15 submitted in **Exhibit 2** by the Applicant, it is completed and demonstrates a proposed building envelope along with appropriate setbacks. It will also be captured at the time of a new building permit in the future to ensure the building meets codes, septic setbacks are applied, and lot line setbacks are established. The Applicant is currently waiting for demolition permits and will remove all accessory buildings.

[13] The Applicant further argues that the Site Plan controls are duplicated as they have partially been approved in a previous Site Plan Approval SP-35-2022. A vegetative planting strip is not required as there are plenty of trees and foliage currently existing to provide natural separations between the properties.

[14] Finally, a development agreement is not required at this time as it is not relevant to the consent application, and all requirements and controls needed to ensure a proper plan is achieved will happen during the building permit application process.

[15] With respect to the fourth condition, both Parties are in agreement with a copy of the registered plan being submitted prior to the consent approval.

[16] The Tribunal confirms that it has received, reviewed, and considered the following materials and submissions:

- i) Opinion evidence of Malcolm Norwood, a registered professional planner for the Township, contained in his affidavit, as part of Exhibit 1 submitted by the Township;
- ii) Opinion evidence of Elaine M. Mallory, a land use planning expert and a planner for the United Counties, contained in her affidavit, as part of Exhibit 1, submitted by the Township; and
- iii) The Applicant's Position Statement and Book of Documents, marked as Exhibit 2

CONCLUSION

[17] The Tribunal recognizes the sworn affidavits and oral evidence provided by both Mr. Norwood and Ms. Mallory. The Tribunal accepts the opinion evidence presented in both affidavits; however, it does not agree with all requested conditions.

ORDER

[18] **THE TRIBUNAL ORDERS** that the appeal is allowed and provisional consent is to be given subject to the following conditions;

1. A copy of a registered plan be submitted along with a survey showing that a minimum road width of 20 metres is achieved from the lot line to the centre of the road;

2. The Applicant is required to pay cash in lieu, the equivalent of 5% of the value of severed lands to the United Counties of Leeds and Grenville in recognition of parkland dedication;
3. All existing surplus structures be removed on severed lands;
4. Amend Site Plan design to SP-35-2022 to ensure that all setbacks and requirements are met on structures currently built and those to be built on retained lands.;
5. Since SP-35-2022 has been recently approved for the entire Site, no archaeological assessment, natural heritage screening, or hydrogeological study is required; and
6. Site Plan controls and a development agreement will be a part of the building application on severed lands and are, therefore, not required for this consent application.

"K. Hewitt"

K. HEWITT
MEMBER

Ontario Land Tribunal

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The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.