

# City of Mississauga Department Comments

Date Finalized: 2022-01-06	File(s): B68.21
To: Committee of Adjustment	Ward: 2
From: Committee of Adjustment Coordinator	Meeting date:2022-01-13 1:00:00 PM

## Consolidated Recommendation

The City recommends that the application be refused.

## Application Details

The applicant requests the approval of the Committee to sever a parcel of land for the creation of a new lot. The parcel of land has a frontage of approximately 14.06m (46.13ft) and an area of approximately 1,071.00sq.m (11,528.15sq.ft).

### Recommended Conditions and/or Terms of consent

- Appendix A – Conditions of Provisional Consent

## Background

**Property Address: 1138 Garden Road**

### Mississauga Official Plan

Character Area: Clarkson – Lorne Park Neighbourhood  
Designation: Residential Low Density I

### Zoning By-law 0225-2007

**Zoning: R2-4 - Residential**

### Other Applications:

Preliminary Application Meeting: PAM 14-289 and 15-219; Site Plan Infill: SPI 15-111; Tree Removal Permit: TRP 16-134; Site Plan Amendment: SPAX 20-59; Consent: B-23/15; Minor Variance: A-267/15 and A-268/15

Section 51 (24) of the *Planning Act* sets out the criteria for land division in the Province of Ontario. In evaluating such requests, the Committee needs to be satisfied that the proposal

meets not only the criteria set out under Section 51(24), but also municipal requirements identify in local legislation.

Section 45 of the *Planning Act* provides the Committee of Adjustment with the authority to grant relief from the requirements of a municipal zoning by-law. In evaluating such requests, the Committee needs to be satisfied that the proposal meets the four tests set out in the *Planning Act*.

### **Provincial Matters**

The Provincial Policy Statement 2014 (PPS 2014) and Growth Plan for the Greater Golden Horseshoe promote efficient development and land use, directing the focus towards intensification and redevelopment. The proposal is consistent with the general directive in provincial policy.

Staff comments concerning the application:

The Committee of Adjustment previously refused a consent application for the subject property on June 11<sup>th</sup>, 2015. Staff noted concerns with the proposed lot frontages as well as the reduced lot areas for both parcels in their report dated June 10<sup>th</sup>, 2015. The applicant has since submitted a new consent application, however, the new proposal is generally consistent with the original proposal.

Staff note that the applicant also applied for variances for the proposed severed and retained lands in 2015, which were also refused at that Committee meeting. Regarding the current application, the applicant has not requested any variances in addition to the consent application. However, based off of the previous variances and the supporting documentation, staff is of the opinion that variances will be required for this new proposal as well. The applicant has also only provided drawings of the proposed dwelling on the severed lot, not the proposed addition on the retained lot.

Staff echo the comments contained in the previous staff report dated June 10<sup>th</sup>, 2015 and recommend the application be refused. Staff also echo concerns raised in Transportation and Works' comments.

Should the request be granted, the resulting properties that front onto Glen Road would be significantly smaller and therefore not in keeping with the character of the other lots on Garden Road.

As such, staff recommends that the application be refused.

Comments Prepared by: Connor DiPietro, Committee of Adjustment Planner

## Appendices

### Appendix 1 – Transportation and Works Comments

Through our initial review of this application, we anticipate some issues/concerns which may have a significant impact on the feasibility of proposed severance. Further review and analysis needs to be undertaken to ensure that the proposed outdoor living area (OLA) and building design for the new lot fronting onto Glen Road can be adequately mitigated to Ministry of the Environment and Climate Change (MOECC) requirements for noise and vibration emanating from railway activities adjacent to the site. We draw attention to the existing sanitary easement that runs along the south limit of the property parallel to the Metrolinx tracks. This easement limits the amount of buildable area for the remainder of the lot. As such, the applicant must demonstrate that the appropriate acoustical measures can be met in combination with the construction of a dwelling. Until a detailed noise and vibration study and a detailed Site Plan is submitted for our review, this Department **cannot support** the application in its current form. We note that this section of the Metrolinx railway corridor has significant railway traffic volumes and noise levels emanating from the railway traffic as has been exhibited in other noise and vibration studies along this railway corridor.

For the applicant's information, an OLA is identified in the Environmental Noise Guidelines (Publication NPC-300) of the Ministry of Environment and Climate Change (MOECC). A minimum area of 56.00m<sup>2</sup> (602.79sq.ft.) is required for single family dwellings.

In addition, under Section 6.10.4.1 of Mississauga Official Plan, states that every effort should be made to achieve the sound level limits specified by the applicable Provincial Government environmental noise guideline for an outdoor living area (55dBA or less). Only in cases where the required noise attenuation measures are not feasible for technical, economic, aesthetic or administrative reasons would excess noise above the limit (55 dBA) be acceptable, with a warning clause to prospective purchasers, consistent with the applicable Provincial Government environmental noise guideline. In these situations, any excess noise above the limit will not be acceptable if it exceeds 60 dBA.

**In view of the above noted concerns, we strongly request that this application be deferred to provide the required noise and vibration impact study and detailed Site Plan to determine the feasibility of the proposed severed lot.**

Should the Committee see merit in the applicant's request and the application move forward, the following conditions will be required:

1. Overall Grading and Drainage Plan

The applicant's consulting engineer will be required to prepare an Overall Grading and Drainage Plan which contains sufficient details to ensure grading compatibility with the adjacent lands and

submit the grading and drainage proposal to this department for review/approval. The plan is to show the overall drainage for both lots and include any catch basins and easements that may be required to in order to keep the lots self contained. The storm sewer along Glen Road will need to be verified for capacity as it relates to the increase in drainage from the proposed dwelling on the severed parcel.

This plan is also to include the appropriate acoustical measures (fencing/berming) that will be made available through the required Acoustical Feasibility Study for noise and vibration emanating from the neighboring Metrolinx tracks.

2. Overall Site Servicing Plan

We request that the applicant submit a Site Servicing Plan prepared by a Consulting Engineer for this department's review/approval. The Site Servicing Plan is to confirm that all the necessary municipal services can be provided for the dwellings to be constructed on the subject lands.

3. Municipal Address Requirement

Prior to the issuance of final consent, satisfactory arrangements are to be made with the Corporate Services Department, Information Technology Division, Digital Services & Mobility Section, Geospatial Solutions Group for the creation of new municipal addresses for the severed and retained lands. For further information, please contact Susie Tasca at (905) 615-3200 ext. 3088 or [susie.tasca@mississauga.ca](mailto:susie.tasca@mississauga.ca)

4. Acoustical Report and Vibration Study

Due to the noise and vibration emanating from the Metrolinx tracks at the rear of the property, the owner will be required to retain the services of an Acoustical Consultant to prepare a detailed Acoustical Report and Vibration Study for the subject lands and make comments/recommendations in support of this severance application. This report is to determine the need for the implementation of any noise attenuation measures that are to be incorporated into the construction of the site works to achieve the City's and the M.O.E.'s current noise level objectives, and to determine if the OLA can achieve the required acceptable sound levels. The scope of this report is to define the minimum noise attenuation requirements for the control of outdoor and indoor environmental sound levels.

We are also noting for the owner's information that securities will be required to ensure that any noise attenuation measures such as air conditioning units or acoustical attenuation walls are installed for the dwellings to be constructed. These securities, if required will be secured through a Development Agreement.

5. Development Agreement

Upon the review of the Acoustical Report which would contain the appropriate Warning Clauses, the owner may be required to enter into a Development Agreement which is to be registered against title of the subject lands. The said agreement is to advise any prospective purchasers that, despite the inclusion of noise control features, noise levels emanating from South Service Road and The Queen Elizabeth Way may continue to be of concern, occasionally interfering with some of the activities of the dwelling occupants as the noise exposure level may exceed the noise criteria of the municipality and the Ministry of the Environment and Climate Change.

In view of the above, the applicant should contact this Department with regard to the process of initiating the Development Agreement preparation and processing.

6. Fee Requirements as Per Fees and Charges By-Law

As per the City of Mississauga's Fees and Charges By-law there will be fees required to be paid to the Legal Services Department for their services, in particular for the preparation of documents required for items pertaining to a Development Agreement and/or road widening. The fee amounts payable will be in accordance with the current fees and charges bylaw.

For further information regarding the above noted comments, please contact John Salvino at (905) 615-3200 ext. 5183 or john.salvino@mississauga.ca

**B. GENERAL INFORMATION**

1. Lot Grading and Drainage

We advise the applicant that issuance of any building permits for the new dwelling(s) will be subject to the owner submitting a certified lot grading and drainage plan to this Department for review/approval. The grading and drainage plan is to contain sufficient detail to ensure grading compatibility with the adjacent properties. In addition, the owner will be required to submit the applicable lot grading and municipal services protection deposits.

2. Servicing

All costs incurred in providing any service laterals will be the responsibility of the owner. The owner will also be responsible for all costs incurred for the required road reinstatement (if required). If the service connections are to be installed by a private contractor retained by the owner, issuance of an open cut permit will be subject to the owner depositing adequate securities with the City to guarantee proper road reinstatement.

3. Access

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We advise the applicant that all costs incurred in providing any new driveway entrance(s) to the subject lands or any modifications/reinstatement required, would be at cost to the owner. The applicant will be required to apply for Access Modification Permits prior to Site Plan Approval and/or Building Permit Issuance. We are also noting that should any utilities need to be relocated, all costs incurred will also be to the owner.

#### 4. Storm Sewer Outlet

There is no storm sewer outlet for the lot fronting on Garden Road. Please note that a rear lot catch basin may be required. Where existing sewer capacity exists, applicants are encouraged to design the basement elevation to be at least 1.0 meter above the elevation of the on-street storm sewer obvert to eliminate the need for a sump pump. In situations where a sump pump is required and where a high groundwater table may exist, the sump pump may run continuously. The applicants are encouraged to design the weeping tile elevation to be at least 1.0 meter above the seasonal groundwater elevation. The owner is advised that the City has no obligations to address any concerns related to the operation of private sump pump systems.

Comments Prepared by: John Salvino, Development Engineering Technologist

### **Appendix 2 – Zoning Comments**

We have no objection to the consent application provided that the severed and retained lands comply with the provisions of Zoning By-law 0225-2007, as amended, with respect to, among other things, minimum lot frontage, minimum lot area, setbacks to the existing building(s), on site parking, etc., or alternatively, that any minor variance(s) is approved, final and binding and/or the demolition of any existing building(s) is complete.

We further advise that the proposed lot frontage is to be calculated in accordance with the following definition;

The applicant is advised that Lot Frontage means the horizontal distance between the side lot lines and where these lines are not parallel means the distance between the side lot lines measured on a line parallel to and 7.5 m back from the front lot line.

Comments Prepared by: Brandon Eidner, Zoning Examiner

### **Appendix 3 – Parks, Forestry & Environment**

The Park Planning Section of the Community Services Department has reviewed the consent application and advises as follows.



Should the application be approved, Community Services wishes to impose the following conditions:

1. The applicant shall provide a cash contribution of \$625.33 for planting of one (1) street tree on Garden Road. This figure is subject to the most recent Fees and Charges By-law at the time of payment and is therefore subject to change.

In addition, Community Services notes the following:

1. Tree preservation securities and hoarding will be required as a condition of site plan approval for street trees located within the Municipal Boulevard.
2. Payment for street tree fees and charges can be made at the Parks and Forestry customer service counter located at 950 Burnhamthorpe Road West in the form of a certified cheque, bank draft, or money order payable to the City of Mississauga. Please contact Jim Greenfield regarding the Covid-19 interim payment process.
3. Prior to the issuance of building permits, cash-in-lieu for park or other public recreational purposes is required pursuant to Section 42 of the Planning Act (R.S.O. 1990, C.P. 13, as amended) and in accordance with the City's policies and by-laws.

Should further information be required, please contact Jim Greenfield, Park Planner, Community Services Department at 905-615-3200 ext. 8538 or via email [jim.greenfield@mississauga.ca](mailto:jim.greenfield@mississauga.ca).

Comments Prepared by: Jim Greenfield, Park Planner

#### **Appendix 4 – Heritage**

The property has archaeological potential due to its proximity to a present or past watercourse or known archaeological resource. The applicant should contact the Ministry of Heritage, Sport, Tourism and Culture Industries to determine the archaeological concerns related to the application. A letter from the Ministry of Tourism, Culture and Sport confirming that all archaeological resource concerns have met licensing and resource conservation requirements for the property must be submitted to Heritage Planning.

Comments Prepared by: Andrew Douglas, Heritage Analyst



**Appendix A – CONDITIONS OF PROVISIONAL CONSENT**

**SHOULD THE COMMITTEE GRANT A PROVISIONAL CONSENT, THE FOLLOWING IS A LIST OF THE RECOMMENDED CONDITIONS TO BE ATTACHED TO THE DECISION AND THESE CONDITIONS MAY BE REVISED BY THE COMMITTEE AT THE PUBLIC MEETING.**

1. Approval of the draft reference plan(s), as applicable, shall be obtained at the Committee of Adjustment office, and; the required number of prints of the resultant deposited reference plan(s) shall be received.
2. An application amendment letter shall be received from the applicant or authorized agent confirming that the conveyed land shall be together with and/or subject to services easement(s) and/or right(s)-of-way, if necessary, in a location and width as determined by the Secretary-Treasurer based on written advice from the agencies having jurisdiction for any service or right for which the easement or right-of-way is required; alternatively, a letter shall be received from the applicant or authorized agent confirming that no services easement(s) and/or right(s)-of-way, are necessary.
3. A letter shall be received from the City of Mississauga, Manager of Zoning Plan Examination, indicating that the conveyed land and retained lands comply with the provisions of the Zoning By-law, or alternatively; that any variances are approved by the appropriate authorities and that such approval is final and binding.
4. A letter shall be received from the City of Mississauga, Transportation and Works Department, indicating that satisfactory arrangements have been made with respect to the matters addressed in their comments dated 2022-01-06.
5. A letter shall be received from the City of Mississauga, Community Services Department, Park Planning Section, indicating that satisfactory arrangements have been made with respect to the matters addressed in their comments dated 2022-01-06.
6. A letter shall be received from the City of Mississauga, Community Services Department, Culture Division, indicating that satisfactory arrangements have been made with respect to the matters addressed in their comments dated 2022-01-06.