

To: Warden and Members of County Council

From: Director of Community Planning

Consideration of Party Status for OLT Hearing Consent & Minor Variance Applications B21-120-6 & A21-31-6 (Mounsteven)

RECOMMENDATION

1. That County Council select Option _____ as set out in Report No. CP 2022-217 regarding consideration of party status at any Ontario Land Tribunal proceedings related to the appeal of Consent and Minor Variance Applications B21-120-6 and A21-31-6, and that the Ontario Land Tribunal, the applicant and any other persons that participated in the Land Division Committee meeting of April 7, 2021 regarding these files be notified of Council's decision accordingly.

REPORT HIGHLIGHTS

- The purpose of this report is to obtain County Council direction regarding whether to pursue party status for the County of Oxford at an Ontario Land Tribunal (OLT) hearing relating to appeals filed by the owner/applicant against a decision of the County Land Division Committee (LDC).

Implementation Points

In accordance with Council approved procedure, the following steps are to be taken (by staff) when considering an appeal that is filed by the applicant/owner or a third party regarding a consent application:

- notify Land Division Committee (LDC) of the OLT appeal;
- prepare a report for County Council's consideration providing the Planning Report prepared by staff and LDC Notice of Decision, and seek Council's direction on whether to pursue party status, and the position Council will support at OLT; and,
- implement the direction of Council by retaining legal counsel, as appropriate, and facilitating appropriate staff participation in the OLT hearing.

Financial Impact







Depending on the course of action directed by Council, the appeal to OLT may involve retaining a solicitor to represent the County at the appeal hearing. Funds have been included in the 2022 Community Planning budget for a limited number of appeals and as such, no expenditure beyond the currently approved budget should be required.

For Council’s information, the LDC refused the applications for consent and minor variance, contrary to the Planning staff recommendation. In light of this, if the County opts to seek party status at the OLT hearing in support of the decision of the LDC, effective representation at the hearing would involve retaining a solicitor and independent land use planning advice. Should Council choose to not support the LDC decision and direct staff to retain a solicitor in support of the recommendations made by Planning staff, it will be necessary to retain a solicitor, but not a planner, as County staff would provide the necessary evidence in support of the said recommendations.

Communications

Council’s decision as to representation at an OLT hearing in regard to the applications described in this report will be communicated to the Tribunal, the applicant and any persons that participated in the LDC meeting on April 7, 2022 regarding the subject applications.

Strategic Plan (2020-2022)

					
<i>WORKS WELL TOGETHER</i>	<i>WELL CONNECTED</i>	<i>SHAPES THE FUTURE</i>	<i>INFORMS & ENGAGES</i>	<i>PERFORMS & DELIVERS</i>	<i>POSITIVE IMPACT</i>
		3.ii.			

DISCUSSION

Background

The subject property is located on the east side of Oxford Avenue, south of North Town Line in the Town of Ingersoll. The application for consent proposes to create one ‘back yard’ infill lot for residential purposes comprising approximately 1,025 m² (11,040 ft²) and retain a lot consisting of approximately 556 m² (5,990 ft²), which is occupied by an existing single detached dwelling. The proposed severed lot has frontage of approximately 6 m (20 ft) on Oxford Avenue while the retained lands have frontage of approximately 14 m (46 ft). The frontage requirement for each lot is 15 m (49.2 ft) as per the Town’s Zoning By-law and the applicant applied to reduce the frontages as described above.

The proposal was considered and denied by the LDC on April 7, 2022 and an appeal was filed by the applicant on April 27, 2022. The LDC meeting was attended by the applicant (virtually) and one neighbouring property owner (also virtually), who spoke in opposition to the application. In addition, the LDC received 11 emails/letters from persons living in the neighbourhood objecting to the proposed consent and minor variance. The noted correspondence was either attached to the staff report or was made available to the LDC prior to their consideration of the applications on April 7th.

Planning Report CP 2022-129 and the decision of the LDC regarding the proposal are attached to this report for Council's consideration.

Comments

As noted previously, the LDC's decision to deny the consent and minor variance applications was not supported by Community Planning staff and as such, Council must decide whether to seek party status and participate in the OLT hearing. Council's options in this regard are as follows:

Option 1: Council seeks party status in support of the LDC's refusal of the applications.

As noted, because Planning staff did not support the LDC's refusal of the application, supporting this option would involve retaining legal counsel and independent land use planning advice in support of the LDC decision.

Option 2: Council seeks party status in support of the recommendation of Planning staff to approve the applications.

This option would also involve retaining legal counsel, however, Community Planning staff would be in a position to provide evidence in support of the staff recommendation.

Option 3: Council opts to not participate in the hearing.

In this scenario, the County would not be a party to, or represented at the OLT hearing. The parties to the hearing would be the applicant and any persons that objected to the applications that choose to participate. The applicant and any participating objectors would be responsible for providing their own legal counsel and planning evidence. In this scenario, it is probable that Community Planning staff would be summoned to the hearing by the applicant.

Conclusion

It is common practice for municipalities to defend decisions regarding land use planning matters at OLT hearings by retaining the services of a solicitor and qualified land use planner for the purpose of providing expert evidence in support of decisions made by, or on behalf of, Council via an appointed Committee such as the LDC. Should Council decide to be represented at any proceedings of the OLT regarding these applications, staff will proceed to obtain the services of a solicitor and independent land use planner to support Council's position (if required). If Council should choose to not participate in the appeal, staff will inform the OLT accordingly.

SIGNATURES

Report Author:

Original Signed By

Gordon K. Hough, RPP
Director of Community Planning

Approved for submission:

Original Signed By

Michael Duben, B.A., LL.B.
Chief Administrative Officer

ATTACHMENTS

- Attachment No. 1 - CP Report No. 2022-129, as presented to the LDC on April 7, 2022
- Attachment No. 2 - Written submissions received in response to Public Notice
- Attachment No. 3 - Decision of the LDC regarding Consent File B21-120-6 and
Minor Variance File A21-31-6