

Summary of Comments

B-017-2023 - 6439 Yonge Street



COMMITTEE OF ADJUSTMENT MEMORANDUM

APPLICATION NUMBER(S): B-017-2023

RELATED APPLICATION(S): N/A

MEETING DATE: September 21, 2023

TO: Toomaj Haghsheenas, Secretary Treasurer Committee of Adjustment

FROM: Adrianna Grasmeyer, MCIP RPP
Supervisor of Policy Planning

SUBJECT: Consent to Sever 6439 Yonge Street

PROPERTY INFORMATION:

Municipal Address	6439 Yonge Street
Legal Description	Concession 4, Part North ½ Lot 16, Part South ½ Lot 16, Plan 162
Official Plan	Agricultural Area (Schedule B) and Key Natural Heritage Features and Key Hydrologic Features
Zoning By-law	Agricultural General (AG) and Environmental Protection (EP) Zone

RECOMMENDATION:

The Planning Department recommends deferral of application B-019-2021 until such time as the applicant is either able to demonstrate conformity with County and Provincial policies or able to confirm validation of title.

REASON FOR APPLICATION(S):

The applicant is proposing to sever a portion of the subject lands for the purpose of re-establishing two historical lots of record. The severed lands are proposed to have an approximate lot area of 0.56 hectares and a frontage of 59.6m on Yonge Street (County Road 4). The retained lands are proposed to have an approximate lot area of 18.085 hectares and a frontage of 110.8m on Yonge Street (CR 4).

The applicant initially submitted for consent under Section 57 of the *Planning Act* to validate the title of 6439 Yonge Street in order to correct a previous title error arising from the merge of separate parcels of land. This was deferred at the July 20, 2023 Committee of Adjustment meeting to provide the applicant an opportunity to provide additional information. However, upon further review of the Parcel Registration, Legal Services was not of the opinion that the use of validation of title under Section 57 of the *Planning Act* was appropriate based on how the merger occurred. The resubmission is now under Section 53 of the *Act* which invokes current land use planning policies. Upon doing so, the resubmission omitted any form of planning justification verifying that

the proposal meets the requirements of Town, County, and Provincial planning policies. Staff are recommending further dialogue between the applicant's Planner and Planning staff.

SURROUNDING LANDS:

North	Agricultural uses and Single detached dwellings and accessory structures
East	Agricultural uses and Environmental
South	Single-detached dwelling
West	Agricultural uses, Yonge Street

ANALYSIS:

Site Inspection Date	September 18, 2023
Consistent with the Provincial Policy Statement: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	The subject lands are designated Agricultural in the Simcoe County Official Plan and are therefore located within a prime agricultural area based on PPS definitions and policies. The creation of new residential lots in prime agricultural areas is not permitted (PPS Section 2.3.4.3) unless for a residence surplus to a farming operation as a result of farm consolidation, subject to criteria (PPS Section 2.3.4.1.c). The proposal does not meet this criteria and is not the result of a farm consolidation, and therefore in the opinion of Staff would not be consistent with the PPS.
Consistent with the Provincial Growth Plan: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	The subject lands are designated Agricultural within Schedule 5.1 Land Use of the Simcoe County Official Plan. Prime agricultural areas identified in upper-tier plans that were approved and in effect as of July 1, 2017 will be considered the agricultural land base for the purpose of the Growth Plan (Section 4.2.6.8). Refinements to the agricultural mapping can only occur through a Municipal Comprehensive Review (MCR) (Growth Plan Section 4.2.6.9). Through the County's MCR, an Agricultural System Review and Refinement Update was completed in March of 2022. This exercise identifies any lands to be added/removed from the agricultural system in the County OP. Upon review of the publicly available information, the subject property continues to remain within the prime agricultural area and no changes are identified.
Conforms with the County Official Plan: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	The subject lands are designated Agricultural and Greenlands in the Simcoe County Official Plan. The area of the property that is subject to the proposed severance lies wholly within the Agricultural designation and therefore is located within a prime agricultural area. In the Agricultural designation, lot creation is discouraged and may only be permitted under limited circumstances (SCOP Section 3.6.7). The proposed severance does not meet any of the limited circumstances that allow for lot creation in a prime agricultural area.
Conforms with the Town Official Plan: <input type="checkbox"/> Yes <input type="checkbox"/> No	GIS mapping designates the subject lands Agricultural Area and Key Natural Heritage Features & Key Hydrologic Features within the Town of Innisfil Official Plan. Hardcopy/paper maps designate the proposed severed lands Rural Area and Key Natural Heritage Features & Key Hydrologic Features within the Town of Innisfil Official Plan. The area of the property that the severance is proposed is outside of the Key Natural Heritage Features & Key Hydrologic Features designation. This mapping conflict is atypical and further investigation is required to confirm the land use designation in place for the subject property.

Complies with the Town Zoning By-law: <input type="checkbox"/> Yes <input type="checkbox"/> No	GIS mapping identifies the subject lands are zoned Agricultural General (AG) Zone and Environmental Protection (EP) Zone within the Town's Zoning By-law. Hardcopy/paper maps identify the severed lands are zoned Residential Rural (RR) Zone Environmental Protection (EP) Zone within the Town's Zoning By-law, and the retained lands are zoned AG and EP. The area of the property that the severance is proposed is outside of the EP Zone. This mapping conflict is atypical and further investigation is required to confirm the zoning in place for the subject property.
Conforms to Section 2, 51(24) and 53(12) of the Planning Act: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	The proposed Consent has been reviewed under Section 2, 51(24) and 53(12) of the <i>Planning Act</i> . In the opinion of Staff, these sections of the <i>Planning Act</i> have not been met at this time.

CONCLUSION:

Staff are recommending a deferral to provide the applicant an opportunity to produce the appropriate information, including planning justification and/or legal documents, to either:

- a) Validate the title of the lands under Section 57 of the *Planning Act*; or
- b) Create a residential lot in the prime agricultural area under Section 53 of the *Planning Act*.

PREPARED BY:

Adrianna Grasmeyer, MCIP, RPP
Supervisor of Policy Planning

REVIEWED BY:

Steven Montgomery, MCIP, RPP
Supervisor of Development Acceleration



Community Development Standards Branch

MEMORANDUM TO FILE

DATE: September 15, 2023

FROM/CONTACT: Jocelyn Penfold ex 3506 jpenfold@innisfil.ca

FILE/APPLICATION: B-017-2023

SUBJECT: 6439 Yonge St.

Comments to applicant/owner for information purposes (Comments help provide additional information regarding the development of the subject lands to the applicant. Comments are not conditions of approval):

1. When applying for building permit for a new dwelling, please provide a lot grading plan designed by a Professional Engineer or an Ontario Land Surveyor to the satisfaction of Community Development Standards Branch (Building Department).

Condition of Approval (Conditions of Approval are specific enforceable conditions regarding the subject lands should the Committee of Adjustment approve the application. For example: The applicant/owner shall apply for a building permit for the construction of a new dwelling to the satisfaction of Community Development Standards Branch)

1. No comments.



**County of Simcoe
Transportation and
Engineering**
1110 Highway 26,
Midhurst, Ontario L9X 1N6

Main Line (705) 726 9300
Toll Free 1 866 893 9300
Fax (705) 727 7984
Web: simcoe.ca



Toomaj Hagshenas
2101 Innisfil Beach Rd.
Innisfil, ON
L9S 1A1

September 6, 2023

Via: E-Mail

Dear Mr. Hagshenas,

**RE: Consent Application I-B-2301
6439 County Road 4, Town of Innisfil, County of Simcoe.**

Thank you for circulating the above-noted Application to the County of Simcoe for review. The existing right-of-way on Yonge St (County Road 4) adjacent to the subject property is approximately 36.5 metres wide. In accordance with Table 5.4 of the Simcoe County Official Plan, the required basic right-of-way width for Yonge St (County Road 4) is 45.0 metres. County staff has reviewed this requirement and feel that the full right-of-way width is necessary for future road maintenance, road improvements and stormwater flow from Yonge St (County Road 4). In order to meet this right-of-way requirement, the County will require a road widening of approximately 4.00 metres.

The County of Simcoe's Transportation & Engineering Department would have no objection to the approval of the Application, provided the following conditions were included:

1. The Applicant shall transfer to the Corporation of the County of Simcoe ("County"), at no cost, a fee simple, unencumbered interest in the following:
 - A road allowance widening along the entire frontage of the subject property adjacent to Yonge St (County Road 4) to provide a 22.5 metre right-of-way from the centreline of Yonge St (County Road 4).

The Applicant shall submit to the satisfaction of the County's Transportation and Engineering Department a preliminary reference plan (1 copy and 1 electronic copy) which sets out the road widening and daylight (sight) triangle to be transferred to the County. Upon approval, the County will instruct the surveyor to deposit the reference plan in the Land Registry Office for Simcoe County and request the surveyor provide the County with 1 copy and 1 electronic copy of the deposited reference plan.

All costs associated with the land transfer, including costs relating to surveying, legal fees, and disbursements, agreements, HST, etc. shall be fully borne by the applicant. All legal documentation is to be negotiated, prepared and registered by the Legal Services Department of the County and to be executed where required by the Applicant. The Applicant shall submit to the Legal Services Department of the County a deposit in the amount of \$1200.00 prior to the services being rendered. Invoices will be submitted on a cost recovery basis and applied against the deposit. Additional deposits may be required, and any excess over the total invoices will be refunded.

County Comments - 2

The County of Simcoe is requesting the road widening pursuant to Section 53(12) of the Planning Act and such land will form part of the highway to the extent of the designated widening in accordance with Section 31(6) of the Municipal Act, 2001. The widening of Yonge St (County Road 4) is required pursuant to the County's standards for the construction and is consistent with proper safety standards.

Prior to stamping the deed by the Township of Innisfil, the Applicant shall obtain written clearance from the County of Simcoe for the above-noted condition.

2. The County of Simcoe Entrance By-law No. 5544 regulates the construction, alteration or change in the use of any private or public entranceway, gate or other structure or facility that permits access to a County road. The County of Simcoe has no record of an Entrance Permit being issued for the existing entrance from the lands to be severed, onto County Road 4. If the property Owner cannot produce a valid permit, this entrance would be considered 'Legal non-conforming'. The County is requesting that the Owner apply for a Commercial Entrance Permit in the interest of updating the status of this entrance.
3. Any future development of the new property must be circulated to the County of Simcoe for review.

If you require any further information, please do not hesitate to contact me.

Sincerely,
The Corporation of the County of Simcoe



Corey Rice
Engineering Technician II
(705) 726 9300 Ext. 1076

cc. Julie Scruton, County of Simcoe
cc. Karen Ball, County of Simcoe

<https://simcoecounty.sharepoint.com/sites/PLNDepartment/Shared%20Documents/Forms/AllItems.aspx?id=%2Fsites%2FPLNDepartment%2FShared%20Documents%2FGeneral%2FD%20%2D%20Development%20%26%20Planning%20D%2FD07%20to%20D14%20Development%20Correspondence%2FInnisfil%2FD10%20Severances%20%26%20D13%20Variances%2F2023%2FI%20DB%2D2301%206439%20Yonge%20Street&viewid=97a7408e%2Dabae%2D44e5%2D9726%2Dc988a36ba653>



County of Simcoe
Planning Department
1110 Highway 26,
Midhurst, Ontario L9X 1N6

Main Line (705) 726-9300
Toll Free (866) 893-9300
Fax (705) 727-4276
simcoe.ca



September 12, 2023

VIA EMAIL

Toomaj Haghshenas
Senior Development Coordinator
Town of Innisfil
2101 Innisfil Beach Road
Innisfil, ON L9S 1A1

RE: Circulation: Severance Application - B-017-2023
Subject Lands: 6439 Yonge Street, County of Simcoe
County File: I-B-2301

Thank you for circulating the County of Simcoe for comments with respect to the above noted consent application. The County understands that the applicant is proposing a technical severance to separate two existing lots that have inadvertently merged on title. The proposed severed lot with existing dwelling and accessory structure would maintain an area of approximately 0.506 ha and the retained lot with existing dwelling and agricultural structures would maintain an area of approximately 18.058 ha.

The majority of the subject lands are designated Agricultural and portions are designated Greenlands in Schedule 5.1 – Land Use Designations in the County of Simcoe Official Plan (SCOP). The Greenlands designation appears to apply to the wooded areas of the property. There is one watercourse identified on the property and three unevaluated wetlands. Portions of the property are regulated by the Nottawasaga Valley Conservation Authority (NVCA) and the Lake Simcoe Regional Conservation Authority (LSRCA) therefore the NVCA and LSRCA should be consulted regarding their regulated lands.

The Greenlands designation includes the natural heritage system of the County. The policies that apply to the Greenlands designation aim to protect the natural heritage features and their ecological functions within the County. Per 3.8.15 of the SCOP, permitted uses within the Greenlands designation include agricultural uses; agricultural related uses; on-farm diversified uses; forestry on public lands; and subject to the lands not being within a prime agricultural area, residential dwelling units on lot which were approved prior to May 9, 2016.

The Agricultural designation of the SCOP applies to lands that are identified by the Province as being 'prime agricultural areas'. Provincial and County Policies direct that prime agricultural areas shall be protected for long-term use for agriculture.

Section 2.3.4.1 of the Provincial Policy Statement (PPS) 2020, indicates that lot creation is generally discouraged and may only be permitted for *agricultural uses, agricultural related uses, a residence surplus to a farming operation and infrastructure*. Lot creation for agricultural uses are to maintain a “size appropriate for the type of agricultural use(s) common in the area and that are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations”.

In accordance with the PPS, 3.6.7 of the SCOP states that lot creation in the agricultural designation may be permitted for agricultural uses provided the new lots are not less than 40 hectares or the original survey size, whichever is lesser.

Policy 3.3.5 of the SCOP permits consents in any designation for the purpose of *legal or technical reasons*, as defined by the PPS, and consolidation of land holdings may be permitted but shall not be for the purpose of creating new lots. *Legal or technical reasons* is defined by the PPS as “severances for purposes such as easements, correction of deeds, quit claims, and minor boundary adjustments, which do not result in the creation of a new lot.”

In addition, policy 3.3.2 of the SCOP indicates that subdivision of land by consent is permitted only for the land uses permitted in the designation or that maintains the intent of the Plan’s objective and policies. The proposed retained parcel appears to have been in agricultural production and contains the existing dwelling and agricultural buildings which are permitted uses.

If the Town and Committee are satisfied that the consent is for a legal or technical matter, then the County would have no objection to the proposed consent in principle, relying on the Town’s evaluation of what is considered a legal or technical matter. In addition, since lot creation for agricultural use is permitted in the Greenlands and Agricultural designations, no additional residential lot will be created, and no additional site alteration or new development is proposed, the County also has no concerns with the consent as it relates to these matters. Finally, the Town should also be satisfied that the application is consistent with provincial and local natural heritage system policies and objectives as well as any applicable policies determined by the NVCA and LSRCA.

Please circulate future updates or notices with respect to this proposal to the attention of the County of Simcoe Planning Department via planning.notices@simcoe.ca.

If you have any questions or require further information, please do not hesitate to contact the undersigned.

Sincerely,

The Corporation of the County of Simcoe

A handwritten signature in black ink, appearing to be 'ED' with a large loop.

Elizabeth Davis

Planner II

P: 705-726-9300 ext. 1137

E: Elizabeth.davis@simcoe.ca

cc: Dan Amadio, Manager of Planning – County of Simcoe



Engineering

MEMORANDUM TO FILE

DATE: September 18, 2023

FROM/CONTACT: Adil Khan ex 3244 akhan@innisfil.ca

FILE/APPLICATION: B-017-2023

SUBJECT: 6439 Yonge Street

Comments to applicant/owner for information purposes (Comments help provide additional information regarding the development of the subject lands to the applicant. Comments are not conditions of approval):

1. When applying for building permit for a new dwelling, please provide a scoped hydrogeological assessment, tree preservation and inventory plan, and submit engineering design drawings and all other supporting documents in accordance with Town Standards and to the satisfaction of the Town.

Condition of Approval (Conditions of Approval are specific enforceable conditions regarding the subject lands should the Committee of Adjustment approve the application. For example: The applicant/owner shall apply for a building permit for the construction of a new dwelling to the satisfaction of Community Development Standards Branch)

1. No Conditions.