Ontario Coat of Arms
Ontario Municipal Board

Ontario Municipal Board

Commission des affaires municipales de l’Ontario

ISSUE DATE:

April 16, 2012

PL110837

IN THE MATTER OF subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as

amended

|  |  |
| --- | --- |
| Appellant: | Anthony Hurst |
| Appellant: | William Roebuck |
| Applicant: | 1669682 Ontario Ltd. |
| Subject: | Consent to sever |
| Property Address/Description: | 196 Governor’s Road |
| Municipality: | City of Hamilton |
| Municipal File No.: | B-41/11 |
| OMB Case No.: | PL110837 |
| OMB File No.: | PL110837 |

|  |  |
| --- | --- |
| IN THE MATTER OF subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended | |
| Appellant: | Anthony Hurst |
| Applicant: | 1669682 Ontario Ltd. |
| Subject: | Minor Variance |
| Variance from By-law No.: | 3581-86 |
| Property Address/Description: | 196 Governor’s Road |
| Municipality: | City of Hamilton |
| Municipal File No.: | A-189/11 |
| OMB Case No.: | PL110837 |
| OMB File No.: | PL111102 |

APPEARANCES:

|  |  |
| --- | --- |
| Parties | Counsel\*/Agent |
| 1669682 Ontario Ltd. | B. Duxbury\* |
| Anthony Hurst | Self-represented |
|  |  |

MEMORANDUM OF ORAL DECISION DELIVERED BY SUSAN de AVELLAR SCHILLER ON FEBRUARY 1, 2012 AND ORDER OF THE BOARD

1669682 Ontario Ltd. (applicant) owns an unusually large, well treed lot. The applicant wishes to divide this large lot into three parcels. To do so, the applicant seeks consent to convey and a minor variance to reduce the frontage from the by-law requirement of 18 m to 17.23 m for each parcel.

The City of Hamilton Committee of Adjustment authorized the minor variance and has given provisional consent, with conditions, to allow the single large lot to be divided into three parcels.

Anthony Hurst and William Roebuck are neighbours, concerned with privacy and retaining the mature trees and landscaping. Messrs. Hurst and Roebuck both appealed the decision on the application for consent to convey; Mr. Hurst appealed the decision on the application for minor variance.

As a result of extensive discussions between the parties, the Board was advised that the parties had reached a settlement. A copy of the minutes of settlement was filed as Exhibit 1 in these proceedings.

Mr. Hurst then advised the Board that he was withdrawing his appeal against the decision of the Committee of Adjustment with regard to the application for minor variance. That appeal having been withdrawn, the decision of the Committee of Adjustment to authorize the minor variance stands.

The Board then turned to the application for consent to convey and heard from Mr. Stephen Fraser. Mr. Fraser is a full member of the Canadian Institute of Planners and is a Registered Professional Planner in Ontario.

None of the conditions to the Committee’s decision on the application for consent to convey were challenged. The Board was advised that all parties were content to leave these conditions in place. Having reviewed the conditions imposed by the Committee of Adjustment, the Board is satisfied that they are appropriate to secure oversight for the municipality and to protect environmental and heritage features that may be identified on the subject lands. A complete list of the conditions imposed by the Committee of Adjustment, and confirmed as appropriate by this Board, is found in the decision of the Committee of Adjustment which is in Attachment #1 to this decision.

In order to maintain landscaping and reduce the impact of the additional lots to be created, the parties ask the Board to add a further condition to the consent as follows:

That the applicant establish a shared driveway and shared services, including but not limited to services for sanitary and storm sewers, water, hydro and cable for each of the three lots/dwelling (shown as Parts 2, 5 and 6 on the application for consent to convey) measuring 51.69m x 9.5m for reciprocal rights of way for access and servicing purposes, to the satisfaction of the City of Hamilton Manager of Development Engineering.

The Board is satisfied that this additional condition is appropriate. It secures a more efficient use of land and infrastructure and improves compatibility with adjacent properties.

The Board has considered the application for consent to convey, subject to the conditions imposed by the decision of the Committee of Adjustment and the additional condition sought by the parties.

The Board finds that this application meets the criteria set out in subsection 51(24) of the *Planning Act* R.S.O. 1990 c.P.13, is consistent with the Provincial Policy Statement, conforms to the Growth Plan for the Greater Golden Horseshoe, conforms to the Hamilton-Wentworth Official Plan, and conforms to the Dundas Official Plan. In particular, this proposal will contribute to intensification and a more compact development form, will make efficient use of land and infrastructure and enhances the protection of natural features.

The appeal of the decision of the Committee of Adjustment regarding the application for consent to convey is allowed in part and provisional consent is given, subject to the conditions imposed by the Committee of Adjustment and with the additional condition set out above.

So Orders the Board.

“Susan de Avellar Schiller”

SUSAN de AVELLAR SCHILLER

VICE CHAIR

**ATTACHMENT 1**



