



Report Committee of Adjustment

Filing Date: July 19, 2024
Hearing Date: August 20, 2024

File: B-2024-0013, A-2024-0282, A-2024-0283

**Owner/
Applicant:** Harinder Bains, Rupinder Bains & Jaswinder Kaur Bains

Address: 20 Evergreen Avenue

Ward: WARD 10

Contact: Simran Sandhu, Planner I

Purpose:

The purpose of the application is to request consent to sever a parcel of land currently having a total area of approximately 0.85 hectares. The proposed severed lot has a frontage of approximately 59.22 metres; a depth of approximately 67.54 metres and an area of approximately 0.42 hectares. It is proposed that 2 lots be established from the existing lot for future residential development of a single detached dwelling on the proposed severed lot.

Recommendations:

1. That application B-2024-0013 be refused; and
2. That application A-2024-0283 be refused.

That application **A-2024-0282** is supportable in part, subject to the following conditions being imposed:

1. That the extent of the variance 2 be limited to that shown on the sketch attached to the Notice of Decision;
2. That variance 1 for the reduced lot area be refused;

3. That the owner shall obtain a building permit for the existing brick pool house within 60 days of the decision of approval or within an extended period of time at the discretion of the Chief Building Official; and,
 4. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.
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Background:

Consent application (B-2024-0013) and concurrent Minor Variance applications (A-2024-0282 and A-2024-0283) have been submitted to facilitate the severance of the subject property. The proposed severed lot has a frontage of approximately 59.22 metres; a depth of approximately 67.54 metres and an area of approximately 0.42 hectares. The scope of the submitted applications is to facilitate the creation of one (1) additional lot (severed lot), from the existing lot (retained lot) for a future single detached residential development. In relation to this application, the surrounding land uses include existing single detached executive residential dwellings within the Toronto Gore Rura Estate Area.

- **Official Plan:** The subject property is designated as 'Estate Residential' in the Official Plan;
- **Brampton Plan:** The subject property is designated as 'Community Areas' in Schedule 1A, 'Neighbourhoods' in Schedule 2 and 'Established Rural Estate Residential Area' in Schedule 12 in the Regionally adopted Brampton Plan;
- **Secondary Plan:** The subject property is located within the Toronto Gore Estate Area Secondary Plan (Area 26); and,
- **Zoning By-law:** The subject property is zoned 'Residential Rural Estate Two (RE2)' according to By-law 270-2004, as amended.

Consent Application:

The subject property is located at the corner of Evergreen Avenue and Estateview Circle and is situated within the Toronto Gore Estate Residential community. The Toronto Gore Estate Residential area is an established community consisting of large estate properties that are not on full urban services. The average lot size in the Toronto Gore is approximately 0.8 hectares (2.0 acres). The Toronto Gore community is characterized as an estate area based on its rural characteristics, such as roads lined with mature vegetation, limited access points to major arterial roads, large single detached dwellings situated away from the road, considerable building setbacks to adjacent dwellings and the expansive views across the community into the adjacent valleys.

The City's Policy team recently undertook the Toronto Gore Density Policy Review Study to assess the existing established estate residential community with a focus on protecting community character. An open house was held in March 2024, where residents voiced strong opposition to permitting severances in the Toronto Gore Estate Residential Area. Following further discussions with staff and Council members, it was decided that the study will not proceed, and the existing Official Plan policies and Zoning By-law will remain in effect.

The subject site has an approximate frontage of 130.63m and a lot area of 0.85 hectares. The property has moderate tree coverage along property lines and an existing detached residential dwelling serviced by septic which meets all front, rear, and side yard setback requirements and would continue to do so on the retained smaller lot proposed.

In determining whether a consent application may be granted in an Estate Residential area, Sections 4.2.3.3. b) and 4.2.3.5 of the Official Plan shall be met. Section 4.2.3.3 b) of the Official Plan states that the minimum lot size for the large Toronto Gore Estate area east of Goreway Drive shall be 0.8 hectares (2.0 acres). Section 4.2.3.3 also states, "these minimum lot sizes contribute strongly to the character of each of the areas. Estate lots greater than the minimum lot size for each of those Estate Residential areas shall be discouraged, unless a marginally larger size is required due to health regulations or due to topography or geometric constraints. This policy will provide continued protection of the existing rural estate housing community from consent and severance applications while at the same time ensure a long-term supply of estate building lots." The purpose of Policy 4.2.3.3 is to deter severances in the Estate Residential Areas in the City. The Official Plan is clear in its intent that the established rural estate housing community shall be protected from consent and severance applications by maintaining the minimum lot area requirements contained in Policy 4.2.3.3.

Section 4.2.3.5 provides policy direction with respect to the severance of lots in Estate Residential areas. Specifically, Section 4.2.3.5 (i), (ii) & (iv) states:

"Consent applications in respect of land located within designated Estate Residential areas, as shown on Schedule "A", shall be considered and may only be granted:

- i. In accordance with the policies of this Plan;
- ii. When it is clear that the consent will not adversely impact the ultimate development pattern of the entire holding;
- iii. If the general policies, conditions and criteria in the consent policies of the Implementation Section of this Plan are complied with; and,
- iv. The lot size and access provisions of the preceding Estate Residential policies are satisfied."

Section 4.2.3.5 of the Official Plan clearly states that consent applications within designated Estate Residential areas shall only be granted if adherence to the policies of the Official Plan including minimum lot sizes are met.

The subject property is zoned 'Residential Rural Estate Two (RE2)' according to By-Law 270-2004, as amended. Section 11.2.2 (a) of the 'RE2' Zoning By-law requires a minimum lot area of 0.8 hectares. The applicant is proposing to sever 20 Evergreen Ave resulting in a minimum lot area of 0.4 hectares and 0.4 hectares respectively for the retained and severed lots. The proposed minimum lot area of both severed and retained lots do not conform to the minimum lot area requirement as prescribed by both the Official Plan and the Zoning By-law. As a result, the applicant is also requesting Minor Variances for both severed and retained lots to permit the reduced minimum lot areas.

Staff has undertaken a thorough review of this proposal, relative to the provisions prescribed within Section 51(24) of the Planning Act (as summarized on Schedule "A" attached to this report), and advise that the proposed consent application cannot be supported from a land use perspective. Planning Staff are recommending refusal of both the Consent and Minor Variance applications, excluding the variance

for the existing brick pool house, because of the prescriptive Official Plan policies pertaining to the minimum lot area requirements in both the Official Plan and Zoning By-law and the Official Plan criteria for consents in the Estate Residential area.

Minor Variance Applications:

A-2024-0282 – Retained Parcel

Requested Variances:

The applicant is requesting the following variances:

1. To permit a lot area of 0.4 hectares, whereas the by-law requires a minimum lot area of 0.8 hectares; and,
2. To permit an accessory structure (a brick pool house) having a gross floor area of 59.97 sq.m, whereas the by-law permits a maximum gross floor area of 23 sq.m for an individual accessory structure.

1. Maintains the General Intent and Purpose of the Official Plan

The subject property is designated 'Estate Residential' and 'Unique Communities' in the Official Plan and is located within the Toronto Gore Rural Estate Secondary Plan Area (Area 26), which currently has no Secondary Plan in place.

In determining whether the requested variances meets the general intent and purpose of the Official Plan, Sections 4.2.3.3. b) and 4.2.3.5 of the Official Plan shall be considered. Section 4.2.3.3 (b) of the Official Plan states that the minimum lot size for the large Toronto Gore Estate area east of Goreway Drive shall be 0.8 hectares (2 acres). Section 4.2.3.3 also states, "these minimum lot sizes contribute strongly to the character of each of the areas. Estate lots greater than the minimum lot size for each of those Estate Residential areas shall be discouraged, unless a marginally larger size is required due to health regulations or due to topography or geometric constraints. This policy will provide continued protection of the existing rural estate housing community from consent and severance applications while at the same time ensure a long-term supply of estate building lots." The purpose of Policy 4.2.3.3 is to deter severances in the Estate Residential Areas in the City. The Official Plan is clear in its intent that the established rural estate housing community shall be protected from consent and severance applications by maintaining the minimum lot area requirements contained in Policy 4.2.3.3.

Section 4.2.3.5 provides policy direction with respect to the severance of lots in Estate Residential areas. Specifically, Section 4.2.3.5 (i), (ii) & (iv) states:

"Consent applications in respect of land located within designated Estate Residential areas, as shown on Schedule "A", shall be considered and may only be granted:

- i. In accordance with the policies of this Plan;
- ii. When it is clear that the consent will not adversely impact the ultimate development pattern of the entire holding;

- iii. If the general policies, conditions and criteria in the consent policies of the Implementation Section of this Plan are complied with; and,
- iv. The lot size and access provisions of the preceding Estate Residential policies are satisfied."

To facilitate the proposed lot severance, variances are requested to permit a minimum lot area of 0.4651 hectares for the retained lot and 0.3375 hectares for the severed lot, which does not meet the minimum lot area prescribed in Section 4.2.3.3 (b) or the minimum lot area requirement set out in the Zoning By-law. Section 4.2.3.5 of the Official Plan clearly states that consent applications within designated Estate Residential areas shall only be granted if adherence to the minimum lot size requirements in the Official Plan and Zoning By-law are met. The minimum lot size requirements prescribed by the Official Plan contribute strongly to the character of the Toronto Gore Estate Residential area. A reduction to the minimum lot area will impact and jeopardize the character of the surrounding estate residential area, which includes large estate lots (0.8 hectares).

The Toronto Gore Estate Residential Area is also designated as a "Unique Community" to preserve its unique and historical characteristics. The conservation (e.g. minimum lot area requirements) of these unique communities forms an important part of the City structure and contributes to the sense of place and identity. The requested variance to reduce the minimum lot size requirement in order to facilitate a lot severance is not considered to maintain the general intent and purpose of the Official Plan.

The requested variance for the existing pool house has no impact within the context of the policies of the Official Plan and Secondary Plan and maintains the general intent and purpose of the Official Plan.

2. Maintains the General Intent and Purpose of the Zoning By-law

Variance 1 is to permit a minimum lot area of 0.4 hectares for the retained lot whereas the By-law requires a minimum lot area of 0.8 hectares. The intent of the By-law in requiring a minimum lot area is to ensure that the estate residential character is maintained for both the property and for the larger established estate residential community within which the subject property is located.

The subject property is zoned 'Residential Rural Estate Two (RE2)' according to By-Law 270-2004, as amended. Section 11.2.2 (a) of the 'RE2' Zoning By-law requires a minimum lot area of 0.8 hectares. The intent of the minimum lot area requirement of 0.8 hectares is to ensure that the estate residential area consists of a low density, low intensity form of residential development that is characterized by large lots. The applicant is proposing to sever 20 Evergreen Avenue resulting in a minimum lot area of 0.4 hectares for the retained lot. The proposal to sever the property would result in a lot area that is less than half of what the Zoning By-law requires. Lot sizes in the estate residential area contribute strongly to the character of the community. The proposed minimum lot area for both the severed and retained parcels represents a significant reduction to the minimum 0.8 hectare lot area requirement and will no longer contribute to maintaining the estate residential character of the property and the surrounding estate residential neighbourhood. The proposed minimum lot area of both severed and retained lots do not conform to minimum lot area requirement as prescribed by the Zoning By-law. Therefore, variance 1 is not considered to maintain the general intent and purpose of the Zoning By-law.

Variance 2 is requested to permit an accessory structure (a brick pool house) having a gross floor area of 59.97 sq.m, whereas the by-law permits a maximum gross floor area of 23 sq.m for an individual accessory structure. The intent of the by-law in regulating the maximum permitted floor area of an accessory structure is to ensure that the size of the structure does not negatively impact the provision of outdoor amenity space for the property.

The existing brick pool house is situated in the rear yard of the property and requires a variance to allow an increase in the gross floor area. A gross floor area of 59.97 sq. m is requested and given the large size of the property, the increased size for the pool house is not anticipated to negatively impact the provision of outdoor amenity space or negatively impact the subject property or adjacent properties. A condition of approval is recommended that the owner obtain a building permit for the existing pool house within 60 days of the decision of approval or within an extended period of time at the discretion of the Chief Building Official. Subject to the recommended conditions of approval, variance 2 is considered to maintain the general intent and purpose of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

The requested variances are intended to facilitate the creation of a new residential lot for the future development of a single detached dwelling on the severed lot while maintaining the existing dwelling on the retained lot. The retained lot requires a 0.4 hectare reduction and is considered to be a significant departure from the characteristics distinguishing the Estate Residential area such as low density, low intensity form of residential development characterized by large lots. The requested variance for a reduced lot size is not considered to be desirable for the appropriate development of the land.

Variance 2 aims to increase in size of the accessory structure and is not anticipated to create any adverse impacts on the subject property or the surrounding area. Variance 2 is considered desirable for the appropriate development of the land.

4. Minor in Nature

The requested variances to allow reductions in the minimum lot area and an increase in floor area for an existing accessory. As previously discussed, the variance for the reduced lot size does not maintain the character of the estate residential area as it represent a significant departure from the large lots (0.8 hectare) that characterize and identify this area of Brampton as an estate residential community. Variance 1 is not considered minor in nature.

The increase in floor area for the accessory structure is not expected to create adverse impacts on-site or off-site. Variance 2 is considered to be compatible with the existing and planned land use context. Subject to the recommended conditions of approval, variance 2 is minor in nature.

A-2024-0283 – Severed Parcel

Requested Variances:

The applicant is requesting the following variances:

1. To permit a lot area of 0.4 hectares, whereas the by-law requires a minimum lot area of 0.8 hectares.

1. Maintains the General Intent and Purpose of the Official Plan

The subject property is designated 'Estate Residential' and 'Unique Communities' in the Official Plan and is located within the Toronto Gore Rural Estate Secondary Plan Area (Area 26), which currently has no Secondary Plan in place.

In determining whether the requested variances meets the general intent and purpose of the Official Plan, Sections 4.2.3.3. b) and 4.2.3.5 of the Official Plan shall be considered. Section 4.2.3.3 (b) of the Official Plan states that the minimum lot size for the large Toronto Gore Estate area east of Goreway Drive shall be 0.8 hectares (2 acres). Section 4.2.3.3 also states, "these minimum lot sizes contribute strongly to the character of each of the areas. Estate lots greater than the minimum lot size for each of those Estate Residential areas shall be discouraged, unless a marginally larger size is required due to health regulations or due to topography or geometric constraints. This policy will provide continued protection of the existing rural estate housing community from consent and severance applications while at the same time ensure a long-term supply of estate building lots." The purpose of Policy 4.2.3.3 is to deter severances in the Estate Residential Areas in the City. The Official Plan is clear in its intent that the established rural estate housing community shall be protected from consent and severance applications by maintaining the minimum lot area requirements contained in Policy 4.2.3.3.

Section 4.2.3.5 provides policy direction with respect to the severance of lots in Estate Residential areas. Specifically, Section 4.2.3.5 (i), (ii) & (iv) states:

"Consent applications in respect of land located within designated Estate Residential areas, as shown on Schedule "A", shall be considered and may only be granted:

- i. In accordance with the policies of this Plan;
- ii. When it is clear that the consent will not adversely impact the ultimate development pattern of the entire holding;
- iii. If the general policies, conditions and criteria in the consent policies of the Implementation Section of this Plan are complied with; and,
- iv. The lot size and access provisions of the preceding Estate Residential policies are satisfied."

To facilitate the proposed lot severance, variances are requested to permit a minimum lot area of 0.4651 hectares for the retained lot and 0.3375 hectares for the severed lot, which does not meet the minimum lot area prescribed in Section 4.2.3.3 (b) or the minimum lot area requirement set out in the Zoning By-law. Section 4.2.3.5 of the Official Plan clearly states that consent applications within designated Estate Residential areas shall only be granted if adherence to the minimum lot size requirements in the Official Plan and Zoning By-law are met. The minimum lot size requirements prescribed by the Official Plan contribute strongly to the character of the Toronto Gore Estate Residential area. A reduction to the minimum lot area will impact and jeopardize the character of the surrounding estate residential area, which includes large estate lots (0.8 hectares).

The Toronto Gore Estate Residential Area is also designated as a "Unique Community" to preserve its unique and historical characteristics. The conservation (e.g. minimum lot area requirements) of these

unique communities forms an important part of the City structure and contributes to the sense of place and identity. The requested variance to reduce the minimum lot size requirement in order to facilitate a lot severance is not considered to maintain the general intent and purpose of the Official Plan.

2. Maintains the General Intent and Purpose of the Zoning By-law

The variance is to permit a minimum lot area of 0.4 hectares for the retained lot whereas the By-law requires a minimum lot area of 0.8 hectares. The intent of the By-law in requiring a minimum lot area is to ensure that the estate residential character is maintained for both the property and for the larger established estate residential community within which the subject property is located.

The subject property is zoned 'Residential Rural Estate Two (RE2) 1 according to By-Law 270-2004, as amended. Section 11.2.2 (a) of the 'RE2' Zoning By-law requires a minimum lot area of 0.8 hectares. The intent of the minimum lot area requirement of 0.8 hectares is to ensure that the estate residential area consists of a low density, low intensity form of residential development that is characterized by large lots. The applicant is proposing to sever 20 Evergreen Avenue resulting in a minimum lot area of 0.4 hectares for the severed lot. The proposal to sever the property would result in a lot area that is less than half of what the Zoning By-law requires. Lot sizes in the estate residential area contribute strongly to the character of the community. The proposed minimum lot area for both the severed and retained parcels represents a significant reduction to the minimum 0.8 hectare lot area requirement and will no longer contribute to maintaining the estate residential character of the property and the surrounding estate residential neighbourhood. The proposed minimum lot area of both severed and retained lots do not conform to minimum lot area requirement as prescribed by the Zoning By-law. Therefore, the variance is not considered to maintain the general intent and purpose of the Zoning By-law.

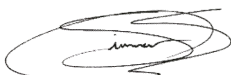
3. Desirable for the Appropriate Development of the Land

The requested variance is required to facilitate the creation of a new residential lot for a future development of a single detached dwelling. The severed lot requires a 0.4hectare reduction and is considered to be a significant departure from the characteristics distinguishing the Estate Residential area such as low density, low intensity form of residential development characterized by large lots. The requested variance is not considered to be desirable for the appropriate development of the land.

4. Minor in Nature

The applicant is proposing a variance to reduce the minimum lot area requirement to facilitate the severance and future development of the severed portion of land. As previously discussed, this variance does not maintain the character of the estate residential area as it represents a significant departure from the large lots (0.8 hectare) that characterize and identify this area of Brampton as an estate residential community. The variances are not considered minor in nature.

Respectfully Submitted,

A handwritten signature in black ink, appearing to be a stylized name, possibly "M. J. ...", written over a circular scribble.

Simran Sandhu, Planner I

SCHEDULE "A"

**CRITERIA TO BE CONSIDERED UNDER SECTION 53(12) & 51(24) OF THE
PLANNING ACT**

CRITERIA TO BE CONSIDERED	ANALYSIS
a) <i>The effect of development of the proposed subdivision on matters of provincial interest;</i>	The proposed severance has no effect on matters of provincial interest.
b) <i>Whether the proposal is premature or in the public interest;</i>	The proposed severance is neither premature nor contrary to any matters of public interest.
c) <i>Whether the plan conforms to the official plan and adjacent plans of subdivision, if any;</i>	The proposed severance does not conform to the general intent and purpose of the Official Plan. The proposed severance and associated variances do not conform to Official Plan Policy Sections 4.2.3.3 (b) and 4.2.3.5 requiring a minimum lot size of 0.8 hectares (2.0 acres) for the large Toronto Gore Estate area east of Goreway Drive.
d) <i>The suitability of the land for the purposes for which it is to be subdivided;</i>	The proposed severance is not suitable for the purposes for which it is to be subdivided as it is in contravention of the Official Plan policies and Zoning By-law requirements.
e) <i>The number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;</i>	The proposed severance does not present any concern with regard to the adequacy of the roadwork network.
f) <i>The dimensions and shapes of the proposed lots;</i>	The dimensions and shapes of the proposed lots are not appropriate. The proposed minimum lot area of both retained and severed lots do not conform to the minimum lot area requirements of 0.8 hectares in both the Official Plan and Zoning By-law.
g) <i>The restrictions or proposed restrictions, if any, on the land proposed to be subdivided; or the buildings or structures proposed to be erected on it and the restrictions, if any, on adjoining land;</i>	The proposed severance presents no concerns with regard to restrictions on the lands included in the lands to be subdivided.
h) <i>The conservation of natural resources and flood control;</i>	The proposed severance presents no concerns with regard to flood control and the conservation of natural resources.
i) <i>The adequacy of utilities and municipal services;</i>	At the time of staff review, the property is serviced via septic. The proposed consent presents no concerns with regard to the adequacy of utilities and municipal services.

j) <i>The adequacy of school sites;</i>	The proposed severance presents no concerns with regard to the adequacy of school sites.
k) <i>The area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;</i>	There are no concerns related to conveyances for public purposes.
l) <i>The extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy</i>	The proposed severance has no impact on matters of energy conservation.
m) <i>The interrelationship between the design of the proposal and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41(2) of this Act.</i>	The property is located within the Mature Neighbourhood Site Plan Control area.