BRAMPTON

Report
Committee of Adjustment

Filing Date: May 26, 2021
Hearing Date: September 14, 2021

Files: B-2021-0009, A-2021-0117 & A-2021-0118

Owner/ Applicant: **VINOD MAHESAN, VIPIN MAHESAN, GEETANJALI MAHESAN & MANSI RASTOGI**

Address: **41 Marysfield Drive**

Ward: WARD 10

Contact: François Hémon-Morneau, Planner I

Background:

The applications were deferred to the September 14th, 2021 Committee of Adjustment hearing as requested by the applicant at the June 22nd, 2021 hearing to further discuss the application with City staff. The applicant has since communicated with City staff that the owner wishes to further defer the application to a later hearing date. Staff position has not changed and therefore, the previous staff report is provided.

Proposal:

The purpose of the application is to request consent to sever a parcel of land currently having a total area of approximately 0.78 hectares (1.93 acres). The proposed severed lot has a frontage of approximately 30.495 metres (100.05 feet), a depth of approximately 128.05 metres (420.11 feet) and an area of approximately 0.3905 hectares (0.96 acres). The effect of the application is to create a new residential lot to facilitate the future development of a single detached dwelling. Associated variance applications have been filed for both the severed and retained portions of the land (Files A-2021-0117 and A-2021-0118).

A-2021-0117 (severed lot)

1. To permit a minimum lot area of 0.3905 hectares whereas the By-law requires a minimum lot area of 0.4 hectares.

A-2021-0118 (retained lot)

1. To permit a minimum lot area of 0.3905 hectares whereas the By-law requires a minimum lot area of 0.4 hectares.

Recommendations:

1. That application B-2021-0009 be refused; *and*

2. That applications A-2021-0117 and A-2021-0118 be refused.

Background:

- **Official Plan:** The subject property is designated "Estate Residential", "Unique Communities" and "Residential Character Area" in the Official Plan;

- **Secondary Plan:** The subject property is located within the Toronto Gore Rural Estate Secondary Plan Area (Area 26), which currently has no Secondary Plan in place; and

- **Zoning By-law:** The subject property is zoned "Residential Rural Estate Two – Special Section 2919 (RE2-2919)" according to By-law 270-2004, as amended.

Current Situation:

The subject site is located on the north side of Marysfield Drive which is a loop road, with access to Mayfield Road. The Marysfield Neighbourhood is located within the Toronto Gore Estate Residential area and is specifically located east of The Gore Road, south of Mayfield Road and north of Countryside Drive. The subject site has a frontage of 60 metres and a lot area of 0.78 hectares (1.93 acres). The property has substantial tree coverage and an existing detached residential dwelling serviced by sceptic which meets all front, rear, and side yard setback requirements, and would continue to do so on the retained smaller lot proposed.

In conjunction with the Toronto Gore Density Review Study, the City initiated the Marysfield Neighbourhood Character Review (the "Marysfield Study") in 2016. The Marysfield Study indicated that consideration should be given to adding policies in the Official Plan for new development, including severances, in order to protect the existing character of the Marysfield Neighbourhood.

In 2019, City Council adopted an Official Plan Amendment (OP2006-171) that implemented the Marysfield Study recommendations. This included a new "Residential Character Area" Official Plan designation for the Marysfield Neighbourhood recognizing that there are a number of defining characteristics of the Marysfield Neighbourhood that collectively distinguish it from other estate residential areas in the City. These elements include the rosary street pattern (paying homage to the original settler's religious faith), rural road cross-section, a lot pattern of smaller lots than typical estate residential lots, as well as greenery and open space in front yards and between dwellings. OP2006-171 also changed the minimum lot area requirement in the Official Plan from 0.8 hectares (2.0 acres) to 0.4 hectares (1.0 acre) for the Marysfield Neighbourhood to recognize the size of the majority of lots in Marysfield, which are smaller than the broader Estate Residential Area.

OP2006-171 also added new Official Plan consent policies specific to the Marysfield Neighbourhood requiring that severances only be granted if there is adherence to minimum lot size and lot frontage requirements as set out by the Zoning By-law and, where adherence to the "Residential Character Area" policies are met. An associated Zoning By-law Amendment (By-law 222-2019) introduced new

regulations for lot coverage, maximum front yard setback, minimum distance between dwellings and maximum driveway width to manage change in Marysfield.

In determining whether a consent application may be granted in Marysfield, Sections 4.2.3.3. c) and 4.2.3.5.1 of the Official Plan shall be met. Section 4.2.3.3 of the Official Plan states that the minimum lot size of for the Marysfield Neighbourhood located east of The Gore Road and south of Mayfield Road is 0.4 hectares (1.0 acre). Section 4.2.3.5.1 provides policy direction with respect to the severance of lots in the Marysfield Neighbourhood Residential Character Area. Specifically, Section 4.2.3.5.1 states

> "Notwithstanding Section 4.2.3.5, consent applications within the Marysfield Neighbourhood Residential Character Area shall be considered **and may only be granted**:
> (i) **If adherence to minimum lot size and lot frontage requirements is met**, as set out in the Zoning By-law; and,
> (ii) Where adherence to the "Residential Character Area" policies of Section 3.2.10.1, where applicable, can be achieved."

Section 4.2.3.5.1 clearly indicates that consent applications within the Marysfield Neighbourhood Residential Character Area shall only be granted as long as the minimum lot size and lot frontage requirements in the Zoning By-law are met.

In addition to the above noted policy context, Section 3.2.10.1.1 of the Official Plan speaks to the Marysfield Neighbourhood Residential Character Area and states the following:

> "The Marysfield Neighbourhood Residential Character Area is considered a distinctive residential community due to its history and character. The Marysfield Neighbourhood has unique characteristics within the broader Toronto Gore Estate Residential Area, including a rosary street pattern with a rural road cross-section and a smaller lot configuration than typical estate residential lots, as well as greenery and open space in front yards and between dwellings, that all contribute to the rural-like setting of the community. *New development and redevelopment within the Marysfield Neighbourhood shall respect and reinforce the existing public and private realm characteristics of the neighbourhood, including the conservation of the rosary street pattern and rural road cross-section; the scale, height, massing, setbacks, building orientation and building separation distances of dwellings; and, the landscape open space characteristics of lots."*

The subject property is zoned "Residential Rural Estate Two – Section 2919 (RE2-2919)" according to By-law 270-2004, as amended. Section 2919 of the Zoning By-law requires a minimum lot area of 0.4 hectares and a minimum lot width of 30 metres., The applicant is proposing to sever 41 Marysfield Road resulting in a minimum lot area of 0.3905 hectares for both the severed and retained lots and a minimum lot width of approximately 30.495 metres (100.05 feet) for both the severed and retained lots. The proposed minimum lot area of both severed and retained lots do not conform to minimum lot area requirement as prescribed by both the Official Plan and the Zoning By-law.

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 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 Marysfield Neighbourhood. This refusal is recommended despite Planning Staff's opinion that the associated Minor Variances maintain the general intent and purpose of the Zoning By-law, are desirable for the appropriate development of the land, and are minor in nature. The prescriptive Official Plan policies were approved by City Council in 2019 to implement the recommendations of the Marysfield Neighbourhood Character Review Study.

Minor Variances:

Requested Variances:
The applicant is requesting the following variances:

A-2021-0117 (severed lot)

1. To permit a minimum lot area of 0.3905 hectares whereas the By-law requires a minimum lot area of 0.4 hectares.

A-2021-0118 (retained lot)

1. To permit a minimum lot area of 0.3905 hectares whereas the By-law requires a minimum lot area of 0.4 hectares.

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

The property is designated "Estate Residential", "Unique Communities" and "Residential Character Area" 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. c) and 4.2.3.5.1 of the Official Plan shall be considered. Section 4.2.3.3 c) of the Official Plan states that the minimum lot size for the Marysfield Neighbourhood located east of The Gore Road and south of Mayfield Road shall be 0.4 hectares (1.0 acre). Section 4.2.3.5.1 provides policy direction with respect to the severance of lots in the Marysfield Neighbourhood Residential Character Area. Specifically, Section 4.2.3.5.1 states

> "Notwithstanding Section 4.2.3.5, consent applications within the Marysfield Neighbourhood Residential Character Area shall be considered **and may only be granted**:
>
> (i) **If adherence to minimum lot size and lot frontage requirements is met**, as set out in the Zoning By-law; and,
>
> (ii) Where adherence to the "Residential Character Area" policies of Section 3.2.10.1, where applicable, can be achieved."

To facilitate the proposed lot severance, variances are requested to permit a minimum lot area of 0.3905 hectares for both the severed and retained lots, which does not meet the minimum lot area prescribed in Section 4.2.3.3. c) or the minimum lot area requirement set out in the Zoning By-law. .

Section 4.2.3.5.1 of the Official Plan clearly states that consent applications within the Marysfield Neighbourhood Residential Character Area shall only be granted if adherence to the minimum lot size and lot frontage requirements in the Zoning By-law are met. The requested variances to reduce the minimum lot size requirement in order to facilitate a lot severance are 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 requested variances are to permit a minimum lot area of 0.3905 hectares whereas the By-law requires a minimum lot area of 0.4 hectares. The intent of the By-law in requiring a minimum lot area is to ensure that a certain character is maintained for the property.

In 2019, a the minimum lot area requirement for the Marysfield Neighbourhood was changed from 0.8 hectares to 0.4 hectares to recognize the size of the majority of the estate residential lots in Marysfield. The severed and retained lots are proposed to have minimum lot widths of approximately 30.495 metres (100.05 feet) which conforms to the Zoning By-law. With regards to the proposed lot area of 0.3905 hectares, several of the surrounding properties are characterized by lot areas of 0.39 hectares (see Appendix "A"). As such, the requested lot area of 0.3905 hectares is not anticipated to negatively impact the character of the property or the surrounding neighbourhood that consists of an eclectic mix of lot sizes. The requested variances are 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 required to facilitate the creation of a new residential lot for a future development of a single detached dwelling. The severed and retained lots require a 0.0095 hectares reduction to the minimum lot area. The proposed lot area reduction is not anticipated to negatively impact the rural-like setting of the community or the conservation of the rosary street pattern and rural road cross-section which are considered to be characteristics distinguishing the Marysfield Neighbourhood. It is noted that there are several lots in Marysfield that have a lot area of 0.39 hectares (see Appendix "A"). The impact of the proposed lot areas are not anticipated to be perceived from the public realm due to both severed and retained lots maintaining the 30m lot width requirement. The requested variances are considered to be desirable for the appropriate development of the land.

4. Minor in Nature

The proposed variances represent a reduction of 0.0095 hectares (0.023 acres) to the required minimum lot area. Given that the minimum lot width of the proposed severed and retained lots maintains the Zoning By-law requirement, the visual impact of the lot area reduction is not anticipated to have negative visual or functional impacts as perceived from the street. The variances are considered minor in nature.

Respectfully Submitted,

François Hémon-Morneau

François Hémon-Morneau, Planner I

SCHEDULE "A"

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

	CRITERIA TO BE CONSIDERED	ANALYSIS
a)	*The effect of development of the proposed subdivision on matters of provincial interest:*	*The proposed consent is not contrary to the provincial interest.*
b)	*Whether the proposal is premature or in the public interest;*	*The proposal is neither premature nor contrary to the public interest.*
c)	*Whether the plan conforms to the official plan and adjacent plans of subdivision, if any;*	*The consent 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 Section 4.2.3.5.1 and 4.2.3.3 c) requiring a minimum lot size of 0.4 hectares (1.0 acre) for the Marysfield Neighbourhood located east of The Gore Road and south of Mayfield Road.*
d)	*The suitability of the land for the purposes for which it is to be subdivided;*	*The land is suitable for the intended residential use. No change of use is proposed.*
e)	*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;*	*The proposed severance has no impact on the local roadway network.*
f)	*The dimensions and shapes of the proposed lots;*	*The dimensions and shapes of the proposed lots are not appropriate. The proposed lot area of both retained and severed lots do not conform to the site specific Minimum Lot Area requirements of 0.4 hectares in both the Official Plan and Zoning By-law.*
g)	*The restrictions or proposed restrictions, if any, on the land proposed to be subdivided; or the buildings or structures proposed to be erected*	*The proposed consent presents no concerns with regard to buildings to be erected on the lot.*

	on it and the restrictions, if any, on adjoining land;	
h)	*The conservation of natural resources and flood control;*	*The proposed consent has no impact on flood control or the conservation of natural resources.*
i)	*The adequacy of utilities and municipal services;*	*At the time of staff review, the property is serviced via sceptic. The proposed consent presents no concerns with regard to the adequacy of utilities and municipal services.*
j)	*The adequacy of school sites;*	*The proposal presents no concerns with regard to school sites.*
k)	*The area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;*	*There are no concerns with regard to lands required for public purposes.*
l)	*The extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy*	*The proposal presents no concerns related to energy conservation.*
m)	*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.*	*The property is located within the Mature Neighbourhood Site Plan Control area.*

Appendix "A"
Marysfield Neighbourhood Lot Areas

