

**Filing Date:** August 20, 2020  
**Hearing Date:** September 29, 2020

**Files:** A-2020-0068 & B-2020-0015

**Owners:** JASON PARTAP (16 Garry Court)  
BETOVAN CONSTRUCTION LIMITED (Blocks 52, 53, and 54 Mast Drive)

**Applicant:** RYAN MINO-LEAHAN

**Address:** 16 Garry Court & 0 Mast Drive

**Ward:** 4

**Contact:** Shelby Swinfield, Planner I, Development

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**Recommendations:**

That application A-2020-0068 is supportable, subject to the following conditions being imposed:

1. That the extent of the variances be limited to that shown on the sketch attached to the Public Notice;
2. That the owner shall obtain a building permit for the rear yard deck within sixty (60) days of the final date of the Committee's decision, or as extended at the discretion of the Chief Building Official; and
3. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void;

AND that application B-2020-0015 is supportable, subject to the following conditions being imposed:

1. The Secretary-Treasurer shall have been satisfied that the following conditions have been fulfilled within one year of the mailing date noted below and the Secretary – Treasurer's under the Planning Act shall be given:
  - a. A Secretary- Treasurer's certificate fee shall be paid, in the amount current at the time of issuance of the Secretary – Treasurer's Certificate; and

- b. Approval of the draft reference(s), as applicable, shall be obtained at the Committee of Adjustment office, and; and the required number of prints of the resultant deposited reference plan(s) shall be received.
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### **Background:**

In 2018, Blocks 52, 53, and 54 were deregistered from Registered Plan 43M-935. The deregistration of the plan of subdivision allowed the blocks (which have the same owner) to merge on title, creating one property. The intent of these related applications are to re-establish separate lots to facilitate the construction of a new single detached dwelling on the proposed vacant lot.

### Existing Zoning:

The property is zoned "Residential Single Detached C (R1C)" according to By-law 270-2004, as amended.

### **Minor Variance Request:**

#### Requested Variance:

The applicant is requesting the following variances:

1. To permit a rear yard setback of 7.3 metres (23.95 feet) whereas the by-law requires a minimum rear yard setback of 7.5 metres (24.6 feet);
2. To permit an existing deck to encroach into the required rear yard setback by 4.9 metres (15.07 feet) resulting in a setback of 2.6 metres (8.5 feet) to the deck, whereas the by-law permits a maximum encroachment of 3 metres (9.84 feet) into the required rear yard, resulting in a setback of 4.5 metres (14.76) to a deck;
3. To permit an accessory structure (prefabricated gazebo) having a maximum height of 3.3m (10.83 ft.) whereas the by-law permits a maximum height of 3.0m (9.84 ft.) for an accessory structure.

### **Current Situation:**

#### 1. Conforms to the Intent of the Official Plan

The property is designated "Residential" in the Official Plan and 'Low and Medium Density Residential' in the Fletcher's Creek South Secondary Plan (Area 24).

The requested variances have no significant impacts within the context of the policies of the Official Plan or the Secondary Plan. Subject to the recommended conditions of approval, the requested variances are considered to maintain the general purpose and intent of the Official Plan.

## 2. Conforms to the Intent of the Zoning By-law

The property is zoned "Residential Single Detached C (R1C)" according to By-law 270-2004, as amended.

Variance 1 is requested to permit a rear yard setback of 7.3 metres (23.95 feet) whereas the by-law requires a minimum rear yard setback of 7.5 metres (24.6 feet). The intent of the by-law in regulating minimum rear yard setback is to ensure that sufficient rear yard amenity space is provided for the residential dwelling and that the massing of the dwelling does not impact properties to the rear. The proposed reduced setback is not anticipated to negatively impact the provision of outdoor amenity space, and does not cause the massing of the dwelling to impose upon adjacent properties. Subject to the recommended conditions of approval, Variance 1 is considered to maintain the general intent of the Zoning By-law.

Variance 2 is to allow the existing deck to encroach into the rear yard setback by 4.9 metres (15.07 feet) resulting in a setback of 2.6 metres (8.5 feet) from the rear lot line, whereas the by-law permits a maximum encroachment of 3 metres (9.84 feet) into the required rear yard, resulting in a setback of 4.5 metres (14.76) from the rear lot line. The intent of the by-law in regulating the maximum encroachment of a deck into the rear yard is to ensure that it does not detract from the outdoor amenity space in the rear yard and does not have negative massing impacts on properties to the rear. In the case of the subject property, the deck contributes positively to the provision of outdoor amenity space and does not present any concerns with regard to massing impacts on adjacent properties. Subject to the recommended conditions of approval, Variance 2 is considered to maintain the general intent of the Zoning By-law.

Variance 3 is to permit an accessory structure with a height of 3.3m (10.85 ft) whereas the by-law permits a maximum height of 3.0m (9.84 ft) for an accessory structure. This variance is related to an existing prefabricated gazebo on the deck, in which case the height of the gazebo is still taken from ground level.

The intent of the by-law in regulating the maximum height of an accessory structure is to ensure that the structure remains accessory to the principle dwelling and does not have negative impacts due to massing on adjacent properties. The existing gazebo structure is accessory to the main dwelling and does not present concerns with regard to massing. Subject to the recommended conditions of approval, Variance 3 is considered to maintain the general intent of the Zoning By-law.

## 3. Desirable for the Appropriate Development of the Land

Variance 1, to permit a reduced rear yard setback, is reflective of the existing condition of the dwelling and the irregular lot shape. At the rear of the property, a row of cedar hedges provides additional privacy between the subject property and the adjacent dwelling, and it is not anticipated that this reduced setback will cause negative impacts as it is reflective of the existing situation. Subject to the recommended conditions of approval, Variance 1 is considered to be desirable for the appropriate development of

the land.

Variance 2, related to the existing deck on the property, requests to permit an encroachment of 4.9 metres (15.07 feet) whereas the by-law allows a maximum encroachment into the rear yard of 3 metres (9.84 feet). The deck compliments the outdoor amenity area, and the existing cedar hedges at the rear of the property assist with maintaining privacy between the subject property and the one at the rear. A condition of approval is recommended that a building permit be obtained for the deck within 60 days of the final date of the Committee's decision to ensure that the deck is constructed in accordance with the Ontario Building Code. Subject to the recommended conditions of approval, Variance 2 is considered to be desirable for the appropriate development of the land.

Variance 3 is requested to permit an increased height for an accessory structure, relating to an existing pre-fabricated gazebo located on the deck. For the purposes of zoning, the height of the structure is taken from ground level, hence the structure exceeds the permitted height. The gazebo positively contributes to the use of the outdoor amenity area and does not present concerns with regard to the massing of the structure. Subject to the recommended conditions of approval, Variance 3 is considered to be desirable for the appropriate development of the land.

#### 4. Minor in Nature

Variance 1 is reflective of the existing dwelling setback and the irregular shape of the lot, which results in an irregular setback. A condition of approval is recommended that the extent of the variances be limited to the sketch attached to the public notice to ensure the dwelling is not extended at other points based on this setback. Subject to the recommended conditions of approval, Variance 1 is considered to be minor in nature.

Variances 2 and 3 relate to an existing deck and an existing gazebo structure located on that deck. The locations of these structures do not impose upon neighbouring properties, nor do they detract from the provision of outdoor amenity space. Subject to the recommended conditions of approval, Variances 2 and 3 are considered to be minor in nature.

### **Consent Request**

The purpose of the application is to request consent to sever approximately 131.01 square metres (0.032 acres) from a parcel of land currently having a total area of approximately 849.31 square metres (0.209 acres). The effect of the application is to provide for a lot addition to the adjacent lands, legally described as Lot 11, Plan 43M-935, municipally known as 16 Garry Court. The land will continue to be used for residential purposes.

- **Official Plan:** The subject property is designated 'Residential' in the Official Plan;
- **Secondary Plan:** The subject property is designated 'Low and Medium Density' in the Fletcher's Creek South Secondary Plan(Area 24); and

- **Zoning By-law:** The subject property is zoned "Residential Single Detached C (R1C)" according to By-Law 270-2004, as amended.

**Conclusion:**

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 is considered to represent proper and orderly planning and can be supported from a land use perspective.

Respectfully Submitted,

*Shelby Swinfield*

Shelby Swinfield, Planner I, Development

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

<b>Criteria To Be Considered</b>	<b>Analysis</b>
a) <i>The effect of development of the proposed subdivision on matters of provincial interest;</i>	The proposed severance has no significant 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 is not present any concern with regard to the Official Plan and will facilitate the completion of an existing residential street.
d) <i>The suitability of the land for the purposes for which it is to be subdivided;</i>	There are no concerns about the suitability of the land for the purposes of the severance.
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 roadway network.
f) <i>The dimensions and shapes of the proposed lots;</i>	The proposed lot to be created is appropriate in size and shape for its purpose. An associated minor variance application is also submitted for the Committee's consideration relating to permitting an existing deck on the retained lands.
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>	No concerns are noted with regard to restrictions on the lands included in the lands to be subdivided.  The lands were deregistered from their previous plan of subdivision in 2018.
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>	There are 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>	There are no concerns related to the design of the proposal and matters of Site Plan Control. The applicant proposes to construct a single detached dwelling on the severed lands which will be subject to Architectural Review rather than Site Plan Control.