

Staff Report



Development Services Department

www.kitchener.ca

REPORT TO: Committee of Adjustment

DATE OF MEETING: September 20, 2022

SUBMITTED BY: Tina Malone-Wright, Supervisor, Development Applications
519-741-2200 ext. 7765

PREPARED BY: Craig Dumart, Senior Planner, 519-741-2200 ext. 7073

WARD(S) INVOLVED: Ward 3

DATE OF REPORT: September 9, 2022

REPORT NO.: DSD-2022-436

SUBJECT: Change of Conditions Consent Application CC 2022-001
41 Ardelt Place
Owner: Marco Lorenti, First Ardelt Holdings
Applicant: Steve Thompson, S Thompson Development Services

RECOMMENDATION:

That Committee of Adjustment Decision B 2021-026 dated, May 18, 2021, be amended as follows:

1. That Conditions 3, 4, 5, 6, and 8 be deleted and replaced with the following condition:

“10. That the owner shall enter into an agreement with the City of Kitchener to be prepared by the City Solicitor which shall acknowledge that the severed lands are un-serviced and shall provide for the installation of services and service connections to the severed lands to be completed prior to any future development of the severed lands. The agreement shall further require the owner to include a notice provision in all future agreements of purchase and sale for the severed lands advising potential purchasers that the severed lands are un-serviced. The said agreement shall be to the satisfaction of the Director of Engineering and the City Solicitor and shall be registered on title to the severed lands.”

REPORT HIGHLIGHTS:

- The purpose of this report is change conditions of Consent Application Decision B 2021-026.
- There are no financial implications.
- This report supports the delivery of core services.

BACKGROUND:

The subject property is designated as ‘Heavy Industrial Employment’ in the City’s Official Plan and is zoned as ‘Heavy Industrial Zone (M-4)’ with Special Regulation Provision 331R in Zoning By-law 85-1. Committee of Adjustment Decision B 2021-026 recommended approval of a consent application to sever the subject lands at 41 Ardelt Place into two lots subject to approval of 9 conditions. The owner is requesting to change the conditions of Decision B 2021-026.

*** This information is available in accessible formats upon request. ***
Please call 519-741-2345 or TTY 1-866-969-9994 for assistance.

REPORT:

Planning Comments:

On May 18, 2021, Decision B 2021-026 recommended approval for a consent application to sever the subject lands at 41 Ardelt Place into two lots. The severed lot would have lot frontage along Ardelt Place with of 21.3 metres of frontage and an area of 36,760 square metres (3.676 ha), while the retained lot would continue to have lot frontage along Ardelt Place with 183 metres and an area of 31,340 square metres (3.143 ha). The proposed lot widths and lot areas fully comply with the 'M-4' zone lot width and lot area requirements. The owner is requesting to delete conditions 3, 4, 5, 6, and 8 of Committee of Adjustment Decision B 2021-026, dated May 18, 2021, which are all Engineering conditions, and proposing to replace these conditions with a condition requiring the registration of an agreement. Engineering staff have advised the conditions can be deferred to a future site plan process. Planning staff have no concerns with the proposed change of conditions.

Environmental Planning Comments:

No Environmental Planning concerns.

Heritage Planning Comments:

No heritage planning concerns.

Building Division Comments:

The Building Division has no objections to the proposed change of conditions.

Engineering Division Comments:

No Engineering concerns. Engineering staff support the removal of the requested conditions which are being replaced with a condition for an agreement, to be registered on title, advising services are not available for the severed lot and that all servicing requirements will be deferred to a future site plan approval application.

Parks/Operations Division Comments:

No concerns.

Transportation Planning Comments:

No Transportation Planning concerns.

STRATEGIC PLAN ALIGNMENT:

This report supports the delivery of core services.

FINANCIAL IMPLICATIONS:

Capital Budget – The recommendation has no impact on the Capital Budget.

Operating Budget – The recommendation has no impact on the Operating Budget.

COMMUNITY ENGAGEMENT:

INFORM – This report has been posted to the City's website with the agenda in advance of the Committee of Adjustment meeting. A notice sign was placed on the property advising that a Committee of Adjustment application has been received. The sign advises interested parties to find additional information on the City's website or by emailing the Planning Division. A notice of the application was mailed to all property owners within 30 metres of the subject property.

PREVIOUS REPORTS/AUTHORITIES:

- *DSD-2021-77 Report, Consent Application B2021-026*
- *Planning Act*
- *Provincial Policy Statement (PPS 2014)*
- *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020*
- *Regional Official Plan (ROP)*
- *Official Plan (2014)*
- *Zoning By-law 85-1*

Attachments: Committee of Adjustment Decision B2021-026

CITY OF KITCHENER
COMMITTEE OF ADJUSTMENT



DATE OF DECISION: May 18, 2021
DATE OF MAILING DECISION: May 28, 2021
LAST DAY FOR APPEALS: June 17, 2021
APPLICANT(S): DOYLE INVESTMENTS CORP.
SUBMISSION NO.: B 2021-026

Enclosed is a copy of the Decision of the Committee of Adjustment for the City of Kitchener in the above-noted matter. There is a 20-day appeal period from the day the decision was made before this decision becomes final and binding. The last day for filing an appeal is noted above. You have a right to appeal this decision to the Local Planning Appeal Tribunal in accordance with Section 45 of the Planning Act.

The applicant will be given written notice whether or not an appeal has been submitted.

If you wish to file an appeal to this decision, you must submit the Appellant Form (A1) prescribed by the Local Planning Appeal Tribunal (LPAT), giving reasons for your appeal. Copies of Appellant Form (A1) are available in Legislated Services or on the LPAT website: <http://elto.gov.on.ca>. The fee required by LPAT must be submitted by certified cheque or money order, in Canadian funds, payable to the "Minister of Finance". The Appellant Form (A1), together with the LPAT fee, must be submitted to the Secretary-Treasurer, Committee of Adjustment, Legislated Services, 2nd Floor, City Hall, 200 King Street West, P.O. Box 1118, Kitchener ON N2G 4G7.

Yours truly,

A handwritten signature in black ink, appearing to read "Dianna".

Dianna Saunderson
Secretary-Treasurer
Committee of
Adjustment

NOTES: The Planning Act provides for appeals to be filed by "persons." Groups or associations, such as residents' or ratepayers' groups that do not have incorporated status, may not be considered "persons" for purposes of the Act, groups wishing to appeal this decision should do so in the name of an individual group member, and not in the name of the group.

COMMITTEE OF ADJUSTMENT

FOR THE

CITY OF KITCHENER

IN THE MATTER OF the application to the Committee of Adjustment for the City of Kitchener, by:

Applicant(s): DOYLE INVESTMENTS CORP.

Submission No.: B 2021-026

This matter having been heard on the 18th day of May, 2021, and due Notice of Hearing having been given in accordance with the Rules of Procedure adopted by this Committee, the Committee of Adjustment for the City of Kitchener hereby renders the following **DECISION**:

That the application of DOYLE INVESTMENTS CORP. requesting permission to sever an irregular shaped parcel of land having access on Ardelt Place having a width on Ardelt Place of 21.3m, an approximate depth of 304.8m and an area of 3.6 hectares, on Part Lots 17 & 18, Registered Plan 791, Part Lot 1, Registered Plan 1023, 41 Ardelt Place, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property to the satisfaction of the City's Revenue Division.
2. That the owner shall provide a digital file of the deposited reference plan(s) prepared by an Ontario Land Surveyor in PDF and either .dwg (AutoCad) or .dgn (Microstation) format, as well as two full sized paper copies of the plan(s). The digital file needs to be submitted according to the City of Kitchener's Digital Submission Standards to the satisfaction of the City's Mapping Technologist.
3. That the owner shall make financial arrangements to the satisfaction of the City's Engineering Division for the installation of any new service connections to the severed and/or retained lands.
4. That the owner shall provide a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
5. That the owner shall submit a complete Development and Reconstruction As-Recorded Tracking Form (as per the Public Sector Accounting Board (PSAB) S. 3150) together with a digital submission of all AutoCAD drawings required for the site (Grading, Servicing etc.) with the corresponding correct layer names and numbering system to the satisfaction of the Director of Engineering Services.
6. That the owner shall provide Engineering staff with confirmation that the basement elevation can be drained by gravity to the street sewers. If this is not the case, then the owner would have to pump the sewage via a pump and forcemain to the property line and have a gravity sewer from the property line to the street to the satisfaction of the Director of Engineering Services.
7. That the owner shall receive site plan approval to acknowledge the existing parking and site conditions for the retained and severed lands to the satisfaction of the Manager of Site Development and Customer Service.
8. That the owner shall provide funds to Engineering Services for a future 1.8m concrete sidewalk along the entire length of frontage of the severed portion of the original property that fronts on to Ardelt Avenue (21.336m as noted on the submitted plan).
9. That the owner shall submit the Consent Application Review Fee of \$350.00 to the Region of Waterloo.

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

Pursuant to Subsection 41 of Section 53 of the Planning Act, the applicant shall fulfil the above-noted conditions within one year of the date of giving notice of this decision.

Pursuant to Subsection 43 of Section 53 of the Planning Act, the decision of this Committee shall lapse two years from the date of approval, being May 18, 2023.





Signed at the City of Kitchener this 18th day of May, 2021.

Last Date for Appeal of Decision: June 17, 2021

Date of Mailing Notice of Decision: May 28, 2021

Last Date for Fulfilling Conditions: May 28, 2022.

B 2021-026 - 41 Ardel Place

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| Denny Cybalski <small>Signed with Consigned Cloud (2021/05/18) Verify with verify.com or Adobe Reader.</small> |  | CHAIR |
| Bob McColl <small>Signed with Consigned Cloud (2021/05/18) Verify with verify.com or Adobe Reader.</small> |  | MEMBER |
| Mike Kidd <small>Signed with Consigned Cloud (2021/05/18) Verify with verify.com or Adobe Reader.</small> |  | MEMBER |
| Scott Hannah <small>Signed with Consigned Cloud (2021/05/18) Verify with verify.com or Adobe Reader.</small> |  | MEMBER |
| | | MEMBER |

I certify the foregoing to be a true and correct copy of the Decision of the Committee of Adjustment for the City of Kitchener in the above mentioned application.

CL.31

Dianna Saunderson
Signed with Consigned Cloud (2021/05/18)
Verify with verify.com or Adobe Reader.



Dianna Saunderson
Secretary-Treasurer
Committee of Adjustment