

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: March 30, 2022

CASE NO(S):

OLT-21-001496
OLT-21-001497

PROCEEDING COMMENCED UNDER subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant: Garpan Holdings Inc.
Subject: Consent
Property Address/Description: 105 Patricia Drive
Municipality: Town of The Blue Mountains
Municipal File No.: B07-2021
OLT Lead Case No.: OLT-21-001496
OLT Case No.: OLT-21-001496
OLT Case Name: Garpan Holdings Inc. v. The Blue Mountains
(Town)

PROCEEDING COMMENCED UNDER subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant: Garpan Holdings Inc.
Subject: Consent
Property Address/Description: 105 Patricia Drive
Municipality: Town of The Blue Mountains
Municipal File No.: B08-2021
OLT Lead Case No.: OLT-21-001496
OLT Case No.: OLT-21-001497

Heard: March 17, 2021 by video hearing

APPEARANCES:

Parties

Garpan Holdings Inc.
("Applicant/Appellant")

Counsel

Samantha Lampert

The Town of the Blue Mountains Will Thomson
("Town")

**DECISION DELIVERED BY D. CHIPMAN AND ERIC S. CROWE AND ORDER OF
THE TRIBUNAL**

[1] This hearing was scheduled as a Case Management Conference on an appeal filed by Garpan Holdings Inc. (the "Appellant") on the refusal of the Committee of Adjustments of the Town of the Blue Mountains on an application to sever two new building lots for residential purposes from the subject property pursuant to Section 53(19) of the *Planning Act* (the "Act"). The Parties notified the Tribunal that they were ready to have this matter move to a Hearing of the merits.

[2] The Subject Property is municipally known as 105 Patricia Drive (the "Subject Property") in the Town of the Blue Mountains. The legal description of the lands is Lot 35, Plan 950 in an area known as Price's Subdivision.

Participant and Party Status Requests

[3] Upon canvassing those in attendance, the Tribunal confirmed no further requests for Party status.

[4] The Tribunal recognized two requests for Participant Status. Lawrence Cutt who was not present and Kevin Richard who was present for the hearing. The Tribunal acknowledged that comments from both Participants would be weighed accordingly in the Panel's deliberations.

[5] The Tribunal agreed to proceed with a hearing of the merits in order to provide an expeditious resolution to this case.

Proposed Consents

[6] The applications propose to create two new lots for the purpose of constructing one single dwelling residential unit on each new lot.

[7] The effect of application B07-2021 is to create one new lot which is approximately 1,868 square metres ("m²") in area with 40.64 metres ("m") of frontage onto Patricia Drive. The retained lands are proposed to have an area of approximately 934 m² in area with 20.32 m of frontage onto Patricia Drive.

[8] The effect of application B08-2021 is to further sever the lot created by application B07-2021 to an additional lot which is approximately 934 m² in an area with 20.32 m of frontage onto Patricia Drive.

[9] The retained lands are proposed to have an area of approximately 934 m². with 20.32 m of frontage onto Patricia Drive. In all, it is proposed that the two severed lots and the retained lot would each have a similar lot area of 934 m².

Severance Sketch for B07-2021



Severance Sketch for B08-2021



Site Context

[10] The Subject Property is located on Patricia Drive within an existing registered plan of subdivision. The neighbourhood consists of low-density residential uses characterized by single detached dwellings.

[11] The Subject Property currently contains a single detached dwelling unit located on a proposed lot line between the severed and retained lands for application B07-2021 and associated accessory buildings.

Planning Witness

[12] The Tribunal heard from Gordon Russell who was affirmed and qualified by the Panel to provide testimony in land use planning on behalf of the Applicant. Being the only land use planner providing evidence at this hearing the Panel accepts his uncontroverted evidence.

Planning Evidence

[13] The Act gives authority to grant consent to sever land under section 53(1) of the Act, when a Plan of Subdivision is not required for the orderly development of the lands. The Act also requires when making a decision on planning matters, that approval authorities have regard for matters of provincial interest in section 2 and matters under section 51(24) of the Act.

[14] The Tribunal heard through the evidence of Mr. Russell that the proposed consents meet sections (a) through (m) of section 2 of the Act, which identified no constraints on natural or cultural heritage, or hazard areas identified on the subject lands; the proposed new lots are further located within a Settlement Area and will be provided full municipal services; the consents are considered in the public interest as it contributes to achieving the residential intensification targets as established by the County and Municipal Official Plans and that the additional lots will contribute to better use of existing and future municipal services.

[15] Mr. Russell's evidence is that the severance is not premature as the Subject Property are zoned and designated for low-density residential uses with full municipal services available at the property frontage as well as road access to each respective parcel.

[16] The proposed severed and retained lands appear to be generally consistent in shape with existing lots of record in the area and contain no natural resources.

Provincial Policy Statement (PPS 2020)

[17] Mr. Russell took the Panel to Section 1.0 which provides for Building Strong Healthy Communities. He provided evidence on how the consents relate to section 1.1.3 stating the property is located in a Settlement Area focused for growth and development.

[18] Section 1.1.3.2 The proposed new lot creation is located within a Settlement Area which will be provided full municipal services. The additional lots will provide for more efficient use of the existing and planned municipal infrastructure.

[19] Section 2.1.1, it was identified that although there are no natural heritage features identified on the subject lands, significant woodlands are identified within 120 m of the lands, on the west side of the Patricia Drive. Due to the fragmentation of the significant woodlands from the subject lands created by the right-of-way, there will be no adverse impacts to the identified woodland feature as a result of the consent applications.

[20] The Tribunal is satisfied that the proposed consents are consistent with the objectives of the PPS 2020.

County of Grey Official Plan, 2018

[21] The County of Grey Official Plan (“GOP”) guides development within the whole of the County of Grey and provides broad policy framework for local Municipal Official Plans, Secondary Plans and bylaws.

[22] The Subject Lands are designated “*Recreational Resort Area*” under the County Official Plan. This designation applies to settlement areas that have developed as a result of site-specific amendments to the County and/or local Official Plan. Residential uses are permitted in the Recreation Resort Area.

[23] Mr. Russell referred the Panel to Schedule A of “Recolour Grey” which designates the subject property as a Recreational Resort Area. Section 3.8 of the COP states:

The Recreational Resort Area land use type as shown on Schedule A of this Plan applies to settlement areas which have developed as a result of site-specific amendments to the County of Grey Official Plan and/or local official plan consisting of a defined development area, specific recreational amenities, residential

development (including second units as per Section 4.1.5) and serviced with full municipal services (sewer and water).

[24] He informed the Panel that work had been completed by the Town on the construction of a municipal sewage services extension into Price's Subdivision in October of 2021.

[25] Mr. Russell added that land division is permitted in the Recreation Resort Area designation so long as the parcels satisfy section 9.12 of the County Plan consent policies which outline that the proposed consents are:

- a) on full municipal services
- b) represent an infill development and maintains general consistency, and is compatible with, the lot fabric of the area. Through photographs of the lot fabric in the subdivision it was demonstrated to the Tribunal that the rectangular deep lot fabric will be maintained
- c) the severed and retained lands meet the minimum lot standards of the Zoning By-law. The lots will have a minimum lot frontage of 20 m which is slightly smaller than other lots in the area. Mr. Russell maintained that they remain significant in size considering of the varied lot sizes in the area.
- d) the subject lands are located within a Settlement Area as established in the COP and PPS.

[26] The Tribunal having heard the evidence and uncontested opinion of Mr. Russell finds the proposed consent is consistent with the intent and direction of the GOP.

Town of The Blue Mountains Official Plan, 2016

[27] The Town of The Blue Mountains Official Plan ("BMOP") designates the Subject

Property as *Residential Recreational Area* (Map Schedule A-5). It is the intent of this designation to recognize areas within the Town where there is a mix of seasonal and permanent residential and recreational uses, and to recognize areas where some residential uses are located to support and provide access to resort and recreational amenities.

[28] Section B3.7.4.2 of the Plan outlines that further lot creation within registered plans of subdivision shall generally be prohibited in order to maintain intended density and character of the development, however, individual consents for residential purposes may be considered in accordance with the *Infill Development* policies outlined under section B3.1.5 of the Plan.

[29] Mr. Russell spoke specifically to section B3.1.5.1, Infill Development, which includes the creation of lot(s) for single detached dwellings between existing residential lots. Mr. Russell opined that the proposed consents meet the requirements specified in (a) through (l).

[30] Mr. Russell stated infill and intensification through these sections, may be permitted where it respects the scale and built form of the surrounding neighbourhood and conforms to the policies of the Official Plan.

[31] Mr. Russell opined that the parcels are proposed at a size and dimension to provide for appropriate and compatible built-form and low-density residential development, as is characterized in the neighbourhood.

[32] Any future buildings will be required to comply with the standard zone provisions of Zoning By-law No. 2018-65 as will standard zone provisions with respect to setbacks and lot coverage as they relate to impact on adjacent properties in relation to grading, drainage access and circulation and privacy.

[33] Mr. Russell stated that the property will be developed for future residential uses

which are not subject to site plan control. Landscaping will be provided upon construction and development of private residences. Future property owners will be encouraged to preserve trees, but it is recognized that tree removal is probable to establish future building envelopes, driveways, etc.

[34] Mr. Russell informed the Tribunal the applications will be subject to section D4.2.1 which requires properties to front on a public road that is maintained year-round. He confirmed the Town maintains the Patricia Drive even though it remains in a compact gravel state and there are no anticipated impacts on drainage patterns in the area.

[35] The Tribunal is satisfied that the proposed lot creation is consistent with the direction of the BMOP, 2016.

Comprehensive Zoning By-law No. 2018-65

[36] The Town of The Blue Mountains Zoning By-law No. 2018-65 ("ZBL") zones the subject lands R1-1. Single Detached Residential uses are permitted in the R1-1 zone.

[37] All of the resulting parcels are proposed to have a minimum lot frontage of 20.32 m and a total lot area of 934 m² which satisfy, and exceed, the minimum lot frontage and area requirements of the R1-1 respectively. As the lots will be regular in shape, the resulting available building envelope area after applying the required minimum setbacks is approximately 481 m² in area. All lot development will further be subject to a maximum lot coverage of 30%, based on the total lot area.

Conclusion

[38] The Tribunal finds the consent applications which are the subject of this appeal represent proper and orderly development which is not premature and is in the public interest.

[39] Upon the uncontroverted evidence from Mr. Russell, the Tribunal is satisfied that the area's existing infrastructure can adequately support the proposed new lots created without any further upgrades.

[40] In the absence of any planning evidence to the contrary, based on all the foregoing, the Tribunal finds the consents will not result in adverse effects upon the health and safety of new or existing residents, is consistent with the PPS, conforms to the OP, has appropriate regard for the matters enumerated in section 51(24) and overall represents good planning in the public interest.

ORDER

[41] **THE TRIBUNAL ORDERS** that the appeal is allowed, and the provisional consents are to be given subject to the conditions set out in Attachment 1 to this Order.

"D Chipman"

D. Chipman
MEMBER

"Eric S. Crowe"

Eric S. Crowe
MEMBER

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

ATTACHMENT 1

March 17, 2022

Town of The Blue Mountains
Consent Application Files: B07-2021 & B08-2021
Garpan Holdings Inc.

Revised recommended Conditions of Consent:

1. That the Applicant meets all the requirements of the Town, financial and otherwise, for the Certificate of Consent to be issued.
2. That the Applicant provide payment of cash-in-lieu of applicable parkland dedication and Development Charges for both of the new residential lots, as required by the Town.
3. That the existing dwelling unit and all accessory structures/buildings are demolished or removed from the property prior to registration, to the satisfaction of the Town of The Blue Mountains.
4. That the consent Application B07-2021 be registered prior to Consent Application B08-2021.
5. That the Owner provides a description of the land and deposited reference plan, which can be registered in the Land Registry Office.
6. That all above conditions be fulfilled within two (2) years of the Notice of Decision so that the Certificate of Consent pursuant to Section 53(42) of the Planning Act, can be issued by the Town.