

SUBMISSION NO. A0081/2024

September 11, 2024

OWNER(S): BRIAN GATES, 655 Kirkwood Drive Sudbury ON P3E 6J6
MICHAEL FULCHER, 655 Kirkwood Drive Sudbury ON P3E 6J6

AGENT(S): BRIAN GATES, 655 Kirkwood Drive Sudbury ON P3E 6J6

LOCATION: PINs 73582 0145 & 73582 0155, Parcels 26305 SEC SES & 35600 SEC SES, Lot(s) 127, Subdivision M-131, Lot Part 3, Concession 3, Township of McKim, 891 Howey Drive, 893 Howey Drive, Sudbury

SUMMARY

Zoning: The property is zoned R2-2 (Low Density Residential Two) according to the City of Greater Sudbury Zoning By-law 2010-100Z, as amended.

Application: Approval of a lot to be retained, subject of a consent application, providing access onto an assumed road and lot frontage at variance to the By-law.

Comments concerning this application were submitted as follows:

CGS: Development Engineering, September 05, 2024

A registered services easement, will be required over the water and sanitary service lines connected to the severed portion.

A registered Right-of-Way easement will be required to allow access to this property.

CGS: Infrastructure Capital Planning Services, September 04, 2024

Roads
No concerns.

Transportation and Innovation Support
No concerns.

Active Transportation
No concerns.

Greater Sudbury Hydro Inc., September 04, 2024

In order for Greater Sudbury Hydro to service 893 Howey Drive, an easement will need to be obtained by the customer (893 Howey Drive) from one of the neighboring properties in favor of Greater Sudbury Hydro, for protection of the equipment crossing over such properties. The landlocked property cannot be serviced without such easement.

Source Water Protection Plan, September 04, 2024

No activity or activities engaged in or proposed to be engaged in on the above noted property are considered to be significant drinking water threats at this time. You may undertake the activity or activities described in your application and proceed to apply for a Building Permit or Planning Approval as they are neither prohibited nor restricted for the purpose of Part IV of the Clean Water Act, 2006.

CGS: Development Approvals Section, September 04, 2024

The purpose and effect of the application is to permit a minimum lot frontage of 0 m onto an assumed road for a proposed lot to be retained, whereas the minimum lot frontage required is 15 m, and no person shall construct any building on a lot without frontage onto an assumed road.

The subject lands contain two single detached dwellings known municipally as 891 Howey Drive and 893 Howey Drive. Access to the dwelling at 893 Howey Drive is through an access easement through 891 Howey to Howey Drive. The City does not have any record of a previous consent application. The subject lands appear to be in the same name and title. Therefore, it is staff's understanding that the subject lands are one parcel with two existing dwellings. The applicant has not provided a legal opinion in regard to whether the lands are or were two separate legally conveyable parcels of land. The applicant has submitted a consent application to sever 891 Howey Drive and retain 893 Howey Drive and was advised that a minor variance would be required for 0 m lot frontage.

Staff are not in a position to support lot creation that would result in a land locked parcel of land that is dependent on access through an abutting property as it is not considered to be good land use planning. Creating a lot without any frontage along an assumed road is not considered to be minor in nature as it may result in life safety issues. The intent of having frontage along an assumed road is for safe, unobstructed access. Staff are of the opinion that the intent of the policy is not being met as a result of the proposed variance request.

Additionally, it is noted that services are to be wholly contained on the subject lands. The severance would result in an improper service, where the connections would need to run through 891 Howey to service 893 Howey Drive. Development Engineering has advised that an easement would be required and Greater Sudbury Hydro also advised that an easement would be required.

It is recommended that the application be denied as it is not considered to be minor in nature, is not an appropriate use of the lands, and does not meet the intent of the Official Plan or Zoning By-law.

Nickel District Conservation Authority, August 30, 2024

Conservation Sudbury does not object to Minor Variance A0081/2024. Proposed development areas are not located in any area regulated by the Conservation Authority. We have no comment or objections to the proposed development.

CGS: Strategic and Environmental Planning, August 30, 2024

No concerns.

CGS: Building Services Section, August 30, 2024

No objection.

Ministry of Transportation, August 29, 2024

We have determined that the subject lands are not located within the MTO's permit control area; therefore, we have no comments to provide at this time.

CGS: Site Plan Control, August 29, 2024

No objection.

The applicants appeared before Committee and provided a summary of the Application. Suzy Franklyn, a resident at 160 Somerset Street, appeared before Committee and expressed support for staff's recommendation. Her concerns primarily related to the property at 887 Howey Drive which was not the subject of the application. She expressed concerns with the proposed density of development that was mentioned by the applicants, the use of the property at 887 Howey Drive and its impact on the parkland that abuts it and the safety of abutting lands. The applicants advised Committee that the City provided them with an opinion that the properties had merged on title. Committee Member Castanza requested clarification on the status of the properties and the severance aspect of the development proposal. Staff provided clarification on the severance aspect of the development. Committee Chair Dumont provided his understanding of the development proposal and explained the incorrect labeling on the sketch. The Secretary-Treasurer provided clarification on the Application and what was being requested and the intent of the future consent application. She expressed support for staff's recommendation. Committee Member Goswell requested clarification on the merging of the two lots subject of the Application and asked the applicants if they obtained a legal opinion. The applicants advised that they relied on staff's opinion that the properties had merged and would like to now sever them. Committee Chair Dumont clarified staff's comments relating to the merging of the lots and emphasized the importance of understanding the impact of that under the Planning Act. Committee Member Goswell expressed support for staff's recommendation. Committee Member Sawchuk expressed support for staff's recommendation based on the information that was provided. Committee Member Murray asked Committee if there would be any benefit in deferring the Application. Staff provided their opinion on a deferral. Committee Member Sawchuk was not in support of a deferral and provided his reasoning. Committee Member Castanza agreed with Committee Member's Sawchuk's opinion. Committee Chair Dumont commented on the mislabeling of the sketch that was submitted with the Application and the confusion that it caused and emphasized the importance of the submission to the Committee. Staff encouraged the applicants to contact Development Approval's staff to discuss their development proposals for the property.

The following decision was reached:

DECISION:

THAT the application by:

BRIAN GATES AND MICHAEL FULCHER

the owner(s) of PINs 73582 0145 & 73582 0155, Parcels 26305 SEC SES & 35600 SEC SES, Lot(s) 127, Subdivision M-131, Lot Part 3, Concession 3, Township of McKim, 891 Howey Drive, 893 Howey Drive, Sudbury

for relief from Part 4, Section 4.3 and Part 6, Section 6.3, Table 6.3 of By-law 2010-100Z, being the By-law for the City of Greater Sudbury, as amended, to approve the lands to be retained, subject of Consent Application B0060/2024, providing no frontage onto an assumed road and a minimum lot frontage of 0.0m, whereas no person shall erect any building on any lot that does not have frontage on an assumed road and where a minimum lot frontage of 15.0m is required, be denied.

Consideration was given to Section 45(1) of the Planning Act, R.S.O.1990, c. P.13 as amended including written and oral submissions related to the application, it is our opinion the variances are not minor in nature and are not desirable for the appropriate development and use of the land and Buildings. The general intent and purpose of the By-Law and the Official Plan would not be maintained.

Public comment has been received and considered and had no effect on Committee of Adjustment's decision as the application represents good planning.

<i>Member</i>	<i>Status</i>
Cathy Castanza	Concurring
David Murray	Concurring
Justin Sawchuk	Concurring
Matt Dumont	Concurring
Ron Goswell	Concurring