

Title: Deeming By-law for Lot 8 & Lot 9, Plan M-38, 0 & 477 Kirkwood Drive

Date: September 8, 2020

STAFF REPORT

Location:

Part of Lot 7, Lot 8 & Lot 9, Plan M-38, 0 & 477 Kirkwood Drive, in Sudbury.

Background:

Section 50(4) of the Planning Act provides that the council of a local municipality may, by by-law, designate any plan of subdivision that has been registered for 8 years or more not to be a registered plan for the purposes of Section 50(3) of the Planning Act. Plan M-38 was registered on July 2, 1904. Subsection 50(3) of the Planning Act contains the subdivision control provisions preventing the transfer of land unless the land is within a plan of subdivision along with other restrictions and requirements.

The subject lands are designated Living Area 1 in the Official Plan and are zoned "R1-3", Low Density Residential One. Part of Lot 7 and Lot 8, Plan M-38 are known as 477 Kirkwood. Lot 9 is currently vacant and is known as 0 Kirkwood. There is a single detached dwelling and a garage on Part of Lot 7 and Lot 8, which was constructed in 1940. The owner has made an application to demolish the existing single detached dwelling and detached garage on Part of Lot 7 and Lot 8 (Permit #B19-2024). They have also submitted a permit to construct a single detached dwelling (Permit #B20-1282), and the accompanying new septic system will be located on Lot 9. Building Services has advised that the proposed site layout may not meet the zoning provisions for the R1-3 zone, and the owner may choose to seek relief through the minor variance process.

In the past when a development project proposed to cross lot lines, a lot consolidation agreement had been entered into between the property owner and the City, which has been registered, on title. The Registry Office, however, is no longer agreeable to the registering of these types of agreements on title.

In order to consolidate the land ownership and prevent the individual transfer of any of the lots, it is recommended that a by-law be enacted by Council deeming Lot 8 & Lot 9, Plan M-38 not to be a registered plan for the purposes of Section 50(3) of the Planning Act. The deeming by-law would be forwarded to the Registry Office, and would appear on title to the property and would prevent the transfer of the lots individually. The lots could only be transferred together as long as the deeming by-law remains in place. The portion of 477 Kirkwood which is known as Part of Lot 7, Plan M-38 cannot be included in the deeming by-law given it is not a full lot on a plan of subdivision.

Staff has received an acknowledgement from the owner that they understand the implications of the deeming by-law and agree with the lots being deemed for the purposes of Section 50(3) of the Planning Act.