

HM/A-20:108 (220 Charlton Ave., W., Hamilton)

Consolidation Report

The attached comments have been reviewed with regard to the above noted Committee of Adjustment application and the following comments are submitted:

Should the Committee approve the application, an approval should be subject to the following condition(s):

“Caution: Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required by the City of Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) should be notified immediately (416.212.8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.212.7499).”

HM/A-20:108 (220 Charlton Ave., W., Hamilton)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the construction of a detached one and a half storey accessory building to be used a garage and workshop for an existing two family dwelling, notwithstanding the following variance.

Urban Hamilton Official Plan

The property is identified as “Neighbourhoods” in Schedule E– Urban Structure and is designated “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations. Policies E.3.2.3 and E.3.4.3 amongst others, are applicable and permit duplex dwellings and accessory buildings.

Archaeology:

The subject property meets two of the ten criteria used by the City of Hamilton and Ministry of Heritage, Sport, Tourism and Culture Industries for determining archaeological potential:

- 1) In areas of pioneer EuroCanadian settlement; and,
- 2) Along historic transportation routes.

These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the Provincial Policy Statement apply to the subject application. If this consent is approved, the proponent must be advised by the Committee of Adjustment as per the caution note below.

Cultural Heritage:

The subject property is located within the Kirkendall North neighbourhood, an established historic neighbourhood as described in UHOP Volume 1 Section 3.4.

As set out in Policy 3.4.3.6, new construction and development within established historical neighbourhoods is to be complementary to existing cultural heritage attributes of the neighbourhood, such as massing, and materials.

Staff are satisfied that the proposed detached garage will not have an adverse impact on the character of the established historic neighbourhood given that the garage is setback to the rear of the property. Staff have no further comments.

Former City of Hamilton Zoning By-law No. 6593

The subject lands are zoned “D/S-1787” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District, Modified, which permits two family dwellings and accessory buildings.

Variance 1

The applicant is requesting a variance to allow a maximum height of 6.0 metres for an accessory building notwithstanding, the maximum permitted height for an accessory building is 4.0 metres. The general intent of the Zoning By-law is to maintain the established residential character of the area, to avoid any impact on the enjoyment and privacy of the adjacent properties, and to ensure the use and scale of the accessory building remain secondary to the primary use on the property.

The requested variance allows sufficient height to accommodate a second storey within the proposed detached garage (accessory building). While Staff do not anticipate the design of the detached garage will have an adverse impact on the character of the area, the variance is not maintaining the general intent of the Zoning By-law as the detached garage does not reflect an appropriate scale for an accessory building. Staff is of the opinion the proposed garage can comply with the requirements of the Zoning By-law and therefore Staff recommend the applicant reduce the height of the proposed accessory building to conform with Zoning By-law No. 6593.

Based on the foregoing, while the general intent of the Urban Hamilton Official Plan is being maintained, the general intent of the Zoning By-law is not being maintained. The variance is not desirable for the development nor considered minor in nature; therefore, staff do not support the variance.

Recommendation:

Based on the preceding information, while the requested variance maintains the general intent and purpose of the Urban Hamilton Official Plan, the variance does not maintain the general intent of the former City of Hamilton Zoning By-law No. 6593. The variance is not considered minor in nature nor desirable for the appropriate use of the property. In conclusion, Staff recommends that the application be denied.

NOTE:

“Caution: Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required by the City of Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) should be notified immediately (416.212.8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.212.7499).”

Building Division:

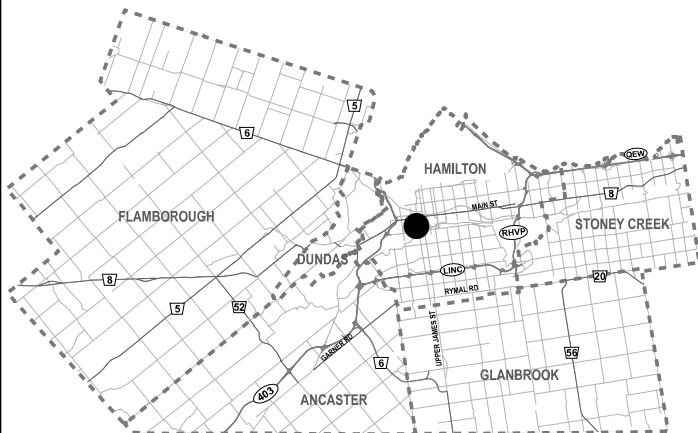
1. The zoning by-law requires that any projection of eaves into the side yard not exceed the lesser of 1.0 metre or one half of the width of the side yard. Therefore, the eaves for the proposed accessory building shall not project more than 0.53 metres into the westerly side yard.
2. The zoning by-law requires that the surface elevation of the floor for an accessory building shall not exceed 0.5m higher than the mean elevation of the nearest portion of the roadway opposite. As this information has not been confirmed, variances would be required if the surface elevation of the garage exceeds the 0.5m requirement.
3. The existing dwelling was constructed around 1915 and is recognized as legal non-complying in terms of the front yard and easterly side yard.
4. Exception 1787 is a temporary zoning created by amending by-law 10-307 to allow for the creation of second dwelling units under Section 19 of Zoning By-law 6593 through modified regulations.
5. A building permit is required for the construction of the proposed accessory building.
6. A demolition permit is required for the demolition of the existing accessory building.
7. Be advised that Ontario Building Code regulations may require specific setback and construction types.

Development Engineering:

Provided the existing drainage pattern is maintained, the Development Approvals section has no issue with the Minor Variance as proposed.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



220 Charlton Avenue West,
Hamilton (Ward 1)

File Name/Number:

HM/A-20:108

Date:

July 15, 2020

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

From: [Gail Pustelnik](#)
To: [Committee of Adjustment](#)
Subject: 220 Charlton Ave W
Date: August 7, 2020 1:24:52 PM

Dear Committee of Adjustment:

Please accept this email in support of the MVA regarding the proposed garage/workshop with a 6m overall height (instead of 4m permitted) submitted by Emma and Graham Cubitt for 220 Charlton Avenue West, Hamilton. We live directly across the street at 217 Charlton Ave. W. and believe this building and its design will have no adverse impact on our property or the neighbourhood, as it is in keeping with the form, style, and scale of many secondary buildings in this community. We were proactively informed of the minor variance application by the owners, we have discussed the specifics of the project design with them, and we now encourage the Committee to approve this application for minor variance.

Thank you for considering our input.

Regards,

Gail Pustelnik

Sent from my iPhone

From: [Gregory Braun](#)
To: [Committee of Adjustment](#); [emma.cubitt](#); [Graham.Cubitt](#); [Eli.Jackson](#)
Subject: Minor variance issue at 220 Charlton Ave W
Date: August 5, 2020 10:46:45 PM

Dear Committee members,

I live at 222 Charlton Ave West, adjacent to the property owned by Emma and Graham Cubitt for which a minor variance request has been submitted. My understanding is that they wish to build a garage/workshop along our shared property line that has an overall height of 6 metres. As long as there are no windows/doors on the west side of the structure that would overlook my property, the proposed height of 6 metres is acceptable to me and I am happy to support this variance application.

If you have any further questions please contact me at this email address or 289-683-7845.

sincerely,
Gregory Braun

From: [John Margaritis](#)
To: [Committee of Adjustment](#)
Subject: 220 Charlton West/ Garage
Date: August 6, 2020 9:40:32 AM
Attachments: [image001.jpg](#)

Dear Committee of Adjustment:

Please accept this email in support of the MVA regarding the proposed garage/workshop with a 6m overall height (instead of 4m permitted) submitted by Emma and Graham Cubitt for 220 Charlton Avenue West, Hamilton. We live directly across the street at 217 Charlton Ave. W. and believe this building and its design will have no adverse impact on our property or the neighbourhood, as it is in keeping with the form, style, and scale of many secondary buildings in this community. We were proactively informed of the minor variance application by the owners, we have discussed the specifics of the project design with them, and we now encourage the Committee to approve this application for minor variance.

Thank you for considering our input.

John Margaritis
Armourco Solutions
john@armourco.condos

1252 Speers Rd, Unit #10
Oakville ON L6L 5N9
Office: 905-637-7999
Mobile: 905-510-2439
Toll free: 888-634-0082
www.armourco.condos



From: [Wilson, Maureen](#)
To: [Committee of Adjustment](#)
Cc: [Hilson, Stephanie](#)
Subject: Ward 1 - HM/A-20:108
Date: August 18, 2020 3:35:03 PM

For the consideration of the City of Hamilton's Committee of Adjustment. I am supportive of the application HM/A-20:108 for the residential address of 220 Charlton Avenue West, Hamilton.

Respectfully,

Maureen Wilson *(She/Her)*

Ward 1 Councillor

Ainslie Wood | Kirkendall | Strathcona | Westdale

E: maureen.wilson@hamilton.ca | T: 905-546-2416

Join the Ward 1 e-Newsletter: Go to <https://maureenwilson.ca/join>

FL/A-20:136 - 136 Rockcliffe Rd. Flamborough

Consolidation Report

The attached comments have been reviewed with regard to the above noted Committee of Adjustment application and the following comments are submitted:

“Acknowledgement: The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances. If archeological resources are encountered, the proponent may be required to conduct an archaeological assessment prior to further impact in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries. All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the Ministry of Heritage, Sport, Tourism and Culture Industries.

Should deeply buried archaeological materials be found on the property during any of the above development activities the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392).”

FL/A-20:136 - 136 Rockcliffe Rd. Flamborough)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Rural

The purpose of this application is to permit the construction of a one storey single detached dwelling with attached garage upon demolition of the existing single detached dwelling and associated accessory structure.

Urban Hamilton Official Plan

The Urban Hamilton Official Plan designates the property as “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations and is identified as “Neighbourhoods” in Schedule E – Urban Structure. The following policies, amongst others, are applicable:

- “E.2.6.7 Neighbourhoods shall generally be regarded as physically stable areas with each neighbourhood having a unique scale and character. Changes compatible with the existing character or function of the neighbourhood shall be permitted. Applications for development and residential intensification within Neighbourhoods shall be reviewed in consideration of the local context and shall be permitted in accordance with Sections B.2.4 – Residential Intensification, E.3.0 – Neighbourhoods Designation, E.4.0 – Commercial and Mixed Use Designations, and, E.6.0 – Institutional Designation.

- E.3.4.3 Uses permitted in low density residential areas include single-detached, semidetached, duplex, triplex, and street townhouse dwellings.”

The subject lands are located within an established subdivision and the applicant is proposing to add an addition to the existing home. The addition is minor and is sympathetic to the prevailing character of the neighbourhood. As such staff are of the opinion that the intent of the Urban Hamilton Official Plan is maintained.

Former Town of Flamborough Zoning By-law No. 90-145-Z

The subject lands are zoned “R1-6” Urban Residential (Single Detached) Zone. To which the use complies.

Cultural Heritage

The subject property meets three (3) of the ten criteria used by the City of Hamilton and the Ministry of Heritage, Sport, Tourism and Culture Industries for determining archaeological potential:

- 1) Within 250 metres of known archaeological sites;
- 2) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody; and,
- 3) In the vicinity of distinctive or unusual landforms.

These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the *Provincial Policy Statement* apply to the subject application. If this variance is granted, the City does not require an archaeological assessment, but the proponent must be advised in writing by the Committee of Adjustment as follows:

“Acknowledgement: The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances. If archaeological resources are encountered, the proponent may be required to conduct an archaeological assessment prior to further impact in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries. All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the Ministry of Heritage, Sport, Tourism and Culture Industries.

Should deeply buried archaeological materials be found on the property during any of the above development activities the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392).”

Variance 1

The applicant is seeking a variance to permit a maximum lot coverage of 21.7% to be provided instead of the maximum permitted lot coverage of 15%.

The intent of the By-law is to limit the required lot coverage in order for new dwellings to be constructed that are more in character with the surrounding neighbourhood. The proposal is to construct a bungalow which is in keeping with the prevailing character in the surrounding neighbourhood which is currently experiencing gradual change. The proposed lot coverage of the proposed renovated dwelling is therefore meeting the intent of the Zoning By-law and the variance is minor and appropriate for the development of the subject property. Accordingly, staff support the variance.

Variance 2

The applicant is seeking a variance to permit a maximum floor area of 229 square metres to be permitted for the proposed single detached dwelling instead of the maximum permitted floor area of 186 square metres permitted for a one (1) storey single detached dwelling.

As discussed above, the proposed renovated single detached dwelling is in keeping with the character of the neighbourhood and staff do not perceive a negative impact on any surrounding properties by permitting an increase from the maximum floor space provisions of the By-law. Therefore, the variance meets the intent of the Zoning By-law, is minor and appropriate for the development of the subject property. Accordingly, staff support the variance.

Recommendation:

Based on the preceding information, the requested variances maintain the general intent and purpose of the Urban Hamilton Official Plan as well as the Former Town of Flamborough Zoning By-law No.90-145-Z. The variances are considered to be minor in nature and desirable for the appropriate use of the property. In conclusion, Staff recommends that the application be approved.

Building Division:

1. A building permit is required for the construction of the proposed dwelling. Be advised that Ontario Building Code regulations may require specific setbacks and construction types.
2. A demolition permit is required for the demolition of the existing structures.
3. The lands are located within or adjacent to an Environmentally Sensitive Area (ESA) and are subject to Site Plan Control.
4. Details regarding the proposed building height have not been provided. A further variance will be required if the proposed building height, provided in accordance with the definition of *Height* and *Grade* as defined within the Zoning By-law, exceeds 8.2 metres.

5. *A Basement defined as that portion of a building between two floor levels which is partly below ground level and is at least 50 percent above ground relative to the average finished grade adjacent to the exterior walls of the building is included in the total gross floor area calculation, whereas a Cellar defined as that portion of a building between two floor levels which is partly or wholly below ground level and which is more than 50 percent below ground relative to the average finished grade adjacent to the exterior walls of the building is not included in the total gross floor area calculation. A further variance will be required should Basement be proposed.*
6. The minimum front yard setback has not been provided from the closest part of the proposed building to the front lot line. A further variance will be required if the minimum required front yard of 7.5 metres is not provided.
7. A further variance will be required if all portions of the lot which is not occupied by buildings, structures, parking areas and driveways are not provided and maintained as landscaped open space.
8. A further variance will be required if a minimum of 50% of the front yard is not provided as landscaped open space.
9. A further variance will be required if a minimum of one (1) parking space with an unobstructed area measuring 2.6 metres in width by 5.8 metres in length is not provided within the attached garage.
10. A further variance will be required if the driveway area is not provided and maintained with a stable surface which is treated in a manner to prevent the raising of dust or loose particles which is drained in a manner to prevent the pooling of surface water or the flow of surface water to adjacent lots.
11. A further variance will be required if the eave and gutter encroach greater than 0.65 metres into any required yard.

Development Engineering:

The proposed addition is a vertical addition only, therefore the footprint of the existing dwelling will remain unchanged. Provided the existing drainage pattern is maintained, the Development Approvals section has no issue with the Minor Variance as proposed.

See attached for additional comments.

August 24, 2020

City of Hamilton
Planning and Economic Development Department
71 Main St W
Hamilton, Ontario
L8P 4Y5

Attention: Morgan Evans

File# 16 Rockcliff Rd

Re: FL/A:20-136

In response to your correspondence dated August 11, 2020, please be advised that our Engineering Design Department has reviewed the information concerning the above noted Consent Application and our comments are as follows:

- For Residential/Commercial electrical service requirements, the Developer needs to contact our ICI and Layouts Department at 1-877-963-6900 ext: 25713 or visit our web site @ www.alectrautilities.com.
- Relocation, modification, or removal of any existing hydro facilities shall be at the owner's expense. Please contact Alectra Utilities to facilitate this.
- Developers shall be responsible for the cost of civil work associated with duct structures, transformer foundations, and all related distribution equipment.

We would also like to stipulate the following:

- Do not excavate within two metres of hydro poles and anchors.
- Excavation within one metre of underground hydro plant is not permitted unless approval is granted by an Alectra Utilities representative and is present to provide direct supervision. Cost associated with this task shall be at the owner's expense.
- Alectra Utilities must be contacted if the removal, isolation or relocation of existing plant is required, all cost associated with this work will be at the owners expense.
- CALL BEFORE YOU DIG, arrange for underground hydro cable locate(s) before beginning construction by contacting Ontario One Call @ 1-800-400-2255.

- Clearances from Overhead and Underground existing electrical distribution system must be maintained in accordance to:
 - Ontario Building Code (1997) Section 3.1 (3.1.18.1)
 - Electrical Safety Code Rule 75-312
 - Occupational Health and Safety Act (OH&SA) – Construction Projects (Electrical Hazards)
 - CAN/CSA-C22.3 No. 1-15, Overhead System
 - C22.3 No. 7-15 Underground Systems

We trust that you will find this information satisfactory and that the information contained within will be provided to the owner of this project. Should you have any questions regarding this response, please contact Charles Howell at 905-522-6611 ext: 4729 in our Engineering Design Department.

Sincerely,

Mark Jakubowski

Mark Jakubowski
Supervisor, Design, Customer Capital

Committee of Adjustment
City of Hamilton,
71 Main Street West,
Hamilton, ON
L8P 4Y5

August 17, 2020

Re: Notice of Public Hearing
Minor Variance # FL/A-20:136

To whom it may concern

My name is Jack Bingham, I currently live at 34 Dennis Ave in Flamborough. I have 2 concerns I would like to address regarding the construction of a new home at 136 Rockcliffe Rd. in Flamborough.

1. Flooding in the back yard at 136 Rockcliffe Rd.

- My back yard currently meets that of 136 Rockcliffe Rd.
- Over the years heavy prolonged rain or the fast melting of the snow pack have resulted in large amounts of water accumulating in the backyard of 136 Rockcliffe Rd. The attached pictures will confirm this.
- Even though the majority of the standing water is not on my property, I have concerns that new proposed structure and/or future landscape designs could increase the amount of or number of instances of standing water in the future resulting in an increase in the amount of water seeping in below my crawl space. Currently if my sump pump is operational my crawl space stays dry but it has been touch & go on a few occasions.
- 134 & 136 Rockcliffe Rd and 34 Dennis Ave are at the bottom of the hill starting on Dundas Street. As well there are 10 properties that surround this back yard creating a bowl effect. Most are at higher ground and I can confirm a number of them including mine have their sump pumps emptying into the back yard of 136 Rockcliffe Rd.

The properties surrounding this yard are;

- 5 Grindstone Way
 - 54 Waterwheel Crescent
 - 52 Waterwheel Crescent
 - 50 Waterwheel Crescent
 - 48 Waterwheel Crescent
 - 26 Dennis Ave
 - 30 Dennis Ave
 - 34 Dennis Ave
 - 134 Rockcliffe Rd
 - 136 Rockcliffe Rd.
- The design, grading and future landscape decisions at 136 Rockcliffe Rd. should

consider this accumulation of water.

- Please refer to the attached pictures illustrating my concerns.

2. My concerns with the process of digging for the foundation.

- Our properties are on bedrock so they will need jack hammer rock the create a foundation. My property is very close to the existing structure. I have concerns with my home being damaged due to this process. For example, racks in the foundation or walls. I would like an opportunity to discuss my concerns.









From: [Susan Van Cleaf](#)
To: [Committee of Adjustment](#)
Subject: FL/A-20:136. 136 Rockcliffe Rd. Flamborough
Date: August 18, 2020 10:03:20 PM

Thank you for sending the Notice of Public Hearing - minor variance.

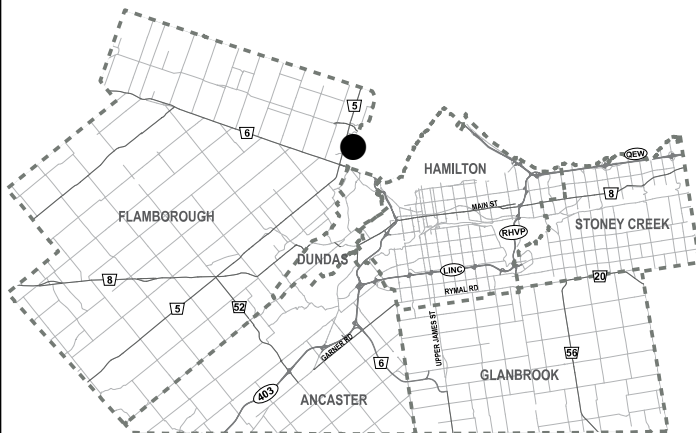
Through most of the year when there are no leaves on the trees, we can see the house at 136 Rockcliffe Road from our upper deck, kitchen, living room and master bedroom. As the proposed new porch is covered there is likely to be more activity on the porch than in the past, including lights and noise. We have enjoyed the lack of light and noise. Therefore we request that there are no lights on the house or the covered porch, whether permanent or motion activated, that will be pointed in the direction of our home. Such lights would interfere with our enjoyment of our property and would cause us to have to block our view with window coverings. If the new owners are not willing to comply with this request, we would object to the construction of the porch. Please let us know if we need to do this.

Also, we recognize this is likely beyond the owners' requirements, but it would be much appreciated if the new owners could plant a 5-8' evergreen tree on the porch side of the house to reduce light and noise from the property during seasons without leaves.

Susan Van Cleaf
46 Waterwheel Crescent



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



136 Rockcliffe Road, Flamborough
(Ward 15)

File Name/Number:

FL/A-20:136

Date:

August 14, 2020

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

DN/A-20:147 (155 Park St. W., Dundas)DN/A-20:147 – 155 Park St. W., Dundas

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Rural

The purpose of this application is to permit the construction of a rear addition over the existing one storey portion of the existing single detached dwelling.

Urban Hamilton Official Plan

The subject lands are identified as “Neighbourhoods” on Schedule “E” – Urban Structure and designated “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP). Policies E.3.4.3, amongst others, are applicable and permit a single detached dwelling.

Town of Dundas Zoning By-law No. 3581-86

The subject lands are zoned “R2” (Single Detached Residential) in the Town of Dundas Zoning By-law No. 3581-86, to which the use complies.

Variance 1

The applicant is seeking a variance to permit a minimum westerly side yard of 4.1m to be provided instead of the minimum 5.0m side yard required on one side of an interior lot upon which there is not garage or carport.

The intent of the side yard provisions is to allow for wide enough side yards for adequate drainage and to access the rear of the property. The side yard setbacks of the surrounding dwellings vary from narrow side yard setbacks to wider setbacks. The applicant has proposed to construct a rear addition over the existing one storey residential dwelling. The intent of the RHOP and Zoning By-law are maintained as an adequate yard will be maintained that can allow for access. Staff note that the variance is desirable for the development and minor in nature as no negative impacts to adjoining properties are anticipated. Based on the foregoing, the Official Plan and Zoning By-law is being maintained, the variance is desirable for the development and minor in nature; therefore, staff support the variance.

Variance 2

The applicant is seeking a variance to permit a minimum setback of 0.3m to be provided for the rear shed instead of the minimum 2.0m setback required from a side lot line.

Staff note that the existing westerly side yard setback is 0.3m, at the closest point between the existing rear shed and the westerly lot line, which is a pre-existing condition that is triggered as a technicality due to the proposal to construct a rear addition over the existing

one storey portion of the existing single detached dwelling. Staff note that the building envelope, for the existing rear shed, will not encroach further into the side yard than what is currently an existing occurrence (0.3m). In staff's opinion, the proposed construction of a rear addition, maintains the intent of the Zoning By-law and the variance is addressing a pre-existing condition which will not have any negative impact on the adjacent property and the surrounding neighbourhood. Accordingly, staff support the variance.

Recommendation

Based on the preceding information, the requested variances maintain the general intent and purpose of the Urban Hamilton Official Plan and Former Town of Dundas Zoning By-law. The variances are considered to be minor in nature and desirable for the appropriate use of the property. In conclusion, Staff recommends that the application be approved.

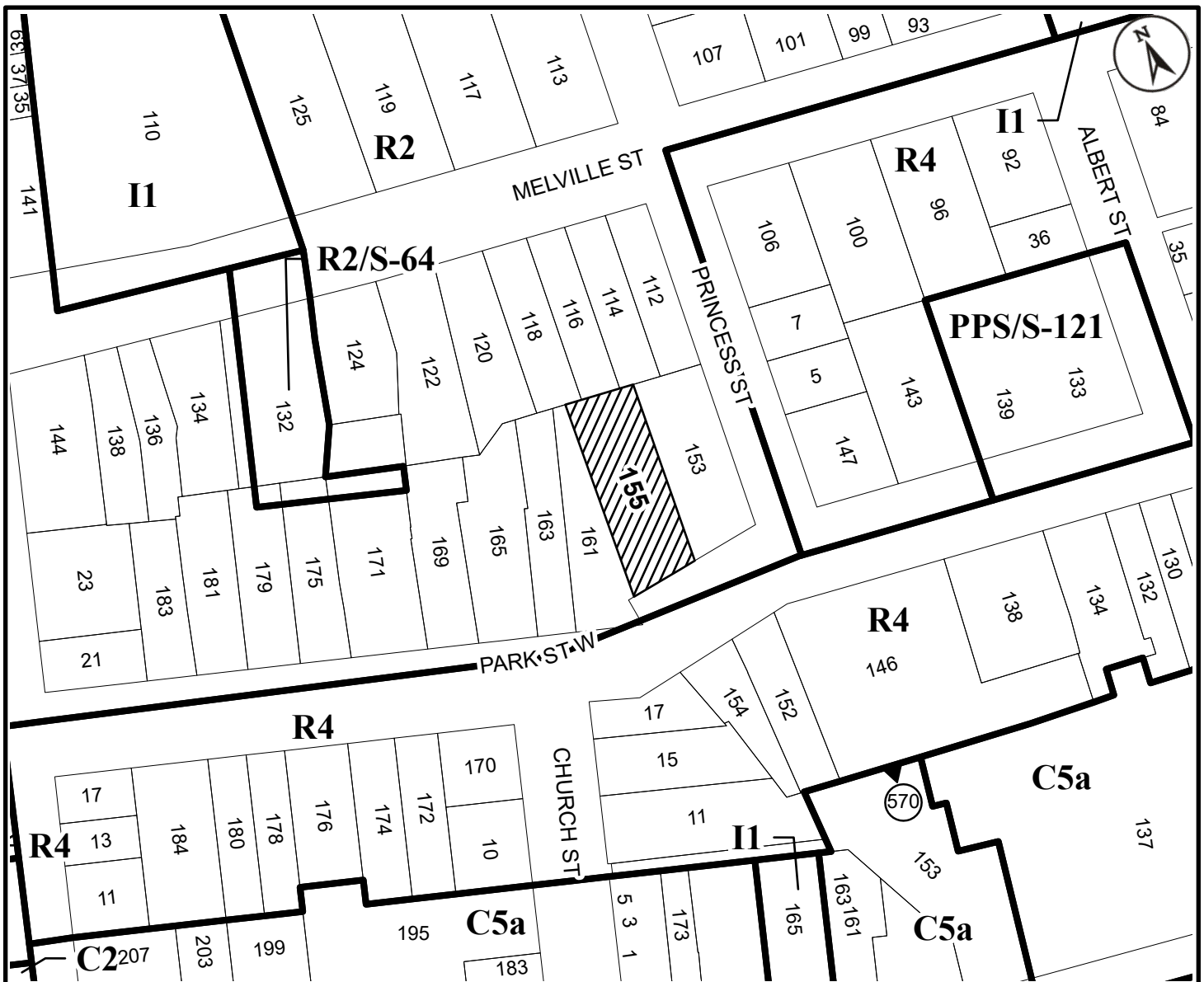
Building Division:

1. A building permit is required for the proposed addition.
2. Be advised that Ontario Building Code regulations may require specific setback and construction types.
3. No elevation plans were provided to confirm compliance.
4. The easterly side yard shows a bump-out encroaching into the required 1.2m side yard. Details of the nature of the bump-out were not provided from which to determine compliance; as such, further variances may be required.
5. The zoning By-law permits an eave/gutter to projection into a side yard not more than one-half of its width or 1.0m whichever is the lesser. No details were provided from which to determine compliance; as such, further variances may be required.

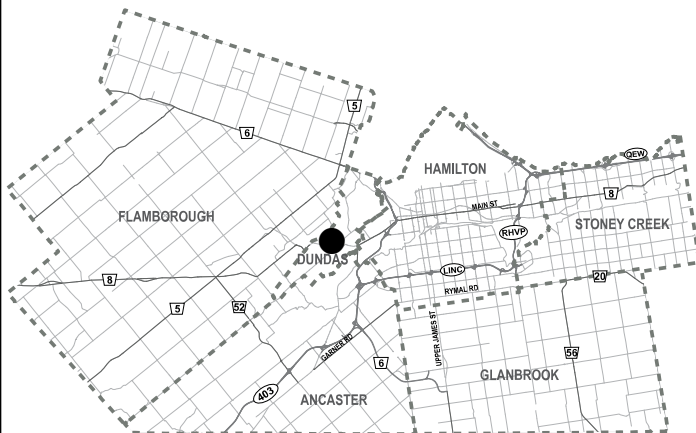
Development Engineering:

No Comment

See attached for additional comments.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



155 Park Street West, Dundas
(Ward 13)

File Name/Number:

DN/A-20:147

Date:

August 14, 2020

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

DN/A-20:148 – 144 Melville St., Dundas

Consolidation Report

The attached comments have been reviewed with regard to the above noted Committee of Adjustment application and the following comments are submitted:

“Acknowledgement Note: The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances. If archeological resources are encountered, the proponent may be required to conduct an archaeological assessment prior to further impact in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI). All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the MHSTCI.

Should deeply buried archaeological materials be found on the property during any of the above development activities the MHSTCI should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499).”

DN/A-20:148 (144 Melville St., Dundas)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Rural

The purpose of this application is to permit the construction of a new 2 storey detached accessory structure (having a living space on the second floor) to be located in the rear yard of the existing single detached dwelling.

Urban Hamilton Official Plan

The property is identified as “Neighbourhoods” on Schedule E – Urban Structure and is designated “Neighbourhoods” on Schedule E-1 – Urban Land Use Designations. Policies E.3.2.3, and E.3.4.3 amongst others, are applicable and permit a single detached dwelling.

Former Town of Dundas Zoning By-law 3581-86

The subject property is zoned “R2” (Single Detached Residential) Zone, to which the proposed use for a living space on the second floor of a proposed new accessory structure does not comply. Staff note that the Single-Detached Residential Zone (R2) permits a one accessory apartment in a dwelling converted that does not change the outside appearance of the dwelling and has no impact on the surrounding area and neighbourhood, where the detached house conforms to the Zoning By-law, is connected to sanitary sewers, sewage, sewage treatment capacity is available and is registered under the Municipal Act. Staff note that the proposal is for a habitable use on in the accessory structure, not the principal dwelling, and therefore the use is not permitted.

Cultural Heritage

The subject property is *adjacent* to five properties included in the City’s Inventory of Buildings of Architectural and/or Historical Interest, including: 150 and 141 Melville Street and 138 and 110 Victoria Street, Dundas.

The City recognizes there may be cultural heritage properties that are not yet identified or included in the Register of Property of Cultural Heritage Value or Interest nor designated under the *Ontario Heritage Act*, but still may be of cultural heritage interest. These may be properties that have yet to be surveyed, or otherwise identified, or their significance and cultural heritage value has not been comprehensively evaluated but are still worthy of conservation.

Staff have reviewed the application and are of the opinion that the proposed garage will not impact the adjacent heritage resources.

Archeology

The subject property meets two (2) of the ten criteria used by the City of Hamilton and Ministry of Heritage, Sport, Tourism and Culture Industries for determining archaeological potential:

- 1) In an area of sandy soil in areas of clay or stone; and,
- 2) In areas of pioneer EuroCanadian settlement.

These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the *Provincial Policy Statement* apply to the subject application. If this variance is granted, the City does not require an archaeological assessment, but the proponent must be advised in writing by the Committee of Adjustment as follows:

“Acknowledgement Note: The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances. If archeological resources are encountered, the proponent may be required to conduct an archaeological assessment prior to further impact in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI). All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the MHSTCI.

Should deeply buried archaeological materials be found on the property during any of the above development activities the MHSTCI should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499).”

Variance 1

The applicant is seeking a variance for a minimum easterly side yard of 1.2 m to be provided instead of the minimum required 2.0 m side yard setback from the lot line.

The intent of the side yard provisions is to allow for adequate side yards for drainage and access to the rear of the subject property. The general built form of the surrounding neighbourhood have narrower side yard setbacks between dwellings. The intent of the RHOP and Zoning By-law are maintained as an adequate yard will be maintained that

can allow for access. Therefore, the variance is minor in nature and appropriate for the development of the subject property. Accordingly, staff support the variance.

Variance 2

The applicant is seeking a variance for a maximum building height of 8.3 m shall be provided instead of the maximum permitted of 4.0 m.

Staff are concerned that the, 2 storey (8.3 m) height, of the accessory structure is excessive. Staff request that the proponent comply with the height requirement of 4.0 m to ensure the accessory structure maintains the perception that is secondary to the primary structure on the property. Therefore, the variance is not minor in nature and is not appropriate for the development of the subject property. Accordingly, staff do not support the variance.

Variance 3

The applicant is seeking a variance for a maximum size of 72.4 m² to be provided instead of the maximum size permitted of 41 m².

Staff note that the increase in the maximum area is not minor as it will facilitate the proposed accessory structure which is excessive in both area and height. The proposed structure is not compatible with the surrounding neighbourhood and is not subordinate to the single detached dwelling. Therefore, the variance is not minor in nature and is not appropriate for the development of the subject property. Accordingly, staff do not support the variance.

Variance 4

The applicant is seeking a variance to permit the second floor of the proposed accessory building to be used for human habitation having a gross floor area of 45.5 m² whereas the By-Law states that an accessory building shall not be used for human habitation.

Accessory structures (garages) are not permitted for human habitation and based on the submitted drawings, staff are concerned that the structure may be used for that purpose. As discussed previously, staff note that the Single-Detached Residential Zone (R2) permits one accessory apartment in a dwelling converted that does not change the outside appearance of the dwelling and has no impact on the surrounding area and neighbourhood, where the detached house conforms to the Zoning By-law, is connected to sanitary sewers, sewage, sewage treatment capacity is available and is registered under the Municipal Act. Staff note that the proposal is for a habitable use on in the accessory structure, not the principal dwelling, and therefore the use is not permitted.

Staff would recommend that the applicant delete the “finished area” portion of the structure, to reduce the requested variance. The variance does not maintain the intent and purpose of the RHOP and Zoning By-law as the structure is not in keeping with the

neighbourhood character. There are no accessory structures having a similar gross floor area that are accessory to a single detached dwelling. The variance is not appropriate for the development of the property or minor, as it may contain area for human habitation which is not permitted. Accordingly, staff do not support the variance.

Recommendation

Staff recommends that variance 1 is approved, as the variance maintains the general intent and purpose of the Urban Hamilton Official Plan and the Former Town of Dundas Zoning By-law 3581-86. The variance is considered to be minor in nature and is desirable for the appropriate use of the property.

Staff recommend that variances 2, 3 and 4 be denied, as the variances do not maintain the general intent and purpose of the Urban Hamilton Official Plan and the Former Town of Dundas Zoning By-law 3581-86. The variances are not minor in nature and are not desirable for the appropriate development of the lands.

“Acknowledgement Note: The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances. If archeological resources are encountered, the proponent may be required to conduct an archaeological assessment prior to further impact in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI). All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the MHSTCI.

Should deeply buried archaeological materials be found on the property during any of the above development activities the MHSTCI should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499).”

Building Division:

1. Construction of the proposed accessory structure/building is subject to the issuance of a building permit in the normal manner.
2. Be advised that Ontario Building Code regulations may require specific setback and construction types.

Development Engineering:

No Comment

See attached for additional comments.

From: [AnnetteMichael Lloyd](#)
To: [Committee of Adjustment](#)
Subject: Application for Variance from The Zoning Bylaw reference to file DN/A-20:148
Date: August 22, 2020 2:42:38 PM

To the Committee of Adjustment

As homeowners and interested parties we wish to address the request to circumvent four zoning bylaws to impose an overly large garage with an apartment on the second floor of said garage at 144 Melville St, Dundas.

The variance asks to reduce the distance from lot line from 2 meters to just over one. This is unacceptable as it would create a template to change the neighbourhood norm.

In addition, the owner wants a 2-storey residence added to a single lot which would be almost twice the footprint and height of the city by-laws. The loss of sunlight, the destroying of sightlines in neighbouring backyards and the looming windows overlooking adjacent yards are also problematic.

Of course, one must ask why a 5-bedroom home requires an additional housing on a single-family lot. Could this new residence be used as an Air B&B? This old and established neighbourhood has seen many successful additions and alterations however the proposal for this new house is too large and much too close to property lines.

We request you reject this application.

Sincerely,
Annette and Michael Lloyd
215 Melville St.
Dundas, Ont. L9H 2A9
905-627-0920

From: [Catherine DeLottinville](#)
To: [Committee of Adjustment](#)
Subject: Application for Variance from The Zoning Bylaw reference to file DN/A-20:148
Date: August 24, 2020 3:15:43 PM
Importance: High

To the Committee of Adjustment

My name is Catherine DeLottinville and I reside next door to the property in question. We have lived in our home for 26 years. It is a historic area with many century homes including our own. We enjoy living in a quiet neighborhood with space around the houses to permit privacy.

The property at 144 Melville is a corner lot. The view from our home is of the back of the Melville house. I have attached a couple of pictures so you have more accurate idea of our view.

The changes requested to the property are not minor variances. The request is to build a large structure with a residence on the second floor. The proposed building is almost twice the size as the maximum permitted. I am very opposed to having what is essentially a second house built on the property.

I believe these changes would negatively impact the neighborhood and diminish its historical character.

I request that you reject this application.

Thank you

Catherine DeLottinville
23 Market St North
Dundas Ontario L9H 2Y4
905 627 9301





From: [nick sirrs](#)
To: [Committee of Adjustment](#)
Subject: Committee of Adjustment: DN/A-20:148
Date: August 23, 2020 2:37:03 PM

To Whom it May Concern:

I am responding to this application as a neighbour and interested party. The enclosed pictures are views from Melville St., my backyard and Market St. to show the spaciousness of the view, and my existing fence. The proposed structure, if variances are allowed, would sit close to my fence, forming a large barrier.

The area where this application is being made is historic, with many of the homes and buildings dating back almost 100 years.

The proposed 2 storey detached structure will not fit in with the character of the neighbourhood. It will not conform to the streetscape where it faces Market St.

New purchasers, willing to pay higher purchase prices and higher taxes are interested in this neighbourhood, motivated not only by the historic character of the buildings, but also the spaciousness of the lots.

This proposed structure will have a negative impact on that character and spaciousness.

I am the neighbouring owner at 138 Melville St., most impacted by the size and height of the proposed structure.

This building will have a detrimental affect on my property, basically creating a barrier by its sheer height and size. The diminished natural light will affect my garden. The application to build within the 2.0 m. setback means the 2 storey structure would be extremely close to my property, even more imposing and impacting the reasonable enjoyment of my property. This structure would also affect a large, mature tree on my lot. I am concerned about the health of the tree.

The purpose of the application is to allow the construction of a detached accessory structure to be used as an apartment.

I am not opposed to intensification but I am questioning:

Why the original plan (outlined to me several months ago by the owner) of a 1 storey coach house attached to her existing garage was changed.
I was not opposed to that plan.

Why the apartment is not being created within her very large 5 bedroom house.

My concern is the application for variances, which I feel are major and not minor variances since they are almost double allowed by the bylaws.

I am opposed to these variances and allowing the building of this detached structure.

Since I am out of town for work and will be unavailable to attend the meeting on August 27th, I am giving my mother Angela Sirrs permission to represent my interests in this matter.

Nicholas Sirrs
138 Melville St., Dundas
L9H 2A5

Sent from [Mail](#) for Windows 10











From: [Angela Sirrs](#)
To: [Committee of Adjustment](#)
Subject: Committee of Adjustment: DN/A-20:148
Date: August 24, 2020 8:19:54 PM

To Whom it May Concern:

I am responding to this application as a neighbour and interested party. The enclosed pictures are views from Melville St., my backyard and Market St. to show the spaciousness of the view, and my existing fence. The proposed structure, if variances are allowed, would sit close to my fence, forming a large barrier.

The area where this application is being made is historic, with many of the homes and buildings dating back almost 100 years.

The proposed 2 storey detached structure will not fit in with the character of the neighbourhood. It will not conform to the streetscape where it faces Market St.

New purchasers, willing to pay higher purchase prices and higher taxes are interested in this neighbourhood, motivated not only by the historic character of the buildings, but also the spaciousness of the lots.

This proposed structure will have a negative impact on that character and spaciousness.

I am the neighbouring owner at 138 Melville St., most impacted by the size and height of the proposed structure.

This building will have a detrimental affect on my property, basically creating a barrier by its sheer height and size. The diminished natural light will affect my garden. The application to build within the 2.0 m. setback means the 2 storey structure would be extremely close to my property, even more imposing and impacting the reasonable enjoyment of my property. This structure would also affect a large, mature tree on my lot. I am concerned about the health of the tree.

The purpose of the application is to allow the construction of a detached accessory structure to be used as an apartment.

I am not opposed to intensification but I am questioning:

Why the original plan (outlined to me several months ago by the owner) of a 1 storey coach house attached to her existing garage was changed.
I was not opposed to that plan.

Why the apartment is not being created within her very large 5 bedroom house.

My concern is the application for variances, which I feel are major and not minor variances since they are almost double allowed by the bylaws.

I am opposed to these variances and allowing the building of this detached structure.

Since I am out of town for work and will be unavailable to attend the meeting on August 27th, I am giving my mother Angela Sirrs permission to represent my interests in this matter.

Nicholas Sirrs
138 Melville St., Dundas
L9H 2A5

Sent from [Mail](#) for Windows 10

From: [Valerie & Lawrence](#)
To: [Committee of Adjustment](#)
Cc: [VanderBeek, Arlene](#)
Subject: DN/A-20:148 Minor Variance Application 144 Melville St (dundas) Hamilton ON Aug 27 2020
Date: August 25, 2020 11:49:38 AM

Dear committee;

As an owner within 60 meters please consider the following concerns & questions:

- 1) Surely a NEW accessory building for Human habitation on an R2 lot is NOT a minor variance.
- 2) Why is a proposed building height that is more than TWICE the max permitted height (8.3 m vs. 4.0 m) considered “minor”?
- 3) When a side yard reduction (minor) is combined with a massive increase in height,
This does not represent a “minor” variance in overshadowing and loss of privacy & sun for a neighbouring property.
- 4) The SMPLdesign studio plan submitted appears to have the existing house canted to the NorthWest and very closely approaching Market Street.
In reality the house is very consistently well away from the Market Street & Melville Street sidewalks, when one walks around the house.
This is also clearly shown if Google map satellite view is used to view the property.
Possibly the source of the site plan needs to be checked
- 5) On a positive note , it does not appear that any trees need to be cleared for the proposed construction area and there is ample parking on site.
- 6) These comments are based on concerns regarding precedence and the possible negative impacts on neighbours if a similar proposal is permitted on other R2 properties.
Dundas already meets the urban density intensification target for Hamilton.

sincerely

Lawrence Kaempffer

176 Park St.W. Dundas L9H1Y1

905 627 0228

From: [Angela Sirrs](#)
To: [Committee of Adjustment](#)
Subject: DN/A-20:148
Date: August 25, 2020 11:48:33 AM

I am writing regarding the application for variances at 144 Melville St., Dundas.

I have seen the proposed site plan, and I have also been on the street looking at the lot, as well as in my son, Nicholas Sirrs' yard.

The porch on the back of the house does not align with the east side of the house as shown in the plan.

Are porches not shown in plans?

Won't this affect the proposed dwelling?

Pictures of this were sent by Catherine DeLottinville in her submission to you.

I am not an engineer or a planner, but I just don't understand why the pictures don't conform to the drawing.

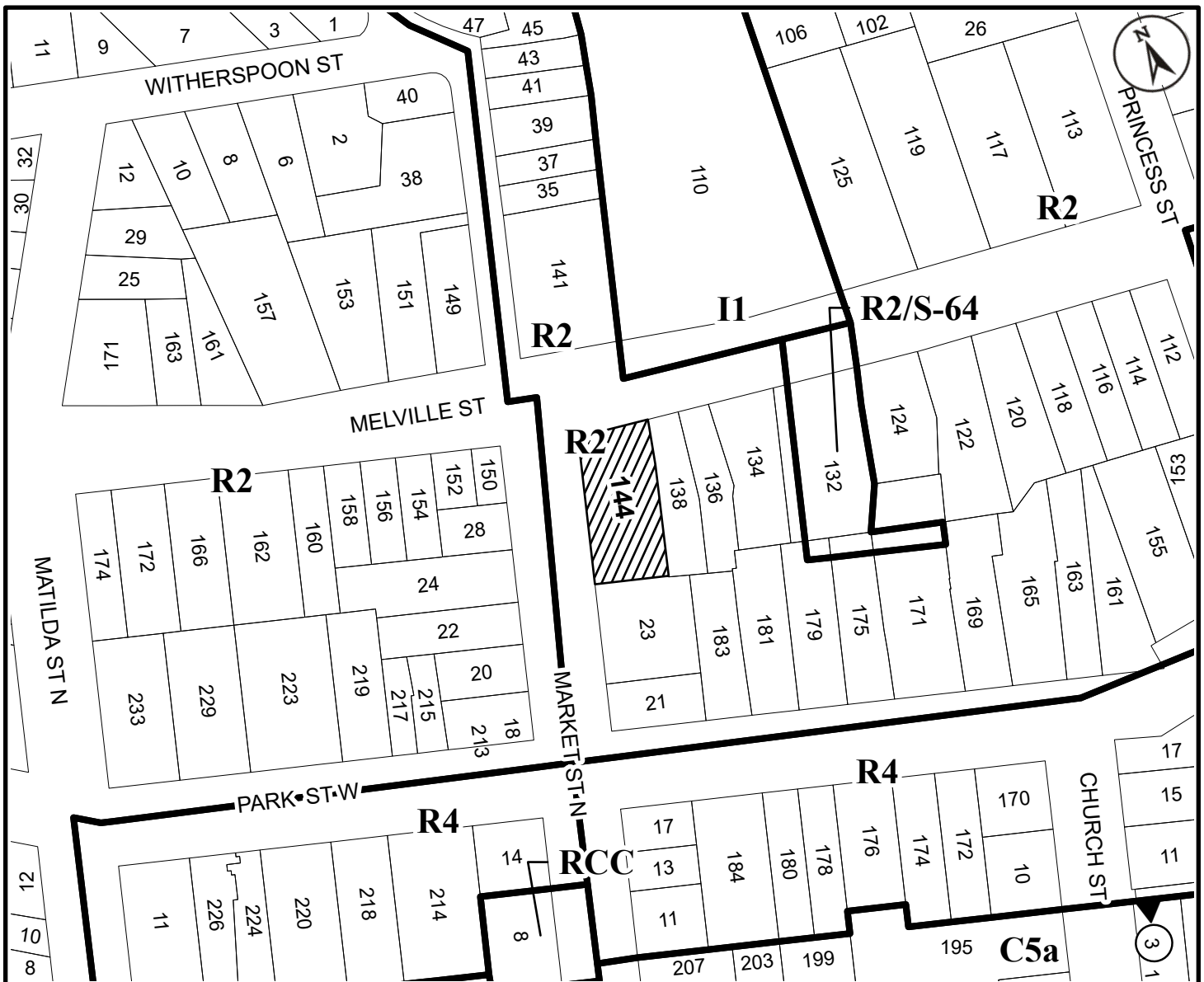
Apart from that question, we are still opposed to all variances as discussed in previous emails.

Angela Sirrs

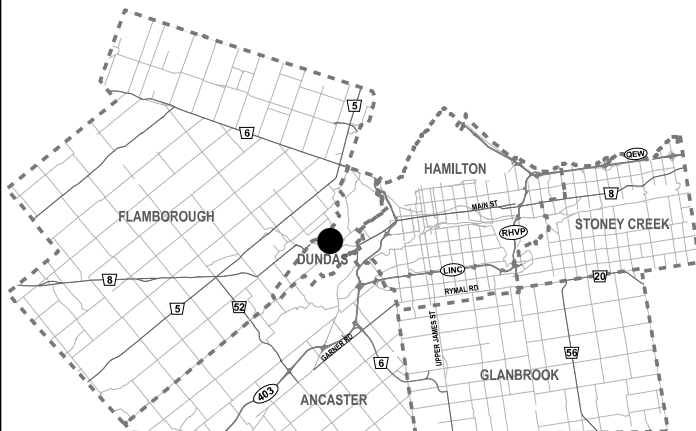
218 Melville St., Dundas

L9H 2B2

Sent from [Mail](#) for Windows 10



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



144 Melville Street, Dundas
(Ward 13)

File Name/Number:

DN/A-20:148

Date:

August 14, 2020

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

AN/B-20:45 – 1833 Governor's Rd., Ancaster

Consolidation Report

The attached comments have been reviewed with regard to the above noted Committee of Adjustment application and the following comments are submitted:

Should the Committee grant the severance, an approval should be subject to the following condition(s):

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. The owner/applicant shall satisfy the requirements of the Public Works Department Operations and Maintenance Division, Forestry & Horticulture Section.
3. That the proponent shall carry out an archaeological assessment of the portion of the property conveyed and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI).
4. The applicant shall complete a Hydrogeological Study that demonstrates that the impacts related to the development's private water and wastewater servicing are sustainable to the satisfaction of Director, Hamilton Water. The report shall follow the City's Guidelines for Hydrogeological Studies and Technical Standards for Private Services and be conducted by a qualified professional (P.Eng, P.Geo).
5. The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department (Building Division – Plan Examination Section).
6. The owner shall submit survey evidence from a BCIN Qualified Designer (Part 8 Sewage System) or Professional Engineer that the existing septic system complies with the clearance requirements of Part 8 of the Ontario Building Code for the lands to be severed and or retained, to the satisfaction of the Planning and Economic Development Department (Building Division – Plan Examination Section).

7. That the Owner / Applicant enters into with the City of Hamilton and register on title of the lands, a Consent Agreement, having an administrative fee of \$4,310.00 (2020 fee) to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure and securities for items that may include: lot grading (\$10,000.00 grading security), water and sewer service inspections, driveway approaches, relocation of any existing infrastructure (such as hydrants) and any damage during construction (unknown costs at this time). Cash payments mentioned above are subject to change. All to the satisfaction of the City's Manager of Development Engineering Approvals.
8. That the Owner dedicate to the City of Hamilton, an adequately sized daylighting triangle from the limits of Governor's Road and Old Governor's Road, to the satisfaction of the City's Manager of Development.
9. That the Owner submits a Geotechnical and Hydrogeological Report(s) to demonstrate that of the proposed lot size can support the residential development from water supply and wastewater disposal point of view to the satisfaction of the Source Water Protection Section staff and the Manager of the Engineering Approvals Section.
- 10.. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.
11. The owner submits to the Committee of Adjustment office an administration fee, of \$20.00 payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot.

Note: Based on the application being approved and all the conditions being met, the owner / applicant should made aware that the lands to be conveyed will be assigned the address of 1866 Old Governor's Road (Ancaster), and the lands to be retained will remain as 1833 Governor's Road (Ancaster).

AN/B-20:45 (1833 Governor's Rd., Ancaster)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Rural

The purpose of this application is to permit the conveyance of the existing residential lot into two parcels, the severed lands will be a vacant residential building lot and the retained lands will contain the existing dwelling which is intended to be retained.

Provincial Policy Statement

The following policies, amongst others, apply:

“2.3.4.1 Lot creation in prime agricultural areas is discouraged and may only be permitted for:

- a) agricultural uses, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations;
- b) agriculture-related uses, provided that any new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services;
- c) a residence surplus to a farming operation as a result of farm consolidation, provided that:
 - 1. the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and,
 - 2. the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective
- d) infrastructure, where the facility or corridor cannot be accommodated through the use of easements or rights-of-way”

Greenbelt Plan

The following policies, amongst others, apply:

“4.6 For lands falling within the Protected Countryside, the following policies shall apply:

1. Lot creation is discouraged and may only be permitted for:
 - a) Outside prime agricultural areas, including specialty crop areas, the range of uses permitted by the policies of this Plan;
 - b) Within prime agricultural areas, including specialty crop areas:
 - i. Agricultural uses, where the severed and retained lots are intended for agricultural uses and provided the minimum lot size is 16 hectares (or 40 acres) within specialty crop areas and 40 hectares (or 100 acres) within prime agricultural areas; and
 - ii. Agriculture-related uses, provided that any new lot shall be limited to the minimum size needed to accommodate the use and appropriate sewage and water services;
 - c) Acquiring land for infrastructure purposes, subject to the infrastructure policies of section 4.2;
 - d) Facilitating conveyances to public bodies or non-profit entities for natural heritage conservation, provided it does not create a separate lot for a residential dwelling in prime agricultural areas, including specialty crop areas;
 - e) Minor lot adjustments or boundary additions, provided they do not create a separate lot for a residential dwelling in prime agricultural areas, including specialty crop areas, and there is no increased fragmentation of a key natural heritage feature or key hydrologic feature; and
 - f) The severance of a *residence surplus to a farming operation* as a result of a farm consolidation, on which a habitable residence was an *existing use*, provided that:
 - i. The severance will be limited to the minimum size needed to accommodate the use and appropriate sewage and water services; and
 - ii. The planning authority ensures that a residential dwelling is not permitted in perpetuity on the retained lot of farmland created by this severance.”

Staff note that the proposed severance is residential and is therefore not supported by the Provincial Policy Statement and the Greenbelt Plan. Lot creation, for residential

purposes, is discouraged and is not permitted. Accordingly, staff are of the opinion that the proposed severance does not meet the intent of the provincial plans (PPS and Greenbelt Plan).

Rural Hamilton Official Plan

The Rural Hamilton Official Plan designates the property as “Rural” in Schedule D – Rural Land Use Designations. The following policies, amongst others, are applicable:

“F.1.14.2.1 The following policies shall apply to all severances and lot additions, including minor lot line adjustments and boundary adjustments in the Agricultural, Rural, Specialty Crop, and Open Space designations, and designated Rural Settlement Areas, as shown on Schedule D – Rural Land Use Designations:

- a) Severances that create a new lot for the following purposes shall be prohibited:
 - i) Residential uses except in accordance with:
 - 1) Policies F.1.14.2.1 b) iii) and F.1.14.2.8, where a dwelling may be severed as a result of a farm consolidation;
 - 2) Policies F.1.14.2.1 b) iv) and F.1.14.2.4, where a dwelling within a designated Rural Settlement Area may be severed;
 - iii) Severance of a lot for a farm labour residence or an existing dwelling that was permitted in a previous official plan and zoning by-law as a farm labour residence, farm help house, or help house;
 - iv) Severance of any existing second dwelling on a lot, irrespective of the origin of the second dwelling, except in accordance with Section F.1.14.2.8, where a dwelling may be severed as a result of a farm consolidation.”

Staff note that the use of the property is residential and as such the Rural Hamilton Official Plan prohibits any residential severances, unless they are within a designated Rural Settlement Area. The proposed severance is designated “Rural” within the Rural Hamilton Official Plan, is outside of the Rural Settlement Area, and is a residential use. Therefore, the proposed severance does not meet the intent of the Rural Hamilton Official Plan. The proposed severance is not appropriate for the development of the property and is not permitted within the PPS, Greenbelt Plan, and the Rural Hamilton Official Plan. Accordingly, staff do not support the severance.

Archeology

The subject property meets four (4) of the ten criteria used by the City of Hamilton and Ministry of Heritage, Sport, Tourism and Culture Industries for determining archaeological potential:

1. Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody;
2. In an area of sandy soil in areas of clay or stone;
3. In the vicinity of distinctive or unusual landforms; and,
4. Along historic transportation routes.

These criteria defines the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the *Provincial Policy Statement* apply to the subject application. If this severance is granted, Staff require that the Committee of Adjustment attach the following condition to the application:

“Condition: That the proponent shall carry out an archaeological assessment of the portion of the property conveyed and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI).

City of Hamilton Zoning By-law 05-200

The property is zoned Rural (A2) Zone in the Hamilton Zoning By-law 05-200. One single detached dwelling is permitted on a property.

Recommendation:

Based on the preceding information, the severance application does not meet the general intent and purpose of the Rural Hamilton Official Plan or Zoning By-law since the applicant is proposing to maintain two residential dwellings on the retained lands. The severance is not minor in nature and is not desirable for the appropriate development of the lands. Staff recommend that the severance be **denied**.

CONDITION (If approved):

1. **“Condition:** That the proponent shall carry out an archaeological assessment of the portion of the property conveyed and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI).

Building Division:

1. The subject property falls within the Niagara Escarpment Commission’s Development Control Area. As such, the Niagara Escarpment Commission regulates development and the provisions contained within Hamilton Zoning By-law 05-200 do not apply.
2. The lands are located within or adjacent to an Environmentally Sensitive Area (ESA).
3. The applicant should obtain an appropriate municipal address for the proposed parcel(s) from the Growth Planning Section of the Planning and Economic Development Department prior to the issuance of a building permit.
4. In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.
5. The applicant, as a condition of approval, shall be required to provide evidence from a qualified professional that the existing septic system will be in compliance with the Ontario Building Code with respect to its location to the new property lines. The septic system shall be located entirely within the lands to be conveyed/retained or the lot lines shall be reconfigured to accommodate the existing septic system. A septic system is not permitted to be located on adjacent lands.

CONDITIONS:

1. The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department (Building Division – Plan Examination Section).

2. The owner shall submit survey evidence from a BCIN Qualified Designer (Part 8 Sewage System) or Professional Engineer that the existing septic system complies with the clearance requirements of Part 8 of the Ontario Building Code for the lands to be severed and or retained, to the satisfaction of the Planning and Economic Development Department (Building Division – Plan Examination Section).

Source Water Protection:

1. Based on our desktop review of local soils and typical daily sewage flows from a residential dwelling, 1.83 acres (0.74 ha) represents the minimum sustainable lot size. Given the proposed severance is for 0.47 ha, Hamilton Water cannot support the application at this time as it does not meet the sustainable servicing policies of the Rural Hamilton Official Plan (C.5.1.1). Approval of a reduced lot size increases groundwater pollution and water supply risks to nearby well owners.
2. If the applicant disagrees with the City's assessment, they have the option to conduct a Hydrogeological Study Report, following the City's Guidelines for Hydrogeological Studies and Technical Standards for Private Services - <https://www.hamilton.ca/develop-property/policies-guidelines/guidelines-hydrogeological-studies-and-technical-standards>

The applicant should be aware that a Hydrogeological Study Report does not necessarily promote a favourable outcome and may simply confirm the City's findings. If the applicant wishes to conduct a Hydrogeological Study, it is recommended that an initial Terms of Reference be drafted so that both the applicant and the City would be satisfied with the contents of the report.

3. It should be noted that in order to successfully obtain approval of severance, a well shall be installed on the severed lands to demonstrate that the well can support the needs of the dwelling. Historically in the Copetown area, local aquifers do not always provide a reliable water supply. The applicant should be aware of the well and cistern policies within section C.5.1.1 of the Rural Hamilton Official Plan.
4. In the event that the Committee decides to approve the consent application, to the satisfaction of Director, Hamilton Water, the applicant shall complete a Hydrogeological Study that demonstrates that the impacts related to the development's private water and wastewater servicing are sustainable. The report shall follow the City's Guidelines for Hydrogeological Studies and Technical Standards for Private Services and be conducted by a qualified professional (P.Eng, P.Geo).

Growth Management:

Note: Based on the application being approved and all the conditions being met, the owner / applicant should made aware that the lands to be conveyed will be assigned the

address of 1866 Old Governor's Road (Ancaster), and the lands to be retained will remain as 1833 Governor's Road (Ancaster).

Development Engineering:

Proposal

The owner / applicant of the subject parcel is applying for a severance to permit the conveyance of the existing residential lot into two parcels, the severed lands will be a vacant residential building lot and the retained lands will contain the existing dwelling which is intended to be retained.

Municipal Services

According to our GIS records, there are no existing municipal services fronting the subject property and the existing and proposed residential development is going to rely on a private well and septic systems on site. Therefore, the proponent shall submit Hydrogeological and Geotechnical Reports to demonstrate that of the proposed lot size can support the residential development from water supply and wastewater disposal point of view.

Right-of-way Widening

The subject property is a corner lot and fronts onto Governor's Road (rural collector) and Old Governor's Road (rural local).

The future width of this section of Governor's Road is 36.576m. The current road allowance meets the prescribed ROW hence no road widening requirements on this section of Governor's Road.

The future minimum ROW width of this section of Old Governor's Road is 20.12m. As a condition of approval, the Owner is required to dedicate approx.. 4.3m from the subject property fronting Old Governor's Road to establish a property line 10.06m from the centre of the Old Governor's Road road allowance.

Daylight Triangle

The applicant shall dedicate to the City of Hamilton by deed, a 9.14m x 9.14m daylight triangle from the widened limits of the intersection of Governor's Road and Old Governor's Road.

Recommendations:

1. That the Owner / Applicant enters into with the City of Hamilton and register on title of the lands, a Consent Agreement, having an administrative fee of \$4,310.00 (2020 fee) to address issues including but not limited to: lot grading and drainage

to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure and securities for items that may include: lot grading (\$10,000.00 grading security), water and sewer service inspections, driveway approaches, relocation of any existing infrastructure (such as hydrants) and any damage during construction (unknown costs at this time). Cash payments mentioned above are subject to change. All to the satisfaction of the City's Manager of Development Engineering Approvals.

2. That the Owner dedicate to the City of Hamilton, an adequately sized daylighting triangle from the limits of Governor's Road and Old Governor's Road, to the satisfaction of the City's Manager of Development.
3. That the Owner submits a Geotechnical and Hydrogeological Report(s) to demonstrate that of the proposed lot size can support the residential development from water supply and wastewater disposal point of view to the satisfaction of the Source Water Protection Section staff and the Manager of the Engineering Approvals Section.

Transportation Planning & Parking Division (Traffic):

Transportation Planning have no objections to the land severance application.

See attached for additional comments.



Hamilton

Public Works Department, Environmental Services Division
Forestry and Horticulture Section
77 James Street North, Suite 400
Hamilton, Ontario L8R 2K3
905-546-1312
UrbanForest@Hamilton.ca

Date: August 20, 2020

To: Jamila Sheffield, Committee of Adjustment Secretary/Treasurer
Development Planning
City Hall – 71 Main Street West -5th Floor

From: Sam Brush, Urban Forest Health Technician

Subject: 1833 Governor's Rd., Ancaster
File: AN/B-20:45

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, August 27, 2020, regarding the above subject area under discussion, the Forestry & Horticulture Section has reviewed the submission associated with the Application for Consent/Land Severance for this site and provides the following opinion:

SCOPE

An assessment of the information provided shows that there are potential conflicts with publicly owned trees. Where existing municipal trees are impacted by development work, are within proximity of the development work or access/egress to the development work, a Tree Management Plan must be submitted to the Forestry and Horticulture Section c/o the Urban Forestry Health Technician.

Where ownership of trees in proximity to the boundary between public and private land is un-certain, the subject trees must be surveyed by the applicant to confirm ownership. Ownership is as per By-law 15-125. Ownership must be clearly identified on the Tree Management Plan as either municipal or private.

A **Permit** to injure or remove municipal trees is a requirement of this application. Therefore, a **Tree Management Plan** must be submitted to the Forestry and Horticulture Section c/o the Urban Forestry Health Technician, to address potential conflicts with publicly owned trees.

Conditions of the Forestry and Horticulture Section will be cleared only after receipt of all applicable fees and payments.

TREE MANAGEMENT PLAN

A Tree Management Plan addressing tree protection is required for existing municipal trees during the construction of New Developments, Infrastructure Enhancements, Utility Upgrades, and other site improvements.

The Forestry and Horticulture Section requires that a **Tree Management Plan** be prepared by a **Landscape Architect**, full member OALA with custody and use of professional Seal. Plan must indicate proposal for tree retention or removal.

It is compulsory that all proposed surface treatment changes within individual tree driplines including temporary access roads, be accurately depicted on the submission. The Tree Management Plan must include a Tree Inventory Analysis Table, prepared by a certified **Arborist**. The Tree Inventory Analysis Table shall include the following data plus recommended action for each tree.

- ❖ Species by Botanical and common name
- ❖ Diameter at breast height in centimeters or millimeters
- ❖ Ownership {> 50% @ ground level = ownership}
- ❖ Biological health
- ❖ Structural condition
- ❖ Proposed grade changes within individual driplines
- ❖ Proposed utility construction within individual driplines
- ❖ Proposed removals or relocations
- ❖ Proposed trees to be protected

If it is determined and verified that existing trees can remain, a Tree Protection Zone with notes showing Tree Preservation Techniques and City of Hamilton standard Tree Hoarding detail PK1100.01 shall be included on construction plans to the satisfaction of the Director of Environmental Services.

All Healthy trees on municipal property which are found to be in conflict with this proposed development and do not meet our criteria for removal are subject to a replacement fee as outlined in the Public Tree Preservation and Sustainability Policy in conjunction with By-Law 15-125. Contraventions are subject to penalties as per By-law 15-125.

A \$273.26 plus HST permit fee, payable to the City of Hamilton is required prior to the permit issuance.

A permit will be issued upon approval of the Tree Management Plan and applicable fees.

LANDSCAPE PLAN

No new Landscape Strips are shown on the submission and none are requested by the Forestry and Horticulture Section.

SUMMARY OF FORESTRY CONDITIONS

- A **Permit** to injure or remove municipal trees is a requirement of this application. Therefore, a **Tree Management Plan** must be submitted to the Forestry and Horticulture Section c/o the Urban Forestry Health Technician, to address potential conflicts with publicly owned trees.
- A permit will be issued upon approval of the **Tree Management Plan** and applicable fees.

If you require clarification or technical assistance, please do not hesitate to contact me at (905) 546-2424 Ext. 7375.

Regards,

A handwritten signature in black ink, appearing to read 'Sam Brush', with a stylized flourish at the end.

Sam Brush
Urban Forest Health Technician



Sent via email only

August 24, 2020

Jamila Sheffield
Secretary-Treasurer, Committee of Adjustment
City of Hamilton
5th Floor, 71 Main Street West
Hamilton, ON L8P 4Y5

Dear Jamila Sheffield:

RE: Consent Applications AN/B-20:45 and AN/B-20:82

NEC staff have reviewed the agenda for the upcoming Committee of Adjustment Meeting on Thursday, August 27, 2020. Two (2) items pertain to lands that are subject to the policies of the Niagara Escarpment Plan, 2017 (NEP). NEC staff have identified that both of these applications conflict with certain provisions contained within the NEP.

AN/B-20:45 1833 Governor's Road, Ancaster

The subject property is located within the NEC Area of Development Control and is designated as Escarpment Protection Area by the NEP.

The purpose of the application is to permit the severance of the existing residential lot into two parcels; the severed lands will be a vacant residential building lot and the retained lands will contain the existing dwelling which is intended to be retained.

The proposed severance conflicts with Part 1.4.4.1 of the NEP. This policy requires that any severance (for the purpose of building lot creation) within the Escarpment Protection Area be that of an "original township lot or original township half-lot, from another original township lot or original township half-lot, provided there have been no previous lots severed from one of the affected original township lots or original township half lots".

Given the size and configuration of the subject property, it does not qualify as an original township lot or an original township half-lot as defined by the NEP. Further, the proposed severance has the potential to conflict with multiple lot creation policies within Part 2.4 of the NEP.

Additionally, the City of Hamilton would not be able to approve the consent application in the absence of a Niagara Escarpment Development Permit to authorize the severance. Section 24(3) of the *Niagara Escarpment Planning and Development Act* states that:

No building permit, work order, certificate or licence that relates to development shall be issued, and no approval, consent, permission or other decision that is authorized or required by an Act and that relates to development shall be made, in respect of any land, building or structure within an area of development control, unless the development is exempt under the regulations or,

(a) a development permit relating to the land, building or structure has been issued under this Act; and

(b) the building permit, work order, certificate, licence, approval, consent, permission or decision is consistent with the development permit. 1999, c. 12, Sched. N, s. 4 (9).

Due to the aforementioned policy conflicts, NEC staff would not support approval of a Development Permit Application to sever 1833 Governor's Road.

AN/B-20:82 – 118 Fallingbrook Drive, Ancaster

The subject property is designated partially as Urban Area and partially as Escarpment Natural Area by the NEP.

The purpose of the application is to permit the conveyance of a parcel of land and retain two parcels of land for residential purposes.

The proposed severances conflict with Part 1.7.5.5 of the NEP which states that "new lots within Urban Areas shall not be created if such lots encroach into Escarpment Natural, Escarpment Protection, Escarpment Rural or Mineral Resource Extraction Areas adjacent to the Urban Area".

The information provided with the application indicates that two (2) new lots extending into the Escarpment Natural Area would be created through approval of the application. The NEP land use designations are shown on the attached map of the subject property.

Due to the above referenced policy conflicts, NEC staff do not support approval of either application and request to be provided with notice of the Committee's decision for both applications.

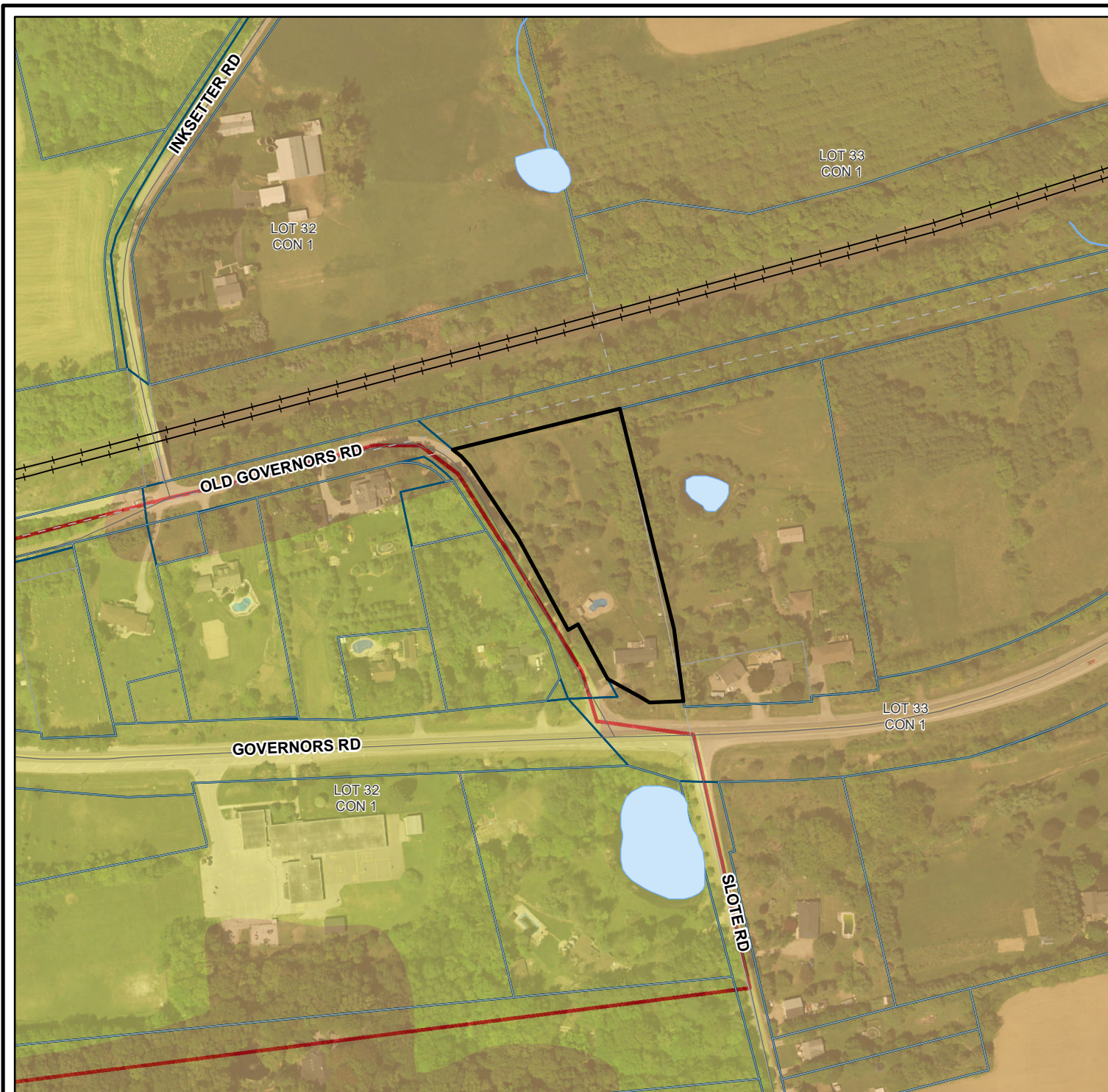
Please contact me at 905-877-6370 or Jim.Avram@ontario.ca if you have any questions.

Yours truly,



Jim Avram, RPP, MCIP
Senior Planner
Niagara Escarpment Commission

Cc: Nancy Mott, Senior Strategic Advisor, NEC
Morgan Evans, Development Clerk, Committee of Adjustment



Niagara Escarpment Plan

251814012008000

Subject Property

Plan Designations

Escarpment Protection Area

Escarpment Rural Area

Minor Urban Centre

Roads

Railway - Operational

Waterbodies

Watercourse

Lower/Single Tier Municipality

Lot and Concession Boundary

Parcel Boundary

Ownership Boundary

Ontario_Imagery_Service_Extent

NOTE: The Niagara Escarpment Plan Designation boundaries shown on this map are approximate and subject to confirmation through Site Inspection and the application of the 'Interpretation of Boundaries' section of the Niagara Escarpment Plan

Scale 1:3,000

0 20 40 60 80

Metres

Printed on Aug 21, 2020

THIS IS NOT A PLAN OF SURVEY.

This map is illustrative only. Do not rely on it as being a precise indicator of routes, location of features, nor as a guide to navigation. Base derived from various sources.

Map compiled and produced by the Geographic Information Systems (GIS) Department of the Niagara Escarpment Commission, Ministry of Natural Resources

Ontario



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AN/B-20:45

Statement of Objection to Application for Severance

1. Purpose

- state and explain the authors' objection to Application for Severance AN/B-20:45 for the purpose of creating a vacant residential building lot at 1833 Governors Rd, Dundas, Ontario.

2. Authors of Statement of Objection

- Jeffrey and Julie Hogg, 1805 Governors Rd, Dundas, Ontario.
- 1805 Governors Rd is adjacent to the subject property on its eastern boundary.

3. Summary of Objections

There are three reasons we object to the severance of 1833 Governors Rd:

- (1) contamination of the wetland on the adjacent property (1805 Governors Rd.),
- (2) lot creation on the subject lands conflicts with the Niagara Escarpment Plan and The Growth Plan for the Greater Golden Horseshoe, and
- (3) misrepresentation of zoning and land use governance on application AN/B-20:45.

3.1. Contamination of the wetland on the adjacent property

The area zoned P6 Conservation / Hazard Land at 1805 Governors Rd is located adjacent to the subject property and contains a natural wetland within 30m of the property line. (See Figure 1 - HCA map of adjacent wetlands.) The wetland is on the water table and is lower in elevation than the subject lands. It is subject to surface runoff and effluent from potential septic systems and building activities. This habitat is home to dozens of animal species including turtles, salamanders, wood ducks, herons, muskrats, and a breeding pair of pileated woodpeckers.

Both properties are governed by the Greenbelt Plan and Niagara Escarpment Plan as an Escarpment Protection Area.

Figure 1 - HCA map of adjacent wetlands



https://maps2.camaps.ca/GVH/Index.html?configBase=https://maps2.camaps.ca/Geocortex/Essentials/REST/sites/HRCA_public/viewers/Reg_Map_Tool/virtualdirectory/Resources/Config/Default

This screenshot from the Hamilton Conservation Authority website shows the proximity of the subject lands (A2-Rural) to the wetlands (P6-Conservation/Hazard Lands).

3.2. Lot creation on the subject lands conflicts with the Niagara Escarpment Plan and The Growth Plan for the Greater Golden Horseshoe

3.2.1. Niagara Escarpment Plan 1.4.4

Application AN/B-20:45 proposes the creation of a new, vacant residential building lot on rural lands (A2) outside of the settlement area. This conflicts with NEC 1.4.4. The subject lot has been previously severed, the proposed severance is not along original lot township lines, and the application proposes a severance within one original township lot.

1.4.4 Lot Creation

New *lots* may be created, subject to conformity with the provisions of this section, the applicable policies in Part 2, Development Criteria, and *official plans* and, where applicable, zoning by-laws that are not in conflict with the Niagara Escarpment Plan.

1. A *lot* may be created by severing one *original township lot* or *original township half lot*, from another *original township lot* or *original township half lot*, provided there have been no previous *lots* severed from one of the affected *original township lots* or *original township half lots*. Such severances shall only occur along the original township lot line.
2. Notwithstanding Part 1.4.4.1, provided no new building *lot(s)* is created, a severance may be permitted:
 - a) for the purpose of *correcting conveyances*, provided the correction does not include the re-creation of merged lots;
 - b) for the purpose of enlarging existing *lots*;
 - c) as part of, or following, the acquisition of lands by a *public body*; or
 - d) as part of, or following, the acquisition of lands by an approved *conservation organization* for the purpose of establishing a *nature preserve*.

Policy Excerpt 1 - NEP 1.4.4

3.2.2. Growth Plan for the Greater Golden Horseshoe 2.2.9.3 and 2.2.9.6

Application AN/B-20:45 proposes the creation of a new, vacant residential building lot on rural lands (A2) outside of the settlement area.

- The proposed use conflicts with GPGGH 2.2.9.3 given that the purpose of the severance is not for the management or use of resources, resource-based recreation, or another use that is not appropriate in the settlement area.

3.	Subject to the policies in Section 4, <i>development</i> outside of <i>settlement areas</i> may be permitted on <i>rural lands</i> for:
	<ul style="list-style-type: none"> a) the management or use of resources; b) resource-based recreational uses; and c) other rural land uses that are not appropriate in <i>settlement areas</i> provided they: <ul style="list-style-type: none"> i. are compatible with the rural landscape and surrounding local land uses; ii. will be sustained by rural service levels; and iii. will not adversely affect the protection of <i>agricultural uses</i> and other resource-based uses such as <i>mineral aggregate operations</i>.

Policy Excerpt 2 - GPGGH 2.2.9.3

- The proposed use conflicts with GPGGH 2.2.9.6 given that the purpose of the severance is to create a new building lot and that severance was not completed prior to June 16, 2006.

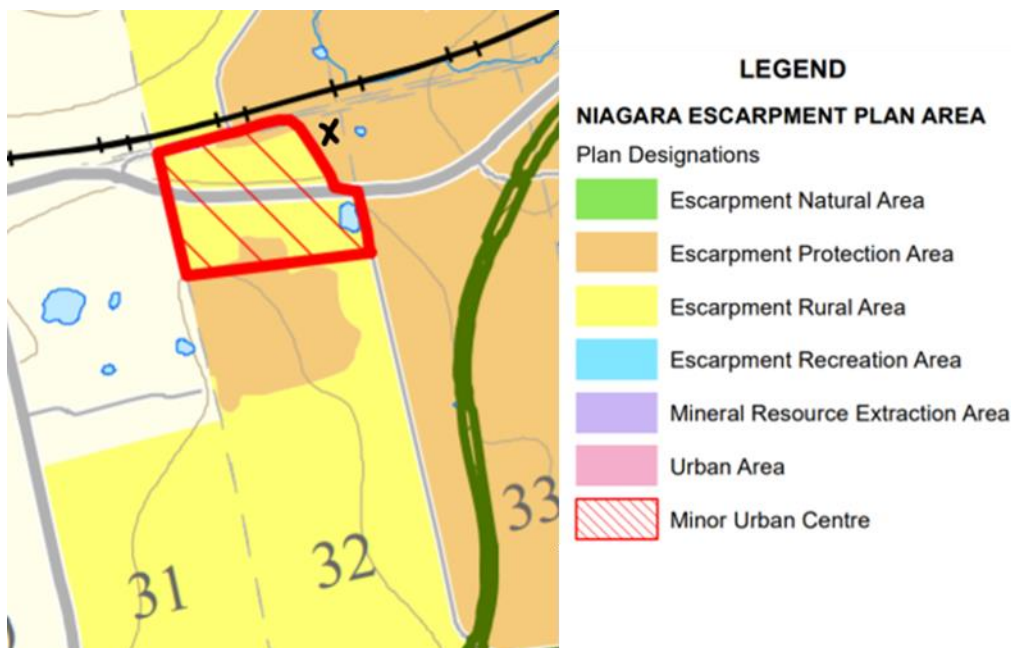
6.	<i>New multiple lots or units for residential development</i> will be directed to <i>settlement areas</i> , but may be allowed on <i>rural lands</i> in site-specific locations with approved zoning or designation in an official plan that permitted this type of <i>development</i> as of June 16, 2006.
----	---

Policy Excerpt 3 - GPGGH 2.2.9.6

3.3. Misrepresentation of zoning and land use governance on application

Application AN/B-20:45 contains a number of errors identifying the subject property as part of a settlement area, as being zoned Rural Settlement, and of not being under the governance of the Niagara Escarpment Plan. These and other assertions within the application are inaccurate. The subject lands fall outside of the settlement area, are zoned A2 Rural, and are under the governance of the NEC Escarpment Protection Area. (See Figure 2 - NEP - Escarpment Protection Area and Figure 3 - Hamilton Zoning Map - subject property zoned A2 - Rural.)

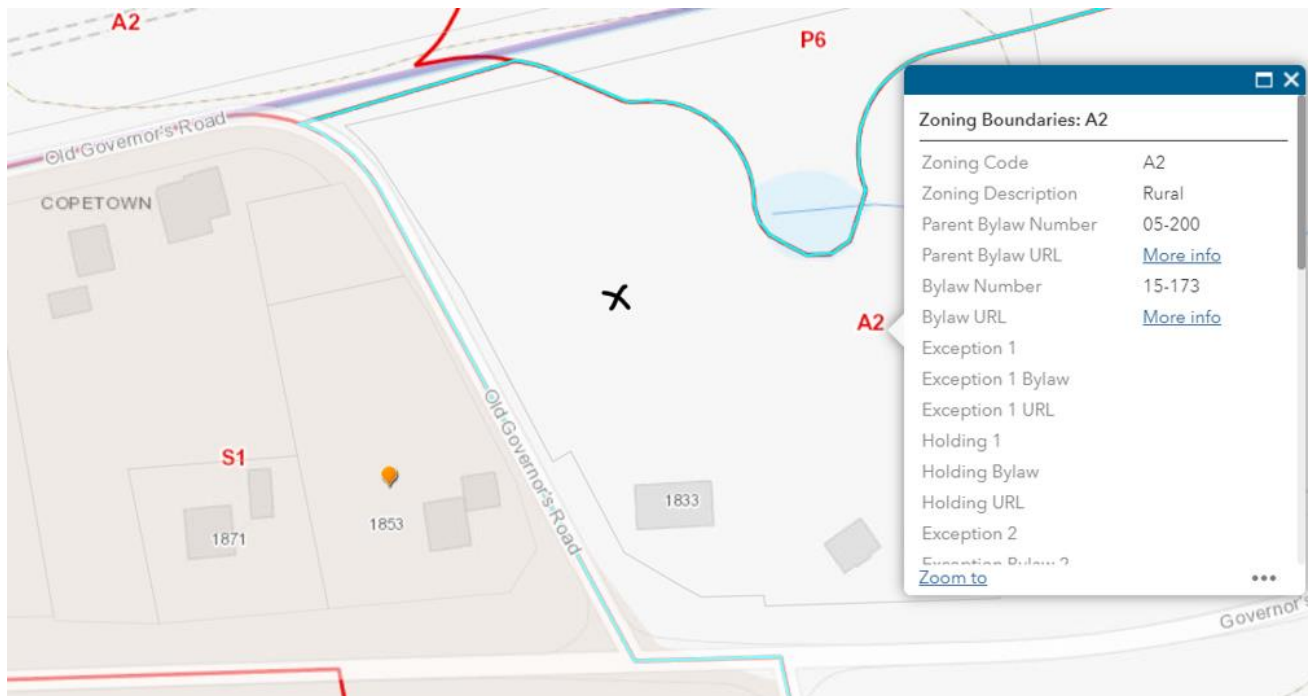
Figure 2 - NEP - Escarpment Protection Area



https://www.escarpment.org/resource/dm/166459504565439155.pdf?n=nep_map2_Aug15_19.pdf

This screenshot, taken from the NEC website, shows the subject property (identified by an 'x') is within the Escarpment Protection Area and outside the 'Minor Urban Centre' as delimited by Old Governors and Inksetter roads.

Figure 3 - Hamilton Zoning Map - subject property zoned A2 - Rural



<https://spatialsolutions.maps.arcgis.com/apps/webappviewer/index.html?id=c96a9f6b4e364d5fb3ec1e1129aad77d>

This screenshot, taken from the City of Hamilton website, shows the subject property (identified by an 'x') is zoned A2 Rural and not S1 Settlement Residential. The area zoned P6 Conservation / Hazard Land at 1805 Governors Rd is located adjacent to the subject property and contains a natural wetland within 30m of the property line.

3.3.1. AN/B-20:45 Item 5.1

3.3.1.1. Application Statement

<p>5 CURRENT LAND USE</p> <p>5.1 What is the existing official plan designation of the subject land?</p> <p>Rural Hamilton Official Plan designation (if applicable): <u>Rural Settlement</u></p>
--

Application AN/B-20:45 Excerpt 1 - Item 5.1

3.3.1.2. Explanation

- The subject lands are zoned A2 Rural. The description of “Rural Settlement” refers to zoning S1 and is not applicable to the subject lands at 1833 Governors Rd.

3.3.2. AN/B-20:45 Item 7c

3.3.2.1. Application Statement

<p>c) Does this application conform to the Growth Plan for the Greater Golden Horseshoe?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Provide explanation)</p>

Application AN/B-20:45 Excerpt 2 - Item 7c

3.3.2.2. Explanation

- Application AN/B-20:45 proposes the creation of a new, vacant residential building lot on rural lands (A2) outside of the settlement area. The proposed use conflicts with GPGGH 2.2.9.6 given that the severance was not completed prior to June 16, 2006.

<p>6. <i>New multiple lots or units for residential development will be directed to settlement areas, but may be allowed on rural lands in site-specific locations with approved zoning or designation in an official plan that permitted this type of development as of June 16, 2006.</i></p>

Policy Excerpt 4 - GPGGH 2.2.9.6

3.3.3. AN/B-20:45 Item 7d

3.3.3.1. Application Statement

d)	Are the subject lands within an area of land designated under any provincial plan or plans? (If YES, provide explanation on whether the application conforms or does not conflict with the provincial plan or plans.) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <u>Considered part of the Settlement Area Outside the Greenbelt.</u>
----	--

Application AN/B-20:45 Excerpt 3 - Item 7d

3.3.3.2. Explanation

- The lands are not within the Settlement Area and are governed by the Niagara Escarpment Plan. (See Figure 2 - NEP - Escarpment Protection Area and Figure 3 - Hamilton Zoning Map - subject property zoned A2 – Rural.) The application conflicts with NEP 1.4.4 as shown in 3.2.1 above in this statement of objection.

3.3.4. AN/B-20:45 Item 7e

3.3.4.1. Application Statement

e)	Are the subject lands subject to the Niagara Escarpment Plan? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
----	--

Application AN/B-20:45 Excerpt 4 - Item 7e

3.3.4.2. Explanation

- The subject lands fall within the Niagara Escarpment Plan – Escarpment Protection Area and as such are subject to the Niagara Escarpment Plan. (See Figure 2 - NEP - Escarpment Protection Area.)

3.3.5. AN/B-20:45 Item 7g

3.3.5.1. Application Statement

g) Are the subject lands subject to the Greenbelt Plan? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
--

Application AN/B-20:45 Excerpt 5 - Item 7g

3.3.5.2. Explanation

- The lands fall within the greater Greenbelt area and more specifically the Niagara Escarpment Plan Area. (See Figure 2 - NEP - Escarpment Protection Area and Figure 5 – Niagara Greenbelt Plan Map.)

3.3.6. AN/B-20:45 Item 10.1

3.3.6.1. Application Statement

10 RURAL APPLICATIONS		
10.1 Rural Hamilton Official Plan Designation(s)		
<input type="checkbox"/> Agricultural	<input type="checkbox"/> Rural	<input type="checkbox"/> Specialty Crop
<input type="checkbox"/> Mineral Aggregate Resource Extraction	<input type="checkbox"/> Open Space	<input type="checkbox"/> Utilities
<input checked="" type="checkbox"/> Rural Settlement Area (specify)	<u>Orkney</u>	<u>Rural Settlement Area (A2)</u>
	Settlement Area	Designation

Application AN/B-20:45 Excerpt 6 - Item 10.1

3.3.6.2. Explanation

- The subject lands are zoned A2 Rural. The subject lands are not zoned Rural Settlement Area.
- The lands are not within Rural Settlement Area ‘Orkney’, nor are they within the Rural Settlement Area ‘Copetown’. The lands are designated A2 Rural.
- There is no designation “Rural Settlement Area (A2)”

3.3.7. AN/B-20:45 Item 10.2

3.3.7.1. Application Statement

10.2 Type of Application (select type and complete appropriate sections)	
<input type="checkbox"/> Agricultural Severance or Lot Addition	} (Complete Section 10.3)
<input type="checkbox"/> Agricultural Related Severance or Lot Addition	
<input type="checkbox"/> Rural Resource-based Commercial Severance or Lot Addition	
<input type="checkbox"/> Rural Institutional Severance or Lot Addition	
<input checked="" type="checkbox"/> Rural Settlement Area Severance or Lot Addition	

Application AN/B-20:45 Excerpt 7 - Item 10.2

3.3.7.2. Explanation

- The subject lands do not fall within the Rural Settlement Area and are not zoned S1 Settlement Residential. The subject lands are zoned A2 Rural and fall outside the Rural Settlement Area. (See Figure 2 - NEP - Escarpment Protection Area and Figure 3 - Hamilton Zoning Map - subject property zoned A2 - Rural.) Accordingly, this application is not for a Rural Settlement Area Severance or Lot Addition.

3.3.8. AN/B-20:45 Item 10.3

3.3.8.1. Application Statement

10.3 Description of Lands	
a) Lands to be Severed:	
Frontage (m): (from Section 4.1) 191.22 m	Area (m ² or ha): (from in Section 4.1) 0.94 ha
Existing Land Use: <u>Rural Settlement (A2)</u> Proposed Land Use: <u>Rural Settlement (A2)</u>	
b) Lands to be Retained:	
Frontage (m): (from Section 4.2) 118.95 m	Area (m ² or ha): (from Section 4.2) 0.47 ha
Existing Land Use: <u>Rural Settlement (A2)</u> Proposed Land Use: <u>Rural Settlement (A2)</u>	

Application AN/B-20:45 Excerpt 8 - Item 10.3

3.3.8.2. Explanation

- The Existing Land Use and presumably the Proposed Land Use are A2 Rural. The description Rural Settlement identifies parcels within the Rural Settlement Area and are zoned S1 Settlement Residential. No zoning type “Rural Settlement (A2)” exists.
- City of Hamilton By-Law 15-173 Item 1c

c) That Section 2.1 is amended by adding the following new clause

"e)	Rural Classification Zones	
	Agriculture	A1
	Rural	A2
	Settlement Residential	S1
	Settlement Commercial	S2
	Settlement Institutional	S3
	Existing Rural Commercial	E1
	Existing Rural Industrial	E2"

Policy Excerpt 5 - City of Hamilton By-Law 15-173 Item 1c

3.3.9. AN/B-20:45 Item 12.1.e

3.3.9.1. Application Statement

12 SKETCH (Use the attached Sketch Sheet as a guide)

12.1 The application shall be accompanied by a sketch showing the following in metric units:

- (a) the boundaries and dimensions of any land abutting the subject land that is owned by the owner of the subject land;
- (b) the approximate distance between the subject land and the nearest township lot line or landmark such as a bridge or railway crossing;
- (c) the boundaries and dimensions of the subject land, the part that is intended to be severed and the part that is intended to be retained;
- (d) the location of all land previously severed from the parcel originally acquired by the current owner of the subject land;
- (e) the approximate location of all natural and artificial features (for example, buildings, barns, railways, roads, watercourses, drainage ditches, banks of rivers or streams, wetlands, wooded areas, wells and septic tanks) that,
 - i) are located on the subject land and on land that is adjacent to it, and
 - ii) in the applicant's opinion, may affect the application;

Application AN/B-20:45 Excerpt 9 - Item 12.1.e

3.3.9.2. Explanation

- A natural wetland zoned P6 Conservation / Hazard Land is located within 30m of the property line. The properties are governed by the Greenbelt Plan and Niagara Escarpment Plan as an Escarpment Protection Area.
- The sketch identifies the northern areas of 1833 and 1805 Governors Rd as 'Residential'. These areas are in fact A2 Rural and P6 Conservation / Hazard Land. Further development of the A2 Rural is discouraged by the GPGGH and all development of the P6 Conservation /Hazard Land is disallowed.

3.3.10. AN/B-20:45 – Application Process

The application process requires that a sign be posted on the subject lands. As of August 25, 2020 this step has not yet been completed.

● Step 4 - Requirements after you submit the application

Once you apply for a Committee of Adjustment you are required to post a sign on the property.

Signage requirements

The City of Hamilton will:

- Provide a cardboard sign to the applicant when you submit the application or we will contact you to pick up a sign for the subject property
- Once we process the application we will send you a copy of the notice. You must insert the notice into the sleeve on the sign.

You will need to:

- Post a sign on the subject land
- Post the sign on the property so that it is visible to the public
- Leave the sign on the property until the appeal period has been completed

Policy Excerpt 6 - Severance Process Signage Requirements

Appendix

4. Location of Wetland

The following screenshot from Google maps shows the approximate distance of 28m from the edge of the subject property to the edge of the natural pond on the adjacent property.

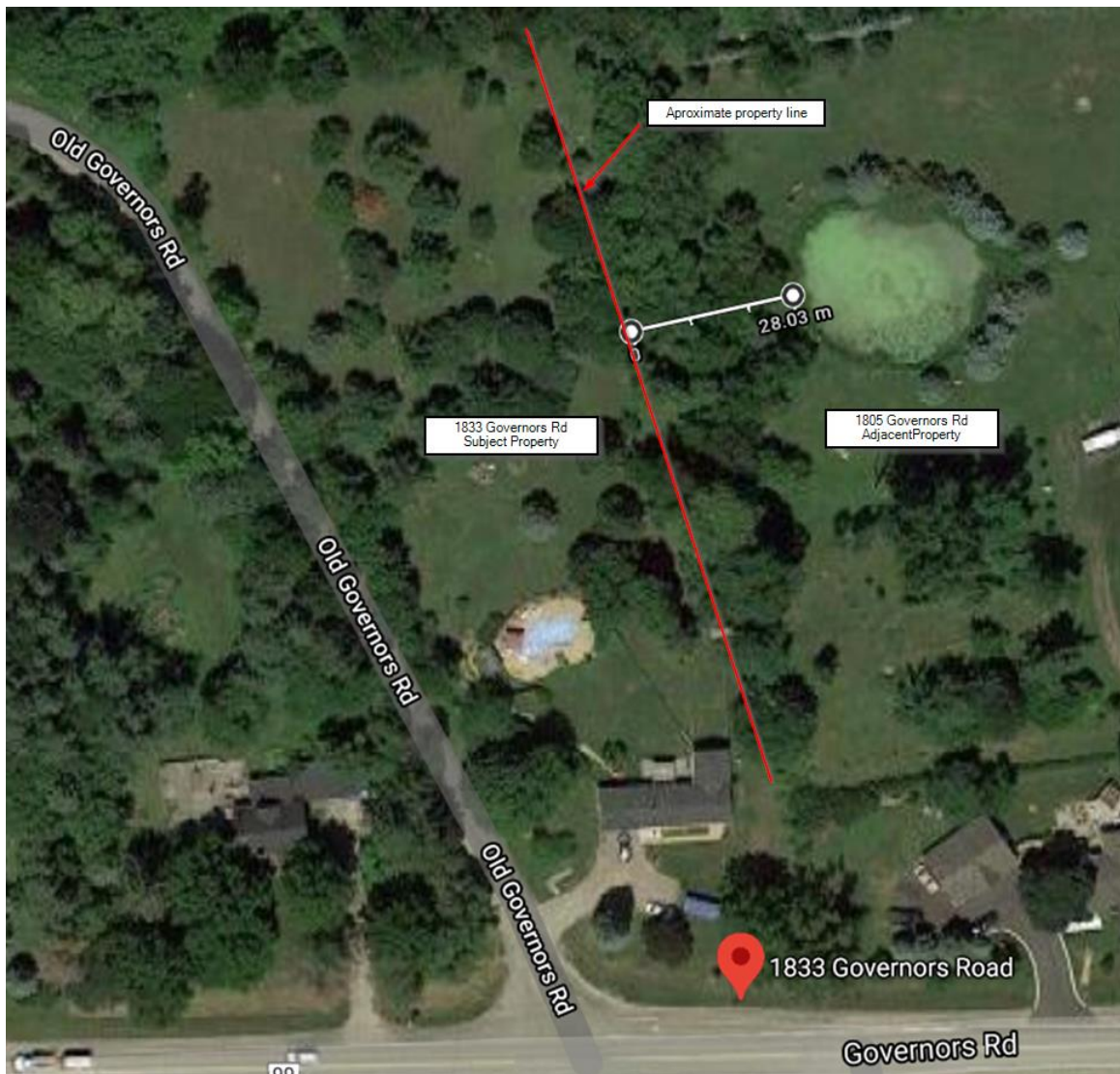


Figure 4 - Approximate distance to wetlands

<https://www.google.com/maps/place/1833+Governors+Rd,+Dundas,+ON+L9H+5E3/@43.2449596,-80.0464044,244m/data=!3m1!1e3!4m5!3m4!1s0x882c86f8e18132c5:0xae23cf3ab4e8b485!8m2!3d43.2442971!4d-80.0461715>

5. Niagara Greenbelt Plan Map – Schedule 1

The following screenshot, taken from the Province of Ontario Greenbelt map page, shows the subject property, identified with an x, falls within the greater Greenbelt area as identified with a dark green outline.



Figure 5 - Niagara Greenbelt Plan Map

<https://files.ontario.ca/on-2019/mmah-greenbeltmaps-en-1-schedule-1-greenbelt-area.pdf>

6. Definition of “wetlands”: Growth Plan for the Greater Golden Horseshoe

Wetlands

Lands that are seasonally or permanently covered by shallow water, as well as lands where the water table is close to or at the surface. In either case the presence of abundant water has caused the formation of hydric soils and has favoured the dominance of either hydrophytic plants or water tolerant plants. The four major types of *wetlands* are swamps, marshes, bogs and fens.

Policy Excerpt 7 - GPGGH - Definitions

From: [Ed Rose](#)
To: [Committee of Adjustment](#)
Subject: Application for Consent/Land Severance AN/B-20:45
Date: August 24, 2020 2:44:52 PM

I'm writing today to give notice of my opposition for the application AN/B-20:45, 1833 Governors Road, Ancaster.

I live at 1909 Old Governors Road. My name is Edmond Rose and my telephone number is 905-627-6669.

I have different reasons for opposing this application.

- I believe the lot sizes are too small to encompass a dwelling, septic system and driveway. The existing lot would be reduced from an acceptable 2 acre lot to half that. I believe these lot sizes are not up to city of Hamilton rural lot sizes required for a dwelling, septic system and driveway.
- Old Governors road is not equipped to handle the traffic it has, let alone another dwelling with driveway. The pavement is in poor condition, the road barely allows two cars to pass traveling in opposite directions. There is a blind corner that is extremely dangerous. Black ice forms regularly in the winter months on the bend.
- I am concerned that my well may be impacted by an additional dwelling and before any considerations are made, comprehensive studies should be done to assure continuity of well stability.
- There is no need for an additional dwelling on Old Governors Road.

Sincerely; Edmond & Marie Rose

1909 Old Governors Rd, RR1, Lynden, Ontario, L0R-1T0

Sent from [Mail](#) for Windows 10

From: [Debbie Mitchell](#)
To: [Committee of Adjustment](#)
Subject: severance of 1833 Governor's Rd AN/B-20:45
Date: August 24, 2020 3:31:30 PM

To Whom This May Concern

As a resident of the neighbourhood encompassing the above mentioned property I object to the severance of this parcel, referencing AN/B-20:45.

Here are my reasons for opposing:

- a) Since we fall within the restrictions of the Greenbelt and the Niagara Escarpment Plan, I believe this severance application goes against the provisions for a lot severance allowed in the Niagara Escarpment Plan 1.4 Niagara Escarpment Protection Area, sub reference 1.4.4 Lot Creation. This severance does not meet any of the criteria.
- b) I also believe this severance, if allowed, will have an impact on the environment as a whole. Increase in traffic, and pollution, increase in consumption on our already impacted water supply by the drilling of the 6 wells on the CN rail line property.
- c) the visibility on the road is already impacted by the growth of vegetation, that the city needs to deal with, creating a dangerous situation, an additional driveway on a blind bend will only create a hazard for those of us already using the roadway to access our own properties.
- d) this property is well treed, the impact of removing trees for a new build will have an impact on the tender ecosystem already in place, and compromised by the railway.
- e) there is a great amount of Japanese Knotweed on the street and in the area. This noxious plant is not indigenous, the Conservation Authority is working to eradicate it. It's difficult to remove. I feel any disturbance in and around this invasive species will only create more of it, it causes erosion, and will thus further impact our tender eco-system.
- f) an additional residence on the street will create more noise. This will affect the quiet enjoyment we existing and long time residents have.
- g) by allowing this severance you will be opening the door to other property owners doing the same, thus increasing the density of our small town.

Respectfully yours
Debbie & Kevin Mitchell
30 Inksetter Road
Copetown, Ont
905-541-5708

--

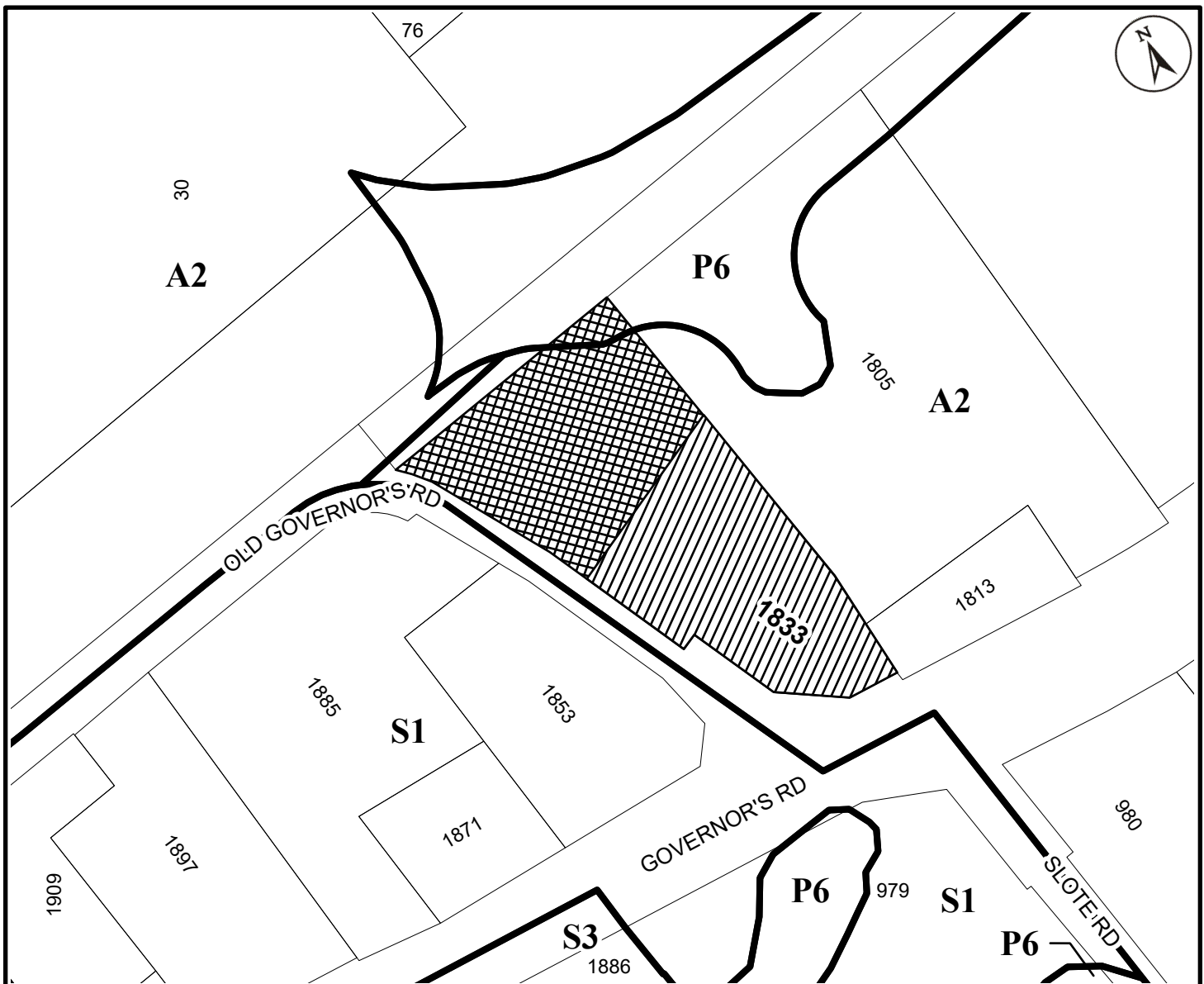
Cheers,
Debbie Mitchell, Sales Rep
Royal LePage State Realty
Ancaster
905-648-4451
Since 1992

top 3% Nationally for Royal LePage in 2018 & 2019

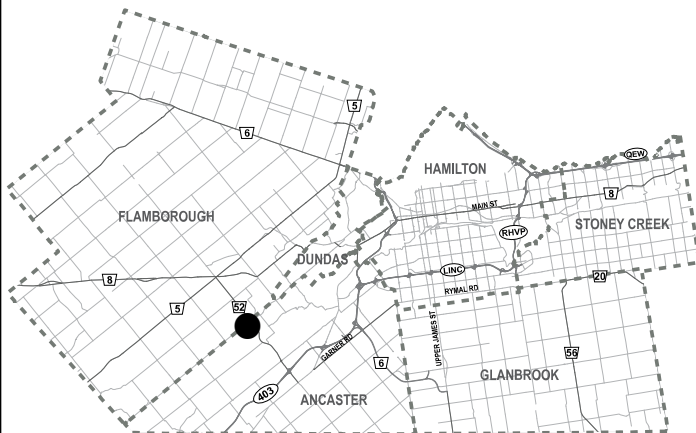


top 5% Nationally for Royal LePage in 2010, 2013, 2014, 2015, 2016 & 2017





● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

1833 Governor's Road, Ancaster (Ward 12)



Lands to be Retained



Lands to be Severed

File Name/Number:

AN/B-20:45

Date:

August 18, 2020

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/B-20:40 (404-406 Beach Blvd., Hamilton)

Consolidation Report

The attached comments have been reviewed with regard to the above noted Committee of Adjustment application and the following comments are submitted:

Should the Committee grant the severance, an approval should be subject to the following condition(s):

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. The applicant shall ensure compliance with Ontario Building Code requirements regarding spatial separation distances of any structures to the satisfaction of the Planning and Economic Development Department (Building Division –Plan Examination Section).
3. The applicant must enter into and register on title of the lands, a Consent Agreement, to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure as required and securities for items that may include: lot grading (\$10,000.00 grading security), driveway approaches and culverts, relocation of any existing infrastructure (hydro poles, etc.) and any damage to municipal infrastructure during construction (unknown costs at this time).
4. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

HM/B-20:40 (404-406 Beach Blvd., Hamilton)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the conveyance of a vacant parcel of land for residential purposes and to retain a parcel of land known as 404 Beach Boulevard containing an existing single detached dwelling. The severed lands will have a lot area of 328.8 square metres and a lot width of 11.57 metres and the retained lands will have a lot area of 886.0 square metres and a lot width of 9.14 metres.

Staff note, on February 21, 2019 the Committee of Adjustment granted severance application HM/B-18:155 for lands located at 404 & 406 Beach Boulevard which has since lapsed. The proposed severance is for the same intent as HM/B-18:155 with no proposed changes.

Urban Hamilton Official Plan

The property is identified as “Neighbourhoods” in Schedule E– Urban Structure and is designated “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations. Policies F.1.14.3.1, E.3.2.3, and E.3.4.3 amongst others, are applicable and permit single detached dwellings and supports the severance of the lands for residential uses.

The proposal is for the severance of a parcel of land into two individual lots for residential purposes. The severed lot and retained lot are fully serviced by municipal water and wastewater systems, and front onto Beach Boulevard. The proposed severance will facilitate future residential development on lands known as 406 Beach Boulevard. However, Staff note the proposed residential development will be subject to Site Plan Control upon approval of this severance. The existing single detached dwelling on the lands known as 404 Beach Boulevard will be retained.

The intent of the Urban Hamilton Official Plan is to ensure the established residential character of the neighbourhood is maintained. The lots merged on title as a result of the properties being owned by the same owner, as such, the proposed severance will re-establish the previously established lot line boundaries between 404 and 406 Beach Boulevard. Staff are of the opinion that the proposed lot creation reflects the general scale and character of established lot pattern in the neighbourhood and therefore conform to the general intent and purpose of the Urban Hamilton Official Plan.

Archaeology:

The subject property meets three (3) of the ten criteria used by the City of Hamilton and Ministry of Tourism, Culture and Sport for determining archaeological potential:

Within 250 metres of known archaeological sites;

Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody; and

Along historic transportation routes.

These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the *Provincial Policy Statement* apply to the subject application, which would normally require an archaeological assessment. This application is centred around an adjustment of property boundaries and will not result in soil disturbance. If this severance is granted, the City does not require an archaeological assessment, but retains the authority to require one for any future applications on the subject property under the Planning Act.

Former City of Hamilton Zoning By-law No. 6593

The subject property is zoned “C/S-1436” (Urban Protected Residential, etc.) District, which permits single family dwellings.

Recommendation:

Based on the preceding information, the requested severance maintains the general intent and purpose of the Urban Hamilton Official Plan and former City of Hamilton Zoning By-law No. 6593. In conclusion, Staff recommends that the application be approved.

Building Division:

1. The applicant should obtain an appropriate municipal address for the proposed parcel to be severed from the Growth Planning Section of the Planning and Economic Development Department prior to the issuance of a building permit.
2. This application is made as a result of a previously approved consent application (HM/B-18:155) which has subsequently lapsed.
3. A minor variance application (HM/A-19:365) was granted to facilitate the original consent application as mentioned in comment #2 above. This variance can still be applied for purposes of zoning compliance for this application. As such, there are no zoning concerns with the proposed severance at this time.

CONDITIONAL UPON:

1. The applicant shall ensure compliance with Ontario Building Code requirements regarding spatial separation distances of any structures to the satisfaction of the Planning and Economic Development Department (Building Division –Plan Examination Section).

Development Engineering:

Recommendations:

1. The applicant must enter into and register on title of the lands, a Consent Agreement, to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure as required and securities for items that may include: lot grading (\$10,000.00 grading security), driveway approaches and culverts, relocation of any existing infrastructure (hydro poles, etc.) and any damage to municipal infrastructure during construction (unknown costs at this time).

Transportation Planning & Parking Division (Traffic):

Transportation Planning have no objections to the land severance application.

See attached for additional comments.



Shannon Clarke, Urban Forest Health Technician
City Centre, 77 James Street North, Suite 400
Hamilton, ON L8R 2K3
Phone (905) 546-2424 Ext. 4219, Fax (905) 546-4473
Email – Shannon.Clarke@hamilton.ca

Hamilton

Forestry & Horticulture Section
Environmental Services Division
Public Works Department

Date: August 18, 2020

To: Jamila Sheffield, Committee of Adjustments Secretary/Treasurer
Development Planning Heritage and Design
City Hall – 71 Main St. W. – 5th Floor

From: Shannon Clarke, Urban Forest Health Technician

Subject: 404 & 406 Beach Boulevard, Hamilton
File: HM/B-20:40

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, August 27th, 2020, regarding the above subject area under discussion, the Forestry & Horticulture Section has reviewed the submission associated with the Application for Consent/Land Severance for this site and provides the following opinion:

SCOPE

There are no Municipal Tree Assets located on site; therefore a Tree Management Plan will not be required.

No Landscape Plan required.

Forestry has no concerns.

TREE MANAGEMENT

Tree Protection is a measure of efforts to preserve existing trees during the Planning of New Developments, Infrastructure Enhancements, Utility Upgrades & Residential Improvements.

LANDSCAPE PLAN

No new Landscape Strips are shown on the submission and none are requested by the Forestry and Horticulture Section.

SUMMARY

- There are no Municipal Tree Assets located on site; therefore Tree Management will not be required.
- No Landscape Plan required.

We encourage you to forward a complete copy of our comments to the applicant and should you or the Applicant require clarification or technical assistance, please do not hesitate to contact me at (905) 546- 2424 Ext. 4219.

Regards,

A handwritten signature in black ink, appearing to read "Shannon Clarke". The signature is written in a cursive, flowing style.

Shannon Clarke
Urban Forest Health Technician

Real Estate Comments – CoA August 27, 2020

404 & 406 Beach Boulevard, Hamilton (Ward 5)



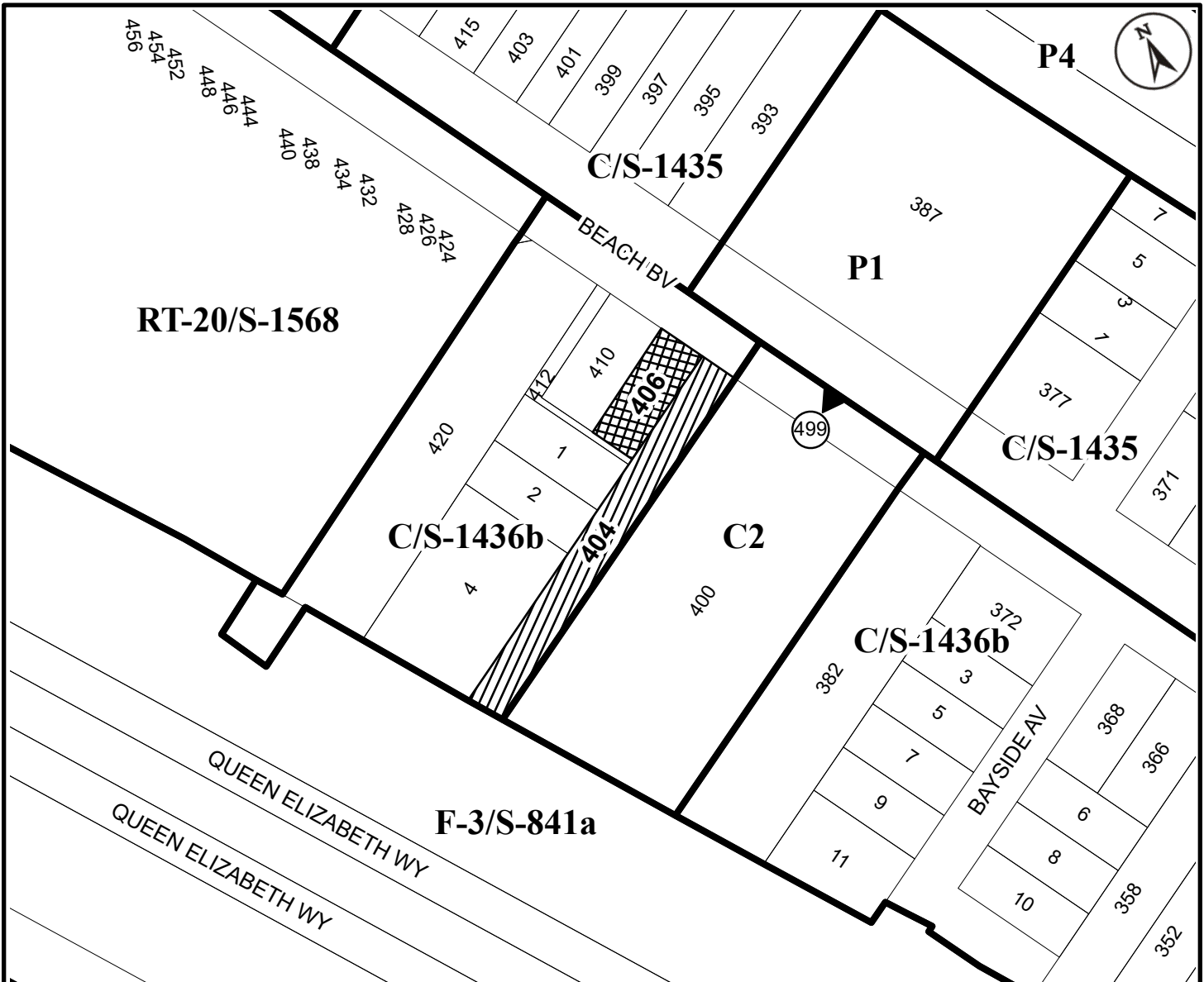
Applicants Proposal: To permit the conveyance of a vacant parcel of land, and to retain a parcel known as 404 Beach Boulevard.

Variances for Property:

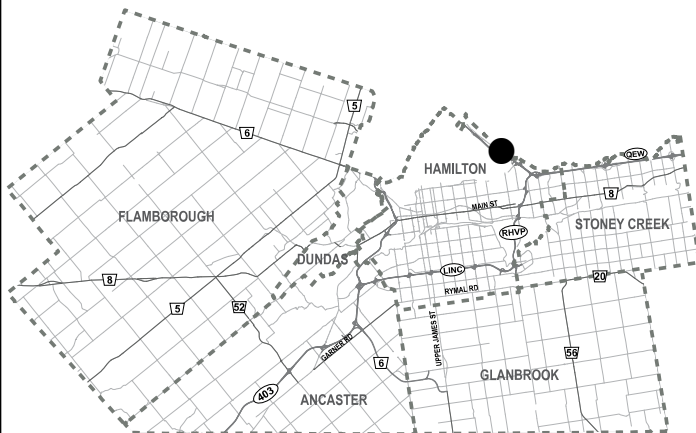
- **Front Yard:** N/A

Impacts: There are no impacts expected from this application.

Recommendations: Real Estate has no objection to this application.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

404 & 406 Beach Boulevard, Hamilton (Ward 5)



Lands to be Retained



Lands to be Severed

File Name/Number:

HM/B-20:40

Date:

August 18, 2020

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/A-20:137 (363 Beach Blvd., Hamilton)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the renovations to the existing accessory building (shed) located in the rear yard in order to establish a home occupation for the existing single detached dwelling, notwithstanding the following variances.

Urban Hamilton Official Plan

The property is identified as “Neighbourhoods” in Schedule E– Urban Structure and is designated “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations. Policies E.3.2.3, and E.3.4.3 amongst others, are applicable and permit single detached dwellings.

Cultural Heritage:

The subject property is part of the Hamilton Beach Strip Cultural Heritage Landscape, as identified in Appendix F-1 of the Urban Hamilton Official Plan.

Where new construction and/or alterations or additions to existing structures are proposed in a Cultural Heritage Landscape, key considerations are the visual and physical impacts on landscape features, typically public views of the building fabric, building setback, the streetscape and significant vistas.

The applicant is proposing to renovate the existing accessory shed in the same footprint to accommodate a home occupation use. The proposed shed is to be clad in cedar siding which is a cladding material that is consistent with the character of the Beach Cultural Heritage Landscape. Staff have no concerns with the proposal.

Former City of Hamilton Zoning By-law No. 6593

The subject lands are zoned “C/S-1435” (Urban Protected Residential) District, which permits a home occupation within a single family dwelling.

Variance 1

The applicant is requesting a variance to allow a home occupation to be carried on within the accessory building (shed), notwithstanding the requirement that a home occupation shall be carried on entirely within a dwelling unit. The general intent of the Zoning By-law is to avoid overdevelopment of the site and to ensure the use and scale of the home occupation remain secondary to the primary use on the property.

The home occupation is proposed to be located in an accessory building (shed) which is existing on the subject property. While the applicant is proposing renovations to the shed to make it more functional for the use of a home occupation, the proposal does not constitute development in accordance with Section 1.9 of Site Plan Control By-law No.

15-176. The applicant has indicated due to the nature of the home occupation (art studio), locating the use in the shed is more functional due to the additional lighting.

The variance is maintaining the general intent of the Zoning By-law as no development is being proposed to accommodate the home occupation on site and based on the size of the shed, Staff is satisfied the home occupation will remain at an appropriate scale, accessory to the single detached dwelling. In addition, Staff acknowledge future policy direction has more flexibility in allowing home occupations to be located within an accessory building.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Variance 2

The applicant is requesting a variance to allow a minimum side yard setback of 0.0 metres, notwithstanding the minimum required 1.7 metre side yard setback. The general intent of the Zoning By-law is to provide a consistent streetscape, to avoid any impact on the enjoyment and privacy of the adjacent properties, and to allow sufficient space for access and drainage. Staff defers any drainage concerns to Development Engineering Approvals.

The variances recognize existing conditions that will remain unchanged as a result establishing the home occupation and the proposed renovations to the shed. The general intent of the Zoning By-law is being maintained as Staff do not anticipate any impact on the existing streetscape as a result of maintaining existing condition. The variance is considered minor in nature and desirable for the development of the site as no negative impact is anticipated for the subject lands or surrounding area.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Recommendation:

Based on the preceding information, the requested variances maintain the general intent and purpose of the Urban Hamilton Official Plan and the former City of Hamilton Zoning By-law No. 6593. The variances are considered to be minor in nature and desirable for the appropriate use of the property. In conclusion, Staff recommends that the application be approved.

Building Division:

1. A building permit is required for the new accessory building.

2. Please be advised that a portion of this property is under Conservation Management. Please contact Hamilton Conservation at 905-525-2181 for further information.
3. The lands are located within or adjacent to an Environmentally Sensitive Area (ESA) and are subject to Site Plan Control.
4. Be advised that Ontario Building Code regulations may require specific setback and construction types.
5. Building Permit #18-127837, issued on September 20, 2018, to repair the existing 33.0m² covered porch in the front yard of the single family dwelling remains not final.
6. The applicant shall ensure compliance with all other requirements of Section 2 "Home Occupation" of the Hamilton Zoning By-law 6593, for the proposed home occupation; otherwise, further variances shall be required.
7. The applicant shall ensure that the accessory building shall not exceed the maximum of 35.0% coverage of the rear yard; otherwise, further variances shall be required.
8. Please note that no part of the eave/gutter shall encroach onto the adjacent private property. Otherwise, an Encroachment Agreement and a Maintenance Easement shall be required which shall be entered into and registered on title for both the lot upon which the eave is encroaching onto and the subject lot.

Development Engineering:

The minimum side yard requirement on Beach Boulevard is 1.7m. However, it appears that this application is proposing only the renovation of an existing structure, and not increasing the footprint of the accessory building or changing its location. Provided that existing drainage patterns are maintained, and the neighbouring property is not affected by the renovations, Development Engineering has no comments regarding the minor variance as proposed.

See attached for additional comments.

Real Estate Comments – CoA August 27, 2020

363 Beach Boulevard, Hamilton (Ward 5)



Applicants Proposal: To permit the replacement of the existing accessory building located in the rear yard.

Variances for Property:

- **Home Occupation:** The proposed home occupation shall be permitted to be carried on within the accessory building instead of the requirement that home occupation shall be solely within the dwelling unit.
- **Side Yard Setback:** A side yard setback of 0.0m shall be provided instead of the required 1.7m setback.

Impacts: There are no expected impacts as a result of this application.

Recommendations: Real Estate has no objection to this application.

08/17/2020

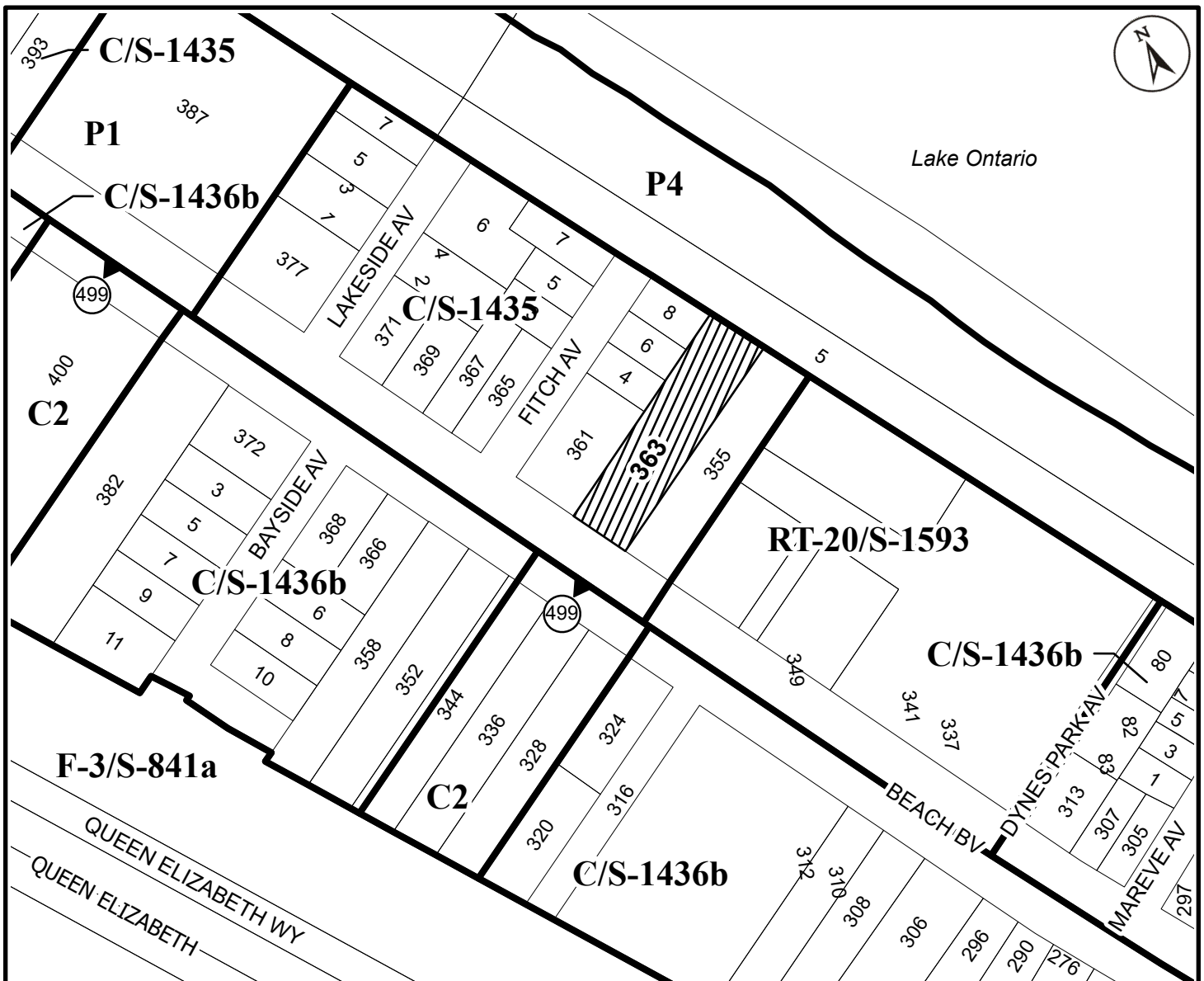
RUSSELL JAKALI
324 BEACH BLVD.,
HAMILTON ON
L8H 6W2

DEAR SIR

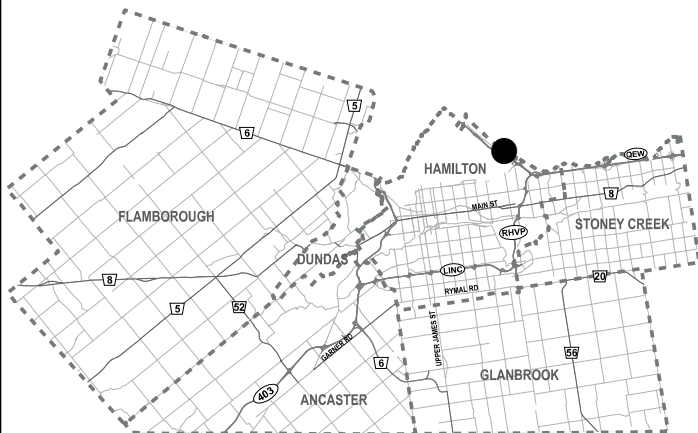
I WISH TO SUPPORT THIS SMALL VARIANCE
AS THIS IN NO WAY EFFECTS ME. IF THIS
ENHANCES THE USE OF THE PROPERTY AT
363 BEACH BLVD., THAT IS FINE WITH ME.,,

YOURS SINCEERLY

Russell Jakali



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



363 Beach Boulevard, Hamilton
(Ward 5)

File Name/Number:

HM/A-20:137

Date:

August 18, 2020

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

August 27th, 2020

HM/A-20:134 (175 Montrose Ave., Hamilton)

TABLED

HM/A-20:140 (102-104 Wellington St. N., Hamilton)HM/A-20:140 (102-104 Wellington St. N., Hamilton)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the conversion of the existing semi detached dwelling to a multiple dwelling containing eight dwelling units, notwithstanding the following variances.

Urban Hamilton Official Plan

The property is identified as “Downtown Urban Growth Centre” in Schedule E– Urban Structure and is designated “Downtown Mixed Use Area” in Schedule E-1 – Urban Land Use Designations. Policies E.4.4.4 e), and E.4.49 amongst others, are applicable and permit multiple dwellings.

Downtown Hamilton Secondary Plan

The subject lands are designated “Downtown Residential” within the Downtown Hamilton Secondary Plan. Policy B.6.1.5.1a), amongst others, is applicable and permits multiple dwellings.

City of Hamilton Zoning By-law No. 05-200

The subject lands are zoned Downtown Multiple Residential (D5, H21) Zone, which permits multiple dwellings.

Variance 1 and 2

The applicant is requesting a variance to allow a minimum lot area of 254.0 square metres and a minimum lot width of 11.8 metres, notwithstanding the minimum required lot area of 300.0 square metres and the minimum required lot width of 12.0 metres. The general intent of the Zoning By-law is to provide a consistent streetscape, and to allow sufficient space to accommodate a multiple dwelling with the necessary landscaped area, amenity area and parking to satisfy the needs of the tenants.

The proposed lot width and lot area are consistent with the surrounding properties and will maintain the existing lot pattern of the neighbourhood. The variance is maintaining the general intent of the Zoning By-law as sufficient landscaped and amenity area is being provided to meet the needs of the tenants of a multiple dwelling with eight units, as discussed below. However, Staff acknowledge the proposed projection of the balcony and exterior stairway which reduces the useable amenity area in rear yard is not supported by Staff, as discussed below.

In addition, Staff acknowledge no parking spaces will be provided on site, however, the subject property is located within the Downtown and no parking is required for a total of

eight units. The variances are desirable for the development and minor in nature as no negative impact is anticipated for the subject lands or surrounding area.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan, the Downtown Hamilton Secondary Plan, and Zoning By-law is maintained, the variances are desirable for the development and considered minor in nature; therefore, staff support the variances.

Variance 3

The applicant is requesting a variance to allow a minimum rear yard of 7.0 metres, notwithstanding the minimum required rear yard of 7.5 metres. The intent of the Zoning By-law is to allow adequate space for grading and drainage, to accommodate the necessary amenity area to satisfy the needs of the tenants of the multiple dwelling, and to avoid any impact on the enjoyment and privacy of the adjacent property. Staff defers any grading or drainage concerns to Development Engineering Approvals.

The variances recognize existing conditions that will remain unchanged as a result of converting the existing semi-detached dwelling to a multiple dwelling containing eight units. The variance is maintaining the intent of the Zoning By-law as Staff is satisfied the proposed minimum rear yard depth of 7.0 metres is sufficient to provide the necessary amenity area for the proposed multiple dwelling. In addition, Staff acknowledge the subject property is in close proximity to JC Beemer Park and Tweedmuir Park which the tenants of the proposed multiple dwelling can utilize as additional amenity area.

The proposed reduction in rear yard depth is minor and will not make a significant difference to the privacy of the adjacent properties. The variance is desirable for the development of the site as no negative impact is anticipated for the subject lands or surrounding area.

Staff acknowledge while the reduction in rear yard depth can be supported, the proposed projection of the balcony and exterior stairway which reduces the useable amenity area in rear yard is not supported by Staff, as discussed below.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan, the Downtown Hamilton Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Variance 4

The applicant is requesting a variance to allow a balcony and exterior stair case at the rear of the building to encroach 3.9 metres into the required rear yard, notwithstanding the maximum permitted encroachment of 1.5 metres into a required rear yard for an exterior staircase and 1.0 metres into a required rear yard for a balcony. The general intent of the Zoning By-law is to allow adequate area for grading and drainage, to accommodate the necessary amenity area for the needs of the tenants and to avoid any impact on the enjoyment and privacy of the adjacent properties. Staff defer any grading and drainage concerns to Development Engineering Approvals.

The proposed balcony and exterior staircase are proposed to project 3.9 metres into the required rear yard which will reduce the amount of amenity provided for a multiple dwelling. The balcony is sufficient in size to be used as amenity area and is shown above the second storey on the submitted Elevation drawings. As such, Staff anticipate negative impacts on the privacy and enjoyment of the adjacent properties.

Staff is of the opinion an exterior stairway with the sole purpose of providing access to the additional units can be built in with a maximum projection of 1.0 metres in accordance Zoning By-law No. 6593. As such, the variance is not desirable for the development of the site nor minor in nature as negative impacts are anticipated for the surrounding area.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan, Downtown Hamilton Secondary Plan and Zoning By-law is not being maintained, the variance is not desirable for the development nor minor in nature; therefore, staff do not support the variance.

Recommendation:

Based on the preceding information, Variances 1, 2 and 3 maintain the general intent and purpose of the Urban Hamilton Official Plan, the Downtown Hamilton Secondary Plan and the City of Hamilton Zoning By-law No. 05-200. The variances are considered to be minor in nature and desirable for the development.

Variance 4 does not maintain the general intent and purpose of the Urban Hamilton Official Plan, the Downtown Secondary Plan or the City of Hamilton Zoning By-law No. 05-200. The variance is not considered to be minor in nature nor desirable for the development.

In conclusion, Staff recommends the Variance 1, 2, and 3 be approved and Variance 4 be denied.

Building Division:

1. A building permit is required for the conversion of the existing building into a Multiple Dwelling. Be advised that Ontario Building Code regulations may require specific setbacks and construction types.
2. A further variance will be required if a minimum of 10% of the lot area is not provided as a landscaped area.
3. Mapping system GISNet shows 102 Wellington St N and 104 Wellington St N to be two separate parcels of land. The applicant shall ensure that the lots are merged in title or registered under identical ownership to allow for consolidated lot development to facilitate the proposed conversion.
4. The variance requested for a further encroachment of an exterior stair case and balcony at the rear of the building is dependent upon approval of the requested variance for a reduced rear yard.

Development Engineering:

Development Engineering Approvals have no comments regarding the Minor Variance Application as proposed.

See attached for additional comments.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



102 & 104 Wellington Street North,
Hamilton (Ward 3)

File Name/Number:

HM/A-20:140

Date:

August 19, 2020

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

HM/A-20:144 (848 Main St. E., Hamilton)

Consolidation Report

The attached comments have been reviewed with regard to the above noted Committee of Adjustment application and the following comments are submitted:

NOTE:

“Caution: Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required by the City of Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) should be notified immediately (416.212.8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.212.7499).”

HM/A-20:144 (848 Main St. E., Hamilton)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the conversion of the first storey of the existing office building to a Medical Clinic (dental office), and the construction of an accessibility ramp for wheelchair access at the front of the building, in accordance with Minor Site Plan application MDA-20-015, notwithstanding the following variances.

Urban Hamilton Official Plan

The property is identified as “Primary Corridor” in Schedule E– Urban Structure and is designated “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations. Policies E.3.2.3 d), and E.3.8.2 b) amongst others, are applicable and permit medical clinics.

Archaeology:

The subject property meets two (2) of the ten criteria used by the City of Hamilton and Ministry of Heritage, Sport, Tourism and Culture Industries for determining archaeological potential:

- 1) In areas of pioneer EuroCanadian settlement; and,
- 2) Along historic transportation routes.

These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the *Provincial Policy Statement* apply to the subject application. If this consent is approved, the proponent must be advised by the Committee of Adjustment as per the caution note below.

City of Hamilton Zoning By-law No. 05-200

The subject lands are zoned Neighbourhood Commercial (C2) Zone, which permits a Medical Clinic.

Variance 1 and 2

The applicant is requesting a variance to allow one parking space to be located on the south side of the building to be located 0.42 metres from a street line and to allow a minimum 0.42 metre wide planting strip to be provided between the parking spaces or aisle and the westerly street line, notwithstanding the minimum required distance of 3.0 metres and the minimum required 3.0 metre wide planting strip. The general intent of the Zoning By-law is to maintain a consistent streetscape and ensure all vehicles can safely manoeuvre to and egress from the parking spaces.

The applicant is establishing a new use on the subject property, being a Medical Clinic. As such, while the applicant is utilizing the existing parking area, all existing deficiencies of the parking area must be addressed through the Minor Site Plan process.

Staff acknowledge there is approximately 4.0 metres of landscaped Boulevard between Springer Avenue and the westerly property line. The variance maintains the general intent of the Zoning By-law as staff is satisfied the location of the parking space will maintain a consistent streetscape. In addition, given the direction of the one way driveway access, Staff are satisfied a variety of vehicles can safely manoeuvre to and egress from the parking space. The variance is desirable for the development of the site and is minor in nature as no negative impact is anticipated to the subject lands or surrounding area.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan and Zoning By-law is being maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Variance 3 and 4

The applicant is requesting a variance to allow a parking space size of 2.6 metres wide by 5.5 metres long and a barrier free parking space size of 4.4 metres by 5.5 metres to be provided, notwithstanding the minimum required parking space size of 3.0 metres wide by 5.8 metres long and barrier free parking space size of 4.4 metres wide by 5.8 metres long. The general intent of the Zoning By-law is to allow adequate space to accommodate a variety of vehicle sizes.

The applicant is establishing a new use on the subject property, being a Medical Clinic. As such, while the applicant is utilizing the existing parking area, all existing deficiencies of the parking area must be addressed through the Minor Site Plan process.

Staff recognize the minimum required parking space length of 5.8 metres cannot be provided without reducing the required manoeuvring aisle width given the constraints of the existing parking area. Staff is satisfied the proposed parking space length is sufficient for a variety of vehicles to enter and egress from the parking spaces.

However, Staff is of the opinion the minimum required parking space width of 3.0 metres and 4.4 metres for a barrier free parking space can be accommodated on site. While Staff acknowledge providing the required parking space width may result in the loss of a required parking space, Staff is not satisfied the parking space width of 2.6 metres is sufficient to accommodate a variety of vehicles. Staff recommends the applicant revise the submitted Site Plan to provide the required parking space width.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan is being maintained. The variance as it relates to the parking space length maintains the general intent of the Zoning By-law, is desirable for the development and is considered minor in nature; therefore, staff support the variance as it relates to the proposed parking space length.

The variance as it relates to the proposed parking space width does not maintain the general intent of the Zoning By-law, is not desirable for the development nor considered

minor in nature; therefore, staff do not support the variance as it related to the proposed parking space width.

Variance 5

The applicant is requesting a variance to allow a minimum aisle width manoeuvring space of 5.27 metres to be provided for the ten parking spaces located at the south side of the building, notwithstanding the minimum required aisle width manoeuvring space of 6.0 metres. The general intent of the Zoning By-law is to ensure all vehicles can safely manoeuvre to and from the parking spaces.

The variance recognizes the existing parking area on site. Staff acknowledge the minimum required 6.0 metre manoeuvring aisle cannot be provided without further reducing the length of the required parking space. Staff is satisfied sufficient manoeuvring space is being provided adjacent to the parking space allowing vehicles to utilize one way driveway access to enter and egress from the parking spaces located at the south side of the building. The variance is desirable for the development of the site and is minor in nature as no negative impact is anticipated to the subject lands or surrounding area.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Variance 6

The applicant is requesting a variance to allow 20 parking spaces to be provided on site, notwithstanding the minimum required 27 parking spaces. The general intent of the Zoning By-law is to ensure the parking needs of the Medical Clinic are being satisfied.

The applicant is establishing a new use on the subject property, being a Medical Clinic. A Medical Clinic has more restrictive parking requirements than the existing commercial use on the subject property given the nature of the use. Therefore, the existing deficiencies must be addressed in order to establish the use.

Staff acknowledge the applicant has made a private agreement with the owners of 11 Springer Avenue and 842 Main Street East (Ryerson United Church) to rent four parking spaces on each property for a total of 8 parking spaces during business hours only.

Subsection 5.1 a) states where the provision of parking on the same lot as the use requiring the parking is not possible, such off-site parking may be located on another lot within 300.0 metres of the lot containing the use requiring the parking, subject to the provisions of subsections a) to c).

11 Springer Avenue and 842 Main Street East is located within the "H" (Community Shopping and Commercial, Etc.) District under Zoning By-law No. 6593. The "H" District does not permit the use of a Medical Clinic and therefore the proposed off-site parking would not conform with Subsection 5.1a) ii) a) of the Zoning By-law.

Additionally, in accordance with Subsection 5.1 a) iii) the owners of each lot must enter into an agreement with the City to be registered against the title of both the lot upon which parking is to be provided and the lot containing the use requiring the parking.

As such, the proposed off-site parking does not conform with the Zoning By-law and does contribute to the number of required parking spaces on the subject property.

The variance is not maintaining the general intent of the Zoning By-law as Staff is not satisfied the parking needs of the Medical Clinic are being met. Staff recommend the applicant reduce the size of the Medical Clinic to comply with the requirements of the Zoning By-law.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan and Zoning By-law is not being maintained, the variance is not desirable for the development nor considered minor in nature; therefore, staff do not support the variance.

Recommendation:

Based on the preceding information, Variances 1, 2 and 5 maintain the general intent and purpose of the Urban Hamilton Official Plan and the former City of Hamilton Zoning By-law No. 6593. Variances 1, 2, and 5 are considered to be minor in nature and desirable for the development.

Variances 3 and 4, as they relate to the parking space length, maintains the general intent and purpose of the Urban Hamilton Official Plan and the former City of Hamilton Zoning By-law No. 6593. The variances are considered to be minor in nature and desirable for the development.

Variances 6, and 3 and 4, as they relate to the parking space width, does not maintain the general intent and purpose of the Urban Hamilton Official Plan or the former City of Hamilton Zoning By-law No. 6593. The variances are not considered to be minor in nature nor desirable for the development.

In conclusion, Staff recommends Variances 1, 2, 5, and 3 and 4, as they relate to parking space length, be approved and Variances 6, and 3 and 4 as they relate to parking space width be denied.

NOTE:

“Caution: Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required by the City of Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) should be notified immediately (416.212.8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.212.7499).”

Building Division:

1. The By-law indicates that required parking shall be located on the same lot on which the principle use is located. The applicant has indicated that there are additional parking spaces located on adjacent properties which are available to be used; however, these are not considered towards the total parking provided as these are located off-site.
2. Building Permit No. 19-123341 for internal renovations and upgrades has not been issued and remains outstanding. Please contact (905) 546-2424 extension 7777 for further information.
3. Construction of the proposed proposed accessibility ramps is subject to the issuance of a building permit in the normal manner.
4. Be advised that Ontario Building Code regulations may require specific setback and construction types.

Development Engineering:

Development Engineering Approvals have no comments regarding the Minor Variance Application as proposed. Comments have been previously dealt with under the Minor Development Application known as MDA-20-015.

See attached for additional comments.

From: [Christopher Grabiec](#)
To: [Committee of Adjustment](#)
Subject: HM/A20:144
Date: August 12, 2020 3:55:38 PM

Re: 848 Main Street East
Hamilton

I received the notice of public hearing for the minor variance.

Most of the variance is fine with me.

There is a comment that says "The applicant has indicated that there is additional parking spaces located on adjacent properties which are available to be used" Being that our office at 862 Main Street East is the most adjacent property – I want to make it clear that our parking spaces are NOT available for the use of 848 Main St East. I'm not sure which properties they are talking about – but clearly ours is UNAVAILABLE. I trust that the Committee of Adjustment understands this.

Best regards

Chris

2267383 Ontario Inc

Dunham Holdings

Christopher Grabiec

Web and IT Solutions

Office: [905-312-8444](tel:905-312-8444) ext 101

Mobile: [905-537-3725](tel:905-537-3725)

The Dunham Group Inc

862 Main St E, Hamilton, ON L8M 1L9

thedunhamgroup.com



From: [Douglas Rich](#)
To: [Committee of Adjustment](#)
Cc: [Lori Reid](#)
Subject: Variance 848 Main St. E
Date: August 16, 2020 11:55:34 PM

Thank-you for the opportunity to address the committee with our concerns, in the Notice of Public Hearing, the applicant Yuriy M. Pelech on behalf of the owner Brian Yim is requesting to convert the first story of 848 Main St. E. to a Medical Clinic (Dental Office), it would seem the applicant requires relief from existing parking requirements to accommodate this endeavour in that because of the magnitude of this enterprise exceeds the capacity of the existing parking facility.

While no homeowner is guaranteed street parking one might expect to park within walking distance of their front door on any given day. This is fast becoming a rarity in the Blakely and Stipley neighbourhoods. First, we have the institutions, St. Peter's Hospital (St. Joseph's Health Care) since they insist on using their parking lot like a cash cow, staff, out-patients, and visitors all use street parking rather than pay. Adelaide Hoodless Public School, at the best of times the Board of Education has not provided adequate parking for teachers, assistants or custodial staff and now during Co-vid and beyond additional staff will be required at the school. Where will they park? Ryerson United Church (it is hard to fault a church) but it has no parking save that for the pastor and custodian. Located on the opposite corner of 848 Main this is a facility that offers music programs and other outreach seven days a week, where do its' parishioners park? On the street. Main St. was part of the route of Hamilton's first LRT, where the original Street Railway ran from Catherine St. to Gage, along that route more than a score of two and three-story walk-ups were built to accommodate the workers of a growing city unfortunately while they could afford the price of a streetcar ticket automobiles were still beyond their budget hence buildings with no parking.

41-43 Albert, 12 units no parking, 128 Carrick, 6 units no parking, 125 Melrose, 6 units no parking, 129 Melrose, 6 units no parking, 122 Melrose, 6 units no parking, 126 Melrose, 6 units no parking, 125 Melrose, 6 units no parking, 827 Main, 6 units no parking, 815 Main, 7 units no parking, 831 Main 6 units no parking. All these buildings are within 100 metres of the subject property and must rely upon on-street parking. Many of the homes in Blakely-Stipley were built without driveways. Houses have been duplexed, triplexed and beyond without accommodation for parking. The bicycle path on Maplewood eliminated 30 plus parking spaces within two

blocks of 848 Main St., where do these people park now?

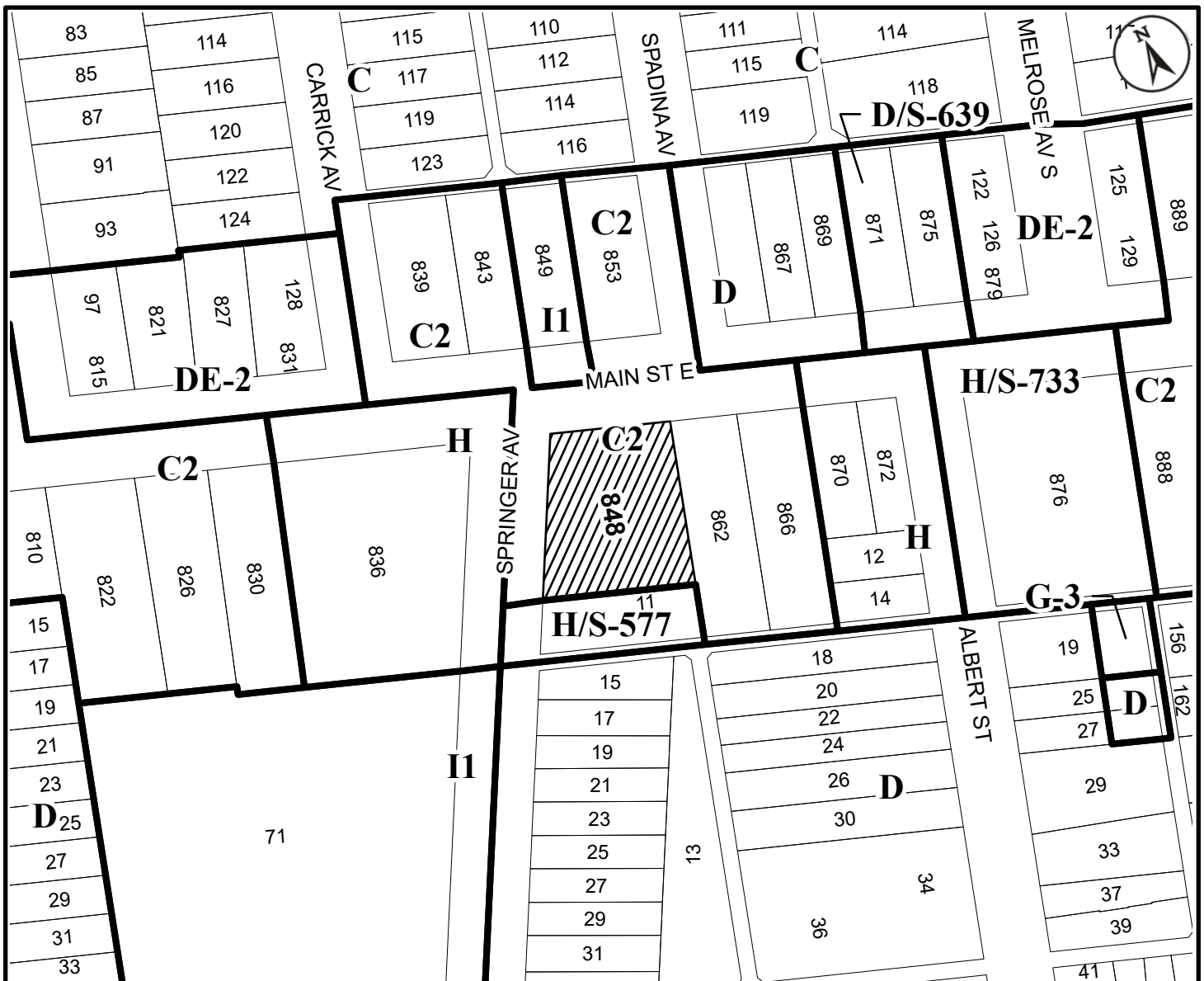
So to the point, if the conversion of this building can only occur by reducing the number of parking spaces by 23.4% (27 to 20) we totally opposed, I suggest the applicant find another way to accommodate his commercial enterprise other than expect the good homeowners, tenants and their families to bear the brunt of this intrusion into their neighbourhood by robbing them further of what little on-street parking is still available.

postscript:

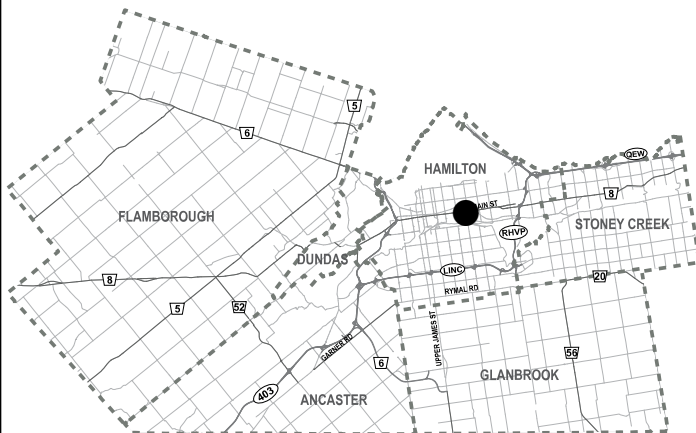
I did not address item (3) as I could not discern whether it referred to a single parking space as in item (1) or to all parking spaces as in item (6). If it does refer to item (6) and indicates a reduction in the size of all parking spaces, I am opposed.

Thank-you for this opportunity to participate.

Respectfully yours,
Douglas Rich
Hamilton, Ont.
Aug. 16 2020



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



848 Main Street East, Hamilton
(Ward 3)

File Name/Number:

HM/A-20:144

Date:

August 19, 2020

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/A-20:153 (212 Lottridge St., Hamilton)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the retention of the existing industrial buildings on the severed and retained parcels to facilitate Consent Application HM/B-19:39 which was approved by the Committee of Adjustment on May 2, 2019, notwithstanding the following variances.

Urban Hamilton Official Plan

The property is identified as “Employment Areas” in Schedule E– Urban Structure and is designated “Industrial Land” in Schedule E-1 – Urban Land Use Designations. Policies F.1.14.3.5, E.5.2.4, and E.5.3.2 amongst others, are applicable and permit industrial uses.

City of Hamilton Zoning By-law No. 05-200

The subject lands are zoned Light Industrial (M6) Zone, which permits industrial uses.

Severed Lands

Variance 1 and 2

The applicant is requesting a variance to allow a minimum lot area of 650.0 square metres and a minimum lot width of 14.0 metres, notwithstanding the minimum required lot area of 4000.0 square metres and the minimum required lot width of 45.0 metres. The general intent of the Zoning By-law is to provide a consistent streetscape, and to allow sufficient space to accommodate an industrial building with the necessary landscaped area and parking.

The proposed lot width and lot area are consistent with the surrounding properties and will maintain the existing lot pattern of the neighbourhood. Staff acknowledge the existing parcel of land contains an industrial building which consists two self contained units separated by a concrete dividing wall. As such, the proposed lot creation will not result in an additional industrial use on the subject property.

The variances are maintaining the intent of the Zoning By-law as the proponent has provided the required parking for the industrial use and no change to the existing landscaped area is being proposed, as discussed below. The variances are considered minor in nature and desirable for the development of the site.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan and Zoning By-law is maintained, the variances are desirable for the development and considered minor in nature; therefore, staff support the variances.

Variance 3

The applicant is requesting a variance to allow no landscaped area to be provided abutting a street, notwithstanding the minimum required 3.0 metre wide landscaped area abutting a street. The general intent of the Zoning By-law is to maintain a consistent streetscape.

The variances recognize existing conditions that will remain unchanged as a result of the proposed lot creation. The accommodation of additional landscaped area would require altering the existing site design which would cause the applicant undue hardship.

The general intent of the Zoning By-law is being maintained as Staff do not anticipate any impact on the existing streetscape as a result of maintaining existing condition. In addition, Staff note there is approximately 2.0 metres and 5.0 metres of landscaped City owned boulevard along Lottridge Street and Lloyd Street, respectively, between the property line and street which supplements the proposed variance. The variance is considered minor in nature and desirable for the development of the site as no negative impact is anticipated for the subject lands or surrounding area.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Retained Lands

Variance 4 and 5

The applicant is requesting a variance to allow a minimum lot area of 650.0 square metres and a minimum lot width of 14.0 metres, notwithstanding the minimum required lot area of 4000.0 square metres and the minimum required lot width of 45.0 metres. The general intent of the Zoning By-law is to provide a consistent streetscape, and to allow sufficient space to accommodate an industrial building with the necessary landscaped area and parking.

The proposed lot width and lot area are consistent with the surrounding properties and will maintain the existing lot pattern of the neighbourhood. Staff acknowledge the existing parcel of land contains an industrial building which consists two self contained units separated by a concrete dividing wall. As such, the proposed lot creation will not result in an additional industrial use on the subject property.

The variances are maintaining the intent of the Zoning By-law as the proponent has provided the required parking for the industrial use and no change to the existing landscaped area is being proposed, as discussed below. The variances are considered minor in nature and desirable for the development of the site.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan and Zoning By-law is maintained, the variances are desirable for the development and considered minor in nature; therefore, staff support the variances.

Variance 6

The applicant is requesting a variance to allow no landscaped area to be provided abutting a street, notwithstanding the minimum required 3.0 metre wide landscaped area abutting a street. The general intent of the Zoning By-law is to maintain a consistent streetscape.

The variances recognize existing conditions that will remain unchanged as a result of the proposed lot creation. The accommodation of additional landscaped area would require altering the existing site design which would cause the applicant undue hardship.

The general intent of the Zoning By-law is being maintained as Staff do not anticipate any impact on the existing streetscape as a result of maintaining existing condition. In addition, Staff note there is approximately 2.0 metres and 5.0 metres of landscaped City owned boulevard along Lottridge Street and Lloyd Street, respectively, between the property line and street which supplements the proposed variance. The variance is considered minor in nature and desirable for the development of the site as no negative impact is anticipated for the subject lands or surrounding area.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Recommendation:

Based on the preceding information, the requested variances maintain the general intent and purpose of the Urban Hamilton Official Plan and the City of Hamilton Zoning By-law No. 05-200. The variances are considered to be minor in nature and desirable for the appropriate use of the property. In conclusion, Staff recommends that the application be approved.

Building Division:

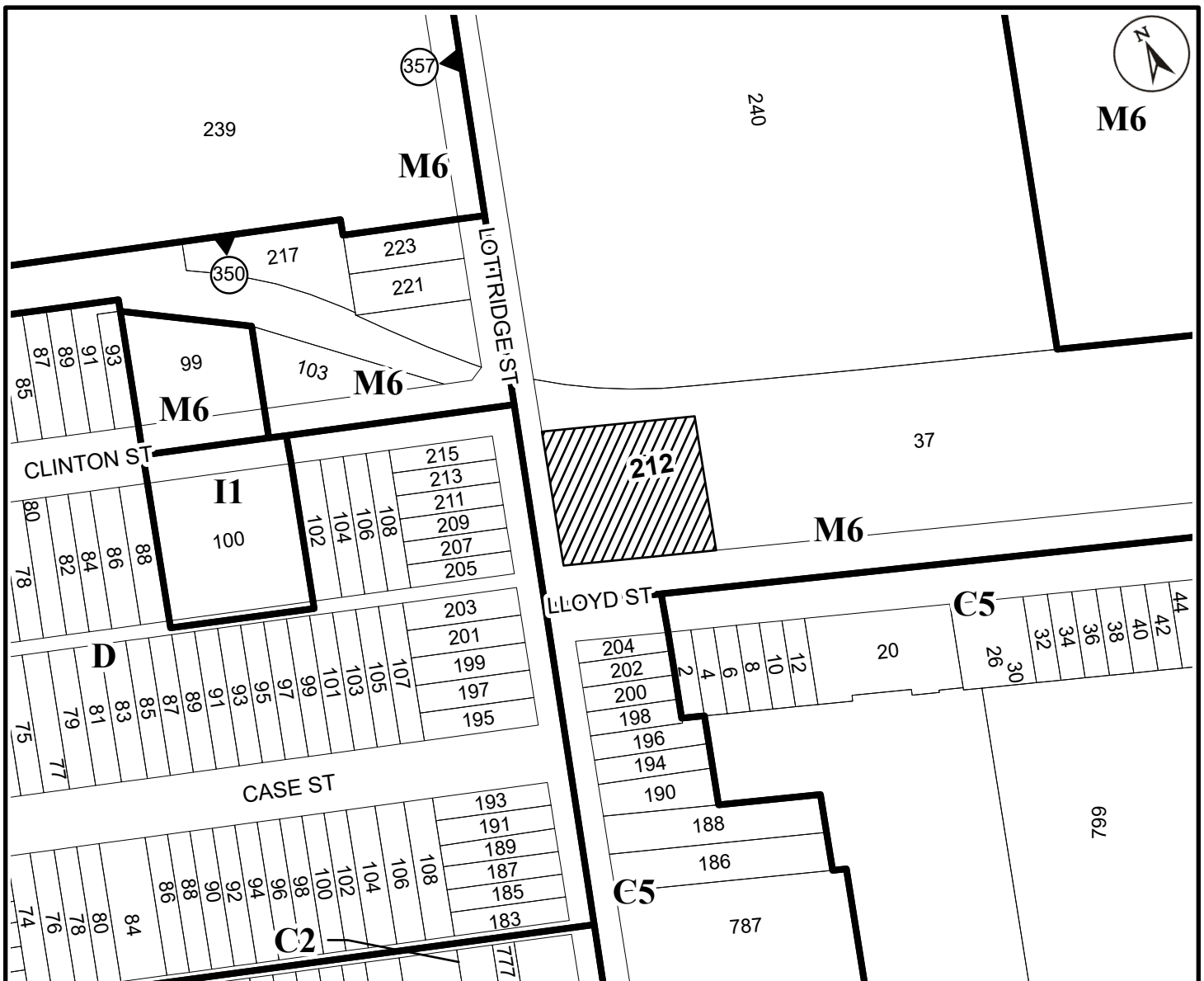
1. An Applicable Law Review for zoning compliance was submitted on March 17, 2020 for Consent Application HM/B-19:39 to determine variances that were required for the severed and retained parcels. The requested variances are based on the Applicable Law Review and an updated site plan to address parking, access and outdoor storage requirements.
2. The Zoning By-law requires outdoor storage areas to be screened by a visual barrier. The applicant has advised that a visual barrier would be provided along the street lines for both the severed and retained parcels by modifying the existing chain link fences to include solid materials (i.e. boards) in order to screen outdoor storage areas. However, details have not been provided. The applicant would need to ensure that the modified fence would meet the requirements of Section 4.19 of the Zoning By-law or further variances would be required.

3. No loading areas are shown on the severed and retained parcels. The Zoning By-law does not permit loading spaces to be located in the front yard.
4. The applicant had advised that the building and site on the parcel to be severed would continue to be occupied as a contractor's establishment for the storage of landscaping equipment. The building located on the parcel to be retained would continue to be occupied as a tradesperson's shop. Both of these uses are permitted in the M6 Zone.
5. Be advised that Ontario Building Code regulations may require specific setback and construction types.
6. Variances have been written as requested by the applicant.
7. This property is subject to Site Plan Control in the event that new buildings are proposed.

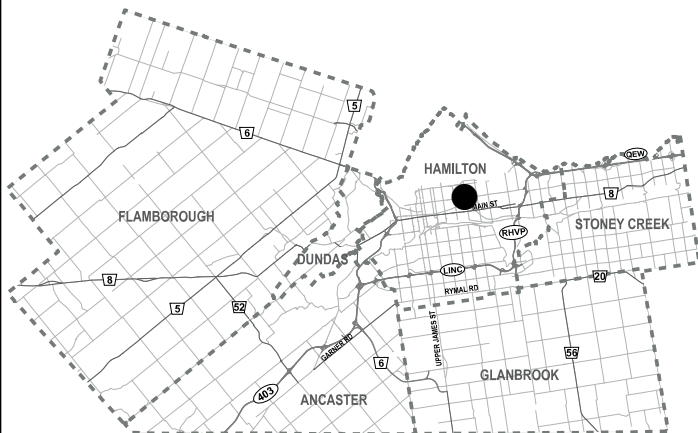
Development Engineering:

Development Engineering Approvals have no comments regarding the Minor Variance Application as proposed.

See attached for additional comments.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



212 Lotridge Street, Hamilton
(Ward 3)

File Name/Number:

HM/A-20:153

Date:

August 19, 2020

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/A-20:139 (61 Picton St. W., Hamilton)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the conversion of the existing single detached dwelling to contain two dwelling units in accordance with Section 19(1) of Zoning By-law No. 6593, notwithstanding the following variances.

Urban Hamilton Official Plan

The subject property is located within the West Harbour (Setting Sail) Secondary Plan Area which is subject to Local Planning Appeal Tribunal Non-Decision No. 113. The Regional Official Plan is referred to in evaluating this application.

Hamilton – Wentworth Regional Official Plan

The subject property is designated “Urban Area” on Map 1 of the Hamilton – Wentworth Regional Official Plan. Policies A.2.1.1 amongst others are applicable and permits low density residential development.

West Harbour Setting Sail Secondary Plan

The subject property is designated “Low Density Residential” on Schedule M-2: General Land Use and is identified as a “Stable Area” on Schedule M-1: Planning Area and Sub-Areas. Policies A.6.3.3.1.9, A.6.3.3.1.12 (i) and A.6.3.3.4.1 (ii) amongst others are applicable and permit low density residential development.

Former City of Hamilton Zoning By-law No. 6593

The subject lands are zoned “D” (Urban Protected Residential, One and Two Family Dwellings, Etc.) District, which permits the conversion of a single family dwelling to contain two units in accordance with Section 19(1).

Variance 1

The applicant is requesting a variance to allow one parking space to be provided on site, notwithstanding the minimum two parking spaces required for a single detached dwelling containing eight habitable rooms. The general intent of the Zoning By-law is to ensure the parking needs of the tenants are satisfied.

The subject property is serviced by HSR bus route Nos. 4 and 20 and is in close proximity to a number of amenities including: Benetto Elementary School and Recreation Centre, Pier 4 Park, Bayfront Park, West Harbour GO Station and a variety of commercial uses along James Street North. The single detached dwellings along this portion of Picton Street West and Bay Street North are characterized by having one parking space or no

parking on site. The general intent of the Zoning By-law is being maintained as the reduction in parking can be supplemented by utilizing public transit and active transportation and it is in character with the surrounding area.

Additionally, Staff acknowledge street parking is permitted on both sides Picton Street West and no street parking permit is necessary. As such, the reduction in parking can also be supplemented by on-street parking.

Based on the foregoing, the general intent of the Official Plan, the West Harbour (Setting Sail) Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Variance 2 and 3

The applicant is requesting a variance to allow 5.6 metres of manoeuvring to be provided on site and a minimum access driveway width of 2.4 metres to be provided, notwithstanding the Zoning By-law requires a minimum manoeuvring aisle width of 6.0 metres abutting and accessory to each required parking space, provided and maintained on the lot, and the minimum required 2.8 metre wide access driveway. The general intent of the Zoning By-law is to ensure all vehicles can safely manoeuvre to and from the parking spaces.

The variance recognizes the existing driveway width used to access the existing parking area. There is an easement for access purposes on the subject property which allows for shared use of the mutual driveway access between the subject property and 59 Picton Street West. The Staff acknowledge the minimum required 6.0 metre manoeuvring aisle cannot be provided without reducing the length of the required parking space. Staff is satisfied sufficient manoeuvring space is being provided adjacent to the parking space allowing vehicles to turn around prior to utilizing the driveway access to exit the subject property. Based on the submitted plans, Staff are satisfied there is sufficient space on site for vehicles to safely manoeuvre to and from the required parking spaces.

Based on the foregoing, the general intent of the Official Plan, West Harbour (Setting Sail) Secondary Plan and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Recommendation:

Based on the preceding information, the requested variances maintain the general intent and purpose of the Official Plan and West Harbour (Setting Sail) Secondary Plan and the former City of Hamilton Zoning By-law No. 6593. The variances are considered to be minor in nature and desirable for the appropriate use of the property. In conclusion, Staff recommends that the application be approved.

Building Division:

1. The access driveway provided is shared between the subject lands and the property known as 59 Picton Street West. Please note that only 1.7m of this driveway is situated on the subject lands with the remainder being on the neighbouring property. The applicant shall also ensure that the appropriate agreements are in place to permit the mutual driveway.
2. Please note that Hamilton Zoning By-law 6593 requires the exterior appearance and character of a converted dwelling to be maintained and preserved. It is unclear at this time if any changes to the exterior of the building are intended. Further variances may be required if changes are proposed.
3. A building permit is required in the normal manner to convert the existing building to contain two (2) dwelling units.
4. Be advised that Ontario Building Code regulations may require specific setback and construction types.

Development Engineering:

No Comment

See attached for additional comments.

From: [Timothy Owen](#)
To: [Committee of Adjustment](#)
Cc: [Carrie](#)
Subject: Application #HM/A-20:139 re:61 Picton St
Date: August 25, 2020 11:32:20 AM

Dear Members of The Committee of Adjustment:

We live at 418 Bay St. N. Our home is adjacent to the 61 Picton St. subject property.

We are concerned about disruption to the quiet enjoyment of our home and we invite the committee's consideration of the following points in the review of application number HM/A-20:139.

We enjoy the current sight line and air views over the back portion of 61 Picton St., ***which is only one story, and not a two story as shown in two of the drawings on the plan.*** This is where the moon comes up and is one of the few places where we can see the sky from our garden. If this were to be made a two storey, including an additional second-floor entrance or fire escape, it would significantly diminish the sight lines from and the natural light into our home and garden.

Based on the plan, conversion to a duplex would mean that there would be two washroom vents and one new kitchen vent facing our garden and venting directly into it. We are concerned about odours from these vents blowing through our patio and garden seating areas, which would make it an undesirable place for us to sit.

Our wood fence is only 17" from the west facing two storey portion of the house. We sit out on our patio and in the garden for three seasons. Increased activity and noise would negatively affect our quiet enjoyment of this space.

We have twice facilitated access to our backyard for repairs to the building at 61 Picton (most recently to allow for completion of a vent access where birds had started to nest). Since that time, we have put in a garden. Moving forward, we envision that it would be difficult to provide access for renovations or repairs as this could damage and disturb the newly created garden.

Street parking and congestion:

This area is already congested with vehicles parked on the street. Should the property be approved without requiring two spaces for parking on the property, this would contribute to increased congestion.

Thank you for your consideration.

Timothy Owen and Carrie Butcher

From: [Geordie Stewart](#)
To: [Committee of Adjustment](#)
Cc: [Terri Mattucci](#)
Subject: Application for Minor Variance - HM/A-20:139 - Opposition
Date: August 25, 2020 10:55:16 AM
Attachments: [Points of Opposition - 61 Picton Variance.pdf](#)
[LRO 62 - Instrument \(NS32220\) - OrderID 3766233.PDF](#)
[LRO 62 - Instrument \(CD288497\) - OrderID 3765917.PDF](#)
[61 Picton, site plan 1.pdf](#)
[61 Picton, site plan 2.pdf](#)

Dear Members of the Committee of Adjustment,

We are writing with respect to the application for minor variance for 61 Picton Street West, application number HM/A-20:139.

We are the home owners of the adjacent property (59 Picton Street West), which we purchased in July 2019 to serve as our primary residence.

The applicants are seeking permit from the Committee for conversion of the neighbouring single family home to a duplex, which will require the following variances:

Provision of:

- 1) Only 1 parking space (as opposed to the required).
- 2) Maneuvering space of 4.6 m instead of the required 6.0 m.
- 3) A 2.4 m wide access driveway instead of the required 2.8 m.

We formally submit **opposition to both:**

- a) the conversion of this property to a duplex;**
- b) the applicants proposed plan for providing on-property parking.**

Our grounds for opposition can be found in the attached. Our sincere thanks in advance for your consideration on this matter. We hope everyone has been keeping well!

Very Best,

Geordie Stewart and Terri Mattucci

--

Geordie Stewart, PhD, MBA
Director, W. Garfield Weston Foundation
CEO and Founder, ARCH Canada Holdings Inc.

Opposition to Proposed Variances

Application HM/A-20:139

A) We oppose the conversion of the single-family home to a duplex for the following reasons:

1. **This area of Picton Street is already over capacity with respect to parking and traffic.** The North End of Hamilton is experiencing significant growth, both in terms of the purchase of single-family homes as well as the forthcoming multi-residential developments near Bayfront. The influx of residents will increase the volume of traffic and place pressure on existing arteries. Picton Street is already wrestling with limited on street-parking (on account of both residents and visitors) as well as throughway traffic. Many single-family homes in the neighborhood do not have parking spots and instead must rely on street parking. Adding an additional **two** vehicles to the area will further compound these issues and reduce the neighbourhood's capacity to safely permit two-way traffic and accommodate vehicular parking for all residents. Maintaining this property as a single-family home will reduce this pressure.

2. **The area of Bay and Picton Streets comprises a community of single-family homes.** The majority of residences in this neighbourhood are owned by Hamiltonians who take great pride in their property as well as this area of the city. Several duplexes have emerged in recent years, including several non-conforming, which have had a negative impact on the fabric of the area. Maintaining the character of this community should be a priority, particularly given the vision to develop the North End as a mixed and diverse region of the city. The area has begun to appreciate, drawing in a new generation of upwardly mobile residents that will bring energy and wealth to the area. Increased conversion of homes in this area to duplexes will degrade its attractiveness to these buyers, and counter these benefits.

3. **The current applicants are not intending to use the property as an owner-occupied duplex, they will reside in the GTA.** For that reason, and in consideration of their history to date, we have little confidence that they will maintain the property in keeping with the level expected by the rest of the community. During our first interaction with the applicants, they had indicated that they planned to establish a triplex at 61 Picton Street West and offered a joking apology. While this plan has since changed to include only a duplex (for now), it highlighted that the singular priority for these buyers was a revenue-generating investment property, with a focus on maximum return, rather than community building.

Conclusion: We are not opposed to a rental in this neighbourhood. Indeed, as former renters in the North End, turned buyers, we fully appreciate the need for rental units in the area and understand the challenges Hamilton faces with respect to rental supply. What we do oppose, however, is poorly planned densification in the name of individual maximum return, particularly when it sacrifices increasingly rare detached single-family homes and depreciates a community that will drive the growth of the North End. There will be a wealth of new, purpose-built rental units coming online in this area in the next few years. The addition of the second unit in this single-family home will do little to address rental demand while degrading the identity of this neighbourhood. Ultimately, the cons of the additional unit outweigh the potential benefit to the community. A single-family rental would be a welcome addition.

Opposition to Proposed Variances

Application HM/A-20:139

B) We oppose the proposed plan for providing on-property parking.

1. There is insufficient space in the right-of-way to permit safe parking.

- **A entrance/exit of 2.4 m is exceptionally narrow and gives little room for error in accessing the laneway and proposed parking spot.** The proposed driveway is bound by the walls of both homes. This presents a high risk of damage to both motorists, tenants and the homes themselves. This is compounded by the fact that the only entrance for Unit B opens directly onto this right-of-way, creating risk that a tenant may be hit and/or blocked. There is no room to maneuver or 'steer clear' in this space.
- **There is insufficient maneuvering room to enable a vehicle to turn around.** In keeping with the site plan, the applicants are only able to provide 4.6 m of manoeuvring room. This provides little room for a tenant to safely turn their vehicle via a 3-point turn to enable forward egress. In the absence of sufficient space, a vehicle could theoretically reverse out of the driveway, taking a sharp turn in an attempt to target a narrow laneway that is only 2.4 m wide in reverse. A second alternative would see the tenant back into the laneway from the street in order to change the orientation of their vehicle in the parking spot and facilitate an forward facing exit. This would require the motorist to reverse into a narrow 2.4 m opening from the street. In any of these scenarios, there is significant risk of a vehicle backing into the existing residences and other property features.
- **Our reading of the site plan suggests a mis-representation of the existing right-of-way.** Both properties have an explicit right-of-way, granted in instrument NS32220 (attached) dated 1937 and reiterated again in CD288497 (attached) dated 1984. These documents explicitly state that both properties are subject to and together with a “free and uninterrupted right-of-way...extending southerly from the most southerly limit of Picton Street West, a distance of 82 feet (25 m).” The survey provided by the applicant measured the 82 feet (25 m) from the existing property line, including the road allowance in the definition of the southerly limit of the street. Our interpretation is that this measurement refers to the limits of the existing roadway and sidewalk. This translates to the right-of-way shifting north more than 14 feet and terminating before the parking spot proposed in the site plan (see attached, site plan 1). In keeping with this measurement, the applicants are unable to provide even the 4.6 m of manoeuvring room as indicated. The maximum would be 2.89 m, further complicating safe ingress and egress. We suspect the site-plan has mischaracterized the right-of-way based on this measurement. Indeed, the initial site-plan provided in the applicant package indicates a right-of-way boundary aligning with measurement of 25M from the sidewalk. The second site plan provided proposes an extended right-of-way that measures 29.26 M (96 feet) from the sidewalk, well beyond what is explicitly stated in the above instruments.

2. Formal agreements between owners do not exist.

- **No agreements exist with respect to liability.** There is risk of property damage on account of the narrow driveway and limited maneuvering room. The property will be

Opposition to Proposed Variances

Application HM/A-20:139

rented by tenants, who may not possess sufficient insurance to cover any damage or liability. If the residence were owner-occupied, this would not likely be an issue. However, in a rental situation, an explicit agreement outlining liability is essential. No such agreement exists or has been proposed.

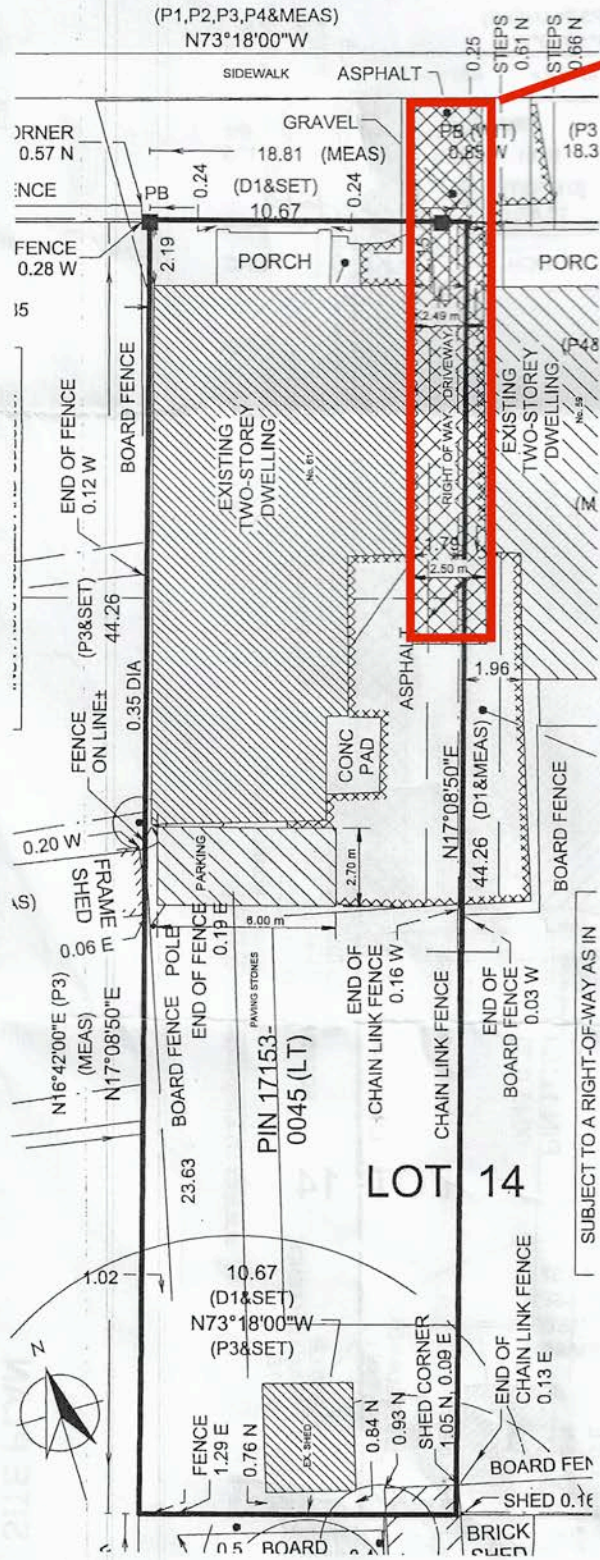
- **No agreements exist with respect to use.** The instruments detailing this right of way (NS32220 & CD288497) do not provide explicit guidance on the use of the driveway (i.e. parking, vehicle standing, unloading, time limits etc.). The property and the use of this right-of-way has changed since it was established over 80 years ago. The previous owners built a chain link fence extending 1 meter into the 25 m allocation, clearly preventing the use of a portion the right-of-way. To this end, a formal agreement clearly identifying the purpose and limits of this right-of-way needs to be established to ensure amicable use by both parties in the long-term.

- **The proposed laneway is in disrepair and there is no agreement with respect to remediation and upkeep.** The combination of asphalt and gravel is in very poor shape and requires significant repairs. The previous owners of the property noted that the area suffers from recurring sinkholes that have lead to erosion of the driveway (characteristic of Picton Street). This has lead to a poor and uneven grade, with water draining towards our house and leaking through our foundation. While we have taken steps to mitigate the issue, there is no agreement for the repair and upkeep of the laneway. In the absence of repairs, use as a driveway will lead to continued degradation and complications.

- **No agreements exist with respect to the maintenance of the right-of-way.** There is no formal agreement covering maintenance (i.e. snow removal) for the proposed laneway. The applicants have owned the property since November 2019 and in that time have made no effort to remove snow from the laneway or sidewalk aside from when their contractor took on his matter himself when he was on site with his truck. As they do not live in Hamilton, the property was not cleared. We have not received any proposals for shared maintenance, and indeed, no agreements exist.

Conclusion: We oppose the proposed parking plan in its current form as it does not offer a means of ensuring safe ingress/egress for both parties, there are no agreements in place to govern ongoing management and upkeep of the right-of-way, and there is significant doubts about the accuracy of the site plan dimensions. An alternative proposal that remedies these shortcomings would be considered. Given the confines of the laneway and risk to the property, the provision of a dedicated, primary parking space for tenants is not likely feasible. However, a mutual arrangement surrounding infrequent use of the right-of-way to allow unloading or temporary parking might amendable to both parties.

PICTON STREET WEST (DEDICATED BY REGISTERED PLAN 12) PIN 17153-0187 (LT)



Initial proposed ROW
of 25 M (82 feet).

See Site plan in separate attachment as this one is incorrect

SITE PLAN

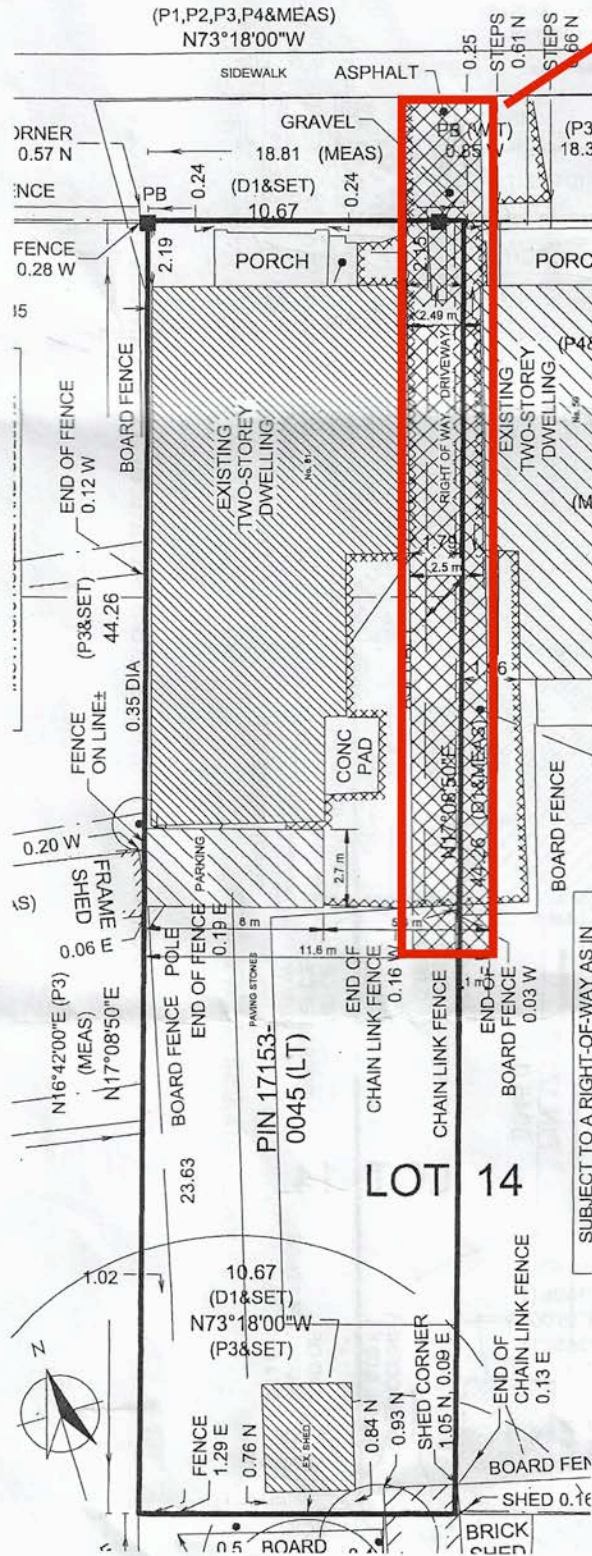
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INTERIOR RENO & ALTERATION
61 PICTON ST. W., HAMILTON, ON

FINE LINES DESIGN

Z02.1

PICTON STREET WEST (DEDICATED BY REGISTERED PLAN 12) PIN 17153-0187 (LT)



Subsequent ROW, measuring 96 feet from sidewalk.

Scale: 1:150
2020-06-29 4:36:14 PM

SITE PLAN

INTERIOR RENO & ALTERATION
61 PICTON ST. W., HAMILTON, ON

FINE LINES DESIGN

Z02.1

This Indenture

made in duplicate the Fifth day of July
one thousand nine hundred and eighty-four

In Pursuance of the Short Forms of Conveyances Act:

Between

MARY DIFALCO, of the City of Hamilton,
in the Regional Municipality of Hamilton-
Wentworth,

hereinafter called the "Grantor"

OF THE FIRST PART

and

ANTHONY JOSEPH DIFALCO, of the City of Hamilton,
in the Regional Municipality of Hamilton-Wentworth,
and JOAN ELIZABETH DIFALCO, his spouse, of the
same place,

hereinafter called the "Grantees"

OF THE SECOND PART

AND

~~husband and wife, of the said City of Hamilton,
hereinafter called the "Spouse of the Grantor"~~

~~SIXTH PART~~

WHEREAS the hereinafter described premises were held by JOSEPH DIFALCO and MARY DIFALCO as joint tenants and not as tenants in common.

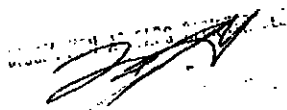
AND WHEREAS JOSEPH DIFALCO died on or about the 20th day of April, 1979.

Witnesseth that in consideration of other good and valuable consideration and the sum of TWO. (\$2.00) DOLLARS

now paid by the said Grantees to the said Grantor, the receipt whereof is hereby by him acknowledged, he the said Grantor DOTH GRANT unto the said Grantees in fee simple as joint tenants and not as tenants in common

THOSE lands and premises located in the following municipality, namely,
In the City of Hamilton, in the Regional Municipality of Hamilton-Wentworth
(formerly in the County of Wentworth) and in the Province of Ontario
~~and being composed of~~ containing by admeasurement one-fifth of an acre be the same
more or less, composed of Lot Number Fourteen on the south side of Picton Street
in Block Number Sixteen, lying between Picton, MacNab, Ferrie and Bay Streets and
in the survey in the said City of Hamilton, of one Sir Allan Napier MacNab ~~PLAN 12~~
SAVING AND EXCEPTING therefrom the most westerly thirty-five feet throughout from
front to rear of said Lot Number Fourteen.

TOGETHER WITH a free and uninterrupted right of way, ingress and egress for
persons, animals and vehicles through, along and over the most easterly four
feet, nine inches of the westerly thirty-five feet of said Lot Fourteen extending
southerly from the southerly limit of Picton Street a distance of eighty-two feet



AND SUBJECT to a free and uninterrupted right of way, ingress and egress for persons, animals and vehicles, through, along and over the most westerly three feet, three inches of the hereinbefore described lands extending southerly from the southerly limit of Picton Street a distance of eighty-two feet.

DESCRIPTION APPEARS RESISTIBLE

TO HAVE AND TO HOLD unto the said Grantees as joint tenants and not as tenants in common, their heirs, executors, administrators, successors and assigns to and for their sole and only use forever.

SUBJECT NEVERTHELESS to the reservations, limitations, provisoes and conditions expressed in the original grant thereof from the Crown.

The said Grantor COVENANTS with the said Grantees that he has the right to convey the said lands to the said Grantees notwithstanding any act of the said Grantor.

AND that the said Grantees shall have quiet possession of the said lands free from all encumbrances.

AND the said Grantor COVENANTS with the said Grantees that he will execute such further assurance of the said lands as may be requisite.

AND the said Grantor COVENANTS with the said Grantees that he has done no act to encumber the said lands.

AND the said Grantor RELEASES to the said Grantees ALL his claims upon the said lands.

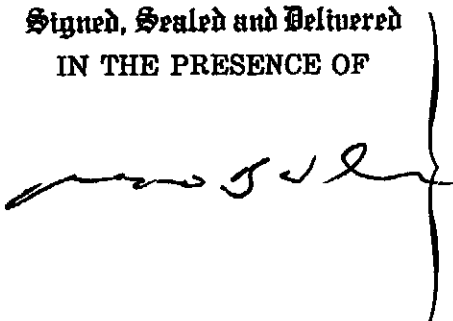
Strike out
if not
applicable

~~AND the said Spouse of the Grantor hereby consents to the transaction evidenced by this Indenture.~~

PROVIDED that in construing these presents the words "Grantor" and the pronouns "he", "his" or "him" relating thereto and used therewith shall be read and construed as "Grantor" or "Grantors" and "he", "she", "it" or "they", "his", "her", "its" or "their", or "him", "her", "it" or "them", respectively, as the number and gender of the party or parties referred to in each case require, and the number of the verb agreeing therewith shall be construed as agreeing with the said word or pronoun so substituted.

IN WITNESS WHEREOF the said parties hereto have hereunto set their hands and seals.

Signed, Sealed and Delivered
IN THE PRESENCE OF



Mary D. Falco
MARY D. FALCO

PLANNING ACT AFFIDAVIT

IN THE MATTER OF THE PLANNING ACT, 1983

AND IN THE MATTER OF THE TITLE TO Lot 14, Sir Allan Napier MacNab

Deed, Transfer,
Mortgage, Charge,
etc.

AND IN THE MATTER OF A DEED

THEREOF, FROM MARY DIFALCO

TO ANTHONY JOSEPH DIFALCO and JOAN ELIZABETH DIFALCO

DATED July 5th 19 84 .

I, MARY DIFALCO

of the City of Hamilton in the Regional

Municipality of Hamilton-Wentworth

MAKE OATH AND SAY AS FOLLOWS:

1. I am the Grantor

named in the above mentioned Instrument, and have knowledge of the matters hereinafter sworn.

2. A consent under section 49 of the Planning Act, 1983, in respect of the said Instrument is not required because

To be made by
one of the parties
or by his solicitor

Delete (a)
if not applicable

(a) *the person conveying or otherwise dealing with land in the said Instrument does not retain the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment in respect of any land abutting the land that is being conveyed or otherwise dealt with other than land that is the whole of one or more lots or blocks within one or more registered plans of subdivision.*

State other
reason if any

SWORN before me

at the City of Hamilton

in the Regional Municipality of

this Hamilton-Wentworth

day of 30 July

19 84 .

Mary Difalco
MARY DIFALCO

AFFIDAVIT OF RESIDENCE AND OF VALUE OF THE CONSIDERATION

IN THE MATTER OF THE CONVEYANCE OF (insert brief description of land) lands and premises in the City of Hamilton, in the Regional Municipality of Hamilton-Wentworth and being composed of Lot 14 in Sir Allan Napier MacNab survey.

BY (print names of all transferors in full) MARY DIFALCO

TO (see instruction 1 and print names of all transferees in full) ANTHONY JOSEPH DIFALCO and JOAN ELIZABETH DIFALCO

WE, ☒ (see instruction 2 and print name(s) in full) ANTHONY JOSEPH DIFALCO and JOAN ELIZABETH DIFALCO both of the City of Hamilton, in the Regional Municipality of Hamilton-Wentworth

MAKE OATH AND SAY THAT:

1. ☒ (place a clear mark within the square opposite that one of the following paragraphs that describes the capacity of the deponent(s): (see instruction 2)

☐ (a) A person in trust for whom the land conveyed in the above-described conveyance is being conveyed;

☐ (b) A trustee named in the above-described conveyance to whom the land is being conveyed;

☒ (c) A transferee named in the above-described conveyance;

☐ (d) The authorized agent or solicitor acting in this transaction for (insert name(s) of principal(s))

described in paragraph(s) (a), (b), (c) above; (strike out references to inapplicable paragraphs)

☐ (e) The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for (insert name(s) of corporation(s))

described in paragraph(s) (a), (b), (c) above; (strike out references to inapplicable paragraphs)

☐ (f) A transferee described in paragraph () (insert only one of paragraph (a), (b) or (c) above, as applicable) and am making this

affidavit on my own behalf and on behalf of (insert name of spouse)

who is my spouse described in paragraph (); (insert only one of paragraph (a), (b) or (c) above, as applicable)

and as such, I have personal knowledge of the facts herein deposed to.

2. I have read and considered the definitions of "non-resident corporation" and "non-resident person" set out respectively in clauses 1(1)(f) and (g) of the Act. (see instruction 3)

3. The following persons to whom or in trust for whom the land conveyed in the above-described conveyance is being conveyed are non-resident persons within the meaning of the Act. (see instruction 4) none

4. THE TOTAL CONSIDERATION FOR THIS TRANSACTION IS ALLOCATED AS FOLLOWS:

(a) Monies paid or to be paid in cash \$ 40,000.00

(b) Mortgages (i) Assumed (show principal and interest to be credited against purchase price) \$ nil

(ii) Given back to vendor \$ nil

(c) Property transferred in exchange (detail below) \$ nil

(d) Securities transferred to the value of (detail below) \$ nil

(e) Liens, legacies, annuities and maintenance charges to which transfer is subject \$ nil

(f) Other valuable consideration subject to land transfer tax (detail below) \$ nil

(g) VALUE OF LAND, BUILDING, FIXTURES AND GOODWILL SUBJECT TO LAND TRANSFER TAX (total of (a) to (f)) \$ 40,000.00 \$ 40,000.00

(h) VALUE OF ALL CHATTELS — items of tangible personal property (Retail Sales Tax is payable on the value of all chattels unless exempt under the provisions of the "Retail Sales Tax Act", R.S.O. 1980, c. 454, as amended) \$ nil

(i) Other consideration for transaction not included in (g) or (h) above \$ nil

(j) TOTAL CONSIDERATION \$ 40,000.00

ALL BLANKS
MUST BE
FILLED IN.
INSERT "NIL"
WHERE
APPLICABLE.

5. If consideration is nominal, describe relationship between transferor and transferee and state purpose of conveyance. (see instruction 5) n/a

6. If the consideration is nominal, is the land subject to any encumbrance? Yes

7. Other remarks and explanations, if necessary n/a

SWORN before me at the City of Hamilton
in the Regional Municipality of Hamilton-Wentworth
this 30 day of July 19 84

A Commissioner for taking Affidavits, etc.

ANTHONY JOSEPH DIFALCO

JOAN ELIZABETH DIFALCO

PROPERTY INFORMATION RECORD

A. Describe nature of instrument Deed

B. (i) Address of property being conveyed (if available) 59 Picton Street West, Hamilton

(ii) Assessment Roll # (if available) not available

C. Mailing address(es) for future Notices of Assessment under the Assessment Act for property being conveyed (see instruction 6) 59 Picton Street West, Hamilton

D. (i) Registration number for last conveyance of property being conveyed (if available) 50047N.S.

(ii) Legal description of property conveyed: Same as in D.(i) above. Yes ☐ No ☐ Not Known ☒

E. Name(s) and address(es) of each transferee's

solicitor RENO B. VIOLIN
Barrister and Solicitor
1164 Barton St. E.
Hamilton, Ontario

For Land Registry Office use only

REGISTRATION NO.

LAND REGISTRY OFFICE NO.

REGISTRATION DATE

AFFIDAVIT OF SUBSCRIBING WITNESS

I, RENO B. VIOLIN
of the City of Hamilton
in the Regional Municipality of Hamilton-Wentworth

make oath and say:

*See footnote I am a subscribing witness to the attached instrument and I was present and saw it executed
at Hamilton, Ontario by Mary Difalco

*See footnote I verily believe that each person whose signature I witnessed is the party of the same name referred
to in the instrument.

SWORN before me at the City of Hamilton
in the Regional Municipality of Hamilton-
Wentworth

this 30th day of July 19 84

TERESA ELLIOTT, a Commissioner for Taking
Affidavits, Judicial District of Hamilton-Wentworth
for Reno B. Violin, Commissioner for Taking Affidavits, ETC.
Expires June 11, 1985.

RENO B. VIOLIN

* Where a party is unable to read the instrument or where a party signs by making his mark or in foreign characters add "after instrument had been read to him
and he appeared fully to understand it". Where executed under a power of attorney insert "(name of attorney) as attorney for (name of party)"; and for next
clause substitute "I verily believe that the person whose signature I witnessed was authorized to execute the instrument as attorney for (name)".

AFFIDAVIT AS TO AGE AND SPOUSAL STATUS

~~XXXXXX~~ MARY DIFALCO

of the City of Hamilton
in the Regional Municipality of Hamilton-Wentworth

* If attorney,
see footnote (severally) make oath and say: When I / ~~XXXXXX~~ executed the attached instrument,

I WAS / ~~XXXXXX~~ at least eighteen years old;

and within the meaning of clause 1(f) of the Family Law Reform Act,

(a) ~~XXXXXX~~ / I WAS NOT a spouse.

Strike out
inapplicable
clauses.

(b) ~~XXXXXX~~ was my spouse.

(c) ~~We were spouses of one another.~~

I am not a non resident of Canada within Section 116 of the Income Tax Act.

** Not a
matrimonial
home, etc.,
see footnote.

Resident of
Canada, etc.

(SEVERALLY) SWORN before me at the
City of Hamilton in the Regional
Municipality of Hamilton-Wentworth

this 30 day of July 1984

MARY DIFALCO

A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

*Note: Where affidavit is made by an attorney, the attorney shall depose, (a) that the party was at least eighteen years of age at the time of
execution of the power of attorney; (b) as to the party's status as a spouse at the time of execution of the instrument; and (c) that the
power of attorney is in full force and effect and has not been revoked.

** Note: See clauses 42(s) (b) (c) and (d) of the Family Law Reform Act. If spouse does not join in or consent, either insert explanation or com-
plete a separate affidavit.

AFFIDAVIT OF SUBSCRIBING WITNESS

I,
of the
in the

make oath and say:

*See footnote I am a subscribing witness to the attached instrument and I was present and saw it executed at by

*See footnote I verily believe that each person whose signature I witnessed is the party of the same name referred to in the instrument.

SWORN before me at the

this day of 19

COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

* Where a party is unable to read the instrument or where a party signs by making his mark or in foreign characters add "after instrument had been read to him and he appeared fully to understand it". Where executed under a power of attorney insert "(name of attorney) as attorney for (name of party)"; and for next clause substitute "I verily believe that the person whose signature I witnessed was authorized to execute the instrument as attorney for (name)".

288497 C.D.
Dated July 5 1984

Mary Difalco

—TO—
ANTHONY JOSEPH DIFALCO
JOAN ELIZABETH DIFALCO

Deed of Land
TO JOINT TENANTS
City of Hamilton, Regional
Regional Municipality of
Hamilton-Wentworth

Newsome and Gilbert, Limited—Form 285 or 1156

ASSESSMENT ROLL No.

ADDRESS OF PROPERTY:

59 Picton Street West

Hamilton, Ontario

RENO B. VIOLIN
Barrister and Solicitor
1164 Barton St.E.
Hamilton, Ontario

288497 C.D.
No. Registry Division of Wentworth (No. 62)
I CERTIFY that this instrument is registered as of
P.M. 3:48

JUL 31 1984 in the

Land Registry Office
at Hamilton
Ontario.
V. Matthews
LAND REGISTRAR

REGISTRATION FEE	16.00
LAND TRANSFER TAX	160.00
RETAIL SALES TAX	

17 DEC 14 1984 Bldg 16 M.C. Hall

County

I, H. Patrick Marck,
of the City of Hamilton in the
County of Wentworth
TO WIT: Barrister-at-law make oath and say:

1. THAT I was personally present and did see the within or annexed Instrument and a duplicate thereof duly signed, sealed and executed by Abramo and Maria Zamprogna, two

_____ of the parties thereto.

2. That the said Instrument and duplicate were executed by the said parties at the City of Hamilton

3. THAT I know the said parties.

4. THAT I am a subscribing witness to the said Instrument and duplicate.

SWORN before me at the City
of Hamilton in the County
of Wentworth this First
day of February A.D. 19 37

H. Patrick Marck
A Commissioner for taking Affidavits, Etc.

OR

I, _____

of _____

in the _____

of _____

TO WIT:

_____ do solemnly declare

THAT I was at the time of the execution and delivery by me of the within instrument and of the full age of 21 years.

AND I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of "The Canada Evidence Act"

DECLARED before me at the _____
of _____ in the County
of _____ this _____
day of _____ A.D., 19 _____

A Commissioner for taking Affidavits, Etc.

32220 H.S. HAMILTON

Dated February 1st 1937

ABRAMO ZAMPROGNA

et UX

TO

ANTONIO CARPANI

and

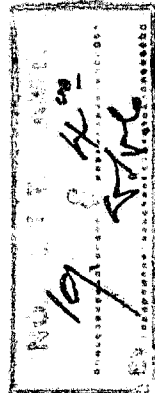
MARIA CARPANI

61 Pictou St W

Deed of Land

SITUATE

DYE & DURHAM, 9-11 YONGE STREET ARCADE, TORONTO, CAN.



RETURN TO

Marck m

32220 H.S.

219 (10.3)

32220 H.S.

265

240

32220 H.S.

3220 H.S. m
m.g. Threllick
Sep

This Indenture

made (in Duplicate) the First day of February
one thousand nine hundred and Thirty-seven

In Pursuance of The Short Forms of Conveyances Act

Between

ABRAMO ZAMPROGNA, of the City of Hamilton, in the
County of Wentworth, Butcher

hereinafter called the Grantor
of the First Part

ANTONIO CARPANI, of the City of Hamilton, in the
County of Wentworth, Laborer, and Maria Carpani,
his Wife, of the same place

hereinafter called the Grantee
of the Second Part

MARIA ZAMPROGNA, of the City of Hamilton, in the
County of Wentworth

Wife of the said Grantor hereinafter called the party
of the Third Part

Witnesseth that in consideration of other valuable consideration

and the sum of One- - - - -

Dollars

of lawful money of Canada now paid by the said Grantees to the said
Grantor (the receipt whereof is hereby by him acknowledged),

the said Grantor hath Grant unto the said Grantees in fee simple as joint
tenants and not as tenants in common

All and Singular that certain parcel or tract of land and premises

situate lying and being in the City of Hamilton, in the County of
Wentworth, and being composed of the most westerly thirty-five
feet from front to rear of Lot #14 (Fourteen) on the south side
of Picton Street in Block #16 lying between Picton, McNab, Ferrie,
and Bay Streets in the Survey made for Sir Allan Napier McNab.

Upon the said land is said to be erected dwelling known as Municipal
#61 Picton Street West in the City of Hamilton.

Subject to a free and uninterrupted right-of-way ingress and egress for persons, animals and vehicles of the Grantors their agents, servants, workmen and invitees through along and over the most easterly four feet and nine inches of the hereinabove described lands extending southerly from the most southerly limit of Picton Street a distance of eighty-two feet.

And together with a free and uninterrupted right-of-way ingress and egress for persons, animals and vehicles of the Grantees, their agents, servants, workmen and invitees through along and over that certain parcel of land lying immediately to the east of the hereinabove described land and having a width of three feet and three inches extending southerly from the most southerly limit of Picton Street, a distance of eighty-two feet. It being agreed by the parties hereto that the above right-of-way is to be a mutual one and is to be the eight feet of land between the main portions of buildings known as 59 and 61 Picton Street West and its productions northerly and southerly so that the said right-of-way is eighty-two feet in length.

Both of the parties agree not to place any obstruction in the said right-of-way which will in any way make it narrower than it is at present.

as joint tenants and not as tenants in common
To have and to hold unto the said Grantees/ heirs and
assigns, to and for their sole and only use for ever. **Subject**
Nevertheless to the reservations, limitations, provisoes and conditions,
expressed in the original grant thereof from the Crown.

The said Grantor Covenants with the said Grantees That he has the right to convey the said lands to the said Grantee s notwithstanding any act of the said Grantor .

And That the said Grantees shall have quiet possession of the said lands free from all incumbrances.

And the said Grantor Covenants with the said Grantees that he will execute such further assurances of the said lands as may be requisite.

And the said Grantor Covenants with the said Grantees that he has done no act to incumber the said lands.

And the said Grantor Releases to the said Grantees All claims upon the said lands

And the said Maria Zamprogna wife of the said grantor hereby bars her dower in the said lands

In Witness Whereof the said parties hereto have hereunto set their hands and seals.

Signed, Sealed and Delivered

IN THE PRESENCE OF

H. Patrick

Abraham Zamprogna
Maria Zamprogna



Affidavit, Land Transfer Tax Act

IN THE MATTER OF THE LAND TRANSFER TAX ACT, 1921 AND 1922

PROVINCE OF ONTARIO
COUNTY OF Wentworth

I, H. Patrick March
of the City of Hamilton
in the County of Wentworth solicitor for the Grantors & Grantee
named in the within (or annexed) transfer make oath and say:

To Wit:

This affidavit may be made by the purchaser or vendor or by any one acting for them under power of attorney or by an agent accredited in writing by the purchaser or vendor or by the solicitor of either of them.

1. I am solicitor for Grantors & Grantee
named in the within (or annexed) transfer.

2. I have a personal knowledge of the facts stated in this affidavit.

3. The true amount of the monies in cash and the value of any property or security included in the consideration is as follows:

(a) Monies paid in cash	<u>\$ 6 00⁰⁰</u>
(b) Property transferred in exchange to the equity value of	<u>\$ none</u>
(c) Securities transferred to the value of	<u>\$</u>
(d) Balances of existing encumbrances with interest owing at date of transfer	<u>\$ none</u>
(e) Monies secured by mortgage under this transaction	<u>\$ 14 00⁰⁰</u>
(f) Liens, annuities and maintenance charges to which transfer is subject	<u>\$ none</u>

Total consideration \$ 20 00⁰⁰

4. If consideration is nominal, is the transfer for natural love and affection?

5. If so, what is the relationship between Grantor and Grantee?

6. Other remarks and explanations, if necessary.

Sworn before me at the City
of Hamilton
in the County of Wentworth
this 2nd
day of February

A.D. 1937

Alfred A. Ingalls
Commissioner, etc.

H. Patrick March

From: [Bellavia, Mickey](#)
To: [Committee of Adjustment](#)
Subject: Municipal address 61 Picton Street West, Hamilton
Date: August 24, 2020 8:42:22 AM
Attachments: [Application No HMA-20139.pdf](#)

Good Morning

I am writing to you regarding the Municipal address 61 Picton Street West, Hamilton. Application No: HM/A-20:139

Please find attached a signed opposition to the conversion of the existing single family dwelling to contain two dwelling units.

I would also like to add: The residents are also concerned about having a staircase on the outside of the home to enable emergency exit in case of a fire. We do not want an outside staircase added to this home.

The residents of Picton Street West thank you for your time.

Confidentiality Notice: This e-mail and attached material is intended for the use of the individual or institution to which it is addressed and may not be distributed, copied or disclosed to other unauthorized persons. This material may contain confidential or personal information that may be subject to the provisions of the Freedom of Information and Protection of Privacy Act, the Municipal Freedom of Information and Protection of Privacy Act or the Personal Health Information Protection Act. If you receive this transmission in error, please notify the sender and permanently delete this email and any attachments. Thank you for your co-operation and assistance.

NOTICE OF PUBLIC HEARING

APPLICATION NO: HM/A-20:139

SUBJECT PROPERTY: Municipal address 61 Picton Street West, Hamilton

PROPOSAL: To permit the conversion of the existing single family dwelling to contain two dwelling units notwithstanding that:

1. One (1) parking space shall be provided instead of the minimum required two (2) parking spaces.

As residents of Picton Street West (between MacNab & Bay), we are opposed to this single family dwelling to be converted into a two family dwelling because of the parking issues that will come with this conversion. Our street already has a few non-legal two-family rental homes that cause homeowners on our street to have issues with parking their vehicles. Some residents may have more than one person in their family that require a vehicle for work that would need to park on the street. We have other neighbours that have more than one vehicle for only one driver in that household. We are a very tight community on Picton Street West and always look out for the best interest of our home owners. For the past 60 years, this home at 61 Picton Street West has always been a single family home. We feel that the new buyers of this home do not have any regard for the neighbours except to make a quick buck. They will not be residing in this house.

Please accept this public input regarding the single family dwelling to be converted into a two family dwelling:

[illegible]

From: [Rose Divecha](#)
To: [Committee of Adjustment](#)
Cc: [Home](#); [Rob](#)
Subject: Notice of Public Hearing - Minor Variance - HM/A-20:139 (61 Picton St. W. Hamilton)
Date: August 24, 2020 9:47:16 PM

Attn: Committee of Adjustments, per subject line.

We live at 414 Bay St. Our backyard - which we enjoy as outdoor living space for 3 seasons - backs directly on to the one storey portion of the side of 61 Picton St. In review of the proposed application we are concerned with the following:

1. The incorrect representation on the drawing Z02.1. This drawing incorrectly conveys the entire building as two stories when it is not. I would ask the committee review this error and confirm the owners intentions.
2. That no additional structure (i.e, fire escape/entrance serving the second floor portion) is required/planned. We simply do not want to see a any new structure added to the existing house, increasing the existing height and size that would unexpectedly block current air views (sightlines, sunlight etc.) we currently enjoy. This would be a change to the landscape that we simply did not buy into.
3. An increase in occupant traffic with direct views into our backyard and potential added noise.
4. Increased parking congestion – already strained in this area.

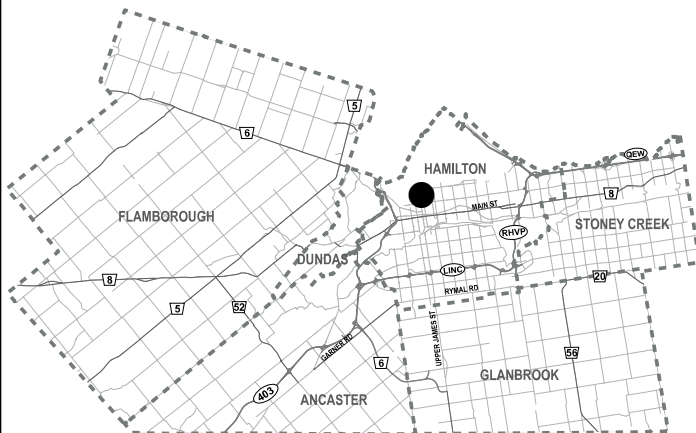
We bought our house 3 years ago. Drawn to neighbourhood due to its transformation in recent years. Now more than ever it's a family friendly community with residences vested in their community. An added duplex will undue what has been created over years of care in this community.

Thank you.

Rob and Rose Divecha



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



61 Picton Street West, Hamilton
(Ward 2)

File Name/Number:

HM/A-20:139

Date:

August 19, 2020

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/A-20:150 (109 & 111 Charles St., Hamilton)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the establishment of a professional office within the entire building, notwithstanding the following variances.

Urban Hamilton Official Plan

The property is identified as “Neighbourhoods” in Schedule E– Urban Structure and is designated “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations. Policies E.3.2.3 d), E.3.8.2 a), and E.3.8.4 a) amongst others, are applicable and permit local commercial uses including an office.

Cultural Heritage:

The subject property at 109-111 Charles Street is located within the MacNab-Charles Street Heritage Conservation District (HCD) and is designated under Part V of the *Ontario Heritage Act*.

The proposal to permit the establishment of a professional office within the existing building does not appear to impact the heritage attributes of the HCD, and as a result, will not require a heritage permit to facilitate this proposal. Please note that should any alterations be proposed to alter any part of the exterior of the property, a heritage permit may be required prior to commencing the works.

Former City of Hamilton Zoning By-law No. 6593

The subject lands are zoned “E-3/S-1239” “E-3/S-1239a” and “E-3/S-1288” (High Density Multiple Dwellings) District, which permits a professional office.

Variance 1 and 2

The applicant is requesting a variance to allow a minimum front yard depth of 3.0 metres and a minimum northerly side yard width of 0.0 metres, notwithstanding the minimum required front yard depth of 3.8 metres and the minimum required side yard width of 3.0 metres. The intent of the Zoning By-law is to maintain the consistent streetscape, to allow adequate space for access and drainage, and to avoid any impact on the enjoyment and privacy of the adjacent properties. Staff defers any drainage concerns to Development Engineering Approvals.

The variances recognize existing conditions that will remain unchanged as a result of establishing a professional office use. The general intent of the Zoning By-law is being

maintained as the existing setbacks are consistent with the residential character of the surrounding area. In addition, the subject property is a corner lot with the northerly side lot line adjacent to Hurst Place. As such, the proposed variance will not result in any negative impact to a neighbouring property. The variances are considered minor in nature and desirable for the development of the site as no negative impact is anticipated for the subject lands or surrounding area.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Variance 3

The applicant is requesting a variance to allow a minimum of 30.0% of the lot to be maintained as landscaped area, notwithstanding the minimum 40.0% landscaped area and the requirement that 40% of said landscaped area shall be in one space having a dimension of at least 6.0 metres and in any yard other than the front yard. The general intent of the Zoning By-law is to maintain the consistent streetscape and allow sufficient area to accommodate the necessary landscaped area and amenity area.

The variances recognize existing conditions that will remain unchanged as a result of establishing a professional office use. The accommodation of additional landscaped area, in conformity with the Zoning by-law would require altering the existing site design which would cause the applicant undue hardship. The variances are considered minor in nature and desirable for the development of the site as no negative impact is anticipated for the subject lands or surrounding area as a result of maintaining existing conditions.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Recommendation:

Based on the preceding information, the requested variances maintain the general intent and purpose of the Urban Hamilton Official Plan and the former City of Hamilton Zoning By-law No. 6593. The variances are considered to be minor in nature and desirable for the appropriate use of the property. In conclusion, Staff recommends that the application be approved.

Building Division:

1. A building permit is required for the proposed office alteration.
2. This property is designated under Part V of the *Ontario Heritage Act*, by municipal By-law Number 99-144 as part of the MacNab-Charles Heritage Conservation District. A Heritage Permit may be required for alterations or changes to the

property. Please contact a Cultural Heritage Planner at (905) 546-2424, extension 1202 or 1214, or visit www.hamilton.ca/heritageplanning for further information.

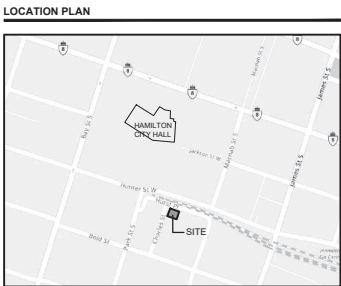
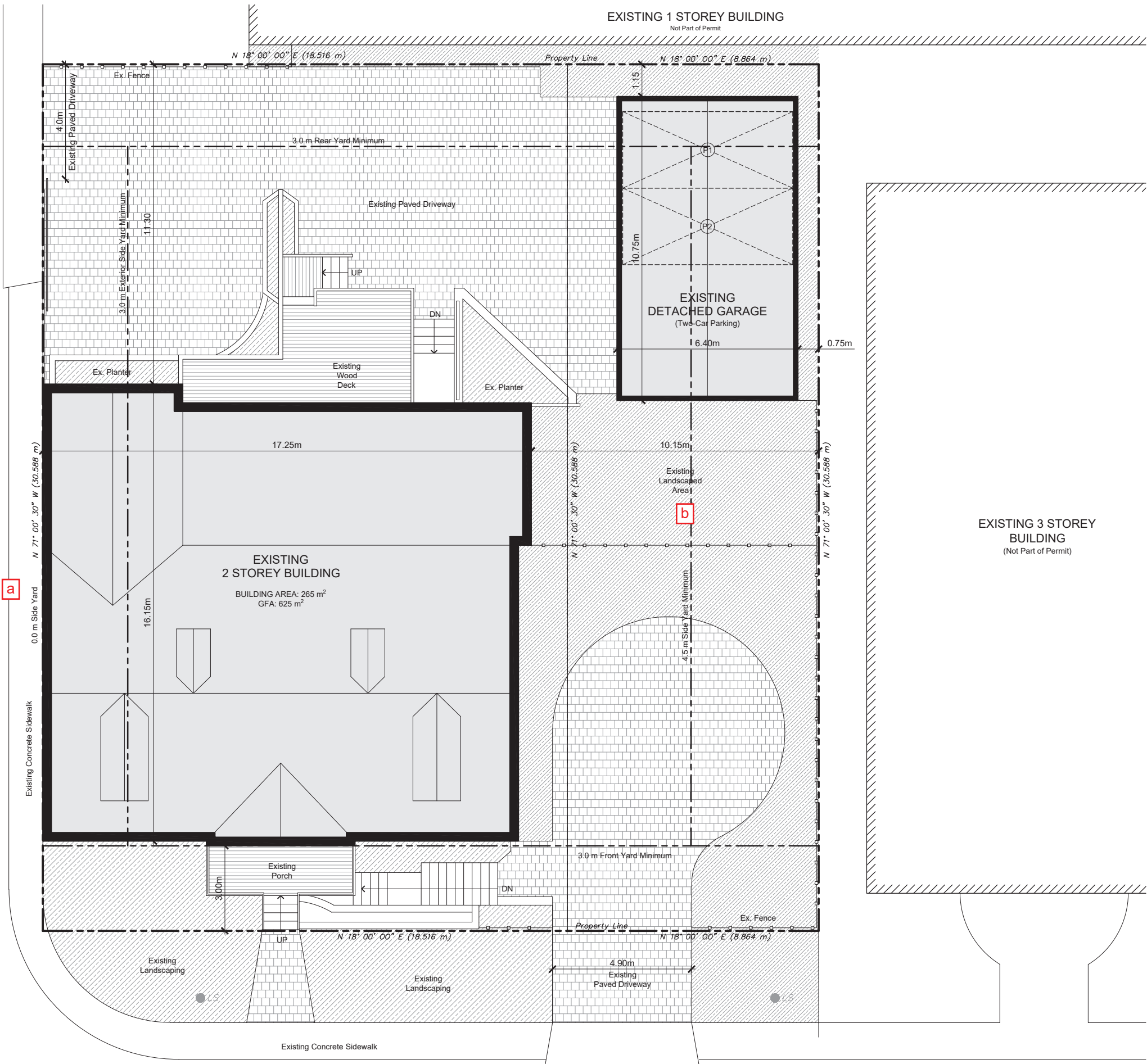
3. No elevation plans were provided to confirm the height of the building. The applicant shall ensure that the variances are correct; otherwise, further variances will be required.
4. Based on the gross floor area of the building being 363.4m², which excludes the cellar as indicated on plans, no parking and no loading is required for the proposed commercial office use. Please be advised, if the existing building contains a basement instead of cellar, further variances will be required to address parking.
5. The applicant shall ensure that the lots are merged in title or registered under identical ownership for the purpose of the proposal.

Development Engineering:

To our understanding, the existing building footprint is not being altered and no new construction outside of the existing building footprint is proposed, therefore we have no concerns with the Minor Variances as proposed.

See attached for additional comments.

HURST PLACE



DESCRIPTION OF PROPERTY
109-111 & 113 CHARLES STREET, HAMILTON.

SITE PLAN INFORMATION		
ZONING (As per by-law 6593)	E-3 (HIGH DENSITY MULTIPLE DWELLINGS) S-1239, S-1239A & S-1288	
NET LOT AREA	837.50 m ²	
BUILDING COVERAGE	263.90 m ²	
GROSS FLOOR AREA	363.40 m ² (Existing)	

SETBACKS	REQUIRED	EXISTING
FRONT YARD	1.50 m (CALC) 3.00m (MINIMUM)	3.00 m
SIDE YARD	3.70m (CALC) 4.50m (MINIMUM)	10.15 m
EXTERIOR SIDE YARD	6.70m (CALC) 3.00m (MINIMUM)	0.00 m
REAR YARD	3.73m (CALC) 3.00m (MINIMUM)	11.30 m

	REQUIRED	EXISTING
LANDSCAPE AREA	40% of Lot Area	30% (252.20 m ²)

	ALLOWED	EXISTING
BUILDING HEIGHT	26.0 m	5.20 m

PARKING REQUIREMENTS	
OFFICE USE: 1 FOR EVERY 11 SQUARE METERS OF GROSS FLOOR AREA IN EXCESS OF 450M ²	
REQUIRED PARKING	NONE
TOTAL PARKING PROVIDED (EXISTING)	2 SPACES

LOADING SPACE REQUIREMENTS	
OFFICE USE: 1 LOADING SPACE FOR FLOOR AREA GREATER THAN 1000M ²	
REQUIRED LOADING SPACE	NONE

SITE PLAN LEGEND	
	Denotes Existing Building
	Denotes Existing Pavers Surface
	Denotes Existing Landscaped Area
	Denotes Building Main Entrance
	Denotes Existing Wrought Iron Fence
	Denotes Existing Light Standard
	Denotes Existing parking Space (2.7m Wide x 6.0 m Long)

- LIST OF MINOR VARIANCES**
- a** MINOR VARIANCE FOR EXISTING NON-COMPLIANT SIDE YARD (FACING STREET) REQUIREMENT.
- b** MINOR VARIANCE FOR EXISTING NON-COMPLIANT LANDSCAPE AREA REQUIREMENT.



Hughes and Bale
Law Office
Charles St. Renovation
109-111 Charles Street
Hamilton, Ontario, L8P 3E4, Canada



Drawings are not to be scaled.
Contractor must verify all dimensions on the job and report any discrepancy to architects before proceeding with the work.
All drawings and specifications are the property of the architect and must be returned at the completion of the work.
This drawing is not to be used for construction until countersigned.
Date:

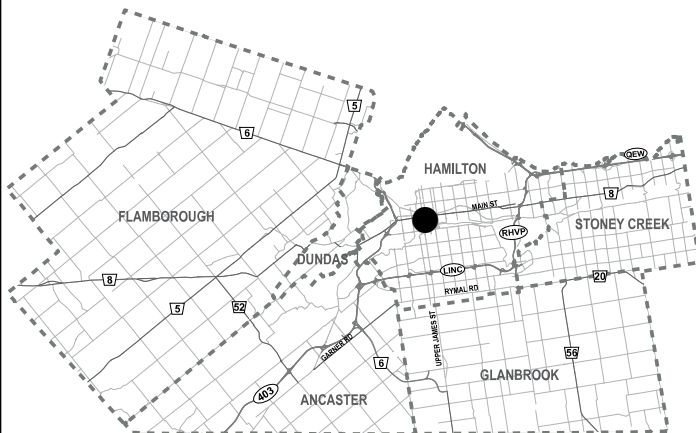


02	Issued for Minor Variance (R1)	2020-08-07
01	Issued for Minor Variance	2020-07-23
No.	Issues/Revisions	YYYY-MM-DD
Drawing Title:		
Existing Site Plan SCHEDULE 'A'		
Issue Date: 2020-08-07		
Drawn by:	SF / YDS	Checked by: PC
Project No.:	11926	Scale: 1:200





● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



109 Charles Street, Hamilton
(Ward 2)

File Name/Number:

HM/A-20:150

Date:

August 20, 2020

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/A-20:125 (60 Bond St. S., Hamilton)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the construction of a 26.6 square metre, two storey addition in the northerly side yard of the existing single detached dwelling to allow for the creation of a mudroom on the first floor, a den on the second floor and basement crawlspace, and to permit the construction of a roof over the existing 27.7 square metre rear deck, notwithstanding the following variances.

Urban Hamilton Official Plan

The property is identified as “Neighbourhoods” in Schedule E– Urban Structure and is designated “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations. Policies E.3.2.3, and E.3.4.3, amongst others, are applicable and permit single detached dwellings.

Cultural Heritage:

The subject property is located within the Westdale South neighbourhood, an established historic neighbourhood as described in UHOP Volume 1 section 3.4.

As set out in Policy 3.4.3.6, new construction and development within established historical neighbourhoods is to be sympathetic and complementary to existing cultural heritage attributes of the neighbourhood, such as building setbacks, massing, and materials.

Staff are satisfied that the proposed north side and rear covered porch additions are consistent with the character of the established historic neighbourhood and have no concerns with the proposal.

Ainslie Wood Westdale Secondary Plan

The subject lands are designated “Low Density Residential 2” within the Ainslie Wood Westdale Secondary Plan. Policies B.6.2.5.3 c), B.6.2.5.4 a) i) and B.6.2.13.1 b) amongst others, are applicable and permit single detached dwellings.

Former City of Hamilton Zoning By-law No. 6593

The subject lands are zoned “C/S-1361” and “C/S-1788” (Urban Protected Residential, Etc.) District, which permits a single family dwelling.

Variance 1

The applicant is requesting a variance to allow a maximum floor area ratio of 0.56, notwithstanding the maximum permitted floor area ratio of 0.45. The general intent of the Urban Hamilton Official Plan and the Ainslie Wood Westdale Secondary Plan is to maintain the existing character of the neighbourhood and limit overbuilding on properties. The general intent of the Zoning By-law is to maintain the established residential character and to prevent overdevelopment of the site.

This portion of Bond Street South is characterized by two to two and a half storey single detached dwellings. Policy B.6.2.5.3 c) and B.6.2.13.1 of the Ainslie Wood Westdale Secondary Plan encourages additions to existing buildings to complement the existing character of the surrounding area. Based on the submitted Elevations, Staff is of the opinion the proposed addition will not significantly alter the style of the existing single detached dwelling or the character of the neighbourhood as it is setback from Bond Street South. As such, the proposed two storey addition maintains the general intent of the Secondary Plan.

The maximum floor area ratio of 0.45 is a site specific provisions for the Ainslie Wood Westdale Neighbourhoods, established to prevent overdevelopment of properties that is out of character for the area. Staff is of the opinion the proposed new building footprint and overall scale of the single detached dwelling will be maintain the character of the neighbourhood.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan, the Ainslie Wood Westdale Secondary Plan, and Zoning By-law is being maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Variance 2 and 5

The applicant is requesting a variance to allow a minimum northerly side yard of 0.54 metres and to allow the eaves and gutters to encroach 0.39 metres into the northerly side yard, notwithstanding the minimum required side yard width of 1.2 metres and the maximum permitted encroachment of one half the width of the required side yard, being 0.29 metres, if Variance 2 is approved. The general intent of the Zoning By-law is to provide a consistent streetscape, to avoid any impact on the enjoyment and privacy of the adjacent properties, and to allow sufficient space for access and drainage. Staff defers any drainage concerns to Development Engineering Approvals.

As discussed above, Staff are satisfied the proposed two storey addition in the northerly side yard of the existing single detached dwelling will not significantly alter the style of the existing single detached dwelling or the character of the neighbourhood. The intent of the

Zoning By-law is being maintained as Staff do not anticipate any negative impact on the existing residential streetscape or the surrounding properties as a result of requested variances.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan, the Ainslie Wood Westdale Secondary Plan, and Zoning By-law is being maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Variance 3

The applicant is requesting a variance to allow one parking space to be provided on site, notwithstanding the minimum two parking spaces required for a single detached dwelling containing eight habitable rooms. The general intent of the Zoning By-law is to ensure the parking needs of the single detached dwelling are satisfied.

The submitted floor plans indicate that the proposed use of the dwelling will remain for the habitation of one family. While Staff acknowledge the proposed addition will result in the loss of opportunity to provide a second parking space, Staff is satisfied the proposed one parking space will satisfy the parking needs of the single detached dwelling.

The subject property is serviced by HSR bus route Nos. 1, 5, 6 and 51 and is in close proximity to multiple Sobi bike share hubs and a number of amenities, including: Westdale Secondary School, Cootes Paradise Elementary School, Churchill Park various commercial uses along King Street West. The general intent of the Zoning By-law is being maintained as the reduction in parking can be supplemented by utilizing public transit and active transportation.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan, the Ainslie Wood Westdale Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Variance 4

The applicant is requesting a variance to allow no manoeuvring to be provided on site, notwithstanding the Zoning By-law requires a minimum manoeuvring aisle width of 6.0 metres abutting and accessory to each required parking space, provided and maintained on the lot. The general intent of the Zoning By-law is to ensure all vehicles can safely manoeuvre to and from the parking spaces.

The variance is recognizing an existing condition that will not change as a result of the proposed addition. The parking is located in the front yard and has direct access onto Bond Street South. The intent of the Zoning By-law is being maintained as the road

provides sufficient space to aide the moving of a vehicle to and from the site, with adequate visibility. The variance is desirable for the development and minor in nature as no negative impact is anticipated for the subject lands or surrounding area.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan, the Ainslie Wood Westdale Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Variance 6

The applicant is requesting a variance to allow the roofed-over unenclosed rear porch to encroach 5.0 metres into the rear yard, notwithstanding the maximum permitted encroachment of 3.0 metres into the rear yard. The general intent of the Zoning By-law is to allow adequate area for grading and drainage, to accommodate the necessary amenity area for the needs of the tenants and to avoid any impact on the enjoyment and privacy of the adjacent properties. Staff defer any grading and drainage concerns to Development Engineering Approvals.

The applicant is proposing to construct a roof for the existing rear porch which projects 5.0 metres into the rear yard. The projection of the proposed roofed-over unenclosed porch appears to be consistent with the rear porch located at the adjacent property known as 64 Bond Street South. Staff acknowledge the proposed porch conforms with the required setbacks from the side lot line and the existing rear yard depth is significantly more the minimum requirement. The variance maintains the general intent of the Zoning By-law as Staff do not anticipate any negative impact on the adjacent properties as a result of the proposed variance. The variance is desirable for the development of the site and minor in nature as no negative impacts are anticipated for the subject property or surrounding area.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan, the Ainslie Wood Westdale Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Recommendation:

Based on the preceding information, the requested variances maintain the general intent and purpose of the Urban Hamilton Official Plan, the Ainslie Wood Westdale Secondary Plan and the former City of Hamilton Zoning By-law No. 6593. The variances are considered to be minor in nature and desirable for the development. In conclusion, Staff recommends the requested variances be approved.

Building Division:

1. The variances are written as requested by the applicant, except that additional variances have been identified through this review and included to address the encroachments for eaves and gutters into the northerly side yard and for the roofed over deck into the rear yard.
2. The property is zoned Site-Specific C/S-1361 District and C/S-1788 District. The Site-Specific C/S-1361 District applies to properties in the Westdale Neighbourhoods and includes special provisions for gross floor area in which no building or structure shall have a GFA greater than the area within the District of the lot multiplied by a floor area ratio factor of 0.45. Gross Floor Area, as amended is the aggregate of the areas of the building or structure including the basement or cellar but shall not include an attached garage, a detached garage, floor area occupied by heating, air conditioning and laundry equipment. Based on this definition, the reduction of the laundry area has been factored into gross floor area for the proposed dwelling to be expanded.
3. The C/S-1788 District was approved for various parts of the City under amending by-law 19-307 to address changes to the regulations for residential conversions provided in Section 19 of the Zoning By-law.
4. Variance # 6 is required to allow a roofed over portion to be added to the existing rear deck which is 5.0m in depth.
5. The southerly side yard is regarded as legally existing non-complying and would not be subject to a variance as requested by the applicant.
6. Construction of the proposed addition is subject to the issuance of a building permit in the normal manner.
7. Be advised that Ontario Building Code regulations may require specific setback and construction types.

Development Engineering:

The proposed minimum northerly sideyard setback of 0.54m does not allow for the minimum 0.90m width required to construct a drainage swale. Therefore, we recommend that the Minor Variance **be denied**.

See attached for additional comments.

August 24, 2020

City of Hamilton
Planning and Economic Development Department
71 Main St W
Hamilton, Ontario
L8P 4Y5

Attention: Morgan Evans

File# 60 Bond St S

Re: HM/A:20-125

In response to your correspondence dated August 11, 2020, please be advised that our Engineering Design Department has reviewed the information concerning the above noted Consent Application and our comments are as follows:

- For Residential/Commercial electrical service requirements, the Developer needs to contact our ICI and Layouts Department at 1-877-963-6900 ext: 25713 or visit our web site @ www.alectrautilities.com.
- Relocation, modification, or removal of any existing hydro facilities shall be at the owner's expense. Please contact Alectra Utilities to facilitate this.
- Existing overhead secondary service in conflict with proposed side addition. Contact ICI department to review service relocation options.

We would also like to stipulate the following:

- Do not excavate within two metres of hydro poles and anchors.
- Excavation within one metre of underground hydro plant is not permitted unless approval is granted by an Alectra Utilities representative and is present to provide direct supervision. Cost associated with this task shall be at the owner's expense.
- Alectra Utilities must be contacted if the removal, isolation or relocation of existing plant is required, all cost associated with this work will be at the owners expense.
- CALL BEFORE YOU DIG, arrange for underground hydro cable locate(s) before beginning construction by contacting Ontario One Call @ 1-800-400-2255.

- Clearances from Overhead and Underground existing electrical distribution system must be maintained in accordance to:
 - Ontario Building Code (1997) Section 3.1 (3.1.18.1)
 - Electrical Safety Code Rule 75-312
 - Occupational Health and Safety Act (OH&SA) – Construction Projects (Electrical Hazards)
 - CAN/CSA-C22.3 No. 1-15, Overhead System
 - C22.3 No. 7-15 Underground Systems

We trust that you will find this information satisfactory and that the information contained within will be provided to the owner of this project. Should you have any questions regarding this response, please contact Charles Howell at 905-522-6611 ext: 4729 in our Engineering Design Department.

Sincerely,

Mark Jakubowski

Mark Jakubowski
Supervisor, Design, Customer Capital

To: The Committee of Adjustment Department

Re: 60 Bond Street South, Hamilton

August 22, 2020

we Martine Fornoville, the owners of the property located at
44 Bond St S in Hamilton, Ontario, have reviewed the plans submitted
to the Committee of Adjustment with the owners of 60 Bond Street South, and have no objections to
the development.

Regards,

Martine Fornoville

To: The Committee of Adjustment Department

Re: 60 Bond Street South, Hamilton

22nd August _____, 2020

We Dr Imran and Aasiya Satia, the owners of the property located at
48 Bond St South in Hamilton, Ontario, have reviewed the plans submitted
to the Committee of Adjustment with the owners of 60 Bond Street South, and have no objections to
the development.

Regards,

To: The Committee of Adjustment Department

Re: 60 Bond Street South, Hamilton

Aug. 24, 2020

We Scott Sehl & Irish Chant Sehl the owners of the property located at
71 Bond St S in Hamilton, Ontario, have reviewed the plans submitted
to the Committee of Adjustment with the owners of 60 Bond Street South, and have no objections to
the development.

Regards,

Scott Sehl

Irish Chant Sehl

Bond St S

Hamilton Ontario

To: The Committee of Adjustment Department

Re: 60 Bond Street South, Hamilton

August 20, 2020

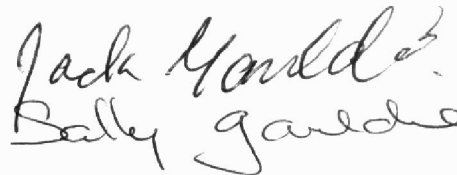
We , Jack and Sally Gauldie, the owners of the property located at 55 Bond St S in Hamilton, Ontario, directly across the street from the topic property, have reviewed the plans submitted to the Committee of Adjustment with the owners of 60 Bond Street South, and have absolutely no objections to the development.

Please do not hesitate to contact us should further information be required.

Regards,

Jack Gauldie

Sally Gauldie

Handwritten signatures of Jack and Sally Gauldie. The signature for Jack Gauldie is written above the signature for Sally Gauldie.

To: The Committee of Adjustment Department

Re: 60 Bond Street South, Hamilton

August 22, 2020

we Martine Fornoville, the owners of the property located at
44 Bond St S in Hamilton, Ontario, have reviewed the plans submitted
to the Committee of Adjustment with the owners of 60 Bond Street South, and have no objections to
the development.

Regards,

Martine Fornoville

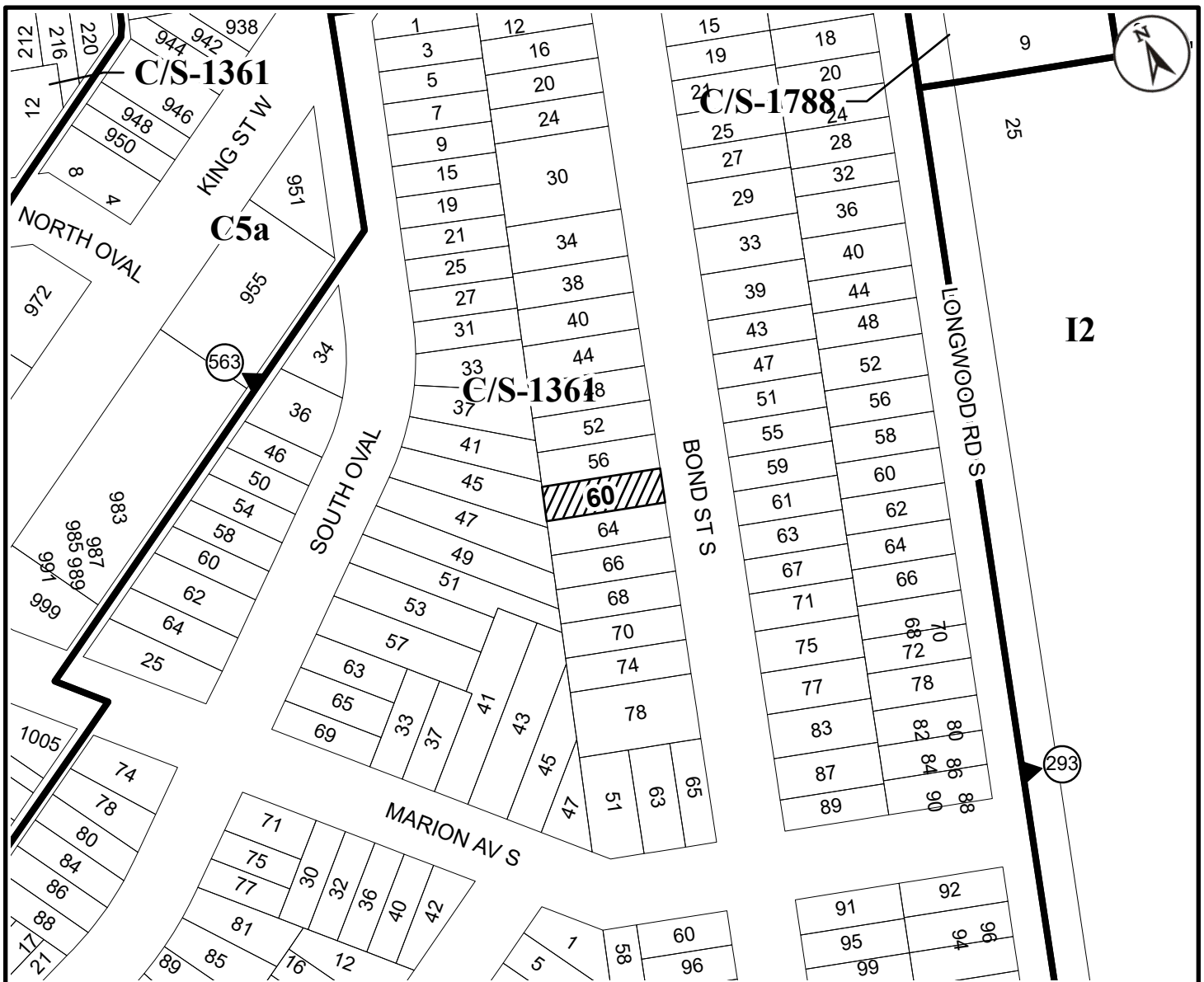
From: [adam matak](#)
To: [Committee of Adjustment](#)
Subject: 60 Bond Street South, Hamilton
Date: August 23, 2020 3:08:49 PM

To: The Committee of Adjustment Department

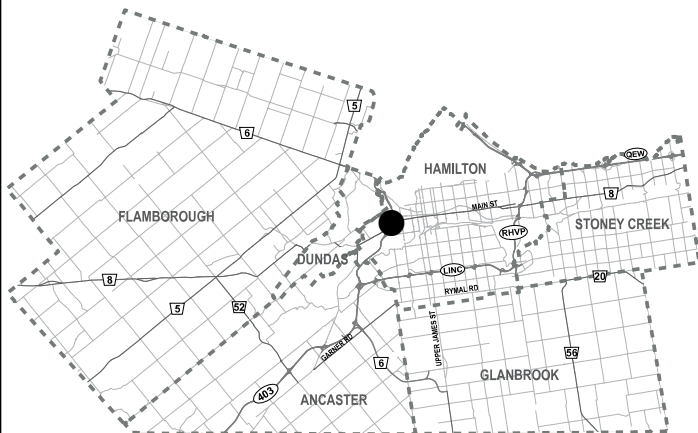
Re: 60 Bond Street South, Hamilton
August 23, 2020,

We Adam Matak & Phillipa Chong, the owners of the property located at _____33 Bond Street South in Hamilton, Ontario, have reviewed the plans submitted to the Committee of Adjustment with the owners of 60 Bond Street South, and have no objections to the development.

Best,
Adam Matak & Phillipa Chong



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



60 Bond Street South, Hamilton
(Ward 1)

File Name/Number:

HM/A-20:125

Date:

August 20, 2020

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/B-20:38 (28 Magill St., Hamilton)

Consolidation Report

The attached comments have been reviewed with regard to the above noted Committee of Adjustment application and the following comments are submitted:

Should the Committee approve the application, an approval should be subject to the following condition(s):

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. The parking space width be reduced to 2.7 metres to maximize the proportion of landscaped area in the front yard to the satisfaction of the Manager of Development Planning, Heritage and Design.
3. The applicant obtains a Boulevard Parking Agreement for the parking space on the retained lands to the satisfaction of the Manager of Development Planning, Heritage and Design.
4. The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department (Building Division – Plan Examination Section).
5. The owner shall receive final approval of any necessary variances from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
6. The owner shall receive final and binding approval of minor variance application HM/A-20:132.
7. The owner shall remove the portion of the existing dwelling located along the southerly property line of the lands to be retained to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section) or the owner shall receive final approval of any necessary variances from the requirements of the Zoning By-law to permit the southerly side yard to be 0 metres (Building Division – Zoning Section). May be subject to a building permit issued in the normal manner.
8. The owner shall submit survey evidence that the lands to be severed and the lands to be retained, including the location of any existing structure(s), parking and landscaping, conform to the requirements of the Zoning By-Law or alternatively

apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).

9. That the Owner enter into with the City of Hamilton and register on title of the lands, a Consent Agreement, having an administrative fee of \$4,310.00 (2020 fee) to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure and securities for items that may include: lot grading (\$10,000.00 grading security), water and sewer service inspections, driveway approaches, relocation of any existing infrastructure (such as hydrants) and any damage during construction (unknown costs at this time). Cash payments mentioned above are subject to change.
10. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.
11. The owner submits to the Committee of Adjustment office an administration fee, of \$20.00 payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot.

Note: Based on the application being approved and all the conditions being met, the owner / applicant should made aware that the lands to be conveyed will be assigned the address of 27 Magill Street (Hamilton), and the lands to be retained will remain as 29 Magill Street (Hamilton).

NOTE:

“Caution: Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required by the City of Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) should be notified immediately (416.212.8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.212.7499).”

HM/B-20:38 (29 Magill St., Hamilton)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the conveyance of a vacant parcel of land to construct a single detached dwelling and to retain a parcel of land containing an existing single detached dwelling. The severed lands will have a lot area of 235.47 square metres and a lot width of 7.36 metres and the retained lands will have a lot area of 277.73 square metres and a lot width of 8.03 metres.

Urban Hamilton Official Plan

The subject property is located within the West Harbour (Setting Sail) Secondary Plan Area which is subject to Local Planning Appeal Tribunal Non-Decision No. 113. The Regional Official Plan is referred to in evaluating this application.

Archaeology:

The subject property meets three (3) of the ten criteria used by the City of Hamilton and Ministry of Heritage, Sport, Tourism and Culture Industries for determining archaeological potential:

- 1) In the vicinity of distinctive or unusual landforms;
- 2) In areas of pioneer EuroCanadian settlement; and,
- 3) Along historic transportation routes.

These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the *Provincial Policy Statement* apply to the subject application. If this consent is approved, the proponent must be advised by the Committee of Adjustment as per the caution note below.

Cultural Heritage:

The subject property is located within the Strathcona neighbourhood, an established historic neighbourhood as described in UHOP Volume 1 section 3.4. Staff acknowledge the UHOP does not apply to the subject property. The subject property is also located within the West Harbour Secondary Plan area.

As set out in Policy A.6.3.3.4. of the Secondary Plan, new construction and development within established historical neighbourhoods is to be sympathetic and complementary to existing cultural heritage attributes of the neighbourhood, such as building setbacks, massing, and materials.

The proposed two storey dwelling appears to be consistent with the character of the established historical neighbourhood. Staff have no concerns with the proposal.

Hamilton – Wentworth Regional Official Plan

The subject property is designated “Urban Area” on Map 1 of the Hamilton – Wentworth Regional Official Plan. Policies A.2.1.3 and A.3.4.1, amongst others, are applicable and permit single detached dwellings and the division of land.

The proposal is for the severance of a parcel of land into two individual lots for residential purposes. The severed lot and retained lot are fully serviced by municipal water and wastewater systems, and front onto Magill Street.

West Harbour Setting Sail Secondary Plan

The subject property is designated “Low Density Residential” on Schedule M-2: General Land Use and is identified as a “Stable Area” on Schedule M-1: Planning Area and Sub-Areas. Policies A.6.3.3.1.9, A.6.3.3.1.12 (ii) and A.6.3.3.4.1 (ii), amongst others, are applicable and permit single detached dwellings.

Former City of Hamilton Zoning By-law No. 6593

The subject lands are zoned “D” (Urban Protected Residential, One and Two Family Dwellings, Etc.) District, which permits a single family dwelling.

Severed Lands

Variance 1 and 2

The applicant is requesting a variance to allow a minimum northerly side yard width of 0.5 metres and a minimum southerly side yard width of 0.4 metres, notwithstanding the minimum required side yard width of 1.2 metres. The general intent of the Zoning By-law is to provide a consistent streetscape, to avoid any impact on the enjoyment and privacy of the adjacent properties, and to allow sufficient space for access and drainage. Staff defers any drainage concerns to Development Engineering Approvals.

The side yard widths vary along this portion of Magill Street the majority being less than 1.0 metre. The variance maintains the general intent of the Zoning By-law as it is consistent with the established residential streetscape. The variance is desirable for the development of the site and is minor in nature as no negative impact is anticipated to the subject lands or surrounding area.

Based on the foregoing, the general intent of the Official Plan, West Harbour (Setting Sail) Secondary Plan and Zoning By-law is being maintained, the variance is desirable for the development and minor in nature; therefore, staff support the variance.

Variance 3 and 4

The applicant is requesting a variance to allow a minimum lot width of 7.4 metres and a minimum lot area of 235.0 square metres, notwithstanding the minimum required lot width of 12.0 metres and the minimum required lot area of 360.0 square metres. The general intent of the Zoning By-law is to provide a consistent residential streetscape, and to allow sufficient space to accommodate a single detached dwelling with the necessary landscaped areas, amenity area, and parking.

The proposed lot width and lot area are consistent with the surrounding properties and will maintain the existing lot pattern of the neighbourhood. The variance is maintaining the general intent of the Zoning By-law as sufficient amenity area is being provided in the rear yard. Staff acknowledge only one parking space will be provided on site and only 43.0 % of the front yard will be maintained as landscaped area, however Staff are satisfied the parking needs of the tenants will be satisfied and the proportion of front landscaping is sufficient, as discussed below. The variances are considered minor in nature and desirable for the development of the site.

Based on the foregoing, the general intent of the Official Plan, the West Harbour (Setting Sail) Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Variance 5

The applicant is requesting a variance to allow a minimum of 43.0% of the gross area of the front yard to be landscaped area, notwithstanding the minimum required 50.0% of landscaped area in the front yard. The general intent of the Zoning By-law is to maintain a consistent streetscape.

This portion of Magill Street is characterized by single detached dwellings with either one parking space or no parking on site. Based on the submitted Site Plan, Staff acknowledge the front yard is the only feasible location to have a parking space on site.

The variance is maintaining the general intent of the Zoning By-law as Staff is satisfied the one parking space will maintain a consistent streetscape and acknowledge the reduction from the required 50% of the front yard to be landscape area is minor in nature.

Staff note a parking space width of 3.0 metres is being provided whereas the required parking space width is 2.7 metres. Staff request the applicant reduce the parking space width to the required 2.7 metres to maximize the proportion of landscaped area in the front yard.

Based on the foregoing, the general intent of the Official Plan, the West Harbour (Setting Sail) Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance, with a condition that the parking space width is reduced to 2.7 metres to maximize the landscape area.

Variance 6

The applicant is requesting a variance to allow one parking space to be provided on site, notwithstanding the minimum two parking spaces required for a single detached dwelling containing eight habitable rooms. The general intent of the Zoning By-law is to ensure the parking needs of the tenants are satisfied.

The subject property is serviced by HSR bus route Nos. 8 and 9 and is in close proximity to a number of amenities including: Sir John A. MacDonald Secondary School, Hess Street Elementary School, Victoria Park, Central Park, and a variety of commercial uses in the Downtown. The single detached dwellings along this portion of Magill Street are characterized by having one parking space or no parking on site. The general intent of the Zoning By-law is being maintained as the reduction in parking can be supplemented by utilizing public transit and active transportation and it is in character with the surrounding area.

Additionally, Staff acknowledge street parking is permitted on both sides Picton Street West and no street parking permit is necessary. As such, the reduction in parking can also be supplemented by on-street parking.

Based on the foregoing, the general intent of the Official Plan, the West Harbour (Setting Sail) Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Variance 7

The applicant is requesting a variance to allow no manoeuvring to be provided on site, notwithstanding the Zoning By-law requires a minimum manoeuvring aisle width of 6.0 metres abutting and accessory to each required parking space, provided and maintained on the lot. The general intent of the Zoning By-law is to ensure all vehicles can safely manoeuvre to and from the parking spaces.

The parking is proposed to be located in the front yard with direct access onto Magill Street. The intent of the Zoning By-law is being maintained as the road provides sufficient space to aide the moving of a vehicle to and from the site, with adequate visibility. The variance is desirable for the development and minor in nature as no negative impact is anticipated for the subject lands or surrounding area.

Based on the foregoing, the general intent of the Official Plan, the West Harbour (Setting Sail) Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Variance 8 and 9

The applicant is requesting a variance to allow the eaves and gutters to encroach the entire width of the required northerly side yard and required southerly side yard, notwithstanding the Zoning By-law permits eaves and gutter to project into a required yard no more than one half its required width, being 0.25 and 0.2, respectively, in this case. The general intent of the Zoning By-law is to maintain a consistent streetscape and avoid any impact on the enjoyment and privacy of the adjacent properties.

Staff is of the opinion the proposed eaves and gutters of the proposed new single detached dwelling can conform with the requirement of the Zoning By-law. Staff recommend the applicant revise the submitted Site Plan to conform with the requirements of the Zoning By-law.

Based on the foregoing, while the general intent of the Official Plan and the West Harbour (Setting Sail) Secondary Plan is being maintained, the general intent of the Zoning By-law is not being maintained, the variance is not desirable for the development nor considered minor in nature; therefore, staff do not support the variances.

Retained Lands

Variance 10

The applicant is requesting a variance to allow a minimum southerly side yard width of 0.6 metres, notwithstanding the minimum required side yard width of 1.2 metres. The general intent of the Zoning By-law is to provide a consistent streetscape, to avoid any impact on the enjoyment and privacy of the adjacent properties, and to allow sufficient space for access and drainage. Staff defers any drainage concerns to Development Engineering Approvals.

The side yard widths vary along this portion of Magill Street the majority being less than 1.0 metre. The variance maintains the general intent of the Zoning By-law as it is consistent with the established residential streetscape. The variance is desirable for the development of the site and is minor in nature as no negative impact is anticipated to the subject lands or surrounding area.

Based on the foregoing, the general intent of the Official Plan, West Harbour (Setting Sail) Secondary Plan and Zoning By-law is being maintained, the variance is desirable for the development and minor in nature; therefore, staff support the variance.

Variance 11 and 12

The applicant is requesting a variance to allow a minimum lot width of 8.0 metres and a minimum lot area of 277.0 square metres, notwithstanding the minimum required lot width of 12.0 metres and the minimum required lot area of 360.0 square metres. The general intent of the Zoning By-law is to provide a consistent residential streetscape, and to allow sufficient space to accommodate a single detached dwelling with the necessary landscaped areas, amenity area, and parking.

The proposed lot width and lot area are consistent with the surrounding properties and will maintain the existing lot pattern of the neighbourhood. The variance is maintaining the general intent of the Zoning By-law as sufficient amenity area is being provided in the rear yard. Staff acknowledge only one parking space will be provided on site and only 43.0 % of the front yard will be maintained as landscaped area, however Staff are satisfied the parking needs of the tenants will be satisfied and the proportion of front landscaping is sufficient, as discussed below. The variances are considered minor in nature and desirable for the development of the site.

Based on the foregoing, the general intent of the Official Plan, the West Harbour (Setting Sail) Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Variance 13

The applicant is requesting a variance to allow a minimum of 46.0% of the gross area of the front yard to be landscaped area, notwithstanding the minimum required 50.0% of landscaped area in the front yard. The general intent of the Zoning By-law is to maintain a consistent streetscape.

This portion of Magill Street is characterized by single detached dwellings with either one parking space or no parking on site. Based on the submitted Site Plan, Staff acknowledge the front yard is the only feasible location to have a parking space on site.

The variance is maintaining the general intent of the Zoning By-law as Staff is satisfied the one parking space will maintain a consistent streetscape and acknowledge the reduction from the required 50% of the front yard to be landscape area is minor in nature.

Staff note a parking space width of 3.0 metres is being provided whereas the required parking space width is 2.7 metres. Staff request the applicant reduce the parking space width to the required 2.7 metres to maximize the proportion of landscaped area in the front yard.

Based on the foregoing, the general intent of the Official Plan, the West Harbour (Setting Sail) Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance, with a condition that the parking space width is reduced to 2.7 metres.

Variance 14

The applicant is requesting a variance to allow one parking space to be provided on site, notwithstanding the minimum two parking spaces required for a single detached dwelling containing eight habitable rooms. The general intent of the Zoning By-law is to ensure the parking needs of the tenants are satisfied.

The subject property is serviced by HSR bus route Nos. 8 and 9 and is in close proximity to a number of amenities including: Sir John A. MacDonald Secondary School, Hess Street Elementary School, Victoria Park, Central Park, and a variety of commercial uses in the Downtown. The single detached dwellings along this portion of Magill Street are characterized by having one parking space or no parking on site. The general intent of the Zoning By-law is being maintained as the reduction in parking can be supplemented by utilizing public transit and active transportation and it is in character with the surrounding area.

Staff notes approximately 3.0 metres of the length of the driveway is within the Magill Street road allowance. Staff are not satisfied that the remaining 3.0 metres can accommodate a variety of vehicles without utilizing the portion of the driveway which is

located within the Magill Street road allowance. In order to utilize this portion of the driveway for parking, the applicant must obtain a Boulevard Parking Agreement.

Based on the foregoing, the general intent of the Official Plan, the West Harbour (Setting Sail) Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance on condition that the applicant obtain a Boulevard Parking Agreement.

Variance 15

The applicant is requesting a variance to allow no manoeuvring to be provided on site, notwithstanding the Zoning By-law requires a minimum manoeuvring aisle width of 6.0 metres abutting and accessory to each required parking space, provided and maintained on the lot. The general intent of the Zoning By-law is to ensure all vehicles can safely manoeuvre to and from the parking spaces.

The parking is proposed to be located in the front yard with direct access onto Magill Street. The intent of the Zoning By-law is being maintained as the road provides sufficient space to aide the moving of a vehicle to and from the site, with adequate visibility. The variance is desirable for the development and minor in nature as no negative impact is anticipated for the subject lands or surrounding area.

Based on the foregoing, the general intent of the Official Plan, the West Harbour (Setting Sail) Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Variance 16

The applicant is requesting a variance to allow the eaves and gutters to encroach the entire width of the required southerly side yard, notwithstanding the Zoning By-law permits eaves and gutter to project into a required yard no more than one half its required width, being 0.3, in this case. The general intent of the Zoning By-law is to maintain a consistent streetscape and avoid any impact on the enjoyment and privacy of the adjacent properties.

The variance recognizes the existing projection of the eaves and gutters of the existing single detached dwelling. The variance is maintaining the general intent of the Zoning By-law as Staff do not anticipate any negative impact on the subject property or the surrounding area as a result of maintaining the existing projection into the southerly side yard.

Based on the foregoing, the general intent of the Official Plan, the West Harbour (Setting Sail) Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Recommendation:

Based on the preceding information, Variances 1 to 7, and 10 to 16 maintain the general intent and purpose of the Urban Hamilton Official Plan and the former City of Hamilton

Zoning By-law No. 6593. The variances are considered to be minor in nature and desirable for the appropriate use of the property.

While Variances 8 and 9 maintain the general intent and purpose of the Urban Hamilton Official Plan, the variances do not maintain the general intent of the former City of Hamilton Zoning By-law No. 6593. The variances are not considered to be minor in nature nor desirable for the appropriate use of the property.

In conclusion, Staff recommends that Variances 1 to 7, and 10 to 16 be approved and Variances 8 and 9 be denied.

CONDITIONS: (If Approved)

1. The parking space width be reduced to 2.7 metres to maximize the proportion of landscaped area in the front yard to the satisfaction of the Manager of Development Planning, Heritage and Design.
2. The applicant obtains a Boulevard Parking Agreement for the parking space on the retained lands to the satisfaction of the Manager of Development Planning, Heritage and Design.

NOTE:

“Caution: Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required by the City of Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) should be notified immediately (416.212.8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.212.7499).”

Building Division:

1. A variance is required to permit the accessory structures to remain on the conveyed lands when no main use/building has been established.
2. The applicant should obtain an appropriate municipal address for the proposed parcel to be conveyed from the Growth Planning Section of the Planning and Economic Development Department prior to the issuance of a building permit.
3. In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.
4. In order to clear conditions, the applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.

5. Variances for side yards, lot area lot width, % front yard landscaped area, parking, manoeuvring, and eaves and gutter projections will be required for zoning compliance of the lands to be conveyed and retained.

CONDITIONS:

1. The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department (Building Division – Plan Examination Section).
2. The owner shall receive final approval of any necessary variances from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
3. The owner shall receive final and binding approval of minor variance application HM/A-20:132.
4. The owner shall remove the portion of the existing dwelling located along the southerly property line of the lands to be retained to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section) or the owner shall receive final approval of any necessary variances from the requirements of the Zoning By-law to permit the southerly side yard to be 0 metres (Building Division – Zoning Section). May be subject to a building permit issued in the normal manner.
5. The owner shall submit survey evidence that the lands to be severed and the lands to be retained, including the location of any existing structure(s), parking and landscaping, conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).

Growth Management:

Note: Based on the application being approved and all the conditions being met, the owner / applicant should be made aware that the lands to be conveyed will be assigned the address of 27 Magill Street (Hamilton), and the lands to be retained will remain as 29 Magill Street (Hamilton).

Development Engineering:

Information:

According to our GIS records, the subject section of Magill Street is classified as a local roadway with an ultimate road allowance right-of-way width of 20.117m by the Urban Hamilton Official Plan. The current road allowance right-of-way width of the subject

section of Magill Street is $\pm 15.4\text{m}$. The City recognizes that in older urban areas it is not possible to obtain the entire 20.117m right-of-way width, therefore if a minimum right-of-way width of 15.24m exists, a widening will not be required. Therefore, a road allowance widening dedication will not be required.

We would like to advise that the variance application HM/A-20:132 for the subject land related to the proposed sideyard setbacks will not be supported by the Development Approvals staff. We recommend that the proponent consider construction of a semi-detach dwelling that may be more suitable considering the existing frontage of the property.

According to our GIS records, the existing municipal services front the subject property as follows:

Magill Street

- 300mm \varnothing Combined Sewer
- 150mm \varnothing PVC Watermain

The proponent will be required to provide separate independent sewer and water services to both the severed and retained parcels.

Recommendations:

That the Owner enter into with the City of Hamilton and register on title of the lands, a Consent Agreement, having an administrative fee of \$4,310.00 (2020 fee) to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure and securities for items that may include: lot grading (\$10,000.00 grading security), water and sewer service inspections, driveway approaches, relocation of any existing infrastructure (such as hydrants) and any damage during construction (unknown costs at this time). Cash payments mentioned above are subject to change.

Transportation Planning & Parking Division (Traffic):

Transportation Planning have no objections to the land severance application.

See attached for additional comments.



Sam Brush, Urban Forest Health Technician
City Centre, 77 James Street North, Suite 400
Hamilton, ON L8R 2K3
Phone (905) 546-2424 Ext. 7375, Fax (905) 546-4473
Email – Sam.Brush@hamilton.ca

Hamilton

Forestry & Horticulture Section
Environmental Services Division
Public Works Department

Date: August 19, 2020

To: Jamila Sheffield, Committee of Adjustment Secretary/Treasurer
Development Planning
City Hall – 71 Main Street West – 5th Floor

From: Sam Brush – Urban Forestry Health Technician

Subject: 29 Magill Street, Hamilton
File: HM/B-20:38

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, August 27, 2020, regarding the above subject area under discussion, the Forestry & Horticulture Section has reviewed the submission associated with the Application for Consent/Land Severance for this site and provides the following opinion:

SCOPE

There are no Municipal Tree Assets on site; therefore, a Tree Management Plan will not be required.

No Landscape plan required.

Forestry has no concerns or conditions regarding this application.

TREE MANAGEMENT

Tree Protection is a measure of efforts to preserve existing trees during the Planning of New Developments, Infrastructure Enhancements, Utility Upgrades & Residential Improvements.

LANDSCAPE PLAN

No new Landscape Strips are shown on the submission and none are requested by the Forestry and Horticulture Section.

SUMMARY

- There are no Municipal Tree Assets on site; therefore, a Tree Management Plan will not be required.
- No Landscape plan required.
- Forestry has no concerns or conditions regarding this application.

We encourage you to forward a complete copy of our comments to the applicant and should you or the Applicant require clarification or technical assistance, please do not hesitate to contact me at (905) 546- 2424 Ext. 7375.

Regards,

A handwritten signature in black ink, appearing to read "Sam Brush". The signature is stylized with a large, looped "S" and a cursive "B".

Sam Brush
Urban Forest Health Technician

From: [Caitlin Chevreau](#)
To: [Committee of Adjustment](#)
Cc: [Wilson, Maureen](#); [Evans, Morgan](#)
Subject: Application number HM/B-20:38, Property 29 Magill Street Hamilton
Date: August 24, 2020 9:05:39 PM

Hello,

I am writing in regards to the variance application for 29 Magill Street (HM/B-20:38). I own a house down the street at 65 Magill Street and have several concerns about the application.

1. Parking -

Parking on Magill St is already very challenging with not enough street parking for the homes that currently exist. By creating 2 houses on this lot with only one parking space for each, there will not only be a reduction in the current street spaces (as they will be taken up by driveways), but it is also likely that the future residents of these homes would have multiple vehicles.

2. Streetscape -

The south side of Magill St where this property is located contains primarily one-story bungalow-style homes. Creating 2 2.5 story homes (which, if anything like Demetry Tselepakis' similarly constructed homes on Locke St nearby, are actually 3 story homes) will have a significant impact on the streetscape and create density and height that does not fit with the rest of the street. The reduced greenspace and frontage is also concerning given that this is something that we already have little of on our street.

3. Affordability.

Hamilton, like many cities in the GTA, has a housing affordability crisis. With home prices ever increasing, tearing down the current one story bungalow at 29 Magill further contributes to this crisis by reducing the stock of potentially affordable home ownership options. The new, 2.5 story homes that are proposed will likely list for \$750-850k+ (as did the similarly constructed homes on Locke St N), a price that is not affordable to most in our city. Hamilton does not need more homes in this price bracket, but rather smaller homes like that which currently exists at 29 Magill St that could be bought or rented at a more affordable price. I am not opposed to creating density or multiple units when they are able to serve an underserved population, but these developments do the opposite by taking away a potentially affordable option and replacing it with one that is very unaffordable.

Thank you for taking the time to consider these comments as you make your decision,

Caitlin Chevreau and Stephen Edwards
65 Magill Street, Hamilton

From: [Lisa](#)
To: [Evans, Morgan](#)
Cc: [Wilson, Maureen](#)
Subject: Application number HM/B-20:38, Property 29 Magill Street Hamilton
Date: August 24, 2020 2:56:05 PM
Attachments: [Letter.docx](#)

Dear Ms Evans,

My name is Lisa Barney, I own and live at 25 Magill Street.

I am writing you to outline mine and my fellow neighbors objections to the application number HM/B-20:38. Please see the attached detailed letter.

In addition, a signed petition has been sent under separate cover. The petition opposing the build has been signed by all neighbors.

I have attached photos of my 150 year old home, located adjacent to the proposed build. The basement of which will most likely be compromised by the build. Attached is the blueprint of my property. The pink marks the location of my 6 windows on the north side next too the build.

I have attached photos of Mr Demetry Tselepakis's builds recently completed on Locke st. As you can see the supposed 2.5 storey houses are really 3 stories. From what I have been told the home owners on Locke st are not pleased and that Mr. Tselepakis exceeded his permit by several feet. It was unfortunate that he took advantage of the City Planning Commission and the Committee of Adjustments. We would hope you will be cautious in dealing with a builder of such character.

In closing, we appreciate your time and effort and look forward to hearing your expert adjudication of this matter. Thank you.

Warmest regards.

Sincerely,

Lisa Barney

Sent from my Samsung device

From: [krista binnington](#)
To: [Luke Best Friend Binnington](#) ; [Committee of Adjustment](#); [Wilson, Maureen](#); [Evans, Morgan](#)
Subject: Application number HM/B-20:38, Property 29 Magill Street Hamilton
Date: August 24, 2020 10:36:13 PM

Hello,

We are writing to express concern about the variance application for 29 Magill street (HM/B-20:38), and ask that you please seriously consider the voices of us as homeowners, ward 1 residents, and downtown community members.

We are troubled that these variances are even being considered, when it is clear it is simply a money making endeavour and does not take any consideration about the impact on the life of the street. Already our street is inadequate for parking, due the increase of cars since our homes were initially built. Residents already struggle to find parking and this proposed building(S) will not only take away precious street parking, but the variance of a 1-car only driveway means that the likelihood of additional cars requiring street parking will be amplified. This is unacceptable and the city should not be approving contractor-favourable variances when CURRENT residents are already struggling.

We are also concerned about the impact on affordability in our neighborhood and city when homes like the current one on 29 magill are torn down and replaced with more expensive buildings. As you are aware, our city has a serious affordable housing crisis and we must allow affordable homes to remain or be developed, in ways that do not harm the current neighbours. Our street has always been a place with mixed incomes, diversity and heterogeneity. We must not allow the interests of developers to be prioritized over healthy and diverse communities. If smaller, affordable houses with appropriate parking, consideration of the neighbours, and green space were proposed it would be a more palatable conversation.

An additional concern with the proposed variances is the proposed height of the buildings and impact on light and streetscape. If you look at the landscape of the west side of magill, you will see bungalows and 2 story homes. The proposed buildings at 29 magill are higher, block light, and take away from the landscape of the street, while having negative impacts on light and green space. If you look at the previously developed Demetry homes on Locke north, you will see how those homes have negatively impacted the streetscape and have no added green space or natural elements.

With these reflections in mind, we appeal to you to please listen to the current residents of Magill, and do not grant these variances. We love our neighbourhood and are happy to welcome new neighbours; however this development is not in the best interest of our street and it gives power to people who do not have the best interest of the neighbourhood in mind. We ask you to please put Hamilton residents first, instead of appeasing developers who are looking to make a buck and get out. This is our street and our home.

Thankyou for your considerations,
Luke & Krista Binnington, 56 Magill st.

Morgan Evans
Committee of Adjustment
City Hall
5th Floor, 71 Main Street West
Hamilton, ON L8P4Y5

August 18, 2020

Application No. HM/B-20:38

Dear Morgan Evans,

In accordance with the application for variances by Demetry Tselepakakis, hereafter referred to as “the owner”, I, Lisa Barney, oppose the proposed construction of a of two-storey family dwelling at 29 Magill Street based on the following criteria:

Conformity with the official plan and compatibility with adjacent uses of land

This proposed construction could reduce the value of my property and resale value by blacking out north side windows (6). This works out to 55% of my light access. Due to my chronic illness, this impedes on my ability to live peacefully in my home which I am more or less bound to. In addition to the primary condition being cancer, as a result, I now suffer with depression; light and depression having a strong correlation.

The initial appeal to the purchase of this lot and property was due to the distance between the homes and the nature surrounding the structure. The building proposal would eliminate this beauty and references my earlier point of diminishing property value and negatively impacting my mental health.

Compliance with local zoning by-laws

The theoretical front of the new house (6 meters from the property line) will be within ~1.8 m of my front and back north side facing windows, which to my understanding is a violation of local zoning bylaws. In addition to the zoning bylaws, this interferes with the usage of this space in my home. Sunlight will be limited and my plan to add additional windows to the north side will result in facing a brick wall. I will be limited to adding any future windows on that side of my home due to this new structure and resultant variance.

In addition, the proposed development would breach zoning by-laws and become a potential fire hazard for my property.

Suitability of the land for the proposed purpose, including the size and shape of the lot(s) being created

Such a large house on a small lot in comparison is not aesthetically pleasing and it is not environmentally friendly given the very small green space that it leaves (*reference Section 1.1.1 in the Provincial Policy Statement*). This also diminishes the heritage value of the neighbourhood. The addition of a proposed two-storey home leaves me with the visual concern of impacting the neighbourhood surrounded currently by one storey homes.

Adequacy of vehicular access, water supply, sewage disposal

The single car driveway proposition is also concerning given the proposed size of the home with no firm interior plans. Street parking is limited on Magill Street, and the likelihood of the future owner of this home owning more than one car will be likely, consuming more of the already limited space.

The need to ensure protection from potential flooding

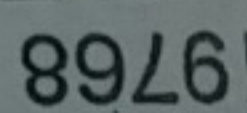
The proposed eaves and gutters appear to exceed the zoning and likely overlap or flood into my property. Overflows of the eavestroughs could flood into my property and basement and cause damage and financial burden down the line. Frequent, heavy rainfalls further emphasize my concern, as they have already called for redirection of water overflow to Cootes Paradise.

Furthermore, there is evidence to suggest that this owner's intention to build a two and a half-storey property is misleading, as indicated by his two builds on Locke Street, both of which were built above the original two-and-a-half-story building permit granted by the planning commission. In addition, what the owner considers to be a two-and-a-half-story building has a false façade whereby the owner bumped out the third storey, in fact creating a true three-storey building. The "garages" on the property do not accommodate parking space, therefore, once again, impeding on the street parking availability for the neighbourhood. I have obvious concerns about the legitimacy of his request, given that he was able to circumvent the city planning commission at least twice before.

Thank you for taking the time to consider my position. Please confirm receipt of this letter of opposition to the Application for Consent/Land Severance (Application No. HM/B-20:38).

****Review Provincial Policy Statement**









From: [Cait MacLennan Penman](#)
To: [Wilson, Maureen](#); [Committee of Adjustment](#); [Evans, Morgan](#)
Cc: [Matt Penman](#)
Subject: Fw HM/B-20:38, Property 29 Magill Street Hamilton
Date: August 24, 2020 8:41:00 PM

Dear Ms Evans,

My name is Caitlin MacLennan Penman and my husband and I own and live at 58 Magill St, Hamilton, ON L8R 2Y5.

I am writing you to outline mine and my fellow neighbors objections to the application number HM/B-20:38.

In addition, a signed petition has been sent under separate cover. The petition opposing the build has been signed by many neighbors.

Mr Demetry Tselepakis's recently completed builds on Locke st. As you can see the supposed 2.5 storey houses are really 3 stories. From what I have been told the home owners on Locke st are not pleased and that Mr. Tselepakis exceeded his permit by several feet. It was unfortunate that he took advantage of the City Planning Commission and the Committee of Adjustments. We would hope you will be cautious in dealing with a builder of such character.

I have concerns that not only will Mr. Taelepakis's build negatively impact the direct neighbours properties, but also it will further exacerbate the lack of parking on the street and increase traffic and congestion (I have a least written to the city about the problem of people speeding on Magill St).

In closing, we appreciate your time and effort and look forward to hearing your expert adjudication of this matter. Thank you.

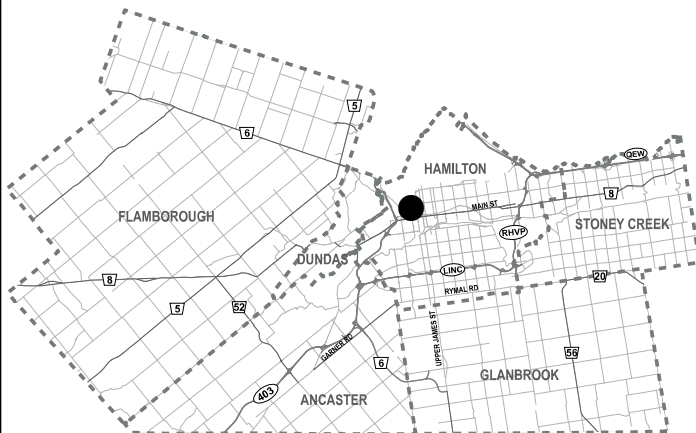
Warmest regards.
Sincerely,
Cait and Matt penman

--

Sent from Gmail Mobile



● Site Location



Committee of Adjustment

Subject Property

29 Magill Street, Hamilton (Ward 1)



Lands to be Retained



Lands to be Severed

File Name/Number:

HM/B-20:38

Date:

August 20, 2020

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/A-20:132 (29 Magill St., Hamilton)

Consolidation Report

The attached comments have been reviewed with regard to the above noted Committee of Adjustment application and the following comments are submitted:

Should the Committee approve the application, an approval should be subject to the following condition(s):

HM/A-20:132 (29 Magill St., Hamilton)HM/A-20:132 (29 Magill St., Hamilton)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the conveyance of a vacant parcel of land to construct a single detached dwelling and to retain a parcel of land containing an existing single detached dwelling. The severed lands will have a lot area of 235.47 square metres and a lot width of 7.36 metres and the retained lands will have a lot area of 277.73 square metres and a lot width of 8.03 metres.

Urban Hamilton Official Plan

The subject property is located within the West Harbour (Setting Sail) Secondary Plan Area which is subject to Local Planning Appeal Tribunal Non-Decision No. 113. The Regional Official Plan is referred to in evaluating this application.

Archaeology:

The subject property meets three (3) of the ten criteria used by the City of Hamilton and Ministry of Heritage, Sport, Tourism and Culture Industries for determining archaeological potential:

- 1) In the vicinity of distinctive or unusual landforms;
- 2) In areas of pioneer EuroCanadian settlement; and,
- 3) Along historic transportation routes.

These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the *Provincial Policy Statement* apply to the subject application. If this consent is approved, the proponent must be advised by the Committee of Adjustment as per the caution note below.

Cultural Heritage:

The subject property is located within the Strathcona neighbourhood, an established historic neighbourhood as described in UHOP Volume 1 section 3.4. Staff acknowledge the UHOP does not apply to the subject property. The subject property is also located within the West Harbour Secondary Plan area.

As set out in Policy A.6.3.3.3.4. of the Secondary Plan, new construction and development within established historical neighbourhoods is to be sympathetic and complementary to existing cultural heritage attributes of the neighbourhood, such as building setbacks, massing, and materials.

The proposed two storey dwelling appears to be consistent with the character of the established historical neighbourhood. Staff have no concerns with the proposal.

Hamilton – Wentworth Regional Official Plan

The subject property is designated “Urban Area” on Map 1 of the Hamilton – Wentworth Regional Official Plan. Policies A.2.1.3 and A.3.4.1, amongst others, are applicable and permit single detached dwellings and the division of land.

The proposal is for the severance of a parcel of land into two individual lots for residential purposes. The severed lot and retained lot are fully serviced by municipal water and wastewater systems, and front onto Magill Street.

West Harbour Setting Sail Secondary Plan

The subject property is designated “Low Density Residential” on Schedule M-2: General Land Use and is identified as a “Stable Area” on Schedule M-1: Planning Area and Sub-Areas. Policies A.6.3.3.1.9, A.6.3.3.1.12 (ii) and A.6.3.3.4.1 (ii), amongst others, are applicable and permit single detached dwellings.

Former City of Hamilton Zoning By-law No. 6593

The subject lands are zoned “D” (Urban Protected Residential, One and Two Family Dwellings, Etc.) District, which permits a single family dwelling.

Severed Lands

Variance 1 and 2

The applicant is requesting a variance to allow a minimum northerly side yard width of 0.5 metres and a minimum southerly side yard width of 0.4 metres, notwithstanding the minimum required side yard width of 1.2 metres. The general intent of the Zoning By-law is to provide a consistent streetscape, to avoid any impact on the enjoyment and privacy of the adjacent properties, and to allow sufficient space for access and drainage. Staff defers any drainage concerns to Development Engineering Approvals.

The side yard widths vary along this portion of Magill Street the majority being less than 1.0 metre. The variance maintains the general intent of the Zoning By-law as it is consistent with the established residential streetscape. The variance is desirable for the development of the site and is minor in nature as no negative impact is anticipated to the subject lands or surrounding area.

Based on the foregoing, the general intent of the Official Plan, West Harbour (Setting Sail) Secondary Plan and Zoning By-law is being maintained, the variance is desirable for the development and minor in nature; therefore, staff support the variance.

Variance 3 and 4

The applicant is requesting a variance to allow a minimum lot width of 7.4 metres and a minimum lot area of 235.0 square metres, notwithstanding the minimum required lot width of 12.0 metres and the minimum required lot area of 360.0 square metres. The general intent of the Zoning By-law is to provide a consistent residential streetscape, and to allow sufficient space to accommodate a single detached dwelling with the necessary landscaped areas, amenity area, and parking.

The proposed lot width and lot area are consistent with the surrounding properties and will maintain the existing lot pattern of the neighbourhood. The variance is maintaining the general intent of the Zoning By-law as sufficient amenity area is being provided in the rear yard. Staff acknowledge only one parking space will be provided on site and only 43.0 % of the front yard will be maintained as landscaped area, however Staff are satisfied the parking needs of the tenants will be satisfied and the proportion of front landscaping is sufficient, as discussed below. The variances are considered minor in nature and desirable for the development of the site.

Based on the foregoing, the general intent of the Official Plan, the West Harbour (Setting Sail) Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Variance 5

The applicant is requesting a variance to allow a minimum of 43.0% of the gross area of the front yard to be landscaped area, notwithstanding the minimum required 50.0% of landscaped area in the front yard. The general intent of the Zoning By-law is to maintain a consistent streetscape.

This portion of Magill Street is characterized by single detached dwellings with either one parking space or no parking on site. Based on the submitted Site Plan, Staff acknowledge the front yard is the only feasible location to have a parking space on site.

The variance is maintaining the general intent of the Zoning By-law as Staff is satisfied the one parking space will maintain a consistent streetscape and acknowledge the reduction from the required 50% of the front yard to be landscape area is minor in nature.

Staff note a parking space width of 3.0 metres is being provided whereas the required parking space width is 2.7 metres. Staff request the applicant reduce the parking space width to the required 2.7 metres to maximize the proportion of landscaped area in the front yard.

Based on the foregoing, the general intent of the Official Plan, the West Harbour (Setting Sail) Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance, with a condition that the parking space width is reduced to 2.7 metres to maximize the landscape area.

Variance 6

The applicant is requesting a variance to allow one parking space to be provided on site, notwithstanding the minimum two parking spaces required for a single detached dwelling containing eight habitable rooms. The general intent of the Zoning By-law is to ensure the parking needs of the tenants are satisfied.

The subject property is serviced by HSR bus route Nos. 8 and 9 and is in close proximity to a number of amenities including: Sir John A. MacDonald Secondary School, Hess Street Elementary School, Victoria Park, Central Park, and a variety of commercial uses in the Downtown. The single detached dwellings along this portion of Magill Street are characterized by having one parking space or no parking on site. The general intent of the Zoning By-law is being maintained as the reduction in parking can be supplemented by utilizing public transit and active transportation and it is in character with the surrounding area.

Additionally, Staff acknowledge street parking is permitted on both sides Picton Street West and no street parking permit is necessary. As such, the reduction in parking can also be supplemented by on-street parking.

Based on the foregoing, the general intent of the Official Plan, the West Harbour (Setting Sail) Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Variance 7

The applicant is requesting a variance to allow no manoeuvring to be provided on site, notwithstanding the Zoning By-law requires a minimum manoeuvring aisle width of 6.0 metres abutting and accessory to each required parking space, provided and maintained on the lot. The general intent of the Zoning By-law is to ensure all vehicles can safely manoeuvre to and from the parking spaces.

The parking is proposed to be located in the front yard with direct access onto Magill Street. The intent of the Zoning By-law is being maintained as the road provides sufficient space to aide the moving of a vehicle to and from the site, with adequate visibility. The variance is desirable for the development and minor in nature as no negative impact is anticipated for the subject lands or surrounding area.

Based on the foregoing, the general intent of the Official Plan, the West Harbour (Setting Sail) Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Variance 8 and 9

The applicant is requesting a variance to allow the eaves and gutters to encroach the entire width of the required northerly side yard and required southerly side yard, notwithstanding the Zoning By-law permits eaves and gutter to project into a required yard no more than one half its required width, being 0.25 and 0.2, respectively, in this case. The general intent of the Zoning By-law is to maintain a consistent streetscape and avoid any impact on the enjoyment and privacy of the adjacent properties.

Staff is of the opinion the proposed eaves and gutters of the proposed new single detached dwelling can conform with the requirement of the Zoning By-law. Staff recommend the applicant revise the submitted Site Plan to conform with the requirements of the Zoning By-law.

Based on the foregoing, while the general intent of the Official Plan and the West Harbour (Setting Sail) Secondary Plan is being maintained, the general intent of the Zoning By-law is not being maintained, the variance is not desirable for the development nor considered minor in nature; therefore, staff do not support the variances.

Retained Lands

Variance 10

The applicant is requesting a variance to allow a minimum southerly side yard width of 0.6 metres, notwithstanding the minimum required side yard width of 1.2 metres. The general intent of the Zoning By-law is to provide a consistent streetscape, to avoid any impact on the enjoyment and privacy of the adjacent properties, and to allow sufficient space for access and drainage. Staff defers any drainage concerns to Development Engineering Approvals.

The side yard widths vary along this portion of Magill Street the majority being less than 1.0 metre. The variance maintains the general intent of the Zoning By-law as it is consistent with the established residential streetscape. The variance is desirable for the development of the site and is minor in nature as no negative impact is anticipated to the subject lands or surrounding area.

Based on the foregoing, the general intent of the Official Plan, West Harbour (Setting Sail) Secondary Plan and Zoning By-law is being maintained, the variance is desirable for the development and minor in nature; therefore, staff support the variance.

Variance 11 and 12

The applicant is requesting a variance to allow a minimum lot width of 8.0 metres and a minimum lot area of 277.0 square metres, notwithstanding the minimum required lot width of 12.0 metres and the minimum required lot area of 360.0 square metres. The general intent of the Zoning By-law is to provide a consistent residential streetscape, and to allow sufficient space to accommodate a single detached dwelling with the necessary landscaped areas, amenity area, and parking.

The proposed lot width and lot area are consistent with the surrounding properties and will maintain the existing lot pattern of the neighbourhood. The variance is maintaining the general intent of the Zoning By-law as sufficient amenity area is being provided in the rear yard. Staff acknowledge only one parking space will be provided on site and only 43.0 % of the front yard will be maintained as landscaped area, however Staff are satisfied the parking needs of the tenants will be satisfied and the proportion of front landscaping is sufficient, as discussed below. The variances are considered minor in nature and desirable for the development of the site.

Based on the foregoing, the general intent of the Official Plan, the West Harbour (Setting Sail) Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Variance 13

The applicant is requesting a variance to allow a minimum of 46.0% of the gross area of the front yard to be landscaped area, notwithstanding the minimum required 50.0% of landscaped area in the front yard. The general intent of the Zoning By-law is to maintain a consistent streetscape.

This portion of Magill Street is characterized by single detached dwellings with either one parking space or no parking on site. Based on the submitted Site Plan, Staff acknowledge the front yard is the only feasible location to have a parking space on site.

The variance is maintaining the general intent of the Zoning By-law as Staff is satisfied the one parking space will maintain a consistent streetscape and acknowledge the reduction from the required 50% of the front yard to be landscape area is minor in nature.

Staff note a parking space width of 3.0 metres is being provided whereas the required parking space width is 2.7 metres. Staff request the applicant reduce the parking space width to the required 2.7 metres to maximize the proportion of landscaped area in the front yard.

Based on the foregoing, the general intent of the Official Plan, the West Harbour (Setting Sail) Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance, with a condition that the parking space width is reduced to 2.7 metres.

Variance 14

The applicant is requesting a variance to allow one parking space to be provided on site, notwithstanding the minimum two parking spaces required for a single detached dwelling containing eight habitable rooms. The general intent of the Zoning By-law is to ensure the parking needs of the tenants are satisfied.

The subject property is serviced by HSR bus route Nos. 8 and 9 and is in close proximity to a number of amenities including: Sir John A. MacDonald Secondary School, Hess Street Elementary School, Victoria Park, Central Park, and a variety of commercial uses in the Downtown. The single detached dwellings along this portion of Magill Street are characterized by having one parking space or no parking on site. The general intent of the Zoning By-law is being maintained as the reduction in parking can be supplemented by utilizing public transit and active transportation and it is in character with the surrounding area.

Staff notes approximately 3.0 metres of the length of the driveway is within the Magill Street road allowance. Staff are not satisfied that the remaining 3.0 metres can accommodate a variety of vehicles without utilizing the portion of the driveway which is

located within the Magill Street road allowance. In order to utilize this portion of the driveway for parking, the applicant must obtain a Boulevard Parking Agreement.

Based on the foregoing, the general intent of the Official Plan, the West Harbour (Setting Sail) Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance on condition that the applicant obtain a Boulevard Parking Agreement.

Variance 15

The applicant is requesting a variance to allow no manoeuvring to be provided on site, notwithstanding the Zoning By-law requires a minimum manoeuvring aisle width of 6.0 metres abutting and accessory to each required parking space, provided and maintained on the lot. The general intent of the Zoning By-law is to ensure all vehicles can safely manoeuvre to and from the parking spaces.

The parking is proposed to be located in the front yard with direct access onto Magill Street. The intent of the Zoning By-law is being maintained as the road provides sufficient space to aide the moving of a vehicle to and from the site, with adequate visibility. The variance is desirable for the development and minor in nature as no negative impact is anticipated for the subject lands or surrounding area.

Based on the foregoing, the general intent of the Official Plan, the West Harbour (Setting Sail) Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Variance 16

The applicant is requesting a variance to allow the eaves and gutters to encroach the entire width of the required southerly side yard, notwithstanding the Zoning By-law permits eaves and gutter to project into a required yard no more than one half its required width, being 0.3, in this case. The general intent of the Zoning By-law is to maintain a consistent streetscape and avoid any impact on the enjoyment and privacy of the adjacent properties.

The variance recognizes the existing projection of the eaves and gutters of the existing single detached dwelling. The variance is maintaining the general intent of the Zoning By-law as Staff do not anticipate any negative impact on the subject property or the surrounding area as a result of maintaining the existing projection into the southerly side yard.

Based on the foregoing, the general intent of the Official Plan, the West Harbour (Setting Sail) Secondary Plan, and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Recommendation:

Based on the preceding information, Variances 1 to 7, and 10 to 16 maintain the general intent and purpose of the Urban Hamilton Official Plan and the former City of Hamilton

Zoning By-law No. 6593. The variances are considered to be minor in nature and desirable for the appropriate use of the property.

While Variances 8 and 9 maintain the general intent and purpose of the Urban Hamilton Official Plan, the variances do not maintain the general intent of the former City of Hamilton Zoning By-law No. 6593. The variances are not considered to be minor in nature nor desirable for the appropriate use of the property.

In conclusion, Staff recommends that Variances 1 to 7, and 10 to 16 be approved and Variances 8 and 9 be denied.

CONDITIONS: (If Approved)

1. The parking space width be reduced to 2.7 metres to maximize the proportion of landscaped area in the front yard to the satisfaction of the Manager of Development Planning, Heritage and Design.
2. The applicant obtains a Boulevard Parking Agreement for the parking space on the retained lands to the satisfaction of the Manager of Development Planning, Heritage and Design.

NOTE:

“Caution: Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required by the City of Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) should be notified immediately (416.212.8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.212.7499).”

Building Division:

1. A building permit is required for the construction of the proposed single family dwelling on the lands to be severed.
2. An alteration permit is required to remove a portion of the existing single family dwelling on the parcel to be retained along the southerly lot line.
3. Be advised that Ontario Building Code regulations may require specific setback and construction types.
4. The site plan submitted is lacking detail to determine all necessary variances (see comments #5 and 6 below).

5. A Single Family Dwelling requires parking that is based on 2 parking spaces for each Class A dwelling unit, for the first 8 habitable rooms in the dwelling unit plus 0.5 parking spaces for each additional habitable room. There is insufficient information to determine the intended number of habitable rooms for the existing and proposed single family dwellings. As such, the number of required parking spaces could not be determined and has been assumed to be 8 or less. Additional variances with respect to parking may therefore be required if there are more than 8 habitable rooms.
6. The Zoning By-law permits a roofed-over or screened but otherwise unenclosed one-storey porch at the first storey level, including eaves and gutters, to project not more than 3.0 metres into a required front yard or rear yard to a distance of not more than 3.0 metres and be setback at least 1.5 metres from the front lot line. The site plan did not identify the dimensions of the unenclosed porch for the proposed dwelling on the parcel to be severed. Therefore, additional variances may be required if the projection is not in compliance with the zoning by-law requirements
7. The front yard and northerly side yard of the existing dwelling on the parcel to be retained are recognized as legal non-complying.
8. With respect to the variances for front yard landscaped area, the Zoning By-law directs that the gross area of the front yard shall be calculated as the area between the front lot line and the front of the principle dwelling and the area extending from the side lot line to side lot line but subtracting the following:

unenclosed entrance porches; vestibules; ramps; front steps; chimneys; bay windows; ornamental projections; terraces; platforms; and, a walkway between the front entrance of the principle dwelling and the front lot line or driveway with a maximum width of 0.6m.

Development Engineering:

The proposed northerly sideyard setback of 0.5m and southerly sideyard setback of 0.40m (for the southerly lot) does not allow for the minimum 0.90m width required to construct a drainage swale. Therefore, we recommend that the Minor Variances **be denied**.

See attached for additional comments.

August 24, 2020

City of Hamilton
Planning and Economic Development Department
71 Main St W
Hamilton, Ontario
L8P 4Y5

Attention: Morgan Evans

File# 29 Magill St

Re: HM/A:20-132

In response to your correspondence dated August 11, 2020, please be advised that our Engineering Design Department has reviewed the information concerning the above noted Consent Application and our comments are as follows:

- For Residential/Commercial electrical service requirements, the Developer needs to contact our ICI and Layouts Department at 1-877-963-6900 ext: 25713 or visit our web site @ www.alectrautilities.com.
- Relocation, modification, or removal of any existing hydro facilities shall be at the owner's expense. Please contact Alectra Utilities to facilitate this.

We would also like to stipulate the following:

- Do not excavate within two metres of hydro poles and anchors.
- Excavation within one metre of underground hydro plant is not permitted unless approval is granted by an Alectra Utilities representative and is present to provide direct supervision. Cost associated with this task shall be at the owner's expense.
- Alectra Utilities must be contacted if the removal, isolation or relocation of existing plant is required, all cost associated with this work will be at the owners expense.
- CALL BEFORE YOU DIG, arrange for underground hydro cable locate(s) before beginning construction by contacting Ontario One Call @ 1-800-400-2255.
- Clearances from Overhead and Underground existing electrical distribution system must be maintained in accordance to:
 - Ontario Building Code (1997) Section 3.1 (3.1.18.1)

- Electrical Safety Code Rule 75-312
- Occupational Health and Safety Act (OH&SA) – Construction Projects (Electrical Hazards)
- CAN/CSA-C22.3 No. 1-15, Overhead System
- C22.3 No. 7-15 Underground Systems

We trust that you will find this information satisfactory and that the information contained within will be provided to the owner of this project. Should you have any questions regarding this response, please contact Charles Howell at 905-522-6611 ext: 4729 in our Engineering Design Department.

Sincerely,

Mark Jakubowski

Mark Jakubowski
Supervisor, Design, Customer Capital

Kate Howard
30 Magill Street
Hamilton ON L8R 2Y5

August 19, 2020

Committee of Adjustment
Hamilton City Hall
5th Floor, 71 Main Street West
Hamilton ON L8P 4Y5

Dear Sir or Madam:

Re: Application No. HM/A-20-132
Subject Property: 29 Magill Street Hamilton

As a resident of Magill Street I wish to submit my response respecting the above captioned Application for Minor Variance.

I oppose the application for Minor Variance on the basis of the negative impact of intensification on existing homeowners' access to parking.

The current city by-law provides that a minimum of parking spaces be provided for a single family dwelling. This is reflective of the current reality of the average single family home having occupants who own two vehicles. Many houses on the street constructed approximately 100 years ago, when such guidelines and minimums for vehicle parking were not in place. Several homes on the street have zero exclusive use parking spaces. The current by-law recognizes that access to parking is a fundamental aspect of a healthy community, and to allow the proposed variance will directly and negatively impact access to parking of existing residents.

The 6 homes opposite the proposed new single family dwelling have a total of 3 existing parking spaces, with one property having a driveway which could accommodate two vehicles, and two homes sharing a driveway which accommodates one compact vehicle.

Intensification of neighbourhoods should not be at the expense of existing residents and consideration should be given to the negative impacts of inserting an additional family dwelling. The proposed dwelling will not complement the existing functions of the neighbourhood but rather will hinder parking functionality.

If the committee were to approve the minor variance, consideration should be made and action taken to remedy the negative impact on reasonable access to street parking, and permit parking should be implemented.

Yours very truly,

Kate Howard

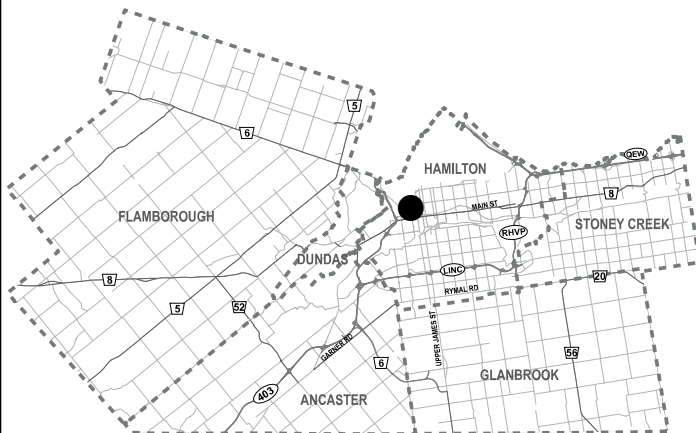
Email:

Kate.howard@outlook.com

Cc: Maureen Wilson, City Councillor, Ward 1



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

29 Magill Street, Hamilton (Ward 1)



Lands to be Retained



Lands to be Severed

File Name/Number:

HM/A-20:132

Date:

August 20, 2020

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/A-20:149 (9 Chatham St., Hamilton)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the construction of a new 35.7 square metre (384.0 square feet), two storey addition in the rear yard of the existing single detached dwelling, notwithstanding the following variance.

Urban Hamilton Official Plan

The property is identified as “Neighbourhoods” in Schedule E– Urban Structure and is designated “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations. Policies E.3.2.3, and E.3.4.3 amongst others, are applicable and permit single detached dwellings.

Former City of Hamilton Zoning By-law No. 6593

The subject lands are zoned “D/S-1787” (Urban Protected Residential, One and Two Family Dwellings, Etc.) District, which permits a single family dwelling.

Variance 1

The applicant is requesting a variance to allow a minimum southerly side yard width of 1.0 metres to be provided, notwithstanding the minimum required side yard width of 1.2 metres. The general intent of the Zoning By-law is to provide a consistent streetscape, to avoid any impact on the enjoyment and privacy of the adjacent properties, and to allow sufficient space for access and drainage. Staff defers any drainage concerns to Development Engineering Approvals.

The variance recognizes the existing side yard width of the single detached dwelling. The applicant is proposing to construct the rear addition maintaining the existing southerly side yard width of 1.0 metres. The intent of the Zoning By-law is being maintained as Staff do not anticipate any negative impact on the existing residential streetscape or the surrounding properties as a result of continuing the existing side yard width for the proposed rear addition.

The proposed addition will not extend past the building footprint of the single detached dwelling on the adjacent property, known as 7 Chatham Street, and therefore will not overlook the rear yard. Staff acknowledge the reduction is minor and do not anticipate any negative impact on the adjacent property.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan and Zoning By-law is maintained, the variance is desirable for the development and considered minor in nature; therefore, staff support the variance.

Recommendation:

Based on the preceding information, the requested variances maintain the general intent and purpose of the Urban Hamilton Official Plan and the former City of Hamilton Zoning By-law No. 6593. The variances are considered to be minor in nature and desirable for the appropriate use of the property. In conclusion, Staff recommends that the application be approved.

Building Division:

1. The proposed patio and balcony shall be provided in accordance with the requirements of Section 18(3)(vi) of Hamilton Zoning By-law 6593.
2. Please be advised that two (2) parking spaces are required to be provided for the first eight (8) habitable rooms of a single family dwelling, plus an additional 0.5 parking spaces for each additional habitable room. Floor plans and parking details have not been submitted in order to determine zoning compliance and further variances may be required.
3. A building permit is required in the normal manner for the construction of the proposed addition.
4. Be advised that Ontario Building Code regulations may require specific setback and construction types.

Development Engineering:

Provided that the existing drainage pattern is maintained, the Development Approvals section has no issues with the Minor Variances as proposed.

See attached for additional comments.

Real Estate Comments – CoA August 27, 2020

9 Chatham Street, Hamilton (Ward 1)



Applicants Proposal: To permit the construction of a new two storey addition in the rear yard of the existing single family dwelling.

Variances for Property:

- **Side Yard Setback:** A minimum side yard setback of 1.0m shall be provided instead of the required 1.2m setback.

Impacts: There are no expected impacts as a result of this application.

Recommendations: Real Estate has no objection to this application.

From: [Cristina Ramirez](#)
To: [Committee of Adjustment](#)
Subject: Application NO: HM/A-20:149 - property 9 Chatham St , Hamilton
Date: August 24, 2020 10:37:10 AM

Date : August 24, 2020

Application NO: HM/A-20:149

Applicants : Jeremy Smith and Michelle Li

Subject Property: 9 Chatham ST, Hamilton

To whom it may concern.

I am the owner of the property of 7 Chatham St, Hamilton and received notice of the above applicant's application and proposal.

The proposal in question is a permit of addition in the rear yard and to reduce the minimum side yard width of 1.0m instead of the 1.2m. As owner of the house next door at 7 Chatham St, I reject and have objections with the yard width as this will require the removal of my fence and potentially a portion of my deck removed while doing so to enable access to their property.

In the next few months, I will be listing my property for sale. The prospect of trying to sell a home while there is construction on my property line is concerning. Furthermore, having the fence and potentially a portion of our deck removed while doing so to enable access for such a project only adds to the problem.

This is a concern that could be easily addressed if we were told exactly when construction would start and be completed and if and if it could wait until next spring?

We think it's best if the applicant could put this request forward to the future homeowners at a later date after the sale and transfer of the residence at 7 Chatham St.

Many Thanks

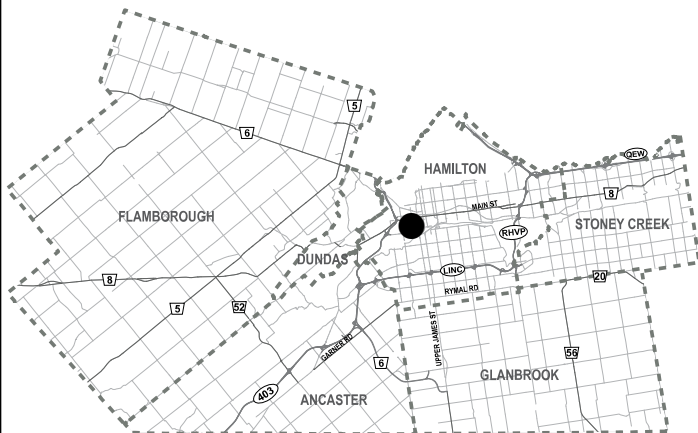
Sincerely

Cristina Ramirez

Property owner of 7 Chatham St.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



9 Chatham Street, Hamilton
(Ward 1)

File Name/Number:

HM/A-20:149

Date:

August 14, 2020

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/A-20:141 (110 Clifton Downs Rd., Hamilton)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to recognize existing conditions to permit the legal conversion of an existing single-family dwelling to a two-family dwelling.

Urban Hamilton Official Plan

The subject lands are identified as “Neighbourhoods” on Schedule “E” – Urban Structure and designated “Neighbourhoods” on Schedule “E-1” - Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP). Single detached dwellings are permitted within the designation (Volume 1-E.3.4.3).

The proposed development is defined as Residential Intensification, and as such, must be evaluated based on the criteria of Volume 1-Section B.2.4.1.4. The proposed development would integrate compatibly with the surrounding area and maintain the existing neighbourhood character. The proposed development would contribute to broadening the range of dwelling types in a neighbourhood that predominantly provides single detached dwellings. In the opinion of Staff, the proposed development is consistent with the General Residential Intensification policies of Section B.2.4.1.4.

Further, Volume 1-Section B 2.4.2.2 outlines the matters to be evaluated for Residential Intensification within the Neighbourhoods designation. It is Staff’s opinion that the streetscape patterns will be maintained and that the proposed development is consistent with these policies.

Based on the foregoing, it is Staff’s opinion that the proposal maintains the intent and purpose of the UHOP.

Former City of Hamilton Zoning By-law No. 6593

The subject lands are zoned Urban Protected Residential “C” District. Notwithstanding the existing zoning, the proposed development is defined as a Residential Conversion and as such, the provisions of Section 19 “Residential Conversion Requirements” are applicable. The proposed conversion from a single unit dwelling to a two-unit dwelling is permitted within the zoning, subject to the provisions of 19(1). The external appearance and character of the dwelling must be preserved (19(1)(iii)). There are no exterior changes proposed to the dwelling.

Variance 1

The applicant is seeking a variance to permit the minimum easterly side yard to be 1.1m instead of the required 1.2 metres.

Staff note that the existing easterly side yard setback is 1.1m, at the closest point between the existing dwelling and the easterly lot line, which is a pre-existing condition that is triggered as a technicality due to the proposal to permit the legal conversion of an existing single-family dwelling to a two-family dwelling. Staff note that the building envelope will not encroach further into the side yard than what is currently existing (1.1m). It is staff's opinion that the intent of the Zoning By-law is maintained, the variance is addressing a pre-existing condition which will not have any negative impact on the adjacent property and the surrounding neighbourhood. Accordingly, staff support the variance.

Variance 2

The applicant is seeking a variance to permit the minimum floor area of a dwelling unit for a converted dwelling to be 49 square metres and to be permitted as a permanent use rather than for the maximum three-year period of the pilot project.

The proposed development is defined as Residential Intensification, and as such, must be evaluated based on the criteria of Volume 1-Section B.2.4.1.4. The proposed development would integrate compatibly with the surrounding area and maintain the existing neighbourhood character. The proposed development would contribute to broadening the range of dwelling types in a neighbourhood that predominantly provides single detached dwellings. In the opinion of Staff, the proposed development is consistent with the General Residential Intensification policies of Section B.2.4.1. Accordingly, staff support the variance.

Variance 3

The applicant is seeking a variance to permit the maximum height of a rear yard terrace which extends into the easterly side yard to be 1.2 metres instead of the maximum permitted 1.0 metre height.

Staff note that the existing height of the rear yard terrace is 1.2m, which extends into the easterly side yard and which is a pre-existing condition that is triggered as a technicality due to the proposal to permit the legal conversion of an existing single-family dwelling to a two-family dwelling. Staff note that the existing rear yard terrace will not encroach further into the easterly side yard than what is currently existing (1.2m). It is staff's opinion that the intent of the Zoning By-law is maintained, the variance is addressing a pre-existing condition which will not have any negative impact on the adjacent property. Accordingly, staff support the variance.

Recommendation

Based on the preceding information, the requested variances maintain the general intent and purpose of the Urban Hamilton Official Plan as well as the Former City of Hamilton Zoning By-law No. 6593. The variances are considered to be minor in nature and desirable for the appropriate use of the property. In conclusion, Staff recommends that the application be approved.

Building Division:

1. A building permit is required for the creation of the proposed second dwelling unit.
2. Be advised that Ontario Building Code regulations may require specific setback and construction types.
3. The second dwelling unit is existing within the existing single family dwelling but is not legally recognized.
4. The Site-Specific C/S-1788 District Zoning was passed under Amending By-law 19-307 as a City-Initiated Amendment to Section 19 for a pilot project to allow for the creation of second dwelling units. The pilot project is to be for 3 years and would allow for the creation of a converted unit within a dwelling that are not subject to a minimum floor area.
5. In the Notice it was incorrectly stated that the units would be permitted on a temporary basis for three (3) years), however, the units are not bound by any time period and may continue to be used after the pilot project has passed as legal non-conforming uses. Accordingly, Variance #2 is not required but was written as follows:

"The minimum floor area of a dwelling unit for a converted dwelling shall be 49 square metres instead of the required 65 square metres for a dwelling unit that is intended to be permanent rather than for the maximum permitted three year period."
6. With respect to Variance #3 (now Variance #2), the terrace is an existing feature within the side and rear yards. While the terrace conforms to the encroachment requirements, it would exceed the 1.0m maximum height and requires a variance.
7. The variances are written as requested by the applicant to address existing conditions.
8. The existing parking conforms to the requirements of Section 19 of the Zoning By-law.

Development Engineering:

No Comment

See attached for additional comments.

25 August 2020

Re: File No. HM/A-20:141 (110 Clifton Downs Road)

Dear Committee,

I am writing opposing the application made for the property at 110 Clifton Downs Road. In short, I do not consider that the variances requested are “minor” in nature, nor do they respect the intent of the zoning by-law.

Sub-section 45(l) of the Planning Act (PA) sets out four Statutory Tests which must be considered by the Committee and satisfied by the applicant, before an Application for zoning variance can succeed. If the Application fails any one of the four Tests, while passing the other three, then the PA requires that the Application must fail. These Tests, being created by statute, are mandatory and all must be met. Notwithstanding that a proponent may satisfy all four Tests, the Committee may in its discretion refuse relief. The following are the four Tests to be applied;

1. Is the variance minor?

A variance can be held to be not minor for two reasons, that it is too large or too important to be considered minor. The latter reason can be resolved by determining the extent of the impact on neighboring properties in the immediate and general area. The primary issues raised for abutting owners are related to loss of sunlight, privacy, views, spacing and openness which may result from the mass, height and bulk of the proposed development. There may also be issues related to access, trees, parking, drainage, traffic and noise. The issues that may arise related to the general area are that the development is incompatible with the established built form and character of the neighborhood and that it erodes the aesthetics of the streetscape.

The conversion of a Single Family Home into a two Family Home negatively impacts the existing character of the neighborhood in so much as approval of this application would “open the doors” for other empty nesters to purchase properties in this neighborhood for investment only purposes. This will most assuredly generate transient renters who will not have a vested interest in maintaining the current “Neighborhood feel”. This comment also applies to the absentee owner of the property.

The application is suggesting that required parking conditions

can be met by allowing side by side tandem parking. Here is where we need to conduct a reality check. Sounds good in theory but will not work in execution. Please have traffic planner review particularly addressing ingress and egress from building unit(s). If approved, we can be assured of INCREASED street parking which again, is not in keeping with the character of this neighborhood.

Additionally, the (proposed) unit currently does not have separate services. As such, the creation of a second (stand alone) unit should be reviewed under the site plan process and Section 41 of the Planning Act. Such a condition should be imposed as part of a Rezoning Application, not a minor variance.

2. Would the granting of the variance result in a development that would be desirable for the appropriate development or use of the applicants land or building?

It can be assumed that the applicant thinks the variance is desirable but the issue here is whether it is desirable from a planning and public interest perspective, not that of the applicant. The test of desirability includes consideration of the many factors that can affect the broad public interest as it relates to the applicants property and accepted planning principles and the existing pattern of development.

As stated in Test #1, approval of the proposed change in use, will open the doors for other empty nest investors/developers to exploit our quiet neighborhood. Approving an increase in density serves no constructive purpose to the neighborhood except to maximize the profit for an "out of town" investor, increase traffic flow and exacerbate on street parking.

3. Does the variance requested maintain the general intent and purpose of the zoning by-law?

The intent and purpose of a zoning by-law is to prescribe the front, rear and side yard setbacks, building size, height and use. It speaks to matters such as spacing, privacy, density, light and air and gives the neighborhood its built form and character. By-laws passed in the earlier part of the 20th century when our older communities were developed tended to be more restrictive than the present ones leaving these areas more vulnerable now to the current policies of infill and intensification. A proposed development which is not compatible with existing houses in the neighborhood with respect to size, set back and side yards and sensitive to issues such as privacy and parking and detrimental to the streetscape or the character of the neighborhood, will not pass this test. Familiarization with the architectural and zoning

history (were earlier by-laws more restrictive?), registered plans and lot sizes will be helpful here.

Absolutely NOT! When the original owner decided to construct the building addition that is currently under review, his intention was to create a "Granny Flat" not a standalone unit. This is evidenced by simply reviewing the livable area size. The "secondary unit" will NOT be compatible with existing dwelling footprints in the neighborhood.

4. Does the variance requested maintain the general intent and purpose of the Official Plan (OP)?

The OP although a city document, derives its authority from section 16 of the PA and is the overall master-planning document for the city. It contains the goals, objectives and policies to guide future land use and development within the city and contains elements of the provincial government's intensification policy.

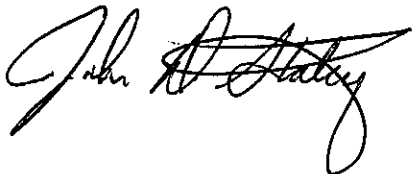
Applicant has not provided evidence that this application satisfies the general intent and purpose of the OP.

SUMMARY:

We the undersigned object to application HM/A-20:141.

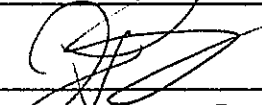
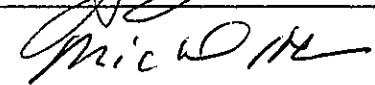
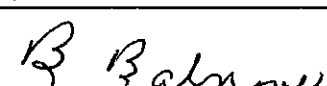
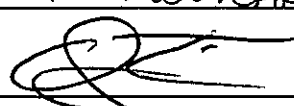

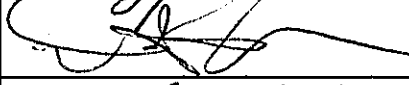


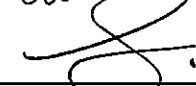
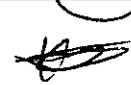
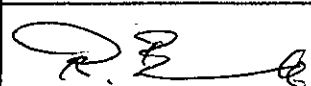
Specifically, this application IS NOT minor. Should the applicant choose to proceed, he should file an application for Rezoning. Given the request for intensification by converting a single family unit into a 2 family home, should the rezoning application be proven to be supportive, our neighborhood would request that the applicant be required to enter into a Section 41 agreement (of the Planning Act) with the City of Hamilton and provide such plans and studies as required for site plan approval.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "John A. Stacey". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Application NO. HM/A-20:141

We the undersigned, oppose the application made for the property at 110
Clifton Downs Road.

John Staley	109 Clifton Downs Rd.	
MIKE HEWAK	106 CLIFTON DOWNS RD	
BEN KRYBALANOW	98 CLIFTON DOWNS RD	
Douglas Tim	119 Clifton Downs Rd	
V. SPOLETTI	129 CLIFTON DOWNS RD	
DAVE JOHNSON	122 CLIFTON DOWNS RD	
Len Schmidt	118 Clifton Downs Rd	
Val Deschamps	118 Clifton Downs Rd	
SCOTT DALGOSSEN	126 CLIFTON DOWNS	
Kristjana Frani	99 CLIFTON DOWNS	
Rolf BRENECK	102 CLIFTON DOWNS	

From: [Len Schmidt](#)
To: [Committee of Adjustment](#)
Subject: HM/A-20:141
Date: August 23, 2020 9:19:42 AM

I Len Schmidt at 118 Clifton Downs Rd. oppose the application # HM/A-20:141

- I bought my property over 30 years ago as a single family dwelling. The same as the rest of my neighbors
- I don't want renters as neighbors as this would decrease the value of my property.
- Parking on the street get's worse every year due to multiple families living in one home.
- traditionally renters don't take care of the property.

Len Schmidt

From: valdeschamps@sympatico.ca
To: [Committee of Adjustment](#)
Cc: ["Val Deschamps"](#)
Subject: Opposing application No. HM/A-20:141
Date: August 23, 2020 2:42:32 PM
Attachments: [image001.png](#)

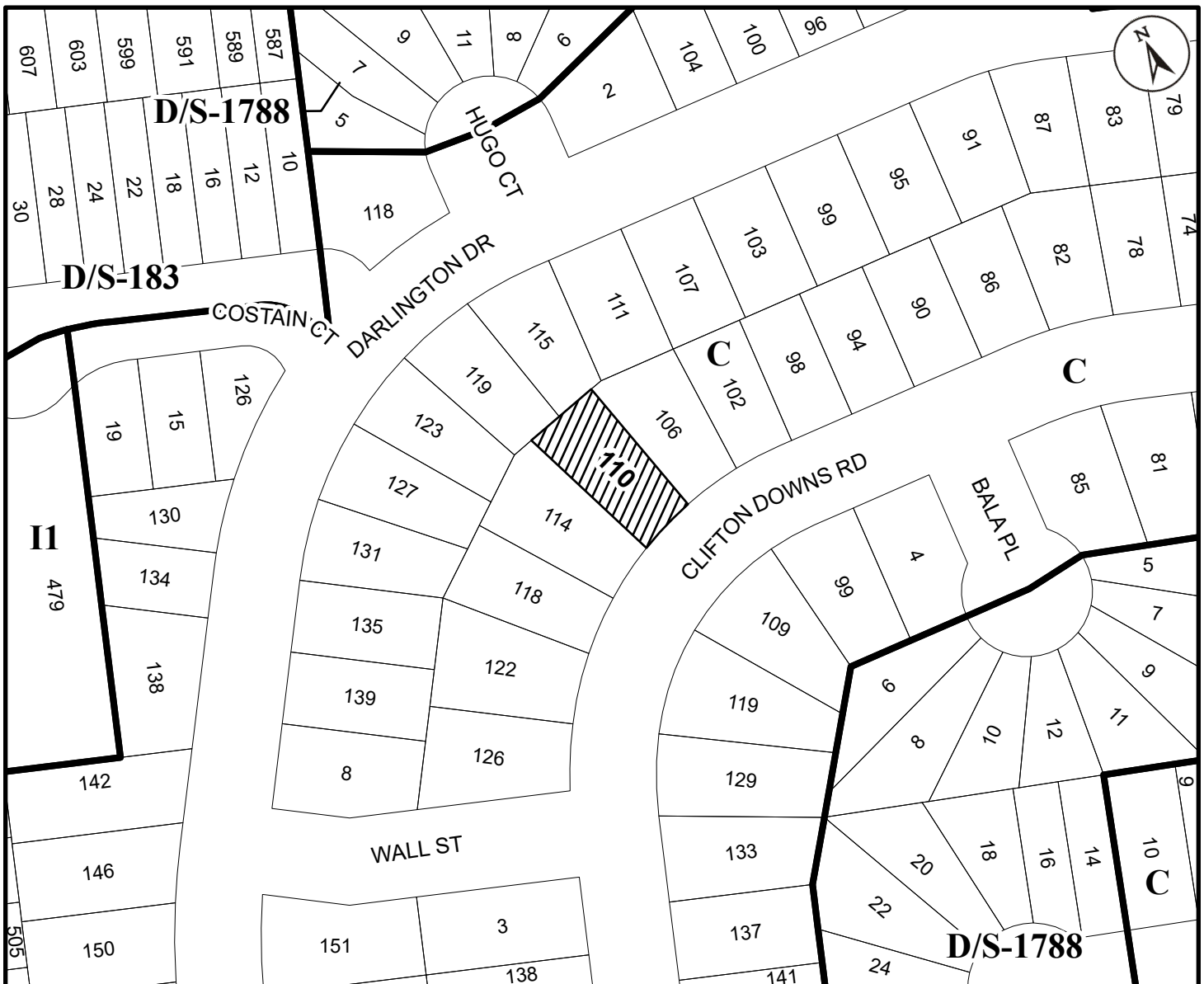
Hi ... I'm writing to tell you that I am opposed to the change of an existing single family dwelling to a two family dwelling at 110 Clifton Downs Road. The reasons I am opposed are as follows:

- The people who moved in there who are renting now already park one car on the street and one in the driveway. If additional renters move in, they will park on the street as well. According to item 5 in your notice of hearing, there is sufficient parking but obviously it isn't being used. See picture below as to the cars that are always parked on the street.
- There are already too many homes in the area with multiple families living in them causing parking issues on Clifton Downs. Not only are there numerous cars parked, often times people park their car facing the wrong direction. I've called parking by-law a few times and nothing gets done.
- By having multiple renters in a small home next to us, it will bring down the value of our home because renters typically don't care as much as home owners about the property's appearance and cleanliness.
- People moved in across the street from this house and they always park a business truck and a car on the street as well as other cars in their driveway. This is across the road from 110 Clifton Downs. There are so many cars parked on the street as you come around the bend that I have almost been hit by speeding cars trying to dodge all the parked cars while attempting to turn into my driveway.
- When we moved into the neighbourhood they were single family homes. That's why we chose the area.
- With respect to variance #3 – we take pride in our yard and we don't want to have their terrace higher by an additional meter. We already have a neighbour who built a "green house" next door and it's an eye sore.

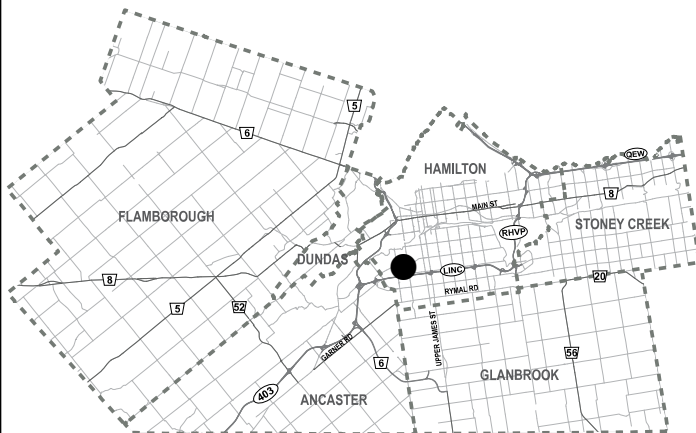
Valerie Deschamps
118 Clifton Downs Road

Hamilton, Ontario





● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



110 Clifton Downs Road, Hamilton
(Ward 14)

File Name/Number:

HM/A-20:141

Date:

August 17, 2020

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

AN/A-20:142 (1049-1109 Garner Rd. E., Ancaster)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to permit the construction of four (4) street townhouse buildings containing a total of thirty-one (31) dwelling units fronting onto a window road. This application is associated with Site Plan Control Application DA-20-019.

Urban Hamilton Official Plan

The subject lands are identified as “Neighbourhoods” on Schedule “E” – Urban Structure and designated “Neighbourhoods” on Schedule “E-1”. The subject lands are also designated “Low Density Residential 3b” within the Meadowlands Neighbourhood IV Secondary Plan. Policy 2.6.1.4 amongst others, is applicable and permits street townhouse dwellings.

Former Town of Ancaster Zoning By-law No. 87-57

The lands are zoned Residential Multiple Two “RM5-616” Modified Zone in Ancaster Zoning By-law No. 87-57. The proposed street townhouse dwellings are a permitted use.

Variance 1

The applicant is seeking a variance for a side yard of 1.2m to be provided abutting each end unit whereas the by-law requires a minimum 2.5m side yard for each end unit which does not abut a flankage street.

The intent of this provision is to allow for adequate access and drainage. Since the variance is relatively minor, staff do not anticipate any negative impacts. Staff note that the abutting properties include street townhouse units with similar side yard setbacks for dwelling end units. Therefore, the variance meets the intent of the Zoning By-law, is minor and appropriate for the development of the subject property. Accordingly, staff support the variance. Staff defer to Development Approvals regarding any drainage issues.

Variance 2

The applicant is seeking a variance for a building height of 12.3m to be provided instead of the maximum permitted building height of 10.5m.

As discussed above, the design of the proposed street townhouse dwellings is in keeping with the character of the neighbourhood as it will maintain a similar height and size, comparable to the nearby subdivision which includes street townhouse dwellings of similar scale, height and size. Staff do not perceive a negative impact on any surrounding properties by permitting an increase in height from the provisions of the By-law.

Therefore, the variance meets the intent of the Zoning By-law, is minor and appropriate for the development of the subject property. Accordingly, staff support the variance.

Variance 3

The applicant is seeking a variance for a concrete pad and/or concrete pavers to be permitted within a required landscape strip.

Staff note that the requested variance has been established as a requirement of the associated Site Plan Control Application (DA-20-019) by the Environmental Services Division. The requested variance for concrete pavers to be permitted within a landscape strip is to accommodate future residents with a designated location for two blue boxes, a green cart, a garbage container and leaf and yard waste. Staff note that waste containers must not be set out on sidewalks and as such the requested variance is appropriate. Therefore, the variance meets the intent of the Zoning By-law, is minor and appropriate for the development of the subject property. Accordingly, staff support the variance.

Recommendation

Based on the preceding information, the requested variances maintain the general intent and purpose of the Urban Hamilton Official Plan as well as the Former Town of Ancaster Zoning By-law No. 87-57. The variances are considered to be minor in nature and desirable for the appropriate use of the property. In conclusion, Staff recommends that the application be approved.

Building Division:

1. These variances are necessary to facilitate Site Plan Control Application No. DA-20-019.
2. The municipal address for this development is 1049 through to 1109 Garner Road East, Ancaster.
3. Please be advised that note (iii) provided on the notice should be revised by replacing "11.2m" with "12.3m". As such, this note should now read as follows:

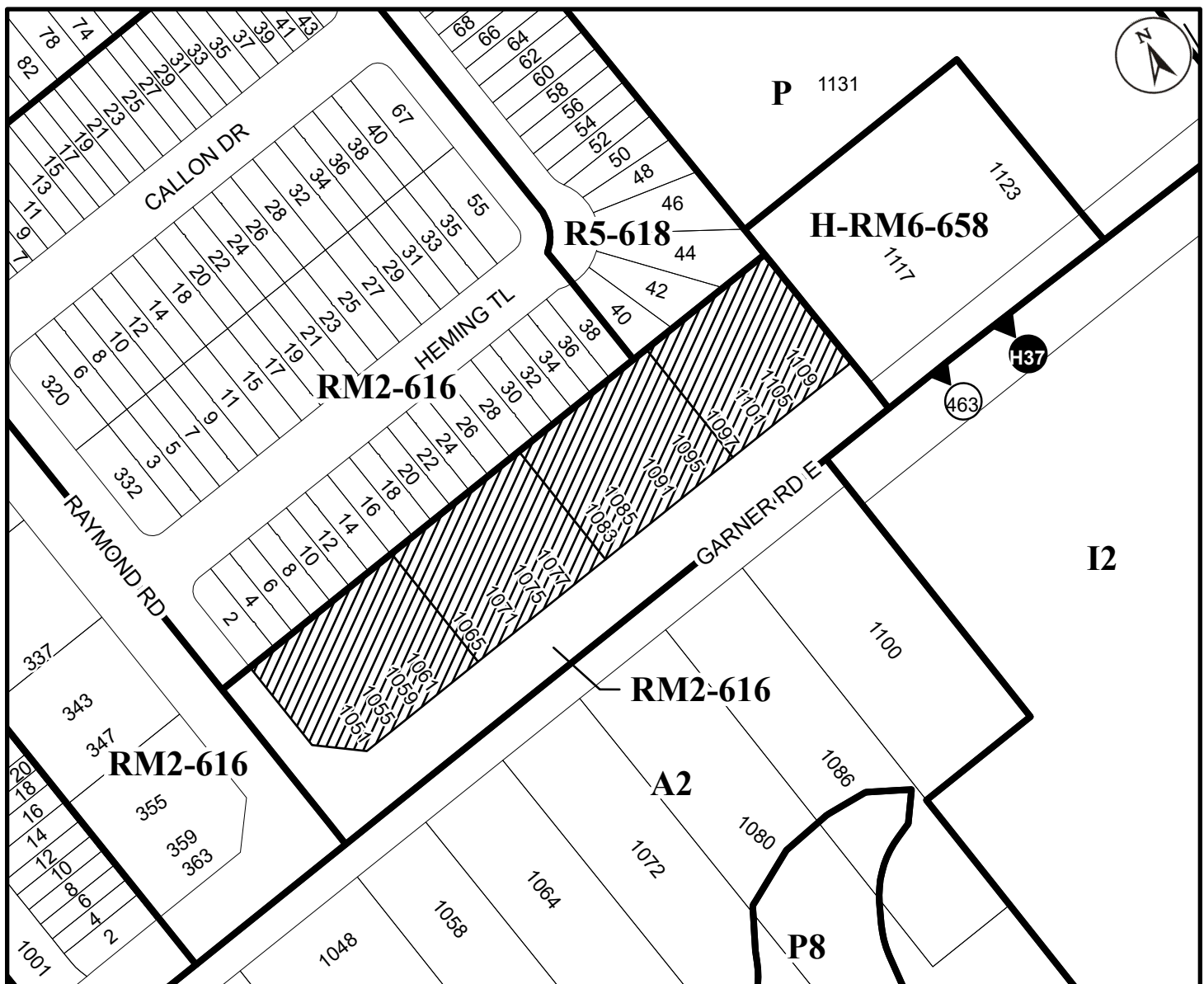
"The owner shall ensure building height is provided as defined in Ancaster Zoning Bylaw 87-57. Should building height maximum exceed 11.2 metres, further variances will be required."

4. The concrete pad/pavers referenced in variance #3 are proposed in order to provide a stable surface at each dedicated garbage pickup location along Garner Road East.
5. A building permit is required in the normal manner for the construction of the proposed townhouse buildings.

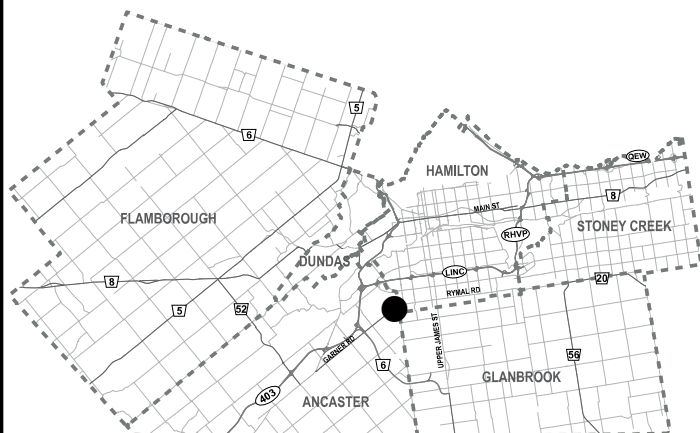
Development Engineering:

For the information of the Committee, no information regarding the variance was provided. It is recommended that the application be tabled until the details regarding the minor variance have been provided (i.e. application, sketch, proposal etc).

See attached for additional comments.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



1049-1109 Garner Road East,
Ancaster (Ward 12)

File Name/Number:

AN/A-20:142

Date:

August 18, 2020

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

AN/A-20:143 (287-363 Raymond Rd., Ancaster)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to permit the establishment of thirty-nine (39) street townhouse dwellings along a condominium window road. This application is associated with Site Plan Control Application DA-20-017.

Urban Hamilton Official Plan

The subject lands are identified as “Neighbourhoods” on Schedule “E” – Urban Structure and designated “Neighbourhoods” on Schedule “E-1”. The subject lands are also designated “Low Density Residential 3b” within the Meadowlands Neighbourhood IV Secondary Plan. Policy 2.6.1.4 amongst others, is applicable and permits street townhouse dwellings.

Former Town of Ancaster Zoning By-law No. 87-57

The lands are zoned Residential Multiple Two “RM5-616” Modified Zone in Ancaster Zoning By-law No. 87-57. The proposed street townhouse dwellings are a permitted use.

Variance 1

The applicant is seeking a variance for Lot 125 to have a minimum lot frontage of 13.7 metres instead of the minimum required lot frontage of 17 metres.

The existing subdivision located to the west and east of the subject lands has single detached dwellings with lots that have a frontage from a minimum of 7m. Since the frontage width of the proposed lot is similar in width to others within the nearby area, staff are satisfied that the proposed variance will have no impact on the existing character and streetscape of the settlement area. Therefore, the variance is minor in nature and appropriate for the development of the subject. Accordingly, staff support the variance.

Variance 2

The applicant is seeking a variance for a minimum side yard of 1.23m to be permitted for Lots 130, 131, 136, 137, 142, 143, 149, 150, 156 and 157 for a dwelling end unit which does not abut a flanking street instead of the 2.5 metres required.

The intent of this provision is to allow for adequate access and drainage. Since the variance is relatively minor, staff do not anticipate any negative impacts. Staff note that the abutting properties include street townhouse units with similar side yard setbacks for dwelling end units. Therefore, the variance meets the intent of the Zoning By-law, is minor

and appropriate for the development of the subject property. Accordingly, staff support the variance. Staff defer to Development Approvals regarding any drainage issues.

Variance 3

The applicant is seeking a variance for a maximum building height of 11.2 metres to be provided instead of the maximum building height of 10.5 metres required.

As discussed above, the design of the proposed street townhouse dwellings is in keeping with the character of the neighbourhood as it will maintain a similar height and size, comparable to the nearby subdivision which includes street townhouse dwellings of similar scale, height and size. Staff do not perceive a negative impact on any surrounding properties by permitting an increase in height from the provisions of the By-law as the height is required to accommodate a design feature, namely the pitch of the roof. Therefore, the variance meets the intent of the Zoning By-law, is minor and appropriate for the development of the subject property. Accordingly, staff support the variance.

Variance 4

The applicant is seeking a variance for no landscaping strip to be provided instead of the minimum 3-metre-wide landscaping strip to be provided in conjunction with window roads that are required along Garner Road East and Raymond Road.

Staff note that due to the design of window streets, it would be impractical for the applicant to comply with the provision of the By-law and provide an additional landscape strip within the design of the proposed street townhouse complex. Staff are aware that the proposed window street will provide a sufficient 3-metre-wide landscaped barrier along Raymond Road. Therefore, the variance meets the intent of the Zoning By-law, is minor and appropriate for the development of the subject property. Accordingly, staff support the variance.

Variance 5

The applicant is seeking a variance for a planting strip to not be provided for the visitors parking area instead of the requirement that where a parking area which is required to provide for more than four parking spaces (visitors parking area) abuts a street, a permanently maintained planting strip of a minimum width of 3 metres shall be provided along the street line, and it shall be continuous except for aisles or driveways required for access to such parking area.

Staff note that the visitor parking is integrated along the window street which has a planting buffer that separates the proposed street townhouse complex from the abutting Raymond Road. As such, staff are aware that due to the configuration of the window street with the proposed street townhouse complex, it would be impractical for the applicant to comply with the provisions of the By-law which require a permanently maintained planting strip of a minimum width of 3 metres to be provided. In addition, staff

note that there is adequate planting between the private road and Raymond Road. Therefore, the variance meets the intent of the Zoning By-law, is minor and appropriate for the development of the subject property. Accordingly, staff support the variance.

Recommendation

Based on the preceding information, the requested variances maintain the general intent and purpose of the Urban Hamilton Official Plan as well as the Former Town of Ancaster Zoning By-law No. 87-57. The variances are considered to be minor in nature and desirable for the appropriate use of the property. In conclusion, Staff recommends that the application be approved.

Building Division:

1. The variances should be altered to delete “A minimum side yard of 1.23m shall be permitted for Lots 130, 131, 136, 137, 142, 143, 149, 150, 156 and 157 for a dwelling end unit which does not abut a flanking street instead of the 2.5 metres required” and include “A minimum side yard of 1.2m shall be permitted for Lots 130, 131, 136, 137, 142, 143, 149, 150, 156 and 157 for a dwelling end unit which does not abut a flanking street instead of the 2.5 metres required”.
2. The variances should be altered to delete “No landscaping strip shall be provided instead of the minimum 3 metre wide landscaping strip to be provided in conjunction with window roads that are required along Garner Road East and Raymond Road”.
3. The variances should be altered to delete “A planting strip shall not be provided for the visitors parking area instead of the requirement that where a parking area which is required to provide for more than four parking spaces (visitors parking area) abuts a street, a permanently maintained planting strip of a minimum width of 3 metres shall be provided along the street line, and it shall be continuous except for aisles or driveways required for access to such parking area.
4. The variances should be altered to include “A concrete pad and/or concrete pavers shall be permitted within a required landscape strip”.
5. The owner shall ensure building height is provided as defined in Ancaster Zoning By-law 87-57. Should building height maximum exceed 11.2 metres, further variances will be required.
6. Applicant shall ensure parking is in compliance with Section 7.14 Parking and Loading, Section 9.8 Private Garages and Section 15.2 Residential Multiple Zone. A fully scaled and dimensioned site plan showing the details of the proposed street townhouses with the parking area was not provided. Therefore, a full zoning review could not be conducted. Be advised, further variances may be required at such time that a full zoning review is conducted.

7. Variances have been written exactly as requested by the applicant. Please note, that this property is subject to Site Plan Control DA-20-017; to date, a recirculation of the revised plan has not been submitted and a full zoning review has not been conducted for the new proposal. Further variances may be required at such time that a full zoning review is conducted on the new proposal.
8. A building permit is required for the construction of the proposed thirty-nine (39) street townhouse dwellings.
9. Be advised that Ontario Building Code regulations may require specific setback and construction types.

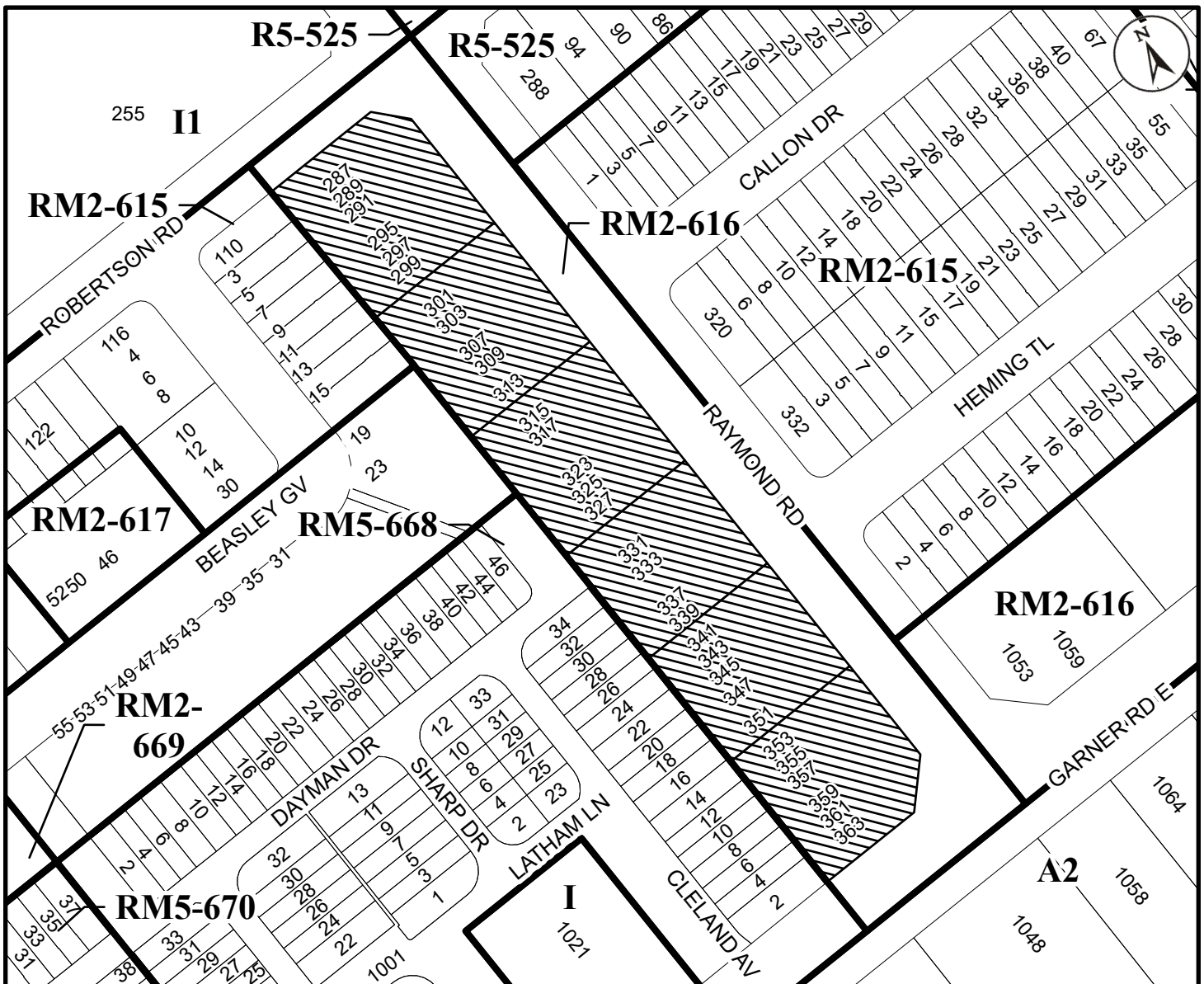
Development Engineering:

The applicant should be advised of a road allowance widening requirement on Garner Street East. The current ROW of Garner Road East adjacent to the property is approx.. 29.6m. The City of Hamilton identifies the road allowance width of 36.576m for Garner Road. Therefore, upon redevelopment of the subject land, a road widening dedication to the City will be required.

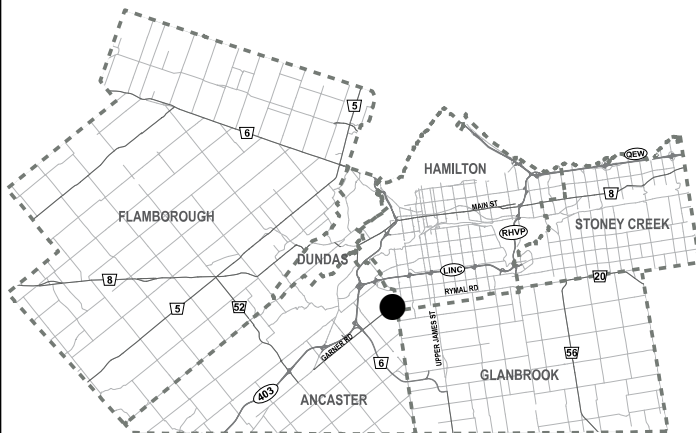
Upon future development, the applicant shall provide a 4.57m x 4.57m daylight triangle dedication from the widened limits of the intersection of Raymond Road and Robertson Road; and 12.19m x 12.19 m from the widened limits of the intersection of Robertson Road and Garner Road East.

For the information of the Committee, if the existing drainage pattern is maintained, we have no issues with this application.

See attached for additional comments.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



287-363 Raymond Road, Ancaster
(Ward 12)

File Name/Number:

AN/A-20:143

Date:

August 18, 2020

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

AN/B-16:82 (118 Fallingbrook Dr., Ancaster)

Consolidation Report

The attached comments have been reviewed with regard to the above noted Committee of Adjustment application and the following comments are submitted:

Should the Committee grant the severance, an approval should be subject to the following condition(s):

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. That the property be subject to Site Plan Control as per Section 9.1 of the Site Plan Control By-law (By-law No. 15-176). An Environmental Impact Statement (EIS) would be required to be submitted with the Site Plan application to determine appropriate mitigation measures.
3. That the Owner submit and receive approval of a Tree Protection Plan, including the review fee as per the effective Schedule of Rates and Fees (currently \$605) prepared by a qualified tree management professional (i.e. certified arborist, registered professional forester or landscape architect), to the satisfaction of the Manager of Development Planning, Heritage and Design.
4. That the Owner submit and receive approval of a Landscape Plan (associated with the Tree Protection Plan) to the satisfaction of the Manager of Development Planning, Heritage and Design. This is to ensure that appropriate compensation is provided for the removal of any tree (10 cm DBH or greater) that is proposed to be removed.
5. That the proponent shall carry out an archaeological assessment of the portion of the property to be severed and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI).

6. The owner shall submit survey evidence that the lands to be severed and retained, including the location of any existing structure, parking and landscaping conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
7. That the Owner / Applicant enters into with the City of Hamilton and register on title of the lands, a Consent Agreement, having an administrative fee of \$4,310.00 (2020 fee) to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure and securities for items that may include: lot grading (\$10,000.00 grading security), water and sewer service inspections, driveway approaches, relocation of any existing infrastructure (such as hydrants) and any damage during construction (unknown costs at this time). Cash payments mentioned above are subject to change. All to the satisfaction of the City's Manager of Development Engineering Approvals.
8. That the Owner dedicate to the City of Hamilton, an adequately sized daylighting triangle from the limits of Mohawk Road West and West 15th Street, to the satisfaction of the City's Manager of Development Approvals.
9. That the owner provides a cash payment to the City for the future urbanization of the street based on the frontage of the severed portion of the property and the 'New Roads Servicing Rate" at the time of payment to the satisfaction of the Manager of Engineering Approvals Section.
10. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.
11. The owner submits to the Committee of Adjustment office an administration fee, of \$40.00 payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot.

Note: Based on the application being approved and all the conditions being met, the owner / applicant should made aware that the lands to be retained (Lot 1) will remain as 118 Fallingbrook Drive (Ancaster), the lands to be conveyed (Lot 2) will be assigned the address of 114 Woodview Crescent (Ancaster), and the lands to be retained (Lot 3) will be assigned the address of 110 Woodview Crescent (Ancaster).

AN/B-16:82 (118 Fallingbrook Dr., Ancaster))

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to permit the conveyance of a parcel of land and retain two parcels of land for residential purposes.

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS), namely the Settlement Areas policies 1.1.3.1, 1.1.3.2. Staff are of the opinion that the application is consistent with the policies that focus on growth in settlement areas, as the proposal is an efficient use of the lands and is appropriate for the available infrastructure.

Policy 1.4.1 of the Provincial Policy Statement 2020 states:

“To provide for an appropriate range and mix of housing types and densities required to meet projected requirements of current and future residents of the regional market area, planning authorities shall:

- a) maintain at all times the ability to accommodate residential growth for a minimum of 10 years through residential intensification and redevelopment and, if necessary, lands which are designated and available for residential development; and
- b) maintain at all times where new development is to occur, land with servicing capacity sufficient to provide at least a three-year supply of residential units available through lands suitably zoned to facilitate residential intensification and redevelopment, and land in draft approved and registered plans.”

The conveyance of land complies with the above policy as the severance will allow for infill development which will accommodate future growth within the urban area.

Policy 2.1.1 and 2.1.2 of the Provincial Policy Statement 2020 states:

“2.1.1 Natural features and areas shall be protected for the long term.

2.1.2 The diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features.

2.1.5 Development and site alteration shall not be permitted in:

- b) significant woodlands in Ecoregions 6E and 7E (excluding islands in Lake Huron and the St. Marys River)¹;

2.1.8 Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.4, 2.1.5, and 2.1.6 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.”

Natural Heritage Staff has identified that the subject lands are within and adjacent to a Core Area. On this basis, Staff require that an Environmentally Significant Area (ESA) Site Plan prepared and submitted to demonstrate the impact. As well, an Environmental Impact Study (EIS), Tree Protection Plan, and a Landscape Plan are required to ensure the long term protection of the natural feature. As no development proposal for the conveyed lands have been demonstrated, Staff are of the opinion that the application be Tabled as the potential negative effects of development within and adjacent to the Core Area cannot be determined at this time.

Urban Hamilton Official Plan

The Urban Hamilton Official Plan designates the subject lands as “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations. The following policies, amongst others, are applicable:

“E.3.2.3 The following uses shall be permitted on lands designated Neighbourhoods on Schedule E-1 – Urban Land Use Designations:

- a) residential dwellings, including second dwelling units and housing with supports;
- b) open space and parks;
- c) local community facilities/services; and,
- d) local commercial uses.

E.3.2.4 The existing character of established Neighbourhoods designated areas shall be maintained. Residential intensification within these areas shall enhance and be compatible with the scale and character of the existing

residential neighbourhood in accordance with Section B.2.4 – Residential Intensification and other applicable policies of this Plan.

F.1.14.3 Lot Creation – Urban Area Neighbourhoods Designation

F.1.14.3.1 Consents for new lot creation, for both the severed and retained lands, for residential uses in the Neighbourhoods designation shown on Map E-1 – Urban Land Use Designation, shall be permitted provided the following conditions are met:

- a) The lots comply with the policies of this Plan, including secondary plans, where one exists;
- b) The lots comply with existing Neighbourhood Plans;
- c) The lots are in conformity with the Zoning By-law or a minor variance is approved;
- d) The lots reflect the general scale and character of the established development pattern in the surrounding area by taking into consideration lot frontages and areas, building height, coverage, mass, setbacks, privacy and overview;
- e) The lots are fully serviced by municipal water and wastewater systems; and,
- f) The lots have frontage on a public road.”

The application complies with the above policy a) and b) as the severance of the residential parcel is to allow for a permitted residential use. However, Natural Heritage Planning Staffs’ comments should be addressed and resolved prior to the lot being created.

The application complies with the above policy c) and d) with respect to the proposed lot reflecting the general scale and character of the area as there is a mixture of lot sizes in the area.

The application complies with the above policy f) as the lot does have frontage onto a public road.

Both the lands to be conveyed and the lands to be retained have municipal water and sanitary services available. However, Staff are of the opinion that the proposed severance is premature with respect to policy F.1.14.3.1 e). Specifically, Falling Brook Drive does not currently have municipal storm services available, and as such, both the lands to be conveyed and retained would be within a rural cross section. Staff note that pursuant to Information Report PW14105, Council has passed a motion to defer lot severances in rural cross section neighbourhoods until Phase II of the Assessment of Development Intensification in Rural Drainage Neighbourhoods Study is completed. At its December 5, 2016 meeting, Council passed a motion directing the Committee of Adjustment to defer lot severances in rural cross section neighbourhoods until the Assessment of Development Intensification in Rural Drainage Neighbourhoods Study is completed. The report addressing this matter is tentatively anticipated to be brought to the Public Works Committee in 2021.

Natural Heritage

The subject property is located within the boundaries of the Urban Hamilton Official Plan (UHOP). Based on Schedule B (Natural Heritage System) of the UHOP, Core Areas have been identified within and adjacent to the property. In this case, the Core Areas have been identified as a Significant Woodland and Dundas Valley Environmentally Significant Area (ESA). In addition, a portion of the subject property has been designated as "Escarpment Natural Area" within the Niagara Escarpment Plan. The trees within the subject property may also be regulated under the Town of Ancaster By-law (By-law 2000-118) and the Urban Woodland Conservation By-law (14-212).

Policies 2.1.1 and 2.1.2 of the Provincial Policy Statement (PPS) recognize the importance of the protection of natural features for the long term. In addition, development is not permitted within Significant Woodlands unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions (2.1.5 b) and development is not permitted on adjacent lands to natural heritage features unless the ecological function of the adjacent lands have been evaluated and it has been demonstrated that there will be no negative impact on the features or their ecological functions (2.1.8).

As per policy C.2.3 of the UHOP, Core Areas are to be preserved and enhanced and any development or site alteration within or adjacent to them shall not negatively impact their natural features or their ecological functions. When a development proposal has the potential to negatively impact a Core Area or its ecological function, an Environmental Impact Statement (EIS) is required (policies C.2.5.8 and F.3.2.1.2).

Based on aerial photograph interpretation, the majority of the property is treed and has no built features (with the exception of the existing house). While the land use will remain residential, the proposed severance will result in the creation of new lots within and directly adjacent to the Core Areas. This will impact the Core Areas and their functions (i.e. loss of biodiversity, increased fragmentation through the removal of trees). In addition, this will result in the loss of the contributions that the Natural Heritage System

provides to the overall community. An EIS, evaluating the impact of the proposed land use change, has not been submitted. At this time, the application is premature and it is advised that the application be tabled in order for the applicant to prepare and submit an EIS to ensure that the intent of the policies of the PPS and UHOP are met. The EIS is to be prepared and approved prior to the approval of this application.

The applicant will also be required to submit a Tree Protection Plan, and a Landscape Plan, in addition to the EIS.

If the applicant wishes to proceed in the absence of an EIS, the application would not comply with PPS or UHOP policies and should be denied.

Archeology

The subject property meets two (2) of the ten criteria used by the City of Hamilton and Ministry of Heritage, Sport, Tourism and Culture Industries for determining archaeological potential:

- 1) Within 250 metres of known archaeological sites; and,
- 2) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody.

These criteria defines the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the *Provincial Policy Statement* apply to the subject application. If this severance is granted, Staff require that the Committee of Adjustment attach the following condition to the application:

“Condition: That the proponent shall carry out an archaeological assessment of the portion of the property to be severed and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI).

Former Town of Ancaster Zoning By-law No. 87-57

The subject lands are zoned “ER” (Existing Residential) Zone to which the proposed residential use complies.

Recommendation:

Based on the foregoing, Staff consider the application to be premature until such time that the Assessment of Development Intensification in Rural Drainage Neighbourhoods Study is completed and the appropriate Studies / Plans are completed and submitted to determine if the proposed lot severance will permit the creation of a lot which can be developed while ensuring the long term vitality of the Natural features both on the subject and adjacent lands. Should the applicant wish to proceed with the application, Planning Staff are of the opinion that the severance application be denied as per Hamilton Council direction for rural cross section neighbourhoods and on the basis that there is insufficient information to determine whether a dwelling can be developed on the lot while ensuring long term vitality of the Natural features on both the subject and adjacent lands.

Based on the preceding information, Staff recommends that the application be denied.

Condition (If Approved):

1. That the property be subject to Site Plan Control as per Section 9.1 of the Site Plan Control By-law (By-law No. 15-176). An Environmental Impact Statement (EIS) would be required to be submitted with the Site Plan application to determine appropriate mitigation measures.
2. That the Owner submit and receive approval of a Tree Protection Plan, including the review fee as per the effective Schedule of Rates and Fees (currently \$605) prepared by a qualified tree management professional (i.e. certified arborist, registered professional forester or landscape architect), to the satisfaction of the Manager of Development Planning, Heritage and Design.
3. That the Owner submit and receive approval of a Landscape Plan (associated with the Tree Protection Plan) to the satisfaction of the Manager of Development Planning, Heritage and Design. This is to ensure that appropriate compensation is provided for the removal of any tree (10 cm DBH or greater) that is proposed to be removed.
4. That the proponent shall carry out an archaeological assessment of the portion of the property to be severed and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI).

Building Division:

1. The applicant should obtain an appropriate municipal address for the proposed parcel(s) from the Growth Planning Section of the Planning and Economic Development Department prior to the issuance of a building permit.
2. The “ER” zone permits limited residential uses. The applicant may wish to ensure that the proposed use for the lands to be conveyed/retained is permitted.
3. Variances for rear yard setback will be required for zoning compliance of the lands to be retained (“Lot 1”).
4. A maximum lot coverage of 35 percent is permitted for lots with an area less than or equal to 1,650 square metres. The lands to be retained (“Lot 1”) are indicated as having an area of +/- 836.34 square metres, however lot coverage has not been provided to confirm zoning compliance. Further variances may be required for the lands to be retained (“Lot 1”), should compliance not be possible.
5. In order to clear conditions, the applicant will be required to make an application for a Zoning Compliance Review and pay the relevant fees.

CONDITIONAL UPON:

If the application is approved, we request the following condition(s):

1. The owner shall submit survey evidence that the lands to be severed and retained, including the location of any existing structure, parking and landscaping conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).

Growth Management:

Note: Based on the application being approved and all the conditions being met, the owner / applicant should be made aware that the lands to be retained (Lot 1) will remain as 118 Fallingbrook Drive (Ancaster), the lands to be conveyed (Lot 2) will be assigned the address of 114 Woodview Crescent (Ancaster), and the lands to be retained (Lot 3) will be assigned the address of 110 Woodview Crescent (Ancaster).

Development Engineering:

Information:

Municipal Services

According to our GIS records, the existing **municipal services** that front the subject property are as follows:

Fallingbrook Drive

- 200mmø Sanitary Sewer
- 150mmø Watermain
- No Storm Sewer

Woodview Crescent

- 250mmø Sanitary Sewer
- 750mmø Storm Sewer
- 150mmø Watermain

Intersection of Fallingbrook Drive and Woodview Crescent

- 250mmø Sanitary Sewer
- 750mmø Storm Sewer
- 150mmø Watermain

Right-of-way Widening

The subject property is a corner lot and fronts onto Fallingbrook Drive and Woodview Crescent and both right-of-ways are already at the maximum described widths, as per the Urban Official Plan. Fallingbrook Drive is classified as local roadway and the existing width is **20.1m**, therefore, a right-of-way widening is **not required**. Woodview Crescent is also classified as a local roadway and the existing width is **20.1m**, therefore, a right-of-way widening is **not required**. Currently, the existing street have a rural cross section. Therefore, as a condition of approval the owner is required to provide a cash payment to the City for the future urbanization of the street based on the “New Road Servicing Rates”.

Daylight Triangle

Lot 1, intended to be retained, is located at the intersection of Fallingbrook Drive and Woodview Crescent. As such, a 4.57m x 4.57m daylight triangle may be required.

Recommendations:

1. That the Owner / Applicant enters into with the City of Hamilton and register on title of the lands, a Consent Agreement, having an administrative fee of \$4,310.00 (2020 fee) to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure and securities for items that may include: lot grading (\$10,000.00 grading security), water and sewer service inspections, driveway approaches, relocation of any existing infrastructure (such as hydrants) and any damage during construction (unknown costs at this time). Cash payments mentioned above are

subject to change. All to the satisfaction of the City's Manager of Development Engineering Approvals.

2. That the Owner dedicate to the City of Hamilton, an adequately sized daylighting triangle from the limits of Mohawk Road West and West 15th Street, to the satisfaction of the City's Manager of Development Approvals.
3. That the owner provides a cash payment to the City for the future urbanization of the street based on the frontage of the severed portion of the property and the 'New Roads Servicing Rate" at the time of payment to the satisfaction of the Manager of Engineering Approvals Section.

Transportation Planning & Parking Division (Traffic):

Transportation Planning have no objections to the land severance application.

See attached for additional comments.



Sam Brush, Urban Forest Health Technician
City Centre, 77 James Street North, Suite 400
Hamilton, ON L8R 2K3
Phone (905) 546-2424 Ext. 7375, Fax (905) 546-4473
Email – Sam.Brush@hamilton.ca

Hamilton

Forestry & Horticulture Section
Environmental Services Division
Public Works Department

Date: August 19, 2020

To: Jamila Sheffield, Committee of Adjustment Secretary/Treasurer
Development Planning
City Hall – 71 Main Street West – 5th Floor

From: Sam Brush – Urban Forestry Health Technician

Subject: 118 Fallingbrook Dr., Ancaster
File: AN/B-20:82

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, August 27, 2020, regarding the above subject area under discussion, the Forestry & Horticulture Section has reviewed the submission associated with the Application for Consent/Land Severance for this site and provides the following opinion:

SCOPE

There are municipal tree assets on site although it is determined that no impacts are anticipated therefore no Tree Management Plan is required.

Note: Prior to a person performing any work on, in or around a public tree an application for a permit shall be submitted to the Director.

TREE MANAGEMENT

Tree Protection is a measure of efforts to preserve existing trees during the Planning of New Developments, Infrastructure Enhancements, Utility Upgrades & Residential Improvements.

LANDSCAPE PLAN

No new Landscape Strips are shown on the submission and none are requested by the Forestry and Horticulture Section.

SUMMARY

- There are Municipal Tree Assets on site, although no impacts are anticipated therefore no Tree Management Plan or Landscape plan is required.
- Note: Prior to a person performing any work on, in or around a public tree an application for a permit shall be submitted to the Director.

We encourage you to forward a complete copy of our comments to the applicant and should you or the Applicant require clarification or technical assistance, please do not hesitate to contact me at (905) 546- 2424 Ext. 7375.

Regards,

A handwritten signature in black ink, appearing to read 'Sam Brush', with a stylized flourish at the end.

Sam Brush
Urban Forest Health Technician



Sent via email only

August 24, 2020

Jamila Sheffield
Secretary-Treasurer, Committee of Adjustment
City of Hamilton
5th Floor, 71 Main Street West
Hamilton, ON L8P 4Y5

Dear Jamila Sheffield:

RE: Consent Applications AN/B-20:45 and AN/B-20:82

NEC staff have reviewed the agenda for the upcoming Committee of Adjustment Meeting on Thursday, August 27, 2020. Two (2) items pertain to lands that are subject to the policies of the Niagara Escarpment Plan, 2017 (NEP). NEC staff have identified that both of these applications conflict with certain provisions contained within the NEP.

AN/B-20:45 1833 Governor's Road, Ancaster

The subject property is located within the NEC Area of Development Control and is designated as Escarpment Protection Area by the NEP.

The purpose of the application is to permit the severance of the existing residential lot into two parcels; the severed lands will be a vacant residential building lot and the retained lands will contain the existing dwelling which is intended to be retained.

The proposed severance conflicts with Part 1.4.4.1 of the NEP. This policy requires that any severance (for the purpose of building lot creation) within the Escarpment Protection Area be that of an "original township lot or original township half-lot, from another original township lot or original township half-lot, provided there have been no previous lots severed from one of the affected original township lots or original township half lots".

Given the size and configuration of the subject property, it does not qualify as an original township lot or an original township half-lot as defined by the NEP. Further, the proposed severance has the potential to conflict with multiple lot creation policies within Part 2.4 of the NEP.

Additionally, the City of Hamilton would not be able to approve the consent application in the absence of a Niagara Escarpment Development Permit to authorize the severance. Section 24(3) of the *Niagara Escarpment Planning and Development Act* states that:

No building permit, work order, certificate or licence that relates to development shall be issued, and no approval, consent, permission or other decision that is authorized or required by an Act and that relates to development shall be made, in respect of any land, building or structure within an area of development control, unless the development is exempt under the regulations or,

(a) a development permit relating to the land, building or structure has been issued under this Act; and

(b) the building permit, work order, certificate, licence, approval, consent, permission or decision is consistent with the development permit. 1999, c. 12, Sched. N, s. 4 (9).

Due to the aforementioned policy conflicts, NEC staff would not support approval of a Development Permit Application to sever 1833 Governor's Road.

AN/B-20:82 – 118 Fallingbrook Drive, Ancaster

The subject property is designated partially as Urban Area and partially as Escarpment Natural Area by the NEP.

The purpose of the application is to permit the conveyance of a parcel of land and retain two parcels of land for residential purposes.

The proposed severances conflict with Part 1.7.5.5 of the NEP which states that "new lots within Urban Areas shall not be created if such lots encroach into Escarpment Natural, Escarpment Protection, Escarpment Rural or Mineral Resource Extraction Areas adjacent to the Urban Area".

The information provided with the application indicates that two (2) new lots extending into the Escarpment Natural Area would be created through approval of the application. The NEP land use designations are shown on the attached map of the subject property.

Due to the above referenced policy conflicts, NEC staff do not support approval of either application and request to be provided with notice of the Committee's decision for both applications.

Please contact me at 905-877-6370 or Jim.Avram@ontario.ca if you have any questions.

Yours truly,



Jim Avram, RPP, MCIP
Senior Planner
Niagara Escarpment Commission

Cc: Nancy Mott, Senior Strategic Advisor, NEC
Morgan Evans, Development Clerk, Committee of Adjustment



Niagara Escarpment Plan

251814023014600

- Subject Property
- Subject Property

Plan Designations

- Escarpment Natural Area
- Urban Area
- Roads
- Watercourse
- Lower/Single Tier Municipality
- Lot and Concession Boundary
- Parcel Boundary
- Ownership Boundary

Ontario_Imagery_Service_Extent

NOTE: The Niagara Escarpment Plan Designation boundaries shown on this map are approximate and subject to confirmation through Site Inspection and the application of the 'Interpretation of Boundaries' section of the Niagara Escarpment Plan

Scale 1:1,500

0 10 20 30 40

Metres

Printed on Aug 21, 2020

THIS IS NOT A PLAN OF SURVEY.
This map is illustrative only. Do not rely on it as being a precise indicator of routes, location of features, nor as a guide to navigation. Base derived from various sources.
Map compiled and produced by the Geographic Information Systems (GIS) Department of the Niagara Escarpment Commission, Ministry of Natural Resources

Ontario



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August 18, 2020

361-20

Via Email

Jamila Sheffield
Secretary Treasurer
jamila.sheffield@hamilton.ca

Committee of Adjustment
City of Hamilton
71 Main St. West, 5th Floor
Hamilton, Ontario, L8P 4Y5

Dear Ms. Sheffield,

**RE: 110 WOODVIEW CRESCENT & 118 FALLINGBROOK DRIVE, ANCASTER
MUNICIPAL FILE: AN/B-16:82**

As outlined in the attached letter dated June 30, 2020, Urban Solutions Planning & Land Development Consultants Inc. (UrbanSolutions) is the authorized consultant working on behalf of the owner of 110 Woodview Crescent & 118 Fallingbrook Drive, Ancaster. Further to the letter sent to the Committee of Adjustment on July 8th 2020, our client wishes to modify the initial submission.

In the original Registered Plan of Subdivision No. 1076 for the subject lands the plan created 118 Falling Brook Drive, now occupied by the applicants dwelling, and 110 Woodview Crescent which was intended for a pumping station that never came to fruition.

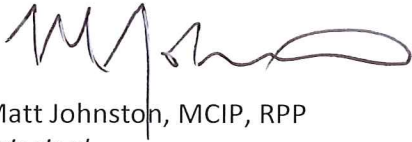
We would like to modify the initial submission with the updated lot line adjustment between 110 Woodview Crescent & 118 Falling Brook Drive as noted in the enclosed sketch and the revised pages 1 and 2 of the Severance Application form. The initial submission was made in order to create two (2) new lots in addition to retaining the existing dwelling, however this modification facilitates the creation of one (1) new lot in addition to retaining the existing dwelling.

In support of this application, please find enclosed the following:

- Two (2) copies of the Revised Pages 1 and 2 of the Consent Application form;
- Two (2) copies of the Sketch of Land Division, prepared by UrbanSolutions; and,
- One (1) cheque in the amount of \$2,845 made payable to the City of Hamilton.

We trust the enclosed is in order; however, please feel free to contact the undersigned with any questions or comments.

Regards,
UrbanSolutions

A handwritten signature in dark ink, appearing to read 'M Johnston', with a stylized flourish at the end.

Matt Johnston, MCIP, RPP
Principal

A handwritten signature in dark ink, appearing to read 'S Beedie', with a long horizontal flourish extending to the right.

Scott Beedie, BURPI
Planner

cc: Martin Kennelly
Councillor Lloyd Ferguson (cover letter and sketch only)



Hamilton

Planning and Economic Development Department
Planning Division

Committee of Adjustment
City Hall
5th floor, 71 Main Street West
Hamilton, Ontario L8P 4Y5

Phone (905) 546-2424, ext. 4221
Fax (905) 546-4202

**APPLICATION FOR CONSENT TO SEVER LAND
UNDER SECTION 53 OF THE *PLANNING ACT***

Office Use Only

Date Application Received:	Date Application Deemed Complete:	Submission No.:	File No.:
----------------------------	-----------------------------------	-----------------	-----------

1 APPLICANT INFORMATION

1.1, 1.2	NAME	ADDRESS	PHONE/FAX
Registered Owners(s)	Rhona Ishbel Harvey & Janet Kennelly	118 Falling Brook Dr. Ancaster, Ontario L9G 1E6	Business () Fax: () E-mail:
Applicant(s)*	Rhona Ishbel Harvey & Janet Kennelly	118 Falling Brook Dr. Ancaster, Ontario L9G 1E6	Business () Fax: () E-mail:
Agent or Solicitor	UrbanSolutions Planning and Land Development c/o Matt Johnston	3 Studebaker Place, Unit 1 Hamilton, Ontario L8L 0C8	Business (905) Fax: () 546-1087 E-mail: mattjohnston@urbansolutions.info

* Owner's authorisation required if the applicant is not the owner.

1.3 All correspondence should be sent to ☐ Owner ☐ Applicant ☐ Agent/Solicitor

2 LOCATION OF SUBJECT LAND Complete the applicable lines

2.1 Area Municipality Ancaster	Lot 62	Concession 62R-16823	Former Township 1
Registered Plan N°. 1076	Lot(s) 62	Reference Plan N°. 62R-16823	Part(s) 1
Municipal Address 118 Falling Brook Drive, Ancaster 110 Woodview Crescent, Ancaster			Assessment Roll N°. 14023014600 2518140-23014650

2.2 Are there any easements or restrictive covenants affecting the subject land?

☐ Yes ☒ No

If YES, describe the easement or covenant and its effect:

3 PURPOSE OF THE APPLICATION

3.1 Type and purpose of proposed transaction: (check appropriate box)

a) Urban Area Transfer (do not complete Section 10):

- ☒ creation of a new lot
☐ addition to a lot
☐ an easement

- Other: ☐ a charge
☐ a lease
☐ a correction of title

b) Rural Area / Rural Settlement Area Transfer (Section 10 must be completed):

- ☐ creation of a new lot
☐ creation of a new non-farm parcel
 (i.e. a lot containing a surplus farm dwelling
 resulting from a farm consolidation)
☐ addition to a lot
- Other: ☐ a charge
☐ a lease
☐ a correction of title
☐ an easement

3.2 Name of person(s), if known, to whom land or interest in land is to be transferred, leased or charged:

3.3 If a lot addition, identify the lands to which the parcel will be added:

4 DESCRIPTION OF SUBJECT LAND AND SERVICING INFORMATION

4.1 Description of land intended to be Severed:

Frontage (m) +/- 25.0 m	Depth (m) +/- 41.75 m	Area (m ² or ha) +/- 1,066.5 m ²
----------------------------	--------------------------	---

Existing Use of Property to be severed:

- ☐ Residential
☐ Agriculture (includes a farm dwelling)
☐ Other (specify) _____
- ☐ Industrial
☐ Agricultural-Related
☒ Commercial
☒ Vacant

Proposed Use of Property to be severed:

- ☒ Residential
☐ Agriculture (includes a farm dwelling)
☐ Other (specify) _____
- ☐ Industrial
☐ Agricultural-Related
☐ Commercial
☐ Vacant

Building(s) or Structure(s):

Existing: Refer to Sketch of Land Division

Proposed: Dwelling in accordance with Zoning By-law

Type of access: (check appropriate box)

- ☐ provincial highway
☐ municipal road, seasonally maintained
☒ municipal road, maintained all year
- ☐ right of way
☐ other public road

Type of water supply proposed: (check appropriate box)

- ☒ publicly owned and operated piped water system
☐ privately owned and operated individual well
- ☐ lake or other water body
☐ other means (specify) _____

Type of sewage disposal proposed: (check appropriate box)

- ☒ publicly owned and operated sanitary sewage system
☐ privately owned and operated individual septic system
☐ other means (specify) _____

4.2 Description of land intended to be Retained:

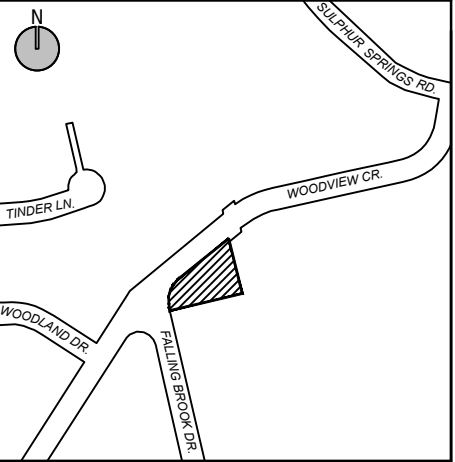
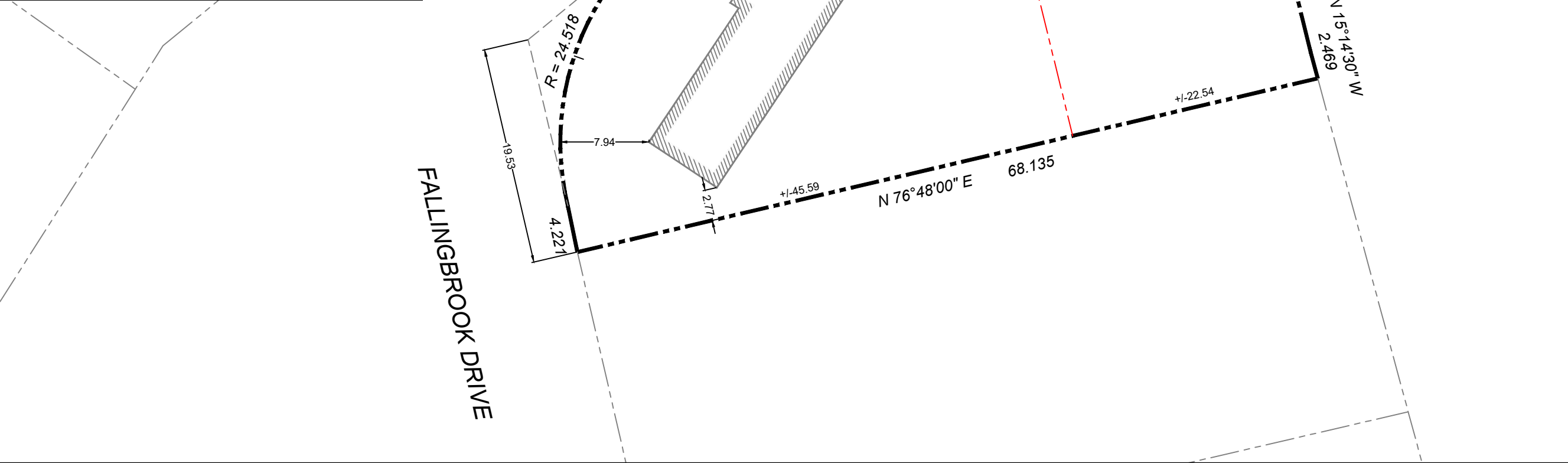
Frontage (m) +/- 19.5 m	Depth (m) +/- 45.5 m	Area (m ² or ha) +/- 1,350.9 m ²
----------------------------	-------------------------	---

Existing Use of Property to be retained:

- ☒ Residential
☐ Agriculture (includes a farm dwelling)
☐ Other (specify) _____
- ☐ Industrial
☐ Agricultural-Related
☐ Commercial
☐ Vacant

DEVELOPMENT STATISTICS (LOT 1)		
Item	Required	Proposed
Min. Lot Area	695 m ²	+/-1,350.90 m ²
Min. Lot Frontage	18.00 m	+/-19.53 m
Max. Lot Coverage	35%	(164.88 m ²) 12.2 %
Front Yard Setback		
Minimum	7.50 m	7.94 m
Maximum	9.00 m	7.94 m
Side Yard Setback		
Interior	2.00 m	2.77 m
Flankage	6.00 m	6.88 m
Rear Yard	25% of lot depth	1.90 m (MVR)
Max. Building Height		
One Storey	7.50 m	7.50 m
Two Storey	9.50 m	9.50 m

DEVELOPMENT STATISTICS (LOT 2)		
Item	Required	Proposed
Min. Lot Area	695 m ²	+/-1,066.52 m ²
Min. Lot Frontage	18.00 m	+/-25.00 m
Max. Lot Coverage	35%	35%
Front Yard Setback		
Minimum	7.50 m	7.50 m
Maximum	9.00 m	9.00 m
Side Yard Setback		
Interior	2.00 m	2.00 m
Flankage	6.00 m	6.00 m
Rear Yard	25% of lot depth	25% of lot depth
Max. Building Height		
One Storey	7.50 m	7.50 m
Two Storey	9.50 m	9.50 m



KEY MAP - N.T.S.

SCALE 1:400

METRES

0 5 10 20

- LEGEND:
- SUBJECT LANDS
 - EXISTING BUILDING
 - PROPOSED SEVERANCES

NOT FOR CONSTRUCTION
ISSUED FOR REVIEW & COMMENTS ONLY

NOTES:
ALL DIMENSIONS SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

DESIGN BY: M.GOWANS
CHECKED BY: S. MANCHIA
DRAWN BY: M.GOWANS
DATE: JULY 8, 2020

URBANSOLUTIONS
PLANNING & LAND DEVELOPMENT
3 STUDEBAKER PLACE, UNIT 1
HAMILTON, ON L8N 1G6
905-546-1087 - urbansolutions.info

PROJECT:
118 FALLING BROOK DRIVE
CITY OF HAMILTON

CLIENT:
RHOMA HARVEY & JANET KENNELLY

TITLE:
SEVERANCE SKETCH

U/S FILE NUMBER: 361-20
SHEET NUMBER: 1

From: [Robindra Singh](#)
To: [Committee of Adjustment](#)
Subject: [****POSSIBLE SPAM]AN/B-20:82 application for severance
Date: August 21, 2020 2:21:21 PM

My name is Mrs. Chitra Singh and I am the owner of 117 Woodview Crescent, Ancaster which is directly opposite the property applying for severance.

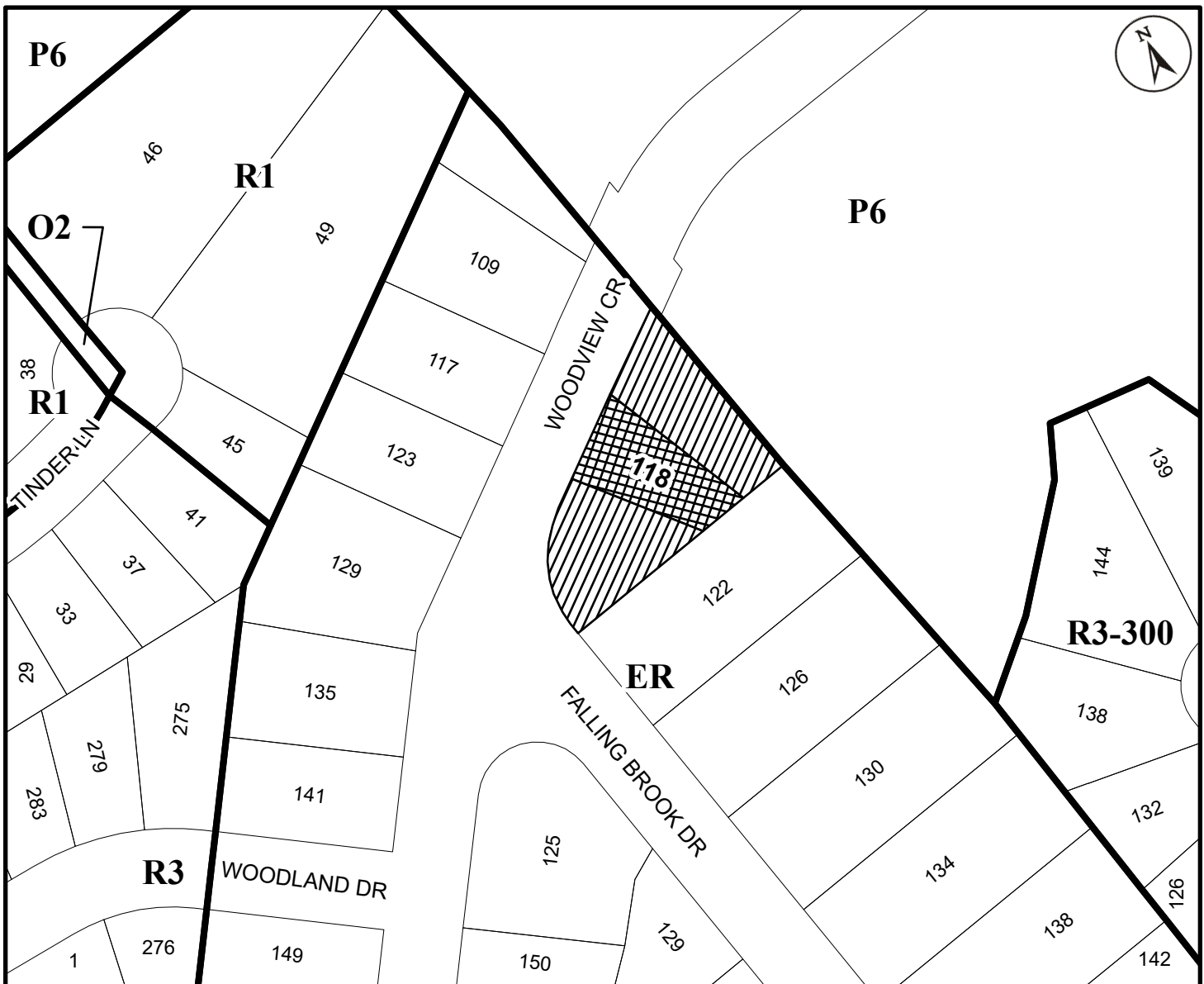
It should be noted that the Severance Sketch provided to me from the Committee of Adjustment is in error according to the owners of 118 Fallingbrook drive.

It is my understanding that the CORRECT request for severance to the property is for **one Lot ONLY**. That is **Lot 3** (874.16m 2+) that is furthest from Lot 1 that has an existing house on it. There is **no** Lot 2.

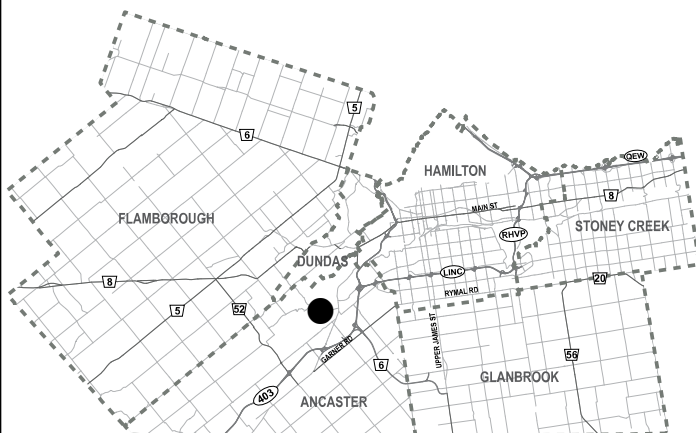
I have no objection to this **Single** severance of Lot 3 taking place.

Please feel free to contact me at 905-6485972 or by email robindrasingh@hotmail.com should there be any changes to what I have indicated is my understanding of the request for Severance.

Thank you
Chitra Singh



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

118 Falling Brook Drive, Ancaster (Ward 12)



Lands to be Retained



Lands to be Severed

File Name/Number:

AN/B-16:82

Date:

August 20, 2020

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

SC/B-20:44 (28 Sandbeach Dr., Stoney Creek

Consolidation Report

The attached comments have been reviewed with regard to the above noted Committee of Adjustment application and the following comments are submitted:

Should the Committee grant the severance, an approval should be subject to the following condition(s):

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. The owner/applicant shall satisfy the requirements of the Public Works Department Operations and Maintenance Division, Forestry & Horticulture Section.
3. The owner shall receive final and binding approval of minor variance application SC/A-20:145 to be heard in conjunction with this application.
4. The applicant must enter into and register on title of the lands, a Consent Agreement, to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure as required and securities for items that may include: lot grading (\$10,000.00 grading security), driveway approaches and culverts, relocation of any existing infrastructure (hydro poles, etc.) and any damage to municipal infrastructure during construction (unknown costs at this time).
5. That the owner provided a cash payment to the City for the outstanding servicing costs, adjusted with Canadata index, related to the 0.3m reserve to the satisfaction of the Manager of Engineering Approvals Section.
6. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.
7. The owner submits to the Committee of Adjustment office an administration fee, of \$20.00 payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot.

Notes:

1. Based on the application being approved and all the conditions being met, the owner / applicant should be made aware that the lands to be conveyed will be assigned the address of 24 Sandbeach Drive (Stoney Creek), and the lands to be retained will be assigned the address of 28 Sandbeach Drive (Stoney Creek).
2. The applicant should be notified that any new driveway or an access entrance, relocation of an existing driveway and/or the access entrance, or required alteration to a driveway design or the access entrance, will require a Residential Access Permit. The applicant is responsible for the application fee of the Access Permit, as well as the installation of any new approach ramp/access and or any modification to any existing approach ramp. Abandoned driveway approach ramps must be restored to curb/sidewalk at the expense of the applicant. Further information and applications are available from the Parking Investigator at Hamilton Municipal Parking System (905-546-2424 x4578 or parking@hamilton.ca).

SC/B-20:44 (28 Sandbeach Dr., Stoney Creek)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to permit the conveyance of a parcel of land for residential purposes and to retain a parcel of land for residential purposes

Urban Hamilton Official Plan

The subject lands are identified as “Neighbourhoods” on Schedule “E” – Urban Structure and designated “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP). The Urban Lakeshore Area Secondary Plan designates the subject lands “Low Density Residential 2b” (Volume 2 - Map B.7.3-1). Single detached dwellings are permitted within the designations (Volume 1 - E.3.4.3 and Volume 2 - B.7.3.1.3 (a)). The proposed density is consistent with the permitted density range of 1 to 29 units per hectare (Volume 2 - B.7.3.1.3 (b)).

Former City of Stoney Creek Zoning By-law No. 3692-92

The subject lands are zoned Neighbourhood Development “ND” Zone.

The “ND” Zone does not permit the use of the land for any purpose other than that for which it was used on the date that the Zoning By-law was passed until the land has been rezoned by By-law (Subsection 7.1.1). New single detached dwellings are not permitted, and as such, there are no provisions within the zoning that would apply to the proposed single detached dwellings, such as minimum lot area or frontage, or minimum yards. The purpose of these applications is to permit the construction of a single detached dwelling; however, should the subject consent be approved, the existing zoning would not permit single detached dwellings to be constructed. Accordingly, staff requests that any approvals be conditional upon final and binding approval of a Zoning By-law Amendment.

Archeology

The subject property meets three (3) of the ten criteria used by the City of Hamilton and Ministry of Tourism, Culture and Sport for determining archaeological potential:

- 1) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody;
- 2) In an area of sandy soil in areas of clay or stone; and,
- 3) Along historic transportation routes.

These criteria defines the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the *Provincial Policy Statement* apply to the subject application. If this severance is granted, Staff require that the Committee of Adjustment attach the following condition to the application:

“Condition: That the proponent shall carry out an archaeological assessment of the entire property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI).

Analysis

Staff must have regard for whether the proposed lots conform to the Official Plan and adjacent plans of subdivision when considering severance applications (Planning Act, subsection 51 (24) (c)). Notwithstanding the proposed use and density conforms, Staff is of the opinion that the proposal does not conform to the applicable Residential Intensification policies nor the Lot Creation policies of the UHOP.

The proposed development is defined as Residential Intensification, and as such, must be evaluated based on the criteria of Volume 1-Section B. 2.4.1.4 and B.2.4.2.2. The proposal does not maintain or enhance the existing neighbourhood character or streetscape patterns. The lots on the east side of Sandbeach Drive (Plan of Subdivision 62M-987) provide consistent lot frontages of 18 m (interior lots) and lot areas of 450 sq. m (interior lots). The proposed lots along provide frontages of 16.20 m and 24.20 m and lot areas of 937.70 sq. m and 1,399.96 sq. m. The proposed lots do not conform to the adjacent Plan of Subdivision.

In addition to the criteria established for Residential Intensification in Volume 1-Section B, lot creation in the urban area must be consistent with the UHOP policies of Volume 1-Section F. 1.14.3 Lot Creation – Urban Area. The proposed lots do not reflect the general scale and character of the established development pattern in consideration of the reduced and inconsistent lot frontages and relatively large lot areas. The proposed lots are not in conformity with the Zoning By-law and require submission and approval of Zoning By-law Amendment application to permit any development. The proposed lots do not have frontage on a public road until such time as the reserve block abutting Sandbeach Drive is dedicated as public highway. It is the opinion of staff that the conditions outlined in Section F.1.14.3.1 are not satisfied by the proposed development.

In the opinion of staff, the lots should be rezoned prior to approval of any development applications under the Planning Act. Through the Zoning By-law Amendment process,

the proposed lot frontages and lot areas would be comprehensively reviewed to determine whether they represent good planning. Further, the Zoning By-law Amendment process would allow opportunity to apply provisions to control permitted uses and required yards, maximum building height, and maximum lot coverage. Should these applications be approved prior to final and binding approval of a Zoning By-law Amendment, the lot frontages and lot areas would be established thereby circumventing the planning process.

Recommendation:

Having regard for the matters under subsection 51(24) of the Planning Act, staff is not satisfied that the proposed consents conform to the Official Plan or the adjacent plan of subdivision. Staff recommends that the requested consents be denied.

Should the Committee approve the applications, staff requests that approval be subject to the conditions outlined below.

CONDITIONS: (If Approved)

1. That the proponent shall carry out an archaeological assessment of the entire property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI).
2. That final and binding approval of a Zoning By-law Amendment application be received.
3. That the reserve block abutting Sandbeach Drive, being Part of Block 193, 62M-987, be dedicated by By-law as public highway, and that the By-law be registered.

NOTE:

1. The applicant should be notified that any new driveway or an access entrance, relocation of an existing driveway and/or the access entrance, or required alteration to a driveway design or the access entrance, will require a Residential Access Permit. The applicant is responsible for the application fee of the Access Permit, as well as the installation of any new approach ramp/access and or any modification to any existing approach ramp. Abandoned driveway approach ramps must be restored to curb/sidewalk at the expense of the applicant. Further information and applications are available from the Parking Investigator at Hamilton Municipal

Parking System (905-546-2424 x4578 or parking@hamilton.ca).

Building Division:

1. The applicant should obtain an appropriate municipal address for the proposed parcel(s) from the Growth Planning Section of the Planning and Economic Development Department prior to the issuance of a building permit.
2. Final and binding approval of SC/A-20:145 is required to facilitate this application.
3. Demolition permits 20-156925 and 20-156914 have been issued and closed for the existing single detached dwelling and accessory building on the subject lands, as shown of GISNet mapping system.

CONDITIONS:

1. The owner shall receive final and binding approval of minor variance application SC/A-20:145 to be heard in conjunction with this application.

Growth Management:

Note: Based on the application being approved and all the conditions being met, the owner / applicant should be made aware that the lands to be conveyed will be assigned the address of 24 Sandbeach Drive (Stoney Creek), and the lands to be retained will be assigned the address of 28 Sandbeach Drive (Stoney Creek).

Development Engineering:

Information:

There is an existing 0.3m reserve along Sandbeach Drive adjacent to the subject lands that must be lifted prior to development of the subject lands. Therefore, as a condition of approval the owner is required to provide a cash payment to the City for their share of the outstanding servicing costs for installation of Sandbeach Drive.

Recommendations:

1. The applicant must enter into and register on title of the lands, a Consent Agreement, to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure as required and securities for items that may include: lot grading (\$10,000.00

grading security), driveway approaches and culverts, relocation of any existing infrastructure (hydro poles, etc.) and any damage to municipal infrastructure during construction (unknown costs at this time).

2. That the owner provided a cash payment to the City for the outstanding servicing costs, adjusted with Canadata index, related to the 0.3m reserve to the satisfaction of the Manager of Engineering Approvals Section.

Transportation Planning & Parking Division (Traffic):

Transportation Planning have no objections to the land severance application.

See attached for additional comments.



Shannon Clarke, Urban Forest Health Technician
City Centre, 77 James Street North, Suite 400
Hamilton, ON L8R 2K3
Phone (905) 546-2424 Ext. 4219, Fax (905) 546-4473
Email – Shannon.Clarke@hamilton.ca

Hamilton

Forestry & Horticulture Section
Environmental Services Division
Public Works Department

Date: August 18, 2020

To: Jamila Sheffield, Committee of Adjustments Secretary/Treasurer
Development Planning Heritage and Design
City Hall – 71 Main St. W. – 5th Floor

From: Shannon Clarke, Urban Forest Health Technician

Subject: 28 Sandbeach Drive, Stoney Creek
File: SC/B-20:44

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, August 27th, 2020, regarding the above subject area under discussion, the Forestry & Horticulture Section has reviewed the submission associated with the Application for Consent/Land Severance for this site and provides the following opinion:

SCOPE

An assessment of the information provided shows that there are potential conflicts with publicly owned trees. Where existing municipal trees are impacted by development work, are within proximity of the development work or access/egress to the development work, a Tree Management Plan must be submitted to the Forestry and Horticulture Section c/o the Urban Forestry Health Technician.

Where ownership of trees in proximity to the boundary between public and private land is un-certain, the subject trees must be surveyed by the applicant to confirm ownership. Ownership is as per By-law 15-125. Ownership must be clearly identified on the Tree Management Plan as either municipal or private.

A **Permit** to injure or remove municipal trees is a requirement of this application. Therefore, a **Tree Management Plan** must be submitted to the Forestry and Horticulture Section c/o the Urban Forestry Health Technician, to address potential conflicts with publicly owned trees.

Conditions of the Forestry and Horticulture Section will be cleared only after receipt of all applicable fees and payments.

No Landscape plan required

TREE MANAGEMENT

Tree Protection is a measure of efforts to preserve existing trees during the Planning of New Developments, Infrastructure Enhancements, Utility Upgrades & Residential Improvements.

The Forestry & Horticulture Section requires that a **Tree Management Plan** be prepared by a **Registered Landscape Architect**. All trees within this proposed development area must be surveyed, identified and accurately plotted on the plan to determine ownership, including intentions regarding retention or removal.

It is compulsory that all proposed surface treatment changes within individual tree driplines as well as property lines, building footprints, driveways, utility construction corridors and temporary access roads be accurately depicted on the submission.

The Tree Inventory Analysis Table on the Tree Management Plan shall not be considered complete without the following data and recommended action for each tree.

- ❖ Species by Botanical and common name
- ❖ Diameter at breast height in centimeters or millimeters
- ❖ Ownership {> 50% @ ground level = ownership}
- ❖ Biological health
- ❖ Structural condition
- ❖ Proposed grade changes within individual driplines {compulsory}
- ❖ Proposed utility construction within individual driplines {compulsory}
- ❖ Proposed removals or relocations
- ❖ Proposed trees to be protected

If it is determined and verified that existing trees can remain, a Tree Protection Zone Detail with notes showing Tree Preservation Techniques shall be included on the submission as per the **Public Tree Preservation and Sustainability Policy**.

The determination of ownership of all trees is the responsibility of the applicant and any civil issues which may exist or arise between property owners with respect to trees, must be resolved by the applicant. The ownership of each individual tree inventoried must be clearly stated as municipal or private.

All Healthy trees on municipal property which are found to be in conflict with this proposed development and do not meet our criteria for removal are subject to a replacement fee as outlined in the **Public Tree Preservation and Sustainability Policy** in conjunction with **By-Law 15-125**.

A \$273.26 plus HST permit fee, payable to the City of Hamilton is required prior to the permit issuance.

A permit will be issued upon approval of the Tree Management Plan and applicable fees.

LANDSCAPE PLAN

No new Landscape Strips are shown on the submission and none are requested by the forestry & Horticulture Section.

SUMMARY

- There are municipal tree assets on site; therefore a Tree Management Plan is required.
- No Landscape plan required
- **A permit will be issued upon approval of the Tree Management Plan and applicable fees.**

We encourage you to forward a complete copy of our comments to the applicant and should you or the Applicant require clarification or technical assistance, please do not hesitate to contact me at (905) 546-2424 Ext. 4219.

Regards,

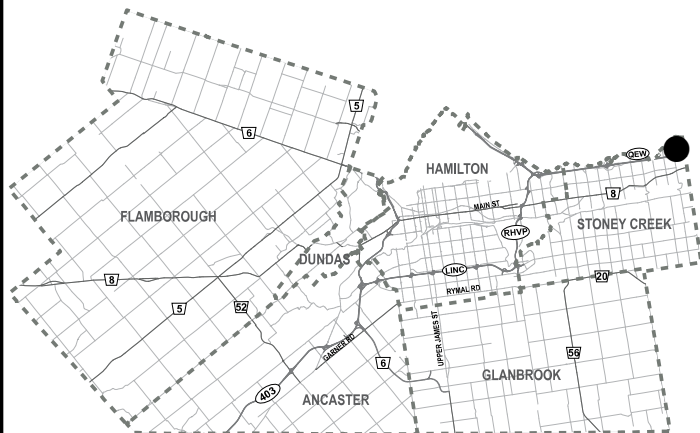
A handwritten signature in black ink, appearing to read "Shannon Clarke". The signature is fluid and cursive, with the first name "Shannon" and last name "Clarke" clearly distinguishable.

Shannon Clarke
Urban Forest Health Technician

HST # 22828-000100



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

28 Sandbeach Drive, Stoney Creek (Ward 10)



Lands to be Retained



Lands to be Severed

File Name/Number:

SC/B-20:44

Date:

August 18, 2020

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

SC/A-20:145 (28 Sandbeach Dr., Stoney Creek)

Consolidation Report

The attached comments have been reviewed with regard to the above noted Committee of Adjustment application and the following comments are submitted:

Should the Committee approve the application, an approval should be subject to the following condition(s):

1. That the proponent shall carry out an archaeological assessment of the entire property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI).
2. That final and binding approval of a Zoning By-law Amendment application be received.
3. That the reserve block abutting Sandbeach Drive, being Part of Block 193, 62M-987, be dedicated by By-law as public highway, and that the By-law be registered.

NOTE:

1. The applicant should be notified that any new driveway or an access entrance, relocation of an existing driveway and/or the access entrance or required alteration to a driveway design or the access entrance, will require a Residential Access Permit. The applicant is responsible for the application fee of the Access Permit, as well as the installation of any new approach ramp/access and or any modification to any existing approach ramp. Abandoned driveway approach ramps must be restored to curb/sidewalk at the expense of the applicant. Further information and applications are available from the Parking Investigator at Hamilton Municipal Parking System (905-546-2424 x4578 or parking@hamilton.ca).

SC/A-20:145 (28 Sandbeach Dr., Stoney Creek)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to permit the creation of two (2) new lots and the construction of a new single detached dwelling on each lot.

Urban Hamilton Official Plan

The subject lands are identified as “Neighbourhoods” on Schedule “E” – Urban Structure and designated “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP). The Urban Lakeshore Area Secondary Plan designates the subject lands “Low Density Residential 2b” (Volume 2 - Map B.7.3-1). Single detached dwellings are permitted within the designations (Volume 1 - E.3.4.3 and Volume 2 - B.7.3.1.3 (a)). The proposed density is consistent with the permitted density range of 1 to 29 units per hectare (Volume 2 - B.7.3.1.3 (b)).

Former City of Stoney Creek Zoning By-law No. 3692-92

The subject lands are zoned Neighbourhood Development “ND” Zone.

The “ND” Zone does not permit the use of the land for any purpose other than that for which it was used on the date that the Zoning By-law was passed until the land has been rezoned by By-law (Subsection 7.1.1). New single detached dwellings are not permitted, and as such, there are no provisions within the zoning that would apply to the proposed single detached dwellings, such as minimum lot area or frontage, or minimum yards. The purpose of these applications is to permit the construction of a single detached dwelling; however, should the associated consent (SC/B-20:44) be approved, the existing zoning would not permit single detached dwellings to be constructed. Accordingly, staff requests that any approvals be conditional upon final and binding approval of a Zoning By-law Amendment.

Variance 1

The applicant is seeking a variance for the creation of two new lots and the construction of a new single detached dwelling on each lot to be permitted whereas any building, structure or land in a ND zone is only permitted to be used for the purpose for which it was used on the date of the passing of the By-law (December 8, 1992) until such land has been rezoned by a By-law, which has been approved in accordance with Subsection 34 of The Planning Act, R.S.O., 1990, c.P.13.

Staff note that new single detached dwelling are not permitted within the Neighbourhood Development “ND” Zone. Therefore, the variance is not minor in nature and is not

desirable for the appropriate development of the lands, staff are not in support of this variance.

Variance 2

The applicant is seeking a variance for the construction of a new single detached dwelling to be permitted to be constructed on both the lands to be conveyed and the lands to be retained whereas Permitted Uses for Each Lot only allows single detached dwellings and uses, buildings or structures accessory thereto which existed on the date of the passing of the By-law (December 8, 1992).

Staff note that new single detached dwellings are not permitted within the Neighbourhood Development "ND" Zone. Therefore, the variance is not minor in nature and is not desirable for the appropriate development of the lands, staff are not in support of this variance.

Variance 3

The applicant is seeking a variance for regulations of Section 5.4.3 to apply to a new single detached dwelling whereas the regulations of Section 5.4.3 are only permitted to be applied to any additions or reconstruction of a single detached dwelling existing on the dated of the passing of the by-law (December 8, 1992).

Staff note that new single detached dwellings are not permitted within the Neighbourhood Development "ND" Zone. Therefore, the variance is not minor in nature and is not desirable for the appropriate development of the lands, staff are not in support of this variance.

Archeology

The subject property meets three (3) of the ten criteria used by the City of Hamilton and Ministry of Tourism, Culture and Sport for determining archaeological potential:

- 1) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody;
- 2) In an area of sandy soil in areas of clay or stone; and,
- 3) Along historic transportation routes.

These criteria defines the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the *Provincial Policy Statement* apply to the subject application. If this severance is granted, Staff require that the Committee of Adjustment attach the following condition to the application:

“Condition: That the proponent shall carry out an archaeological assessment of the entire property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI).

Recommendation:

Having regard for the matters under subsection 51(24) of the Planning Act, staff is satisfied that the proposed variances conform to the Official Plan but do not conform to the intent of the Zoning By-law and are not minor in nature. Staff recommends that the requested variances be **denied**.

Should the Committee approve the applications, staff requests that approval be subject to the conditions outlined below.

CONDITIONS: (If Approved)

1. That the proponent shall carry out an archaeological assessment of the entire property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI).
2. That final and binding approval of a Zoning By-law Amendment application be received.
3. That the reserve block abutting Sandbeach Drive, being Part of Block 193, 62M-987, be dedicated by By-law as public highway, and that the By-law be registered.

NOTE:

2. The applicant should be notified that any new driveway or an access entrance, relocation of an existing driveway and/or the access entrance, or required alteration to a driveway design or the access entrance, will require a Residential Access Permit. The applicant is responsible for the application fee of the Access Permit, as well as the installation of any new approach ramp/access and or any modification to any existing approach ramp. Abandoned driveway approach ramps must be restored to curb/sidewalk at the expense of the applicant. Further information and

applications are available from the Parking Investigator at Hamilton Municipal Parking System (905-546-2424 x4578 or parking@hamilton.ca).

Building Division:

1. These variances are necessary to facilitate Land Severance application SC/B-20:44 to be heard in conjunction with this application.
2. Further variances will be required if the proposed lots are not serviced by sanitary sewers and municipal water.
3. Details regarding the proposed dwellings have not been provided to determine zoning compliance.
4. Construction of the proposed single detached dwellings are subject to the issuance of a building permit from the Building Division. Be advised that Ontario Building Code regulations may require specific setback and construction types.

Development Engineering:

No Comment

See attached for additional comments.

August 24, 2020

City of Hamilton
Planning and Economic Development Department
71 Main St W
Hamilton, Ontario
L8P 4Y5

Attention: Morgan Evans

File# 28 Sandbeach Dr

Re: SC/A:20-145

In response to your correspondence dated August 11, 2020, please be advised that our Engineering Design Department has reviewed the information concerning the above noted Consent Application and our comments are as follows:

- For Residential/Commercial electrical service requirements, the Developer needs to contact our ICI and Layouts Department at 1-877-963-6900 ext: 25713 or visit our web site @ www.alectrautilities.com.
- Relocation, modification, or removal of any existing hydro facilities shall be at the owner's expense. Please contact Alectra Utilities to facilitate this.

We would also like to stipulate the following:

- Do not excavate within two metres of hydro poles and anchors.
- Excavation within one metre of underground hydro plant is not permitted unless approval is granted by an Alectra Utilities representative and is present to provide direct supervision. Cost associated with this task shall be at the owner's expense.
- Alectra Utilities must be contacted if the removal, isolation or relocation of existing plant is required, all cost associated with this work will be at the owners expense.
- CALL BEFORE YOU DIG, arrange for underground hydro cable locate(s) before beginning construction by contacting Ontario One Call @ 1-800-400-2255.
- Clearances from Overhead and Underground existing electrical distribution system must be maintained in accordance to:
 - Ontario Building Code (1997) Section 3.1 (3.1.18.1)

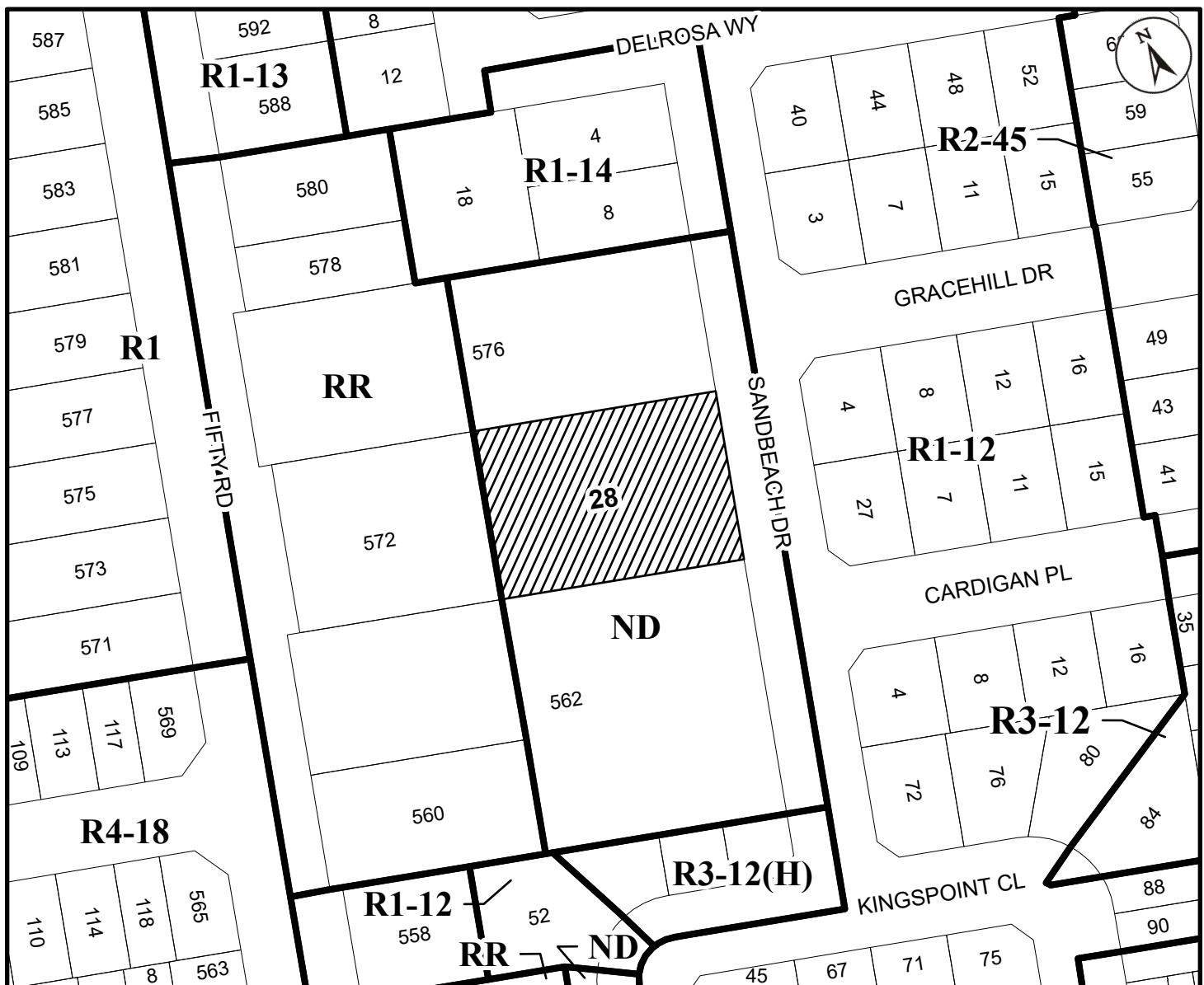
- Electrical Safety Code Rule 75-312
- Occupational Health and Safety Act (OH&SA) – Construction Projects (Electrical Hazards)
- CAN/CSA-C22.3 No. 1-15, Overhead System
- C22.3 No. 7-15 Underground Systems

We trust that you will find this information satisfactory and that the information contained within will be provided to the owner of this project. Should you have any questions regarding this response, please contact Charles Howell at 905-522-6611 ext: 4729 in our Engineering Design Department.

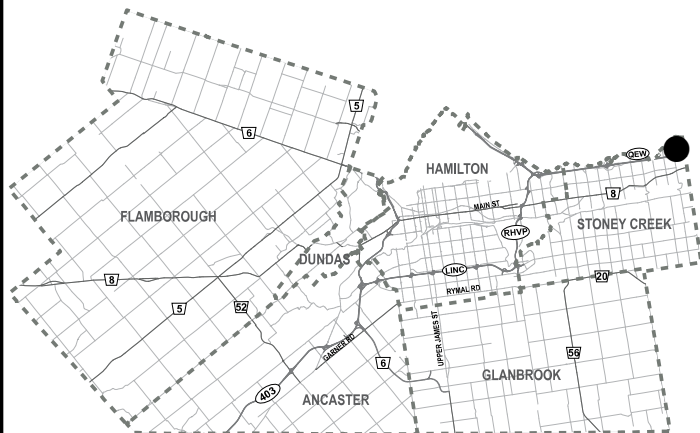
Sincerely,

Mark Jakubowski

Mark Jakubowski
Supervisor, Design, Customer Capital



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



28 Sandbeach Drive, Stoney Creek
(Ward 10)

File Name/Number:

SC/A-20:145

Date:

August 17, 2020

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

SC/A-20:151 (590 North Service Rd., Stoney Creek)SC/A-20:151 (590 North Service Rd., Stoney Creek)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

Urban Hamilton Official Plan Amendment Application UHOPA-17-009 and Zoning By-law Amendment Application ZAC-17-020 was approved by Council on May 23, 2018 to permit a residential development consisting 94 maisonette dwellings and 42 stacked townhouse dwellings for a total of 136 dwelling units on a private road, and a future mixed-use development for the lands known as 84, 86, 88, 90, 92, 94, 96 Lakeview Drive (Stoney Creek).

The purpose of this application is to permit the construction of a three storey, 15 unit stacked townhouse block shown as “Block 2” on Registered Plan of Subdivision 62M-1268, in accordance with Site Plan Control application DA-18-07 which received final approval on June 26, 2019 , notwithstanding the following variances.

Urban Hamilton Official Plan

The property is identified as “Neighbourhoods” in Schedule E– Urban Structure and is designated “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations. Policies E.3.2.3, E.3.4.3, and F.1.14.3.1 amongst others, are applicable and permit single detached dwellings

Former City of Stoney Creek Zoning By-law No. 3692-92

The subject lands are zoned “RM3-64” (Multiple Residential) District, Modified, which permits stacked townhouse dwellings.

Variance 1 and 2

The applicant is requesting a variance to permit a minimum distance separation of 2.8 metres between the end walls of Block 2 and Block 1 and to allow a minimum 0.3 metre setback from the front lot line (North Service Road) for the front steps including the cold cellar underneath the unenclosed front porch, notwithstanding the minimum required distance separation of 3.0 metres between end walls and the requirement that an unenclosed porch and associated stairs, including a cold cellar underneath, may project 2.2 metres into a required front yard. The general intent of the Zoning By-law is to provide a consistent streetscape, to avoid any impact on the enjoyment and privacy of the adjacent properties, allow sufficient space in the front yard to accommodate the necessary landscaped area and to allow sufficient space for access and drainage. Staff defers any drainage concerns to Development Engineering Approvals.

The applicant has indicated in the submitted cover letter dated July 24, 2020 that the requested variances are required as a result of discrepancies between the architectural and grading plans.

Staff is of the opinion the variances are minor in nature and would cause the applicant unnecessary hardships to require the front porch and associated stairs for Block 2 to conform with the requirements, in accordance with amending by-law 18-139.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan and Zoning By-law is being maintained, the variance is desirable for the development and is considered minor in nature; therefore, staff support the variances.

Recommendation:

Based on the preceding information, the requested variances maintain the general intent and purpose of the Urban Hamilton Official Plan and the former City of Stoney Creek Zoning By-law No. 3692-92. The variances are considered to be minor in nature and desirable for the appropriate use of the property. In conclusion, Staff recommends that the application be approved.

Building Division:

1. These variances are necessary to facilitate Building permit application # 19-132972.
2. Variances have been written as requested by the applicant.
3. Construction of the proposed development is subject to the issuance of a building permit in the normal manner.
4. Be advised that Ontario Building Code regulations may require specific setback and construction types.

Development Engineering:

No Comment

See attached for additional comments.

August 24, 2020

City of Hamilton
Planning and Economic Development Department
71 Main St W
Hamilton, Ontario
L8P 4Y5

Attention: Morgan Evans

File# 590 North Service Rd

Re: SC/A:20-151 & SC/A:20-152

In response to your correspondence dated August 11, 2020, please be advised that our Engineering Design Department has reviewed the information concerning the above noted Consent Application and our comments are as follows:

- For Subdivision or Townhouse development, the Developer needs to contact our Engineering Design Department @ 416-819-4975.
- Relocation, modification, or removal of any existing hydro facilities shall be at the owner's expense. Please contact Alectra Utilities to facilitate this.
- Developers shall be responsible for the cost of civil work associated with duct structures, transformer foundations, and all related distribution equipment.
- Developers to acquire an easement, if required.
- In order for Alectra Utilities to prepare design and procure the materials required to service this site in a timely manner, a minimum of 6 months notification is required. It would be advantages for the developer if Alectra Utilities were contacted at the stage where the new site plan becomes available. Please note that it takes approximately 20 weeks to purchase a transformer.

We would also like to stipulate the following:

- Do not excavate within two metres of hydro poles and anchors.
- Excavation within one metre of underground hydro plant is not permitted unless approval is granted by an Alectra Utilities representative and is present to provide direct supervision. Cost associated with this task shall be at the owner's expense.

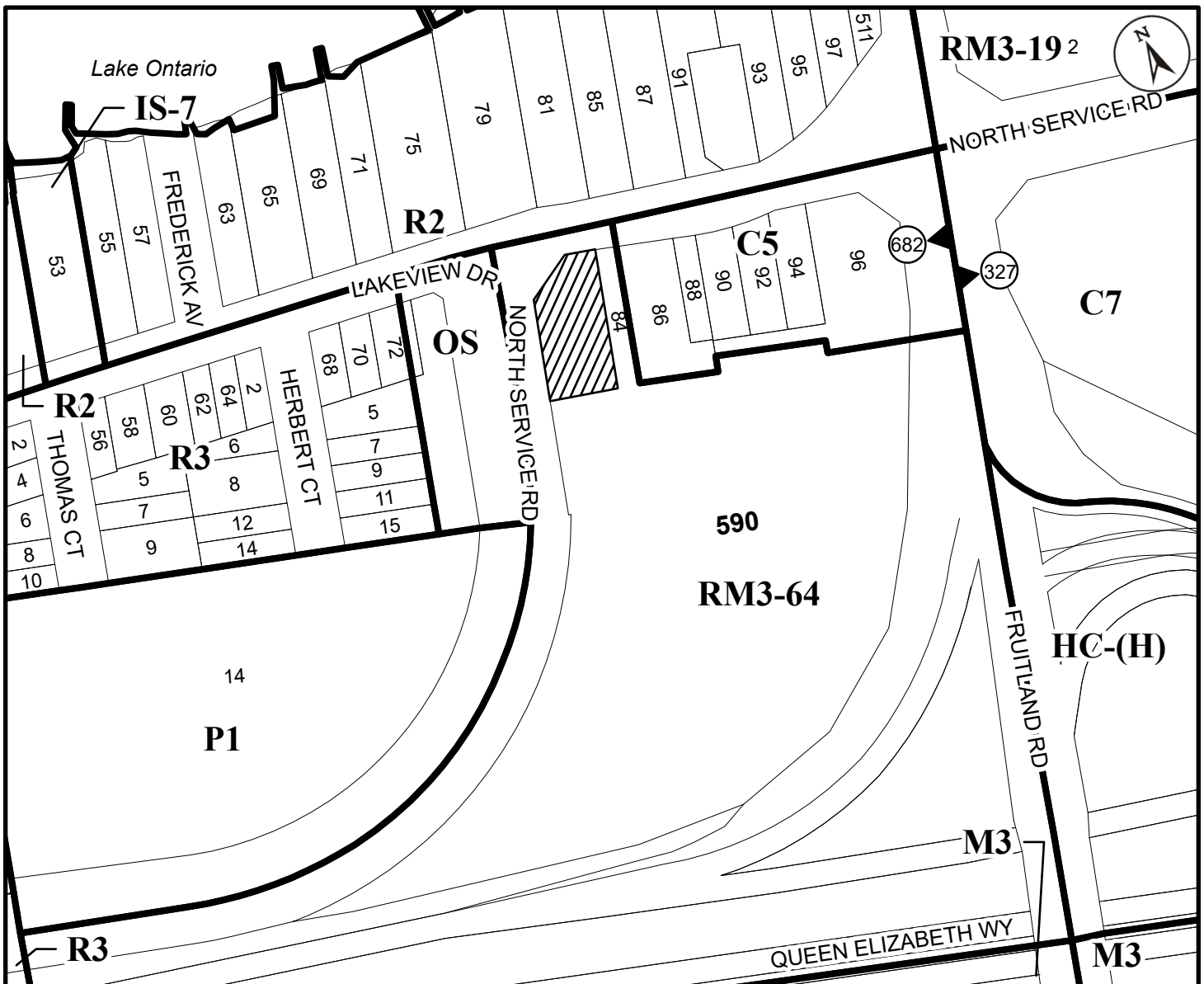
- Alectra Utilities must be contacted if the removal, isolation or relocation of existing plant is required, all cost associated with this work will be at the owners expense.
- CALL BEFORE YOU DIG, arrange for underground hydro cable locate(s) before beginning construction by contacting Ontario One Call @ 1-800-400-2255.
- Clearances from Overhead and Underground existing electrical distribution system must be maintained in accordance to:
 - Ontario Building Code (1997) Section 3.1 (3.1.18.1)
 - Electrical Safety Code Rule 75-312
 - Occupational Health and Safety Act (OH&SA) – Construction Projects (Electrical Hazards)
 - CAN/CSA-C22.3 No. 1-15, Overhead System
 - C22.3 No. 7-15 Underground Systems

We trust that you will find this information satisfactory and that the information contained within will be provided to the owner of this project. Should you have any questions regarding this response, please contact Charles Howell at 905-522-6611 ext: 4729 in our Engineering Design Department.

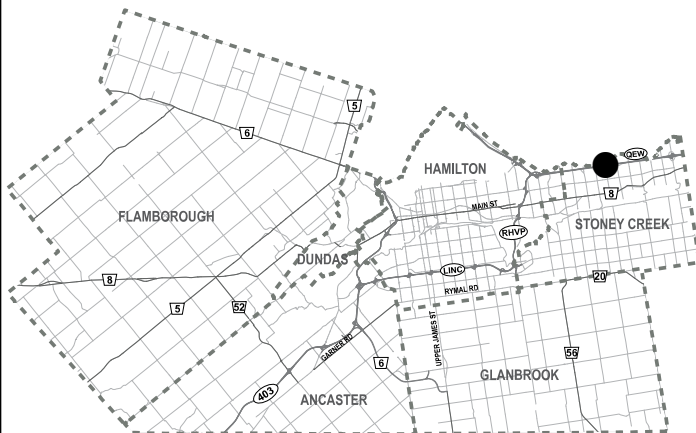
Sincerely,

Mark Jakubowski

Mark Jakubowski
Supervisor, Design, Customer Capital



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



590 North Service Road,
Stoney Creek (Ward 10)

File Name/Number:

SC/A-20:151

Date:

August 19, 2020

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

SC/A-20:152 (590 North Service Rd., Stoney Creek)SC/A-20:152 (590 North Service Rd., Stoney Creek)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

Urban Hamilton Official Plan Amendment Application UHOPA-17-009 and Zoning By-law Amendment Application ZAC-17-020 was approved by Council on May 23, 2018 to permit a residential development consisting 94 maisonette dwellings and 42 stacked townhouse dwellings for a total of 136 dwelling units on a private road, and a future mixed-use development for the lands known as 84, 86, 88, 90, 92, 94, 96 Lakeview Drive (Stoney Creek).

The purpose of this application is to permit the construction of a three storey, 15 unit stacked townhouse block shown as “Block 2” on Registered Plan of Subdivision 62M-1268, in accordance with Site Plan Control application DA-18-07 which received final approval on June 26, 2019 , notwithstanding the following variances.

Urban Hamilton Official Plan

The property is identified as “Neighbourhoods” in Schedule E– Urban Structure and is designated “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations. Policies E.3.2.3, E.3.4.3, and F.1.14.3.1 amongst others, are applicable and permit single detached dwellings

Former City of Stoney Creek Zoning By-law No. 3692-92

The subject lands are zoned “RM3-64” (Multiple Residential) District, Modified, which permits stacked townhouse dwellings.

Variance 1 and 2

The applicant is requesting a variance to permit a minimum distance separation of 2.8 metres between the end walls of Block 2 and Block 1 and to allow a minimum 0.3 metre setback from the front lot line (North Service Road) for the front steps including the cold cellar underneath the unenclosed front porch, notwithstanding the minimum required distance separation of 3.0 metres between end walls and the requirement that an unenclosed porch and associated stairs, including a cold cellar underneath, may project 2.2 metres into a required front yard. The general intent of the Zoning By-law is to provide a consistent streetscape, to avoid any impact on the enjoyment and privacy of the adjacent properties, allow sufficient space in the front yard to accommodate the necessary landscaped area and to allow sufficient space for access and drainage. Staff defers any drainage concerns to Development Engineering Approvals.

The applicant has indicated in the submitted cover letter dated July 24, 2020 that the requested variances are required as a result of discrepancies between the architectural and grading plans.

Staff is of the opinion the variances are minor in nature and would cause the applicant unnecessary hardships to require the front porch and associated stairs for Block 2 to conform with the requirements, in accordance with amending by-law 18-139.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan and Zoning By-law is being maintained, the variance is desirable for the development and is considered minor in nature; therefore, staff support the variances.

Recommendation:

Based on the preceding information, the requested variances maintain the general intent and purpose of the Urban Hamilton Official Plan and the former City of Stoney Creek Zoning By-law No. 3692-92. The variances are considered to be minor in nature and desirable for the appropriate use of the property. In conclusion, Staff recommends that the application be approved.

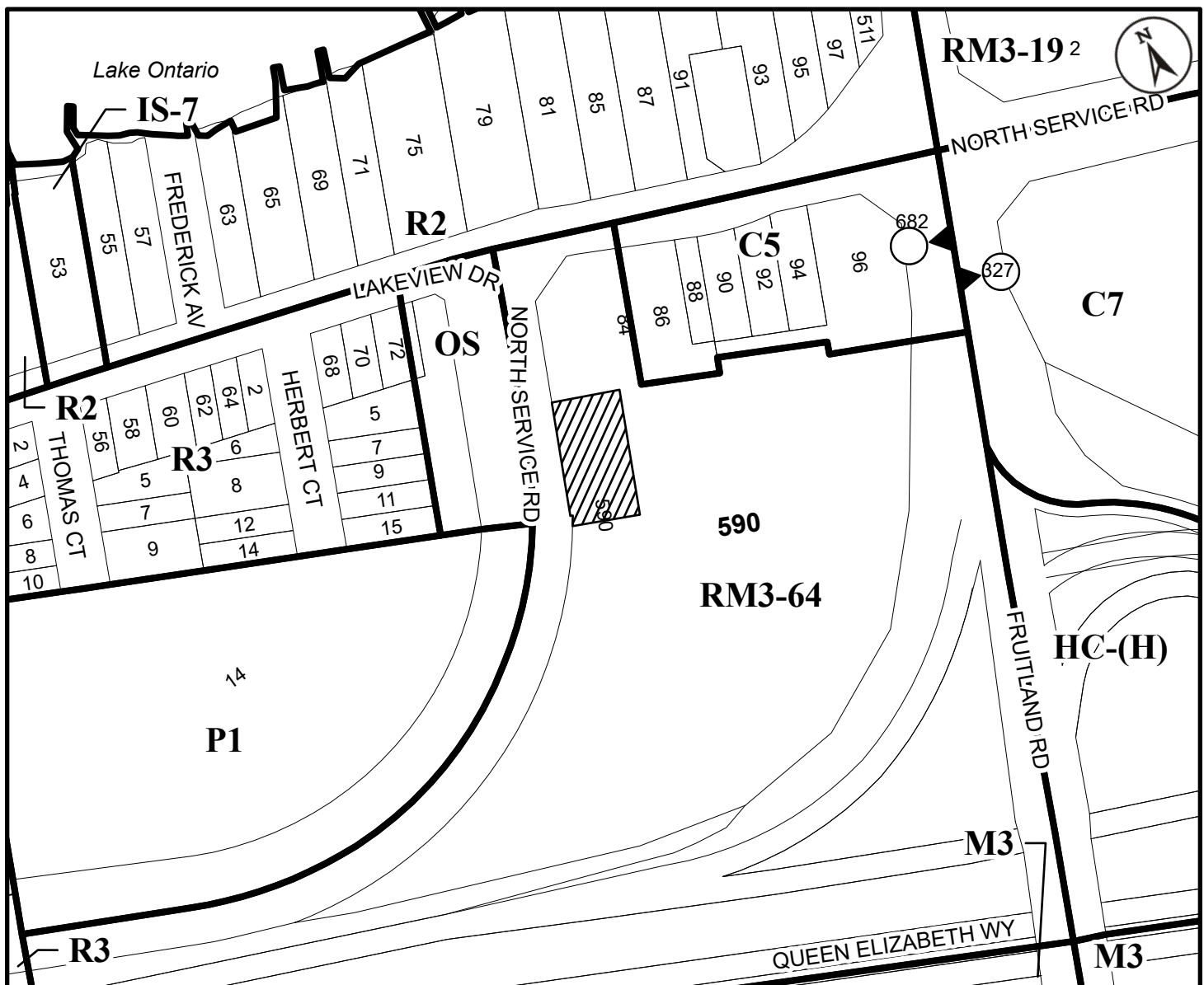
Building Division:

1. Pursuant to amending by-law 18-139, a minimum front yard of 3.5m is required.
2. These variances are necessary to facilitate building permit No. 19-133333.
3. Variances have been written as requested by the applicant.
4. Be advised that Ontario Building Code regulations may require specific setback and construction types.

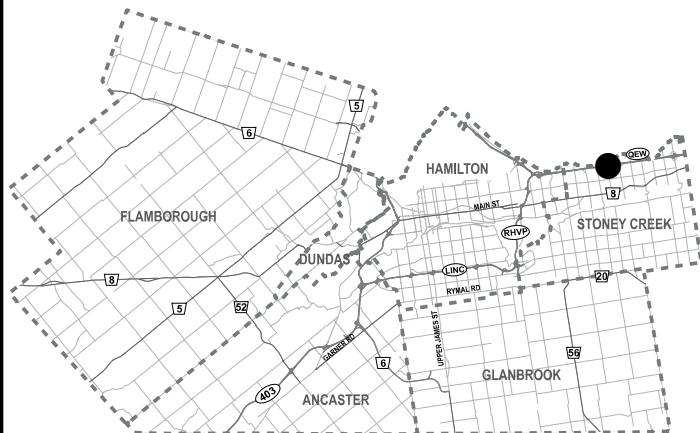
Development Engineering:

No Comment

See attached for additional comments.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



590 North Service Road,
Stoney Creek (Ward 10)

File Name/Number:

SC/A-20:152

Date:

August 19, 2020

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/A-19:427 (741 Rymal Rd. E., Hamilton)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to permit the construction of a three (3) storey mixed use building consisting of 446 square metres for commercial uses (offices) on the ground floor and a total of twelve (12) residential dwelling units on the second and third floors, notwithstanding that variances related to building height, the number and gross floor area of residential dwelling units, vehicular access and the minimum number of parking spaces are required.

Background

The zoning of the subject lands is the result of an applicant initiated Zoning By-law Amendment application (ZAC-07-107). At the public meeting pursuant to the Planning Act, the application was tabled to allow the applicant to meet with local residents to address neighbourhood concerns. The informal meeting resulted in a negotiated settlement that limited development to one two-storey mixed use building, amongst other restrictions. The Zoning By-law Amendment application was amended based on the negotiated settlement and implemented through By-law 10-039.

Urban Hamilton Official Plan

The subject lands are identified as “Secondary Corridors” on Schedule “E” – Urban Structure and designated “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP). Local commercial uses are permitted in accordance with Section E.3.8 Local Commercial. A multiple storey building with local commercial uses on the ground floor and residential units located above the ground floor is permitted (E.3.8.4 (d) and E.3.8.10) within the designation. All commercial space is to be located on the ground floor (E.3.8.10).

The proposed development is subject to Site Plan Control. In accordance with UHOP policy C.4.5.7 (Volume 1), the City shall require the conveyance of a 9.14 m by 9.14 m daylighting triangle at the northeast corner of the site, being the intersection of Eva Street and Eaglewood Drive as a condition of Site Plan Approval.

Hamilton Zoning By-law No. 05-200

The subject lands are zoned Neighbourhood Commercial (C2, 330) Zone, which permits the proposed offices and dwelling units in conjunction with commercial uses, subject to the applicable provisions. The intent of the zoning is to support commercial uses intended to serve residents within the surrounding neighbourhood.

The zoning permits some residential intensification; however, the C2 zoning restricts the residential use to a maximum of 50% of the GFA of all the buildings within the lot. This provision serves to maintain the primarily commercial function of the site. Special Exception 330 permits a maximum GFA of 455.0 sq. m for dwelling units, effectively permitting the residential uses to occupy a GFA greater than 50% of the total GFA of the building.

Through the Zoning By-law Amendment application (ZAC-07-107) process, Development Planning staff was supportive of the proposed increase in gross floor area for the residential component beyond 50% of the total gross floor area of commercial uses based on the development concept plan. An outdoor patio accessory to a café was proposed, the area of which is not considered in the calculation of commercial GFA in the Zoning By-law but is nevertheless approximately equivalent to that portion of the residential GFA which exceeded the total commercial GFA. As a result, staff was of the opinion that the intent of the zoning would be maintained.

Aside from Variance 5 (proposed minimum of 18 parking spaces) and part of Variance 1 (proposed 12.0 maximum building height), the requested variances pertain specifically to the provisions of Special Exception 330.

Variances 1 to 3

A maximum building height of 11.4 m and three (3) storeys is proposed, whereas a maximum building height of 11.0 m and two (2) storeys is permitted (Variance 1). A residential density based on one dwelling unit for each 152 sq. m of lot area (12 dwelling units) is proposed, whereas a maximum of one dwelling unit for each 180.0 sq. m (10 dwelling units) is permitted (Variance 2). A gross floor area of 1474 sq. m for residential units is proposed, whereas a maximum of 445.56 sq. m is permitted (Variance 3). The GFA of residential dwelling units proposed represents approximately 76.6 % of the total GFA of the building, leaving less than 24% of the total GFA for commercial uses, which is not consistent with the intent of the Zoning By-law for this commercially-zoned site.

The proposed GFA for residential dwelling units in proportion to the GFA for commercial uses results in a development that is predominantly residential and would therefore be more appropriate in a residential zone. The variances would have the effect of conveying residential zoning to the subject site and as a result, staff does not consider them to be minor in nature. The proposed increase to the GFA of the residential component, facilitated in part by the proposed increased building height and number of dwelling units, does not maintain the intent of the Zoning By-law. A Zoning By-law Amendment application is the appropriate mechanism to review the proposed development. Based on the foregoing, the variances do not maintain the intent of the Zoning By-law, nor are they desirable or minor in nature. Staff **does not support** the variances.

Variances 4 and 5

A minimum of 18 parking spaces are proposed, whereas a minimum of 27 parking spaces are required by the Zoning By-law. Vehicular access is proposed from Eva Street, whereas no vehicular ingress or egress from Eva Street is permitted (Variance 4). There are 5 m by 5 m visibility triangles illustrated and dimensioned on the Minor Variance sketch; however, the northerly visibility triangle cannot be provided subsequent to the required daylighting triangle land dedication.

Staff is not supportive of these requested variances because they would facilitate a development that staff cannot support through the Minor Variance process. Staff is of the opinion that a Zoning By-law Amendment application is the appropriate mechanism to review the proposed development. These requested variances should be evaluated in context along with any other details of development that do not conform to the Zoning By-law through the Zoning By-law Amendment process. Based on the foregoing, the variances do not maintain the intent of the Zoning By-law, nor are they desirable or minor in nature. Staff **does not support** the variances.

Recommendation:

Having regard for the matters under subsection 45(1) of the Planning Act, although the general intent of the Official Plan is maintained, staff is not satisfied that the requested variances maintain the purpose and intent of the Zoning By-law. In the opinion of staff, the variances are not desirable for the appropriate development of the land, nor minor in nature. Staff recommends that the requested variances, as outlined in the Notice of Hearing, be **denied**.

Building Division:

1. A building permit is required for the construction of the proposed mixed use building.
2. Be advised that Ontario Building Code regulations may require specific setback and construction types.
3. The variances shown as 1-4 have been written as requested by the applicant. The lands are subject to Site Plan Approval. To date, the applicant has submitted a Formal Consultation (FC-19-112) to permit a three (3) storey mixed use building consisting of ground floor commercial for offices and 12 residential units above the ground floor and for which comments have been provided. A modified mixed use proposal was prepared based on the Formal Consultation which is the subject of this Minor Variance application. A formal Site Plan application for the modified proposal however has not been submitted. Accordingly, further variances will be required if the proposal does not comply with the Zoning By-law.
4. With respect to Variance # 3, Exception 330 which applies to the zoning for the subject property, requires that the gross floor area for residential uses and

commercial uses shall be equivalent to one another, whereas the proposed residential gross floor area would be 3.3 times greater than the commercial gross floor area.

5. Be advised that Amending By-law No. 17-240 was passed on November 8, 2017 which changed the zoning of this property from the H/S-1619 District under Zoning By-law 6593 to the C2, Exception 330 Zone under Hamilton Zoning By-law No. 05-200. However, there are portions of Amending By-law No. 17-240 which are still under appeal to the Local Appeal Planning Tribunal (LPAT); therefore, it is not yet final. As such, the proposed development is reviewed under the regulations contained within Hamilton Zoning By-law 05-200, except where portions of these regulations are still under appeal by By-law No. 17-240 both the existing and proposed Zoning By-law regulations will be examined with the more restrictive zoning regulation being applied. An exception to this policy is for Building Permits, which are reviewed under the former existing Zoning and/or Zoning By-law regulation until such time that Amending By-law No. 17-240 comes fully into force. Once By-law No. 17-240 is approved in its entirety by the Local Appeal Planning Tribunal (LPAT), the zoning and regulations under this By-law will be applicable.
6. Please note that Variance #5 was added to address parking requirements which are under appeal because the more restrictive parking requirements for By-law 05-200 were provided prior to Zoning By-law 17-240 and the creation of the Commercial Mixed Use Zones. Accordingly, the more restrictive parking for residential units prior to the passing of Amending By-law 17-240 and which is currently in effect is based on 1 parking space per unit and the more restrictive parking requirement for offices is based on 1 parking space for every 30 square metres of gross floor area.

Development Engineering:

Development Engineering Approvals have no comments regarding the Minor Variance Application as proposed. Detailed Engineering comments and requirements have been previously provided under the Formal Consultation Application known as FC-19-112.

See attached for additional comments.

August 24, 2020

City of Hamilton
Planning and Economic Development Department
71 Main St W
Hamilton, Ontario
L8P 4Y5

Attention: Morgan Evans

File# 741 Rymal Rd E

Re: HM/A:19-427

In response to your correspondence dated August 11, 2020, please be advised that our Engineering Design Department has reviewed the information concerning the above noted Consent Application and our comments are as follows:

- For Residential/Commercial electrical service requirements, the Developer needs to contact our ICI and Layouts Department at 1-877-963-6900 ext: 25713 or visit our web site @ www.alectrautilities.com.
- Relocation, modification, or removal of any existing hydro facilities shall be at the owner's expense. Please contact Alectra Utilities to facilitate this.
- Developers shall be responsible for the cost of civil work associated with duct structures, transformer foundations, and all related distribution equipment.
- Developers to acquire an easement, if required.
- In order for Alectra Utilities to prepare design and procure the materials required to service this site in a timely manner, a minimum of 6 months notification is required. It would be advantageous for the developer if Alectra Utilities were contacted at the stage where the new site plan becomes available. Please note that it takes approximately 20 weeks to purchase a transformer.

We would also like to stipulate the following:

- Do not excavate within two metres of hydro poles and anchors.

- Excavation within one metre of underground hydro plant is not permitted unless approval is granted by an Alectra Utilities representative and is present to provide direct supervision. Cost associated with this task shall be at the owner's expense.
- Alectra Utilities must be contacted if the removal, isolation or relocation of existing plant is required, all cost associated with this work will be at the owners expense.
- CALL BEFORE YOU DIG, arrange for underground hydro cable locate(s) before beginning construction by contacting Ontario One Call @ 1-800-400-2255.
- Clearances from Overhead and Underground existing electrical distribution system must be maintained in accordance to:
 - Ontario Building Code (1997) Section 3.1 (3.1.18.1)
 - Electrical Safety Code Rule 75-312
 - Occupational Health and Safety Act (OH&SA) – Construction Projects (Electrical Hazards)
 - CAN/CSA-C22.3 No. 1-15, Overhead System
 - C22.3 No. 7-15 Underground Systems

We trust that you will find this information satisfactory and that the information contained within will be provided to the owner of this project. Should you have any questions regarding this response, please contact Charles Howell at 905-522-6611 ext: 4729 in our Engineering Design Department.

Sincerely,

Mark Jakubowski

Mark Jakubowski
Supervisor, Design, Customer Capital

From: [Kieth Fischer](#)
To: [Committee of Adjustment](#)
Subject: Application HM/A-19:427
Date: August 17, 2020 8:09:21 AM

Hello Committee of Adjustments,

The recent changes to the proposed property at 741 Rymal Rd, E., Hamilton still require work, and until the following recommendations are implemented, the project should not receive approval to move forward.

There are still main points that should be reviewed;

1. Parking – the developer needs to re-visit parking and utilize underground parking to minimize or eliminate the need for on street parking, 18 spots are not enough.
 - a. When you factor in, most families have 2 or 3 vehicles and staff parking for the businesses this will eat up most/all of the proposed parking included with the property.
 - b. This will mean all visitors/customers/patients will need to find parking on Eaglewood, which already has a lot of on street parking from the multi-general homes.
 - c. Allowing additional parking on Eaglewood may cause a public safety risk due to increased traffic, safety for kids playing, the ability for EMS to get through (it's already tight when they do need to respond), and snow removal due to no boulevards, the plows leave the snow on the street which takes away on street parking, and makes the streets narrower.
 - d. Additionally if the customers/visitors/patients attending 741 Rymal road park on Eleanor, there are a lot of children on that street. With there not being any sidewalks causes an additional safety risk.
2. Traffic and entrance to 741 Rymal road. The entrance and exit needs to be moved to Rymal road.
 - a. Eva road is a death trap due to the amount of traffic that speeds and cuts through the neighborhood to avoid the Rymal road traffic problem.
 - b. Motorists already do not stop at the stop sign and just blaze through, I've personally almost been hit backing out of my driveway more times than I can count. Additionally crossing the road to walk to No Frills is also an issue due to people not stopping at the stop sign.

I understand the need to bring housing and local services to a community, but the proposed changes still put public safety at risk.

I hope the committee will consider my recommendations through the approval process.

Thank you for your time.

Kieth J. Fischer

Manager Corporate Client Care

Proudly supporting our National LPL and Ontario CCA & TELUS IQ implementation teams

Health and Safety Co-Chair – 25 York Street

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From: [Marcotte, Melanie](#)
To: [Committee of Adjustment](#)
Cc: mmarcotte62@outlook.com
Subject: Application NO: HM/A-19:427 / Subject Property: 741 Rymal Road East, Hamilton
Date: August 19, 2020 4:38:31 PM

Good afternoon,

I am writing this email to voice my family's concerns with regards to the proposal of building a 3 storey commercial building directly across from my home on Eaglewood Drive. Since both my husband and I work full time we cannot attend the application hearing on August 27, 2020. Please know we are not in favor of this building.

1. When we first purchased and moved to our home in 1993 we purchased because this was a residential area and there was a house across the street with beautiful big trees and bushes. Now this has all been ripped down and the view has been destroyed. We are not in favour of changing this lot to commercial.
2. Even though you have shown parking and IN / OUT access from Eva Street we are concerned that overflow parking will be directly in front of our home. Already we have workers from the building (which would be directly beside this new building) parking in front of our home and directly across beside the mailboxes. If the new 3 storey building is constructed there definitely will not be enough parking provided on that lot for businesses, tenants of the apartments and guests visiting the tenants. These WILL overflow to our street and will affect our home greatly as we are directly across from this lot and use the parking in front of our home for our personal vehicles.
3. Increase of traffic will affect our neighbourhood. Having Rymal Road in front of our street already adds to our traffic. Adding this 3 storey building with businesses will only increase the traffic, increase the noise level and decrease enjoyment of our neighbourhood.
4. We don't want this 3 storey building being across from our home as it will increase the rodent and small animal population due to the business garbage and tenant garbage.
5. We do not want to look at this building; the garbage bins; the cars going in and out off of Eva Street (which would be very busy); or at all the parked cars.
6. We do not want this building as it could bring vandalism/graffiti to the area because of the businesses.

Unfortunately, neither my husband or myself can attend the meeting on August 27, 2020 as we both work during the day and cannot take time off. Therefore, I am sending this email to voice our concerns.

I would appreciate a response to my email and thank you in advance.

Thank you,

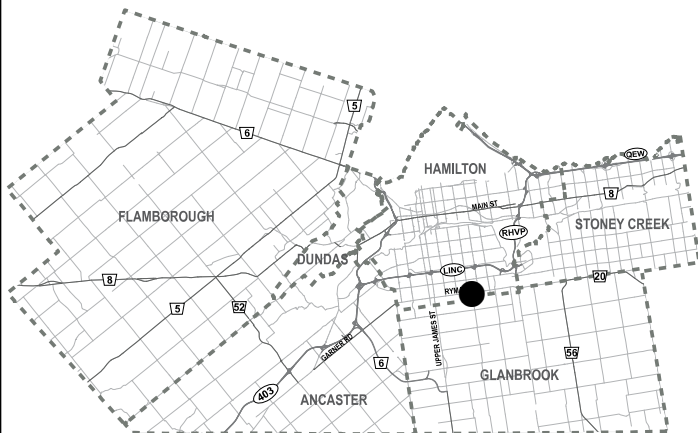
Melanie Marcotte

Manager, Technology Services
35 Stone Church Road | Ancaster, ON L9K 1S5
O: 905-304-2322 | melaniem@daltontimmis.com

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● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



741 Rydal Road East, Hamilton
(Ward 6)

File Name/Number:

HM/A-19:427

Date:

August 20, 2020

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/B-20:41 (296 East 43rd St., Hamilton)

Consolidation Report

The attached comments have been reviewed with regard to the above noted Committee of Adjustment application and the following comments are submitted:

Should the Committee grant the severance, an approval should be subject to the following condition(s):

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

HM/B-20:41 (296 East 43rd St., Hamilton)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to permit the creation of an easement for access purposes. The easement lands will provide access to the existing rear parking on the subject property, with an area of 32.95 square metres. The retained lands will contain the existing single detached dwelling on the subject property with a lot area of 256.12 square metres.

Urban Hamilton Official Plan

The property is identified as “Neighbourhoods” in Schedule E– Urban Structure and is designated “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations. Policies E.3.2.3, E.3.4.3, and F.1.14.3.1 amongst others, are applicable and permit single detached dwellings and support the severance of the lands to maintain the residential use.

The proposed easement will provide access to the existing rear parking on the subject property. The affected lots, 296 and 298 East 43rd Street are fully serviced by municipal water and wastewater systems and have frontage onto East 43rd Street. The proposal will not result in any change to the established lot pattern and the residential character of the neighbourhood. As such the intent of the Urban Hamilton Official Plan is being maintained.

Former City of Hamilton Zoning By-law No. 6593

The subject property is zoned “C/S-1436” (Urban Protected Residential, etc.) District, which permits single family dwellings.

Recommendation:

Based on the preceding information, the requested severance maintains the general intent and purpose of the Urban Hamilton Official Plan and former City of Hamilton Zoning By-law No. 6593. In conclusion, Staff recommends that the application be approved.

Building Division:

This Division has no concerns with the proposed application.

Development Engineering:

Development Engineering Approvals have no comments regarding the Consent / Land Severance application to permit the establishment of an easement for access purposes, as proposed. The existing driveway and parking spaces at the rear are existing.

Transportation Planning & Parking Division (Traffic):

Transportation Planning has no objection to the creation of an easement for access purposes.

See attached for additional comments.



Shannon Clarke, Urban Forest Health Technician
City Centre, 77 James Street North, Suite 400
Hamilton, ON L8R 2K3
Phone (905) 546-2424 Ext. 4219, Fax (905) 546-4473
Email – Shannon.Clarke@hamilton.ca

Hamilton

Forestry & Horticulture Section
Environmental Services Division
Public Works Department

Date: August 18, 2020

To: Jamila Sheffield, Committee of Adjustments Secretary/Treasurer
Development Planning Heritage and Design
City Hall – 71 Main St. W. – 5th Floor

From: Shannon Clarke, Urban Forest Health Technician

Subject: 296 East 43rd Street, Hamilton
File: HM/B-20:41

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, August 27th, 2020, regarding the above subject area under discussion, the Forestry & Horticulture Section has reviewed the submission associated with the Application for Consent/Land Severance for this site and provides the following opinion:

SCOPE

There are municipal tree assets on site although it is determined that no impacts are anticipated therefore no Tree Management Plan is required.

No Landscape Plan required.

TREE MANAGEMENT

Tree Protection is a measure of efforts to preserve existing trees during the Planning of New Developments, Infrastructure Enhancements, Utility Upgrades & Residential Improvements.

LANDSCAPE PLAN

No new Landscape Strips are shown on the submission and none are requested by the Forestry & Horticulture Section.

SUMMARY

- There are municipal tree assets on site although it is determined that no impacts are anticipated therefore no Tree Management Plan is required.
- No Landscape Plan required.

We encourage you to forward a complete copy of our comments to the applicant and should you or the Applicant require clarification or technical assistance, please do not hesitate to contact me at (905) 546- 2424 Ext. 4219.

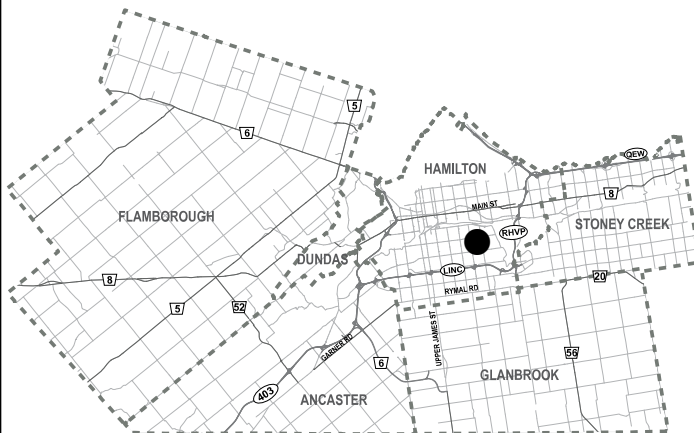
Regards,

A handwritten signature in cursive script, appearing to read "Shannon Clarke".

Shannon Clarke
Urban Forest Health Technician



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

296 East 43rd Street, Hamilton (Ward 6)



Lands to be Retained



Easement

File Name/Number:

HM/B-20:41

Date:

August 20, 2020

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/B-20:42 (298 East 43rd St., Hamilton)

Consolidation Report

The attached comments have been reviewed with regard to the above noted Committee of Adjustment application and the following comments are submitted:

Should the Committee grant the severance, an approval should be subject to the following condition(s):

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

HM/B-20:42 (298 East 43r St., Hamilton)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to permit the creation of an easement for access purposes. The easement lands will provide access to the existing rear parking on the subject property, with an area of 35.28 square metres. The retained lands will contain the existing single detached dwelling on the subject property with a lot area of 208.07 square metres.

Urban Hamilton Official Plan

The property is identified as “Neighbourhoods” in Schedule E– Urban Structure and is designated “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations. Policies E.3.2.3, E.3.4.3, and F.1.14.3.1 amongst others, are applicable and permit single detached dwellings and support the severance of the lands to maintain the residential use.

The proposed easement will provide access to the existing rear parking on the subject property. The affected lots, 296 and 298 East 43rd Street are fully serviced by municipal water and wastewater systems and have frontage onto Ease 43rd Street. The proposal will not result in any change to the established lot pattern and the residential character of the neighbourhood. As such the intent of the Urban Hamilton Official Plan is being maintained.

Former City of Hamilton Zoning By-law No. 6593

The subject property is zoned “C/S-1436” (Urban Protected Residential, etc.) District, which permits single family dwellings.

Recommendation:

Based on the preceding information, the requested severance maintains the general intent and purpose of the Urban Hamilton Official Plan and former City of Hamilton Zoning By-law No. 6593. In conclusion, Staff recommends that the application be approved.

Building Division:

This Division has no concerns with the proposed application.

Development Engineering:

Development Engineering Approvals have no comments regarding the Consent / Land Severance application to permit the establishment of an easement for access purposes, as proposed. The existing driveway and parking spaces at the rear are existing.

Transportation Planning & Parking Division (Traffic):

Transportation Planning has no objection to the creation of an easement for access purposes.

See attached for additional comments.



Shannon Clarke, Urban Forest Health Technician
City Centre, 77 James Street North, Suite 400
Hamilton, ON L8R 2K3
Phone (905) 546-2424 Ext. 4219, Fax (905) 546-4473
Email – Shannon.Clarke@hamilton.ca

Hamilton

Forestry & Horticulture Section
Environmental Services Division
Public Works Department

Date: August 18, 2020

To: Jamila Sheffield, Committee of Adjustments Secretary/Treasurer
Development Planning Heritage and Design
City Hall – 71 Main St. W. – 5th Floor

From: Shannon Clarke, Urban Forest Health Technician

Subject: 296 East 43rd Street, Hamilton
File: HM/B-20:42

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, August 27th, 2020, regarding the above subject area under discussion, the Forestry & Horticulture Section has reviewed the submission associated with the Application for Consent/Land Severance for this site and provides the following opinion:

SCOPE

There are municipal tree assets on site although it is determined that no impacts are anticipated therefore no Tree Management Plan is required.

No Landscape Plan required.

TREE MANAGEMENT

Tree Protection is a measure of efforts to preserve existing trees during the Planning of New Developments, Infrastructure Enhancements, Utility Upgrades & Residential Improvements.

LANDSCAPE PLAN

No new Landscape Strips are shown on the submission and none are requested by the Forestry & Horticulture Section.

SUMMARY

- There are municipal tree assets on site although it is determined that no impacts are anticipated therefore no Tree Management Plan is required.
- No Landscape Plan required.

We encourage you to forward a complete copy of our comments to the applicant and should you or the Applicant require clarification or technical assistance, please do not hesitate to contact me at (905) 546- 2424 Ext. 4219.

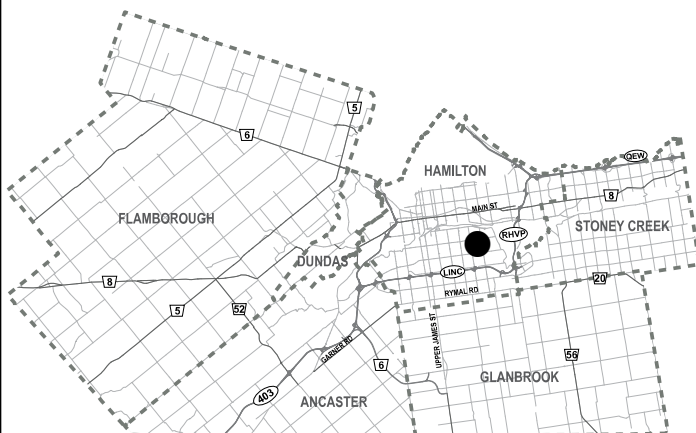
Regards,

A handwritten signature in cursive script, appearing to read "Shannon Clarke".

Shannon Clarke
Urban Forest Health Technician



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

298 East 43rd Street, Hamilton (Ward 6)



Lands to be Retained



Easement

File Name/Number:

HM/B-20:42

Date:

August 20, 2020

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT