

HM/B-20:97 – 190 Gage Ave. S., 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 hard copy and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
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 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).
4. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

HM/B-20:97 – 190 Gage Ave., S., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the conveyance of a parcel of land known as 229 Maplewood Avenue and to retain a parcel of land known as 227 Maplewood Avenue, each containing an existing single detached dwelling. The severed lands will maintain a lot area of 202.0 square metres and the retained lands will have a lot area of 262.0 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 F.1.14.3.1, E.3.2.3, and E.3.4.3 amongst others, are applicable and permit single detached dwellings.

The subject properties inadvertently merged on title. The proposed severance will allow each single detached dwelling to be on located on separate lots with separate ownership. The severed and retained lot are fully serviced by municipal water and wastewater systems and have frontage onto Maplewood Avenue. The proposal is consistent with the established lot pattern and residential character of the neighbourhood. As such, the general intent of the Urban Hamilton Official Plan is being maintained.

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.

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. Variances for minimum lot area, minimum lot width, minimum side yard and eave and gutter encroachments will be required for zoning compliance and appear to be required for parking and manoeuvring and the existing accessory building near the common side lot line for the lands to be severed (229 Maplewood Avenue).

2. Variances for minimum lot area, minimum lot width, minimum side yard and eave and gutter encroachments will be required for the parcel to be retained (227 Maplewood Avenue).
3. The submitted plan was not legible for building setbacks for the existing dwellings and accessory building and did not show parking and manoeuvring for each property. A legible survey plan showing setbacks and parking is required for further review.
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. In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.

CONDITIONS:

1. 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).
2. 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).

Development Engineering:

Based on the application, there are no proposed changes identified to the existing two lots or dwellings. The two lots known as 227 and 229 Maplewood Avenue were inadvertently merged on title and the owner wishes to recreate the two original lots and to sell 229 Maplewood Avenue. Therefore, Development Engineering Approvals have no comments as there are no grading or servicing changes to the existing two lots.

Transportation Planning & Parking Division (Traffic):

Transportation Planning has no objections to the land severance application. Without setting precedent, Transportation Planning will waive the required right-of-way dedication on Maplewood Drive. Any future developments on this site will require the right-of-way dedication.

See attached for additional comments.



Shannon Clarke, Urban Forest Health Technician
Hamilton City Centre, 77 James Street North, Suite 400
Hamilton, On L8R 2K3
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Email – Shannon.Clarke@hamilton.ca

Hamilton

Forestry & Horticulture Section
Environmental Services Division
Public Works Department

Date: January 27, 2021

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

From: Shannon Clarke, Urban Forest Health Technician

Subject: 227 Maplewood Ave., Hamilton
File: HM/B-20:97

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, February 4, 2021, 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 "Shannon Clarke". The signature is written in a cursive, flowing style.

Shannon Clarke
Urban Forest Health Technician

Real Estate Comments – CoA February 4, 2020

227 Maplewood Ave. Hamilton



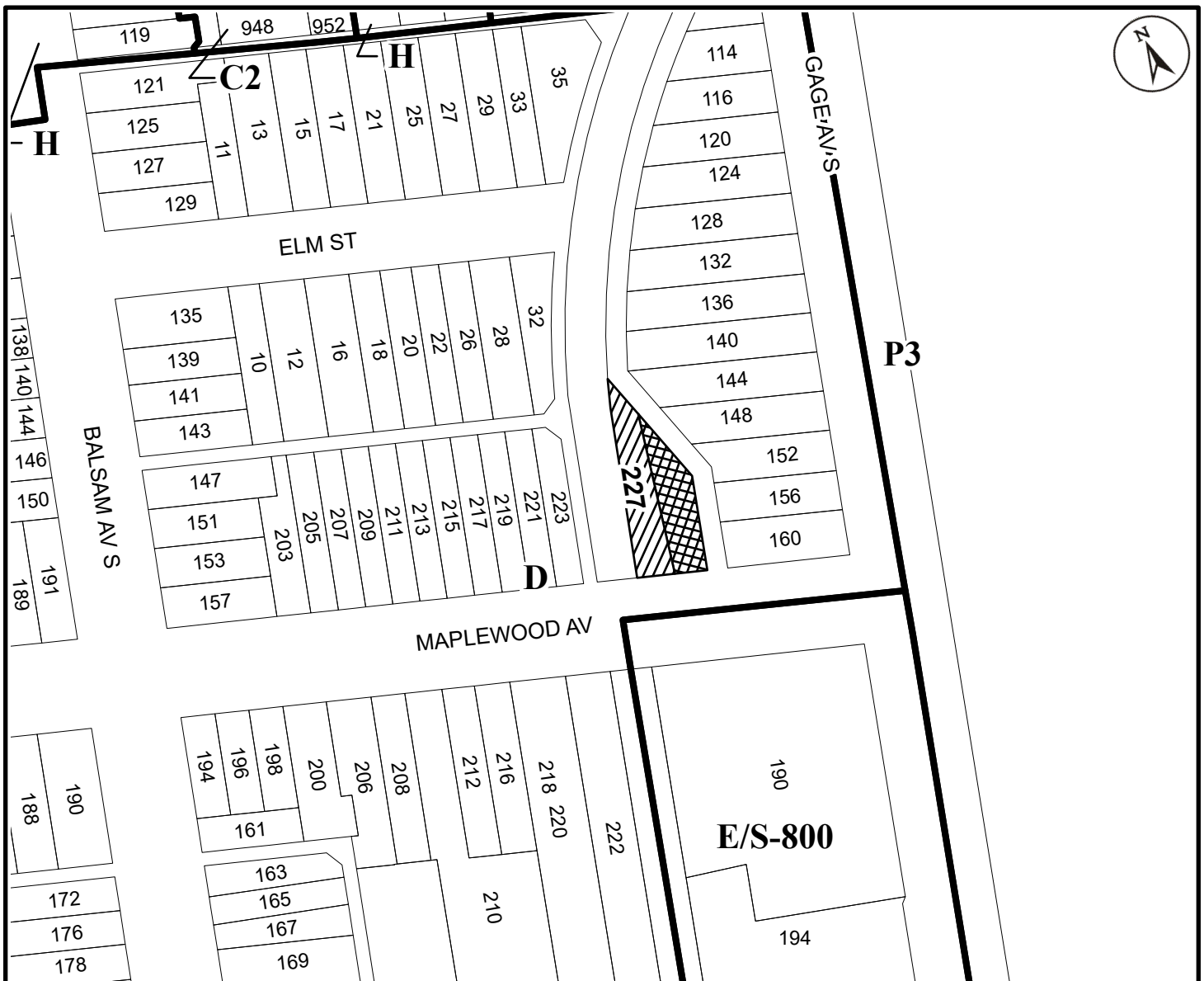
Applicants Proposal: To permit the conveyance of land following an inadvertent merge of title.

Variances for Property:

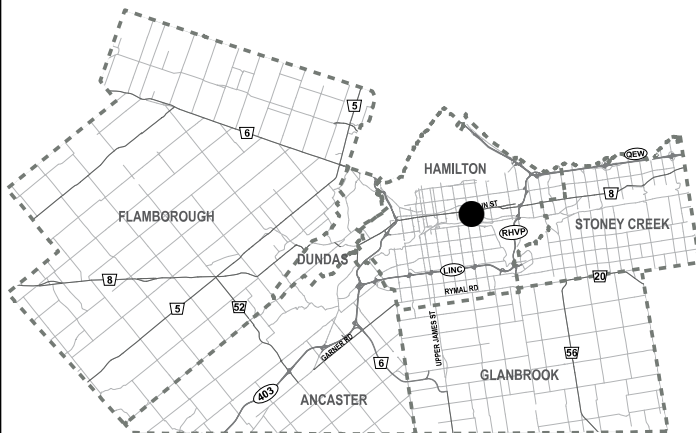
- N/a

Impacts: N/a

Recommendations: N/a



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

227 Maplewood Avenue, Hamilton (Ward 3)



Lands to be Retained



Lands to be Severed

File Name/Number:

HM/B-20:97

Date:

January 27, 2021

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/A-20:277 – 120 McAnulty 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 approve the application, an approval should be subject to the following condition(s):

1. That the owner enters into an Encroachment Agreement and a Maintenance Easement with the property owner of 122 McAnulty Boulevard or alter the existing easterly shed to address the encroachment to the satisfaction of the Manger of Development Planning, Heritage and Design.

HM/A-20:277 – 120 McAnulty Blvd., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the construction of a 3.28 metre by 4.06 metre one storey rear addition, a 2.29 metre by 4.06 metre uncovered rear porch at the first storey of the existing single detached dwelling, and to recognize the location of two existing sheds, notwithstanding 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.

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.

Variance 1

The applicant is requesting a variance to allow a minimum westerly side yard width of 0.1 metres, notwithstanding the minimum required side yard width of 0.9 metres. The general 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 the existing westerly side yard width of the single detached dwelling. The applicant is proposing to construct a rear addition / deck that maintains the existing setback of 0.1 metres. Staff note the rear “porch overhang” is considered an addition as opposed to a deck due to the partial wall along the westerly side. The variances are maintaining the intent of the Zoning By-law as staff do not anticipate any impact on the surrounding properties as a result of continuing the existing setback to the proposed addition and deck. While the partial wall has two windows, staff is satisfied the majority of the proposed deck will be screened from the neighbouring property. The variance is considered minor in nature and is desirable for the development of the site as no negative impact is anticipated to the subject lands or surrounding area from the continuation of the existing condition.

Staff note the approval of Variance 1 does not grant the applicant access onto any neighbouring property without the necessary permissions.

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

Variance 2 and 3

The applicant is requesting a variance to allow the existing easterly shed to be located a minimum of 0.2 metres from the easterly side lot line and to allow the eaves and gutters on the easterly shed to project a maximum of 0.2 metres into the required easterly side yard being located 0.0 metres from the easterly property line, notwithstanding the requirement that any accessory building be a minimum of 0.45 metres from the nearest side lot line and the requirement that eaves and gutter may project into a required side yard not more than one-half of its width (being 0.1 metres) and shall be located a minimum of 0.1 metres from the nearest side lot line. The general intent of the Zoning By-law is 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 the rear addition and deck. The easterly accessory building (shed) has existed in the same location for a significant length of time with no known issues. Staff do not anticipate any negative impact on the subject property or the surrounding area as a result of the maintaining the existing location of the accessory building and the projection of the eaves and gutters into the easterly side yard.

Staff note the approval of Variance 2 and 3 does not grant the applicant access onto any neighbouring property without the necessary permissions. The eavestrough of the easterly shed is shown to project 0.10 metres over the easterly lot line onto the neighbouring property to the east known as 122 McAnulty Boulevard. An Encroachment Agreement and Maintenance Easement will therefore be required to allow the eavestrough of the easterly shed to encroach onto the neighbouring property. Alternatively, the existing shed will need to be altered to address the existing encroachment.

The general intent of the Zoning By-law is being maintained as the requested setback from the easterly lot line and the projection of eaves and gutters does not deviate significantly from the requirement in the Zoning By-law and maintains existing conditions. Based on the foregoing, the general intent of the 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, on condition.

Variance 4

The applicant is requesting a variance to allow the eaves and gutters on the westerly shed to project a maximum of 0.35 metres into the required westerly side yard, located 0.1 metres from the westerly property line, notwithstanding the requirement that eaves and gutter may project into a required side yard not more than one-half of its width (being 0.225 metres) and shall be located a minimum of 0.225 metres from the nearest side lot line. The general intent of the Zoning By-law is 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 variance recognizes existing conditions that will remain unchanged as a result of the rear addition and deck. The westerly accessory building (shed) has existed for a significant length of time with no known issues. Staff do not anticipate any negative impact on the subject property or the surrounding area as a result of recognizing the existing projection of the eaves and gutters into the westerly side yard.

The general intent of the Zoning By-law is being maintained as the proposed projection does not deviate significantly from the requirement in the Zoning By-law and does not make a significant difference to the overall look of the accessory building. Staff note the approval of Variance 4 does not grant the applicant access onto any neighbouring property without the necessary permissions.

Based on the foregoing, the general intent of the 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 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.

CONDITIONS: (If Approved)

That the owner enters into an Encroachment Agreement and a Maintenance Easement with the property owner of 122 McAnulty Boulevard **or** alter the existing easterly shed to address the encroachment to the satisfaction of the Manger of Development Planning, Heritage and Design.

Building Division:

1. The rear “porch overhang” is actually considered an addition due to the partial wall along westerly side.
2. Pursuant to Variance No. 3, the eavestrough of the easterly shed is shown to project 4” (0.10m) over the easterly lot line and onto the neighbouring abutting lot to the east. As such, the following is required:

an Encroachment Agreement and Maintenance Easement with the abutting easterly neighbor is required; or,

the eaves and gutters shall be removed so that they are located entirely on the subject lands; or,

the shed shall be moved so that the shed including its eaves and gutter (eavestrough) are located entirely on the subject lands.

It is suggested that you may wish to add a “Condition” if the variance is granted to ensure that one of the above noted requirements is completed.

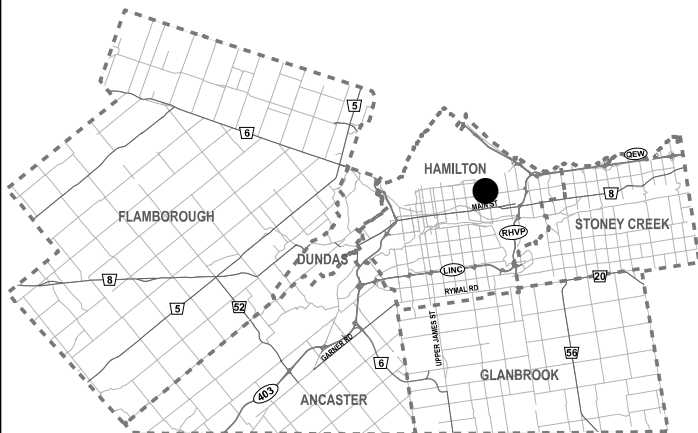
3. Be advised that Ontario Building Code regulations may require specific setback and construction types. The Ontario Building Code prohibits an unprotected opening in a building face adjacent to a side yard less than 1.2m in width and will regulate the type of construction permitted as the limiting distance is less than 0.6m.
4. Order to Comply [Folder No. 20-180583], dated August 27, 2020, is outstanding
5. A building permit is required for construction of the proposed rear addition and uncovered porch.

Development Engineering:

Provided the original overall drainage pattern of the subject site is maintained and the neighbouring properties are not adversely impacted, then Development Engineering Approvals have no comments regarding the Minor Variance Application as proposed.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



120 McAnulty Boulevard, Hamilton
(Ward 4)

File Name/Number:

HM/A-20:277

Date:

January 27, 2021

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/B-21:01 – 646-652 Parkdale Ave. N., 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 hard copy and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. 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 – Building Engineering Section).
3. 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).
4. 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, planting strip, 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).
5. The owner shall apply for and receive a change of use permit (to establish the existing uses on site) in the normal manner to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section).
6. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

HM/B-21:01 – 646-652 Parkdale Ave. N., 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 lands to be severed and retained and to facilitate a severance application 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 E.5.3.2, and F.1.14.3.5, amongst others, are applicable and permits a variety of industrial uses and conveyance for the purposes of an industrial use.

The subject properties inadvertently merged on title. The proposed severance will allow each building containing the identified industrial uses to be on located on separate lots with separate ownership. The severed and retained lot are fully serviced by municipal water and wastewater systems and have frontage onto Parkdale Avenue North. In addition, the severed and retained lots have independent access driveways and independent parking areas accessible from Parkdale Avenue North or Mead Avenue. Staff are of the opinion the proposed lot creation will have no impact on the existing scale and character of the existing lot pattern in the industrial area. As such, the general intent of the Urban Hamilton Official Plan is being maintained.

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

The subject lands are zoned Light Industrial (M6) Zone, which permits a variety of industrial uses including a Warehouse, Office, Restaurant, Equipment and Machinery Sales, Rental and Service Establishment, as well as any uses which have existed since prior to the passing of the Zoning By-law (May 26, 2010).

652 Parkdale Ave North – Lands to be Severed

Variance 1 and 2

The applicant is requesting a variance to allow a minimum lot area of 1,525.0 square metres and a minimum lot width of 18.0 metres and, 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 scale of the surrounding properties and is consistent with the existing lot pattern of the industrial area. The subject properties contain independent industrial buildings and therefore the proposed lot creation will not result in an additional industrial use on the subject property. As per the Building Division's notes, any change to the existing and recognized industrial uses will require a change of use permit.

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 and 4

The applicant is requesting a variance to allow no landscaped area to be provided abutting a street and to allow a minimum setback of 0.0 metres from the street line to be provided for the parking spaces abutting Parkdale Avenue North, notwithstanding the minimum required 3.0 metres wide landscaped area abutting a street and the minimum required setback of 3.0 metres of a street line. The general intent of the Zoning By-law is to provide an adequate buffer between the parking area and the street line and 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 of the existing site design which would cause the applicant undue hardship. However, Staff note future redevelopment of the subject property shall be designed to accommodate the necessary landscaped buffer.

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 variances are desirable for the development and considered minor in nature; therefore, staff support the variances.

Variance 5, 6 and 7

The applicant is requesting a variance to allow a minimum parking space length of 5.6 metres to be maintained, to allow the loading space to be provided within the front yard, and to allow no barrier free parking spaces to be provided on site, notwithstanding the minimum required parking space length of 5.8 metres, the Zoning By-law states the location of loading doors and associated loading facilities shall not be permitted within the front yard, and the minimum required one barrier free parking space. The general intent of the Zoning By-law is to allow adequate space to accommodate a variety of vehicle sizes, to ensure the parking needs of the tenants is being maintained and to maintain a consistent streetscape.

The variances recognize existing conditions that will remain unchanged as a result of the proposed lot creation. The existing parking and loading areas have operated for some time with no known issues and satisfies the needs of the tenants for the recognized uses on site. 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 the maintaining the existing conditions.

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.

646 Parkdale Avenue North – Lands to be Retained

Variance 8 and 9

The applicant is requesting a variance to allow a minimum lot area of 2,128 square metres and a minimum lot width of 30.0 metres and, 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 scale of the surrounding properties and is consistent with the existing lot pattern of the industrial area. The subject properties contain independent industrial buildings and therefore the proposed lot creation will not result in an additional industrial use on the subject property. As per the Building Division's notes, any change to the existing and recognized industrial uses will require a change of use permit.

The variances are maintaining the intent of the Zoning By-law as no change to the existing conditions on site are being proposed including maintaining the existing parking

conditions and landscaped area on site, as further 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 10, 11 and 12

The applicant is requesting a variance to allow no minimum yard abutting a street to be provided, to allow no landscaped area to be provided abutting a street and to allow a minimum setback of 0.0 metres from the street line to be provided for the parking spaces abutting Parkdale Avenue North, notwithstanding the minimum required 3.0 metre wide yard abutting a street, the minimum required 3.0 metres wide landscaped area abutting a street, and the minimum required setback of 3.0 metres of a street line. The general intent of the Zoning By-law is to provide an adequate buffer between the parking area and the street line and 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 of the existing site design which would cause the applicant undue hardship. However, Staff note future redevelopment of the subject property shall be designed to accommodate the necessary landscaped buffer.

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 3.0 metres of landscaped, City owned boulevard along Mead Avenue between the side property line and street along the side of the existing building 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 variances are desirable for the development and considered minor in nature; therefore, staff support the variances.

Variance 13, 15 and 16

The applicant is requesting a variance to allow a minimum parking space length of 5.6 metres to be maintained, to allow 18 parking spaces to be provided on site and to allow no barrier free parking spaces to be provided on site, notwithstanding the minimum required parking space length of 5.8 metres, the minimum required 21 parking spaces and the minimum required one barrier free parking space. The general intent of the Zoning

By-law is to allow adequate space to accommodate a variety of vehicle sizes and to ensure the parking needs of the tenants is being satisfied.

The variances recognize existing conditions that will remain unchanged as a result of the proposed lot creation. The existing parking area has operated for some time with no known issues and satisfies the needs of the tenants for the recognized uses on site. 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 the maintaining the existing conditions.

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 14

The applicant is requesting a variance to allow a group of business establishments within an Industrial Zone which is planned, developed, managed and operated as a unit with shared on-site parking, and containing three separated spaces for leases or occupancy, notwithstanding the definition of a Planned Business Centre states that a group of business establishments within an Industrial Zone which is planned, developed, managed and operated as a unit with shared on-site parking, and containing four or more separated spaces for lease or occupancy, but shall not be considered as a Shopping Centre. The general intent of the Zoning By-law is to

The subject property contains an existing industrial building with three independent industrial uses. The proposed lot creation will not result in any additional industrial uses on the subject property. In addition, as per the Building Division's notes, any change to the existing / recognized industrial uses will require a change of use permit.

The variance is required in order to allow the existing parking area to continue to operate as a unit with shared on-site parking for the existing group of industrial uses. The minimum required number of parking spaces has been calculated for a Planned Business Centre. The existing parking area has operated for some time with no known issues and satisfying the needs of the tenants for the recognized uses on site. 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 the maintaining the existing conditions.

Based on the foregoing, the general intent of the 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, staff recommends that the severance be approved as the conveyance conforms to the intent of the Urban Hamilton Official Plan and the City of Hamilton Zoning By-law No. 05-200.

Building Division:

1. In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.
2. In order to clear conditions, the applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.
3. Variances for lot width, lot area, yard depths, minimum landscaped area, parking and loading spaces provided will be required for zoning compliance of the lands to be conveyed/retained.

CONDITIONAL UPON:

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 – Building Engineering 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 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, planting strip, 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).
4. The owner shall apply for and receive a change of use permit (to establish the existing uses on site) in the normal manner to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section).

Development Engineering:

Development Engineering Approvals have no comments regarding the Consent Application as the two properties were inadvertently merged and there are no proposed changes to the existing buildings or uses.

Transportation Planning & Parking Division (Traffic):

Transportation Planning has no objection to the land severance application. As this is to correct the title on the properties, Transportation Planning will waive right-of-way and daylighting triangle dedications, without setting precedent. Any future developments on this site will require right-of-way dedication and daylighting triangle dedication.

See attached for additional comments.



Shannon Clarke, Urban Forest Health Technician
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Hamilton, On L8R 2K3
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Email – Shannon.Clarke@hamilton.ca

Hamilton

Forestry & Horticulture Section
Environmental Services Division
Public Works Department

Date: January 27, 2021

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

From: Shannon Clarke, Urban Forest Health Technician

Subject: 646 & 652 Parkdale Ave. N., Hamilton
File: HM/B-21:01

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, February 4, 2021, 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.

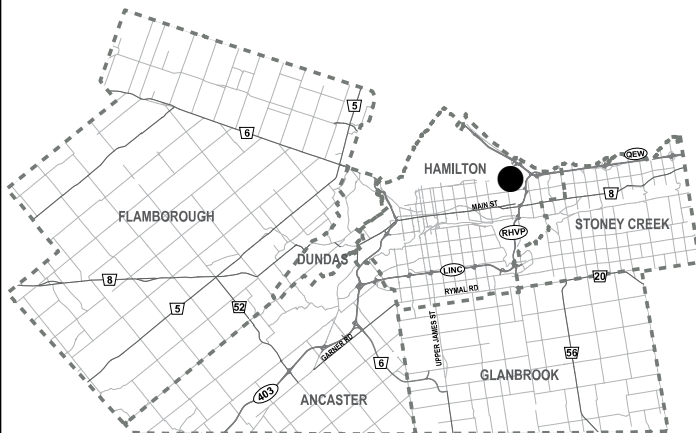
Regards,

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

Shannon Clarke
Urban Forest Health Technician



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

646 & 652 Parkdale Avenue North, Hamilton
(Ward 4)



Lands to be Retained



Lands to be Severed

File Name/Number:

HM/B-21:01

Date:

January 27, 2021

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/A-20:02 – 646-652 Parkdale Ave. N., 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 lands to be severed and retained and to facilitate a severance application 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 E.5.3.2, and F.1.14.3.5, amongst others, are applicable and permits a variety of industrial uses and conveyance for the purposes of an industrial use.

The subject properties inadvertently merged on title. The proposed severance will allow each building containing the identified industrial uses to be on located on separate lots with separate ownership. The severed and retained lot are fully serviced by municipal water and wastewater systems and have frontage onto Parkdale Avenue North. In addition, the severed and retained lots have independent access driveways and independent parking areas accessible from Parkdale Avenue North or Mead Avenue. Staff are of the opinion the proposed lot creation will have no impact on the existing scale and character of the existing lot pattern in the industrial area. As such, the general intent of the Urban Hamilton Official Plan is being maintained.

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

The subject lands are zoned Light Industrial (M6) Zone, which permits a variety of industrial uses including a Warehouse, Office, Restaurant, Equipment and Machinery Sales, Rental and Service Establishment, as well as any uses which have existed since prior to the passing of the Zoning By-law (May 26, 2010).

652 Parkdale Ave North – Lands to be Severed

Variance 1 and 2

The applicant is requesting a variance to allow a minimum lot area of 1,525.0 square metres and a minimum lot width of 18.0 metres and, 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 scale of the surrounding properties and is consistent with the existing lot pattern of the industrial area. The subject properties contain independent industrial buildings and therefore the proposed lot creation will not result in an additional industrial use on the subject property. As per the Building Division's notes, any change to the existing and recognized industrial uses will require a change of use permit.

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 and 4

The applicant is requesting a variance to allow no landscaped area to be provided abutting a street and to allow a minimum setback of 0.0 metres from the street line to be provided for the parking spaces abutting Parkdale Avenue North, notwithstanding the minimum required 3.0 metres wide landscaped area abutting a street and the minimum required setback of 3.0 metres of a street line. The general intent of the Zoning By-law is to provide an adequate buffer between the parking area and the street line and 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 of the existing site design which would cause the applicant undue hardship. However, Staff note future redevelopment of the subject property shall be designed to accommodate the necessary landscaped buffer.

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 variances are desirable for the development and considered minor in nature; therefore, staff support the variances.

Variance 5, 6 and 7

The applicant is requesting a variance to allow a minimum parking space length of 5.6 metres to be maintained, to allow the loading space to be provided within the front yard, and to allow no barrier free parking spaces to be provided on site, notwithstanding the minimum required parking space length of 5.8 metres, the Zoning By-law states the location of loading doors and associated loading facilities shall not be permitted within the front yard, and the minimum required one barrier free parking space. The general intent of the Zoning By-law is to allow adequate space to accommodate a variety of vehicle sizes, to ensure the parking needs of the tenants is being maintained and to maintain a consistent streetscape.

The variances recognize existing conditions that will remain unchanged as a result of the proposed lot creation. The existing parking and loading areas have operated for some time with no known issues and satisfies the needs of the tenants for the recognized uses on site. 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 the maintaining the existing conditions.

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.

646 Parkdale Avenue North – Lands to be Retained

Variance 8 and 9

The applicant is requesting a variance to allow a minimum lot area of 2,128 square metres and a minimum lot width of 30.0 metres and, 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 scale of the surrounding properties and is consistent with the existing lot pattern of the industrial area. The subject properties contain independent industrial buildings and therefore the proposed lot creation will not result in an additional industrial use on the subject property. As per the Building Division's notes, any change to the existing and recognized industrial uses will require a change of use permit.

The variances are maintaining the intent of the Zoning By-law as no change to the existing conditions on site are being proposed including maintaining the existing parking

conditions and landscaped area on site, as further 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 10, 11 and 12

The applicant is requesting a variance to allow no minimum yard abutting a street to be provided, to allow no landscaped area to be provided abutting a street and to allow a minimum setback of 0.0 metres from the street line to be provided for the parking spaces abutting Parkdale Avenue North, notwithstanding the minimum required 3.0 metre wide yard abutting a street, the minimum required 3.0 metres wide landscaped area abutting a street, and the minimum required setback of 3.0 metres of a street line. The general intent of the Zoning By-law is to provide an adequate buffer between the parking area and the street line and 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 of the existing site design which would cause the applicant undue hardship. However, Staff note future redevelopment of the subject property shall be designed to accommodate the necessary landscaped buffer.

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 3.0 metres of landscaped, City owned boulevard along Mead Avenue between the side property line and street along the side of the existing building 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 variances are desirable for the development and considered minor in nature; therefore, staff support the variances.

Variance 13, 15 and 16

The applicant is requesting a variance to allow a minimum parking space length of 5.6 metres to be maintained, to allow 18 parking spaces to be provided on site and to allow no barrier free parking spaces to be provided on site, notwithstanding the minimum required parking space length of 5.8 metres, the minimum required 21 parking spaces and the minimum required one barrier free parking space. The general intent of the Zoning

By-law is to allow adequate space to accommodate a variety of vehicle sizes and to ensure the parking needs of the tenants is being satisfied.

The variances recognize existing conditions that will remain unchanged as a result of the proposed lot creation. The existing parking area has operated for some time with no known issues and satisfies the needs of the tenants for the recognized uses on site. 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 the maintaining the existing conditions.

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 14

The applicant is requesting a variance to allow a group of business establishments within an Industrial Zone which is planned, developed, managed and operated as a unit with shared on-site parking, and containing three separated spaces for leases or occupancy, notwithstanding the definition of a Planned Business Centre states that a group of business establishments within an Industrial Zone which is planned, developed, managed and operated as a unit with shared on-site parking, and containing four or more separated spaces for lease or occupancy, but shall not be considered as a Shopping Centre. The general intent of the Zoning By-law is to

The subject property contains an existing industrial building with three independent industrial uses. The proposed lot creation will not result in any additional industrial uses on the subject property. In addition, as per the Building Division's notes, any change to the existing / recognized industrial uses will require a change of use permit.

The variance is required in order to allow the existing parking area to continue to operate as a unit with shared on-site parking for the existing group of industrial uses. The minimum required number of parking spaces has been calculated for a Planned Business Centre. The existing parking area has operated for some time with no known issues and satisfying the needs of the tenants for the recognized uses on site. 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 the maintaining the existing conditions.

Based on the foregoing, the general intent of the 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, staff recommends that the severance be approved as the conveyance conforms to the intent of the Urban Hamilton Official Plan and the City of Hamilton Zoning By-law No. 05-200.

Building Division:

1. The notice should be altered to delete Variance # 6 entirely and replace it with the following:

To permit the loading space to be provided within the front yard abutting a street with no visual barrier whereas the By-Law states that the location of loading doors and associated loading facilities shall not be permitted within the Front Yard and in any yard abutting a street, except where screened from view by a visual barrier in accordance with Section 4.19 of this By-Law; and

2. The notice should be altered to include the following additional variance. The variance should read as follows:

No planting strip shall be provided between the street line and the said parking spaces abutting Parkdale Avenue North whereas the By-Law states that a 3.0 m wide planting strip being required and permanently maintained between the street line and the said parking spaces or aisle shall be provided; and

3. Please be advised that an application for a change of use permit will be required to establish the new uses on site.

646 PARKDALE AVE. NORTH - LOT TO BE RETAINED:

4. The notice should be altered to include an additional variance. The variance should read as follows:

No planting strip shall be provided between the street line and the said parking spaces abutting Mead Avenue whereas the By-Law states that a 3.0 m wide planting strip being required and permanently maintained between the street line and the said parking spaces or aisle shall be provided; and

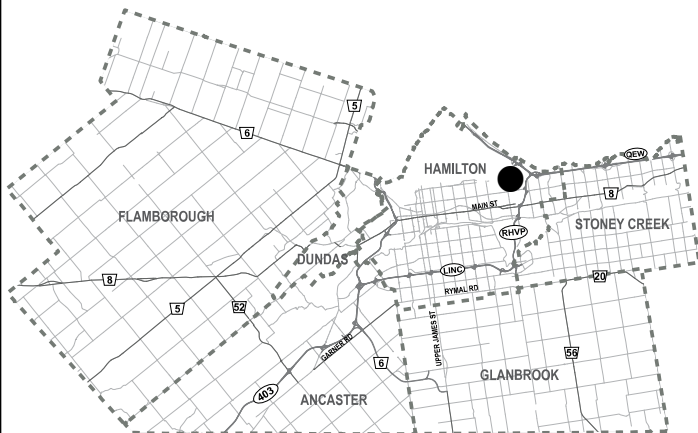
5. Please be advised that an application for a change of use permit will be required to establish the new uses on site.

Development Engineering:

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



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



646 & 652 Parkdale Avenue North,
Hamilton (Ward 4)

File Name/Number:

HM/A-21-02

Date:

January 27, 2021

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/A-20:217 – 322 Mount Albion Rd., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the creation of four new lots (Parts 2 - 5 inclusive) and maintain an existing duplex dwelling on Part 1 as per Consent Applications HM/B-20:68, HM/B-20:69, HM/B-20:70, 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 F.1.14.3.1, E.3.2.3 and E.3.4.3 amongst others, are applicable and permit single detached and duplex dwellings, and supports the severance of the land for residential purposes.

The proposed severance will allow for the creation of a total of five lots including four new lots for residential purposes and the existing lot containing the existing duplex dwelling. The proposed lots are fully serviced by municipal water and wastewater systems and have frontage onto Mount Albion Road or Glen Forest Drive. While the proposal does not follow the exact lot pattern of the area, the proposed lots reflect the general scale and character of the surrounding area and will allow for residential development consistent with the established residential character of the neighbourhood. In addition, staff acknowledge the proposed severance will allow for the conservation of the existing duplex dwelling identified as having cultural heritage value. As such, the general intent of the Urban Hamilton Official Plan is being maintained.

Cultural Heritage:

The dwelling on the property at 322 Mount Albion Road, Hamilton was constructed circa 1891 and is included on the Municipal Heritage Inventory as a non-designated property.

The proposed severance of one lot from the north portion of the existing property and three lots on the rear portion of the subject property is not anticipated to have an adverse impact on the cultural heritage value of the existing dwelling. The dwelling will be retained in situ and will remain centred on the retained lot, therefore, maintaining its central, landmark presence on the street.

The detached garage to be removed appears to be a modern structure and does not contribute to the subject property’s cultural heritage value.

Staff note that any new dwellings should be built in a manner that is compatible with the existing heritage inventoried dwelling in terms of their scale, height, setbacks and materials in order to preserve the existing dwelling's landmark character.

Archaeology:

The subject property meets four 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;
- 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;
- 3) In areas of pioneer EuroCanadian settlement; and,
- 4) 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 variance is granted, Staff require that the Committee of Adjustment attach the condition below to the application.

Former City of Hamilton Zoning By-law No. 6593

The subject lands are zoned "C/S-1162" (Urban Protected Residential – One and Two Family Dwellings) District, Modified, which permits the existing two family dwelling and new single family dwellings.

Part 1 (Duplex Dwelling)

Variance 1

The applicant is requesting a variance to allow a maximum height of 2.5 storeys to be permitted, notwithstanding the maximum permitted 2.5 storeys and 11.0 metres. The general intent of the Zoning By-law is to maintain a consistent streetscape.

The variance recognizes the existing height of the duplex dwelling that will remain unchanged as a result of the proposed severance. In order to comply with the maximum height requirement of the Zoning By-law, alterations to the existing duplex dwelling would be necessary which would cause the applicant undue hardship and could impact the

cultural heritage value of the existing dwelling. The variance is considered minor in nature and desirable for the development as no negative impact is anticipated on the subject lands or surrounding area as a result of the proposed severance.

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 appropriate use of the site and considered minor in nature; therefore, staff support the variance.

Variance 2

The applicant is requesting a variance to allow a minimum rear yard depth of 1.2 metres to be permitted, notwithstanding the minimum required rear yard depth 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 duplex 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 proposed severance will allow for residential development along Glen Forest Drive which is the existing rear yard of the two storey duplex dwelling. The proposed severance will result in a reduced rear yard for the retained lands containing the existing duplex as the existing building is setback significantly from Mount Albion Road. Staff are satisfied there is sufficient space remaining on the subject property, within the side and front yards, to function as amenity area for the existing dwelling. Staff note there would be sufficient space on Part 1 to accommodate the required rear yard depth of 7.5 metres if the existing duplex dwelling was relocated, however Cultural Heritage Staff have noted the dwelling being retained in situ will maintain its central, landmark presence on the street.

There is minimal glazing on the westerly façade of the existing duplex dwelling and therefore staff is satisfied the requested variance will not adversely impact the privacy of the proposed single detached dwellings on Part 3, 4 and 5.

Staff comments dated November 13, 2020 identified concern regarding potential adverse shadow impacts of the existing duplex dwelling on the rear yard of the proposed single detached dwellings, in particular on the single detached dwelling proposed on Part 4. The applicant has submitted a Sun Shadow Study demonstrating the shadow impacts of the existing duplex dwelling on Parts 3, 4 and 5 on March 21st and September 21st, between the hours of 8:50 am, 1.5 hours after sunrise, and 5:50 pm, 1.5 hours before sunset. The submitted Shadow Impact Study has been completed with regard for the City of Hamilton Site Plan Guidelines and the Terms of Reference for Downtown Hamilton and is considered acceptable for the purposes of the proposed severance. The Sun Shadow Study indicates there are shadow impacts on Part 4 for a total of 2.5 hours on March 21st and September 21st with minimal impact after 11:50 am. In accordance with the

requirements for Downtown Hamilton, there is sun coverage for at least 3 hours between 10:00 am and 4:00 pm on all the newly created lots. Therefore, Staff is satisfied the existing duplex dwelling will not cause adverse impacts on the rear yards of the proposed single detached dwellings. Therefore, the general intent of the Zoning By-law is being maintained.

Staff recommends the identified shadow impact on Part 4 be disclosed to future buyers of the property.

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 appropriate use of the site and considered minor in nature; therefore, staff support the variance.

Parts 3, 4 and 5 (New Single Detached Dwellings)

Variance 3

The applicant is requesting a variance to allow a minimum lot area of 310.0 square metres to be permitted for Part 3, Part 4 and Part 5, notwithstanding the minimum required lot area of 360.0 square metres required for a single detached dwelling. The general intent of the Zoning By-law is to provide a consistent streetscape, and to allow sufficient space to accommodate a single detached dwelling with the necessary landscaped area, amenity area and parking to satisfy the needs of the tenants.

The applicant is proposing to construct new single detached dwellings on the newly created residential lots (Parts 3, 4 and 5) which will have frontage onto Glen Forest Drive. This portion of Glen Forest Drive is characterized by one to one and a half storey single detached dwellings. The residential lots along this portion of Glen Forest Drive range from approximately 13.6 metres to 18.4 metres in lot width and from approximately 448.6 square metres to 613.8 square metres in lot area.

While the proposed lot area of 310.0 square metres for the newly created lots is smaller than the surrounding residential lots along Glen Forest Drive, Staff acknowledge the newly created lots will have lot widths ranging from 12.8 metres and 13.63 metres which does not deviate significantly from that of the surrounding properties and is in compliance with the requirements of the Zoning By-law. Staff note the majority of the surrounding properties have lot depths of approximately 30.0 metres which allows for larger lot areas. The proposed lots on Parts 3, 4 and 5 cannot accommodate the same lot depth due to the location of the existing duplex dwelling but Staff note there is sufficient space to accommodate the minimum required front yard and rear yard depth.

Based on the submitted site plan and preliminary elevation drawings, staff is satisfied the proposed lots are sufficient in size to accommodate single detached dwellings that are

compatible with the established streetscape in conformity with the requirements of the Zoning By-law.

Staff acknowledge the proposal to construct new single detached dwellings may impact the existing mature trees on the subject property. Staff request the applicant consult with Natural Heritage Staff and submit a Tree Protection Plan or Tree Management Plan if necessary.

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 appropriate use of the site and considered minor in nature; therefore, staff support the variance, on condition.

Recommendation:

Based on the preceding information, staff recommends that the proposed severances and requested variances be approved as the proposal conforms to the intent of the Urban Hamilton Official Plan and former City of Hamilton Zoning By-law No. 6593.

CONDITIONS: (If Approved)

1. That the proponent shall carry out an archaeological assessment on each new lot 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 the applicant submits a Tree Protection Plan or Tree Management Plan to the satisfaction of the Manager of Development Planning, Heritage and Design, if required.

Building Division:

1. The Notice shall be amended by adding the following additional variance to Part 1 (containing existing two-family dwelling):
The existing two-family dwelling shall be permitted to remain notwithstanding that a two-family dwelling is not permitted.
2. Please note per Policy ZON-012, a legally established non-conforming use will lose their status upon severance of the lands. Therefore, a variance is required in order to permit the existing two-family dwelling to remain.
3. A building permit is required for each of the proposed single-family dwellings.

4. This property is listed in the City of Hamilton's Inventory of Buildings of Architectural and/or Historical Interest as a property of cultural heritage value or interest. Please contact a Cultural Heritage Planner at (905) 546-2424, extension 1202 or 1214, or visit www.hamilton.ca/heritageplanning for further information.
5. The applicant shall ensure that for Part 1, a minimum parking space size of 2.7m x 6.0m and a minimum 2.8m access driveway is maintained for each of the two parking spaces proposed; otherwise, further variances shall be required.
6. The applicant shall ensure that for Part 1, a minimum of 50.0% of the front yard shall be maintained as landscaping; otherwise, further variances shall be required.
7. The applicant shall ensure that for Part 1 any proposed encroachments conform to the zoning By-law; otherwise, further variances shall be required.

Development Engineering:

Development Engineering Approvals requires a minimum 6m rear yard set back in accordance with the Lot Grading Policy. We recommend variance #2 be **tabled** until such a time that the Owner / Applicant can demonstrate compliance with the Lot Grading Policy, all to the satisfaction of the Manager of Development Engineering Approvals.

See attached for additional comments.



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Building Division
71 Main Street West
Hamilton, Ontario, Canada, L8P 4Y5
Phone: 905.546.2720 Fax: 905.546.2764
www.hamilton.ca

Committee of Adjustment
Application For Application for Minor Variance
Building Division Staff Review Sheet

February 2, 2021

FILE: HM/A-20:217
FOLDER: 20-189245-00 COA
ATTENTION OF: Victoria Brito
TELEPHONE NO: (905) 546-2424
EXTENSION: 7628

Attention: Jamila Sheffield

Re: Zoning District: C/S-1162 (Urban Protected Residential)
File Number: HM/A-20:217
Address: 322 MOUNT ALBION RD, HAMILTON

The following comments are provided for your meeting scheduled for February 4, 2021, respecting the above noted:

COMMENTS:

1. A building permit is required for each of the proposed single-family dwellings.
2. This property is listed in the City of Hamilton's Inventory of Buildings of Architectural and/or Historical Interest as a property of cultural heritage value or interest. Please contact a Cultural Heritage Planner at (905) 546-2424, extension 1202 or 1214, or visit www.hamilton.ca/heritageplanning for further information.
3. The applicant shall ensure that for Part 1, a minimum parking space size of 2.7m x 6.0m and a minimum 2.8m access driveway is maintained for each of the two parking spaces proposed; otherwise, further variances shall be required.
4. The applicant shall ensure that for Part 1, a minimum of 50.0% of the front yard shall be maintained as landscaping; otherwise, further variances shall be required.
5. The applicant shall ensure that for Part 1 any proposed encroachments conform to the zoning By-law; otherwise, further variances shall be required.

February 2, 2021

To: City of Hamilton Committee of Adjustment

Re: Notice of Public Hearing-Minor Variance

Subject Property 322 Mount Albion Road, Hamilton

Application #s HM/A-20:217; HM/B-20:68; ; HM/B-20:69; ; HM/B-20:70

We have received communication from Mr E.J Fothergill who states he is a professional planning consultant on behalf of A & L Colalilo. In his communication he provides information on questions and concerns from all the various neighbors who have concerns about the proposed "Minor Variance" application for 322 Mount Albion Road, Hamilton.

As Mr Fothergill goes thru the number of concerns and references city by-laws, zoning requirements, provincial planning and City of Hamilton Urban Plan he tries to reassure that this plan "fits in" with the current well established neighbourhood. While Mr Fothergill states he is a professional consultant in these matters he is also a professional at selling ideas and concepts not approved and when selling these ideas and concepts it is more important the things that are left out of communications when selling these ideas and concepts to people that are not familiar with all policies, procedures and plans.

I have reviewed the plan with land developers I know and they have stated that this plan is an effort to maximize a profit scenario by going outside the current policies in place. Otherwise they would not have to go to the Committee of Adjustment to seek such an approval. One could state that perhaps Mr Fothergill is incentivized and the number of lots he is able to achieve from this property regardless of the consequences on the neighbourhood.

When newer homes were built in this neighbourhood that currently exist at 334, 338, 342, & 346 Mount Albion Road we do not recall having to go thru this process and they have fit in quite nicely. We oppose this application as it stands for the reason above and what we initially sent in on November 16, 2020. We have not seen anything that allows for this gross misalignment of property.

Thank you,

Anna & Dave Brandow & Family

312 Mount Albion Road

"Davis Creek" Hamilton, ON, CANADA

cc. Chad Collins

November 16, 2020

To: City of Hamilton Committee of Adjustment

Re: Notice of Public Hearing-Minor Variance

Subject Property 322 Mount Albion Road, Hamilton

Application #s HM/A-20:217; HM/B-20:68; ; HM/B-20:69; ; HM/B-20:70

We are residents of this neighbourhood known as “Davis Creek” for over 30 years. The main reason we **chose** this neighbourhood was for its secluded type of environment here that is nestled part way up the Niagara Escarpment in the Red Hill Valley. It has all the amenities nearby to raise a family and be a home that included single family homes that included property that supported the aspirations for such families to lay down their roots for generations. It was vastly different from the new neighbourhoods being constructed whose main concern was for executing on maximum profits by squeezing in as many new style “single family homes” with barely a postage stamp size yard. This type of living was not what my wife and I envisioned for our family to live in and why we **chose** Davis Creek. We have been strong supporters of this neighbourhood at the school, church, and businesses.

To the application of record scheduled to be heard under Minor Variance is in our opinion is a gross misrepresentation of what the current new owners’ intentions. From what we can ascertain from the on-line submission is that these current new owners intention is to do exactly what we and the many other neighbours of which many are long-term residents as we are, and to now drag Davis Creek into the same “modern” neighbourhoods that we did not to be part of. Specifically speaking of the notice and intentions we can ascertain but not clear on specifics:

- Severing into 4 separate lots that require City approval as they fall below existing minimum lot size requirements
- The notice that went out to neighbours within 60 metres is very confusing and vastly different than what can be found on-line
- Our understanding of these types of notices is that full drawings of what the minor variance is to encompass must be including in this hearing – there are no such renderings of the single family homes that are to be constructed
- All the other minor variance applications scheduled to be heard on November 19, 2020 along with this one do include all required drawings and are respective of the neighbourhood they are in

We strongly oppose this application as it is a **MAJOR VARIANCE** that will set a precedent for land severance in this neighbourhood that cannot be reversed and has been established for a very long time in the City of Hamilton. The City of Hamilton is a city that embraces diversity which this City is proud to recognize and support and why we embraced this city as our home even with opportunities of professional growth in other cities. We strongly recommend that this Committee reject this application in support of the people of Davis Creek to maintain what has been established and keep this hamlet as it was intended to be.

Thank you,

Anna & Dave Brandow & Family

312 Mount Albion Road

“Davis Creek” Hamilton, ON, CANADA

January 22, 2021

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

Attention: Samantha Costa

File# HM/A-20:217

Re: 322 Mount Albion Rd

In response to your correspondence dated January 19, 2021, 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.
- Minimum 4m horizontal clearance from existing O/H line(s) must be maintained at all times as per Alectra Utilities Standard 3-105. Please consult with Alectra Utilities if further clarification is required.
- 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:

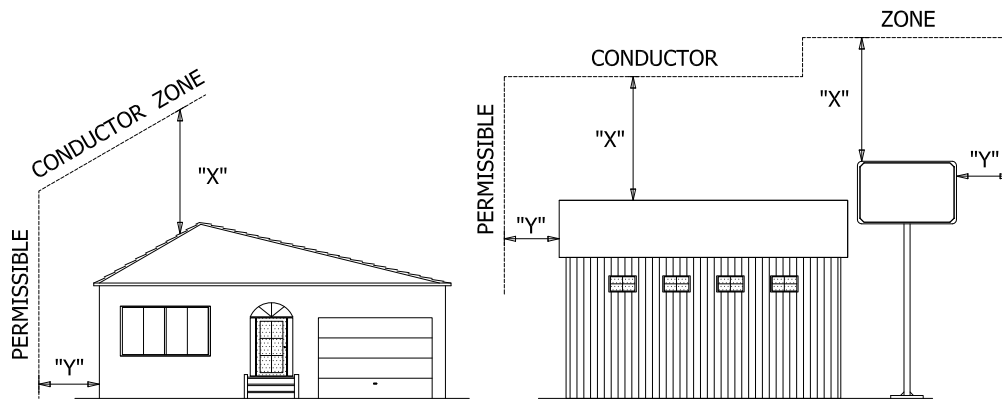
- Do not excavate within two metres of hydro poles and anchors.
- Excavation within one metre of underground hydro plant is not permitted unless approval is granted by an Alectra Utilities representative and is present to provide direct supervision. Cost associated with this task shall be at the owner's 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



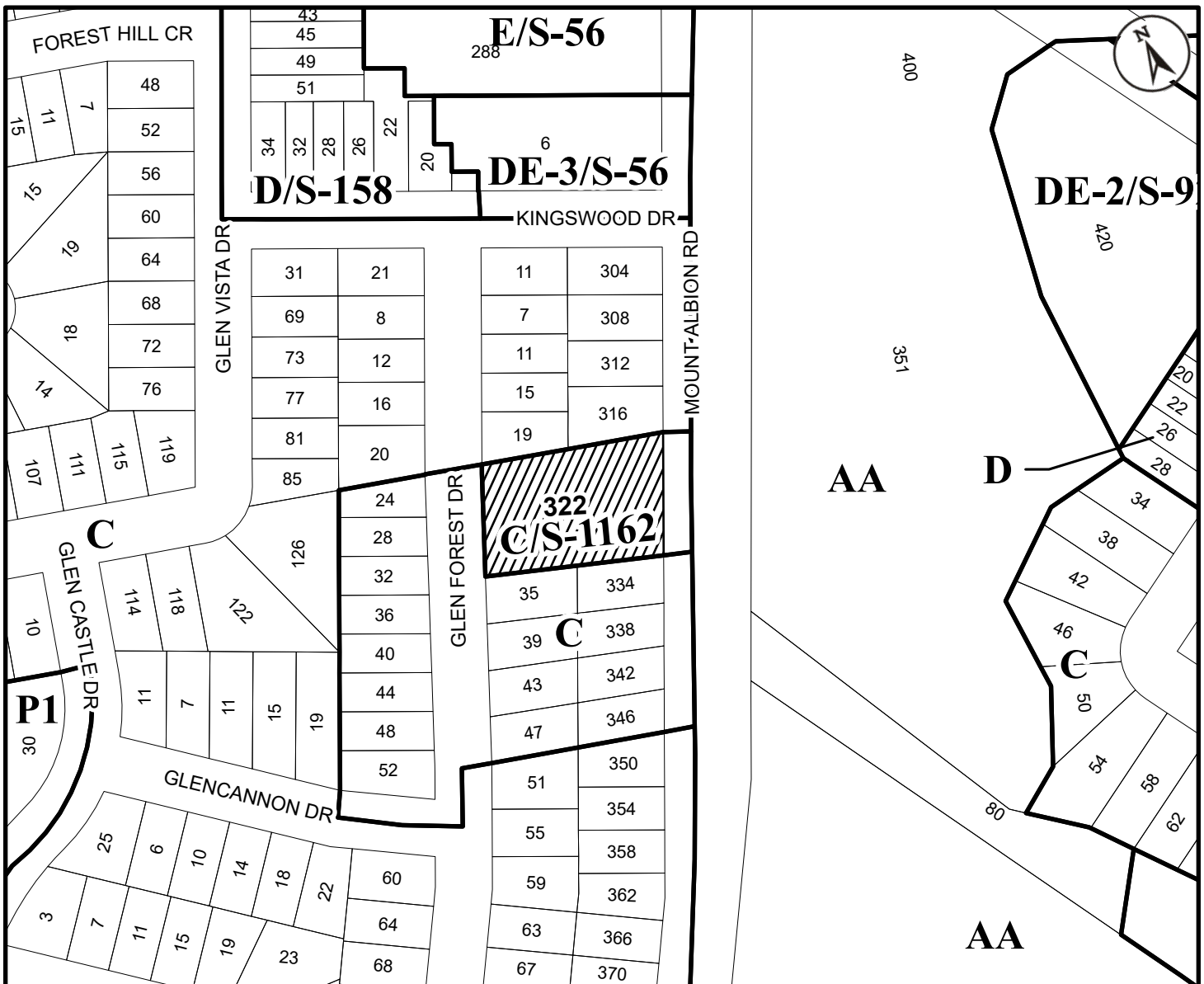
- UNDER NO CIRCUMSTANCES SHALL A CONDUCTOR BE PERMITTED TO PENETRATE THE ENVELOPE SHOWN BY THE DOTTED LINE.

SYSTEM VOLTAGE	MINIMUM HORIZONTAL CLEARANCE DIMENSION "Y"	MINIMUM VERTICAL CLEARANCE DIMENSION "X"
0 - 750 V*	2.0 m (SEE NOTE 1)	4.5 m (SEE NOTE 3)
OVER 750 - 50000 V	4.0 m (SEE NOTE 2)	7.0 m (SEE NOTE 4)

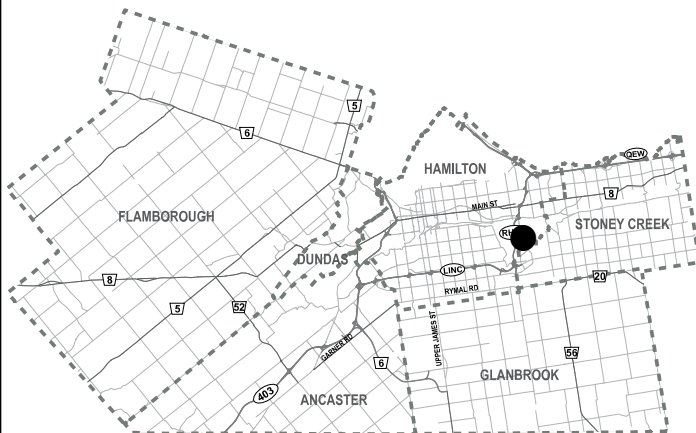
* - INCLUDES MULTI-GROUNDED NEUTRALS

NOTES:

- THIS CLEARANCE IS MADE UP OF A 1.0 m MINIMUM APPROACH CLEARANCE PLUS A 1.0 m ALLOWANCE FOR CONDUCTOR SWING. WHERE CONDUCTOR PASS IN FRONT OF A WINDOW OR OTHER OPENING, THIS 2.0 m CLEARANCE SHOULD BE INCREASED TO 2.5 m. WHERE BUILDINGS EXCEED 3 STOREYS OR 15.0 m IN HEIGHT, THE 2.0 m CLEARANCE SHOULD BE INCREASED TO 3.0 m TO ALLOW FOR RAISING OF LADDERS BY THE LOCAL FIRE DEPARTMENT.
- THIS CLEARANCE IS MADE UP OF A 3.0 m MINIMUM APPROACH CLEARANCE PLUS A 1.0 m ALLOWANCE FOR CONDUCTOR SWING.
- THIS DIMENSION PROVIDES 1.0 m MINIMUM APPROACH CLEARANCE FROM A 2.0 m TALL WORKMAN, PLUS A 1.5 m ALLOWANCE FOR CONDUCTOR SAG. (BASED ON AVERAGE SPAN OF 40 m)
- THIS DIMENSION PROVIDES 3.0 m MINIMUM APPROACH CLEARANCE FROM A 2.0 m TALL WORKMAN, PLUS A 2.0 m ALLOWANCE FOR CONDUCTOR SAG. (BASED ON AVERAGE SPAN OF 40 m).
- THE ABOVE CLEARANCES ARE MINIMUM VALUES. EFFORTS SHOULD BE MADE TO INCREASE THESE CLEARANCES ABOVE THOSE SHOWN, WHERE POSSIBLE. TO KEEP WORKMEN AND THEIR EQUIPMENT ON THE BUILDING ETC., AT THE MINIMUM CLEARANCE SHOWN, DIMENSION "X" AND "Y" ARE TO BE INCREASED BY THE REQUIRED WORKING DISTANCE.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



322 Mount Albion Road, Hamilton
(Ward 5)

File Name/Number:

HM/A-20:217

Date:

November 5, 2020

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/B-20:68 – 322 Mount Albion Rd., 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 hard copy and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. That the proponent shall carry out an archaeological assessment on each new lot 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).
3. That the applicant submits a Tree Protection Plan or Tree Management Plan to the satisfaction of the Manager of Development Planning, Heritage and Design, if required.
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 – 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 submit survey evidence that the lands to be retained, including the location of any existing structure(s), parking and landscaping, etc., 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. 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), all to the satisfaction of the Manager of Development Engineering Approvals.

8. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

HM/B-20:68 – 322 Mount Albion Rd., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the creation of four new lots (Parts 2 - 5 inclusive) and maintain an existing duplex dwelling on Part 1 as per Consent Applications HM/B-20:68, HM/B-20:69, HM/B-20:70, 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 F.1.14.3.1, E.3.2.3 and E.3.4.3 amongst others, are applicable and permit single detached and duplex dwellings, and supports the severance of the land for residential purposes.

The proposed severance will allow for the creation of a total of five lots including four new lots for residential purposes and the existing lot containing the existing duplex dwelling. The proposed lots are fully serviced by municipal water and wastewater systems and have frontage onto Mount Albion Road or Glen Forest Drive. While the proposal does not follow the exact lot pattern of the area, the proposed lots reflect the general scale and character of the surrounding area and will allow for residential development consistent with the established residential character of the neighbourhood. In addition, staff acknowledge the proposed severance will allow for the conservation of the existing duplex dwelling identified as having cultural heritage value. As such, the general intent of the Urban Hamilton Official Plan is being maintained.

Cultural Heritage:

The dwelling on the property at 322 Mount Albion Road, Hamilton was constructed circa 1891 and is included on the Municipal Heritage Inventory as a non-designated property.

The proposed severance of one lot from the north portion of the existing property and three lots on the rear portion of the subject property is not anticipated to have an adverse impact on the cultural heritage value of the existing dwelling. The dwelling will be retained in situ and will remain centred on the retained lot, therefore, maintaining its central, landmark presence on the street.

The detached garage to be removed appears to be a modern structure and does not contribute to the subject property’s cultural heritage value.

Staff note that any new dwellings should be built in a manner that is compatible with the existing heritage inventoried dwelling in terms of their scale, height, setbacks and materials in order to preserve the existing dwelling's landmark character.

Archaeology:

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

- 5) In an area of sandy soil in areas of clay or stone;
- 6) 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;
- 7) In areas of pioneer EuroCanadian settlement; and,
- 8) 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 variance is granted, Staff require that the Committee of Adjustment attach the condition below to the application.

Former City of Hamilton Zoning By-law No. 6593

The subject lands are zoned "C/S-1162" (Urban Protected Residential – One and Two Family Dwellings) District, Modified, which permits the existing two family dwelling and new single family dwellings.

Part 1 (Duplex Dwelling)

Variance 1

The applicant is requesting a variance to allow a maximum height of 2.5 storeys to be permitted, notwithstanding the maximum permitted 2.5 storeys and 11.0 metres. The general intent of the Zoning By-law is to maintain a consistent streetscape.

The variance recognizes the existing height of the duplex dwelling that will remain unchanged as a result of the proposed severance. In order to comply with the maximum height requirement of the Zoning By-law, alterations to the existing duplex dwelling would be necessary which would cause the applicant undue hardship and could impact the

cultural heritage value of the existing dwelling. The variance is considered minor in nature and desirable for the development as no negative impact is anticipated on the subject lands or surrounding area as a result of the proposed severance.

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 appropriate use of the site and considered minor in nature; therefore, staff support the variance.

Variance 2

The applicant is requesting a variance to allow a minimum rear yard depth of 1.2 metres to be permitted, notwithstanding the minimum required rear yard depth 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 duplex 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 proposed severance will allow for residential development along Glen Forest Drive which is the existing rear yard of the two storey duplex dwelling. The proposed severance will result in a reduced rear yard for the retained lands containing the existing duplex as the existing building is setback significantly from Mount Albion Road. Staff are satisfied there is sufficient space remaining on the subject property, within the side and front yards, to function as amenity area for the existing dwelling. Staff note there would be sufficient space on Part 1 to accommodate the required rear yard depth of 7.5 metres if the existing duplex dwelling was relocated, however Cultural Heritage Staff have noted the dwelling being retained in situ will maintain its central, landmark presence on the street.

There is minimal glazing on the westerly façade of the existing duplex dwelling and therefore staff is satisfied the requested variance will not adversely impact the privacy of the proposed single detached dwellings on Part 3, 4 and 5.

Staff comments dated November 13, 2020 identified concern regarding potential adverse shadow impacts of the existing duplex dwelling on the rear yard of the proposed single detached dwellings, in particular on the single detached dwelling proposed on Part 4. The applicant has submitted a Sun Shadow Study demonstrating the shadow impacts of the existing duplex dwelling on Parts 3, 4 and 5 on March 21st and September 21st, between the hours of 8:50 am, 1.5 hours after sunrise, and 5:50 pm, 1.5 hours before sunset. The submitted Shadow Impact Study has been completed with regard for the City of Hamilton Site Plan Guidelines and the Terms of Reference for Downtown Hamilton and is considered acceptable for the purposes of the proposed severance. The Sun Shadow Study indicates there are shadow impacts on Part 4 for a total of 2.5 hours on March 21st and September 21st with minimal impact after 11:50 am. In accordance with the

requirements for Downtown Hamilton, there is sun coverage for at least 3 hours between 10:00 am and 4:00 pm on all the newly created lots. Therefore, Staff is satisfied the existing duplex dwelling will not cause adverse impacts on the rear yards of the proposed single detached dwellings. Therefore, the general intent of the Zoning By-law is being maintained.

Staff recommends the identified shadow impact on Part 4 be disclosed to future buyers of the property.

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 appropriate use of the site and considered minor in nature; therefore, staff support the variance.

Parts 3, 4 and 5 (New Single Detached Dwellings)

Variance 3

The applicant is requesting a variance to allow a minimum lot area of 310.0 square metres to be permitted for Part 3, Part 4 and Part 5, notwithstanding the minimum required lot area of 360.0 square metres required for a single detached dwelling. The general intent of the Zoning By-law is to provide a consistent streetscape, and to allow sufficient space to accommodate a single detached dwelling with the necessary landscaped area, amenity area and parking to satisfy the needs of the tenants.

The applicant is proposing to construct new single detached dwellings on the newly created residential lots (Parts 3, 4 and 5) which will have frontage onto Glen Forest Drive. This portion of Glen Forest Drive is characterized by one to one and a half storey single detached dwellings. The residential lots along this portion of Glen Forest Drive range from approximately 13.6 metres to 18.4 metres in lot width and from approximately 448.6 square metres to 613.8 square metres in lot area.

While the proposed lot area of 310.0 square metres for the newly created lots is smaller than the surrounding residential lots along Glen Forest Drive, Staff acknowledge the newly created lots will have lot widths ranging from 12.8 metres and 13.63 metres which does not deviate significantly from that of the surrounding properties and is in compliance with the requirements of the Zoning By-law. Staff note the majority of the surrounding properties have lot depths of approximately 30.0 metres which allows for larger lot areas. The proposed lots on Parts 3, 4 and 5 cannot accommodate the same lot depth due to the location of the existing duplex dwelling but Staff note there is sufficient space to accommodate the minimum required front yard and rear yard depth.

Based on the submitted site plan and preliminary elevation drawings, staff is satisfied the proposed lots are sufficient in size to accommodate single detached dwellings that are

compatible with the established streetscape in conformity with the requirements of the Zoning By-law.

Staff acknowledge the proposal to construct new single detached dwellings may impact the existing mature trees on the subject property. Staff request the applicant consult with Natural Heritage Staff and submit a Tree Protection Plan or Tree Management Plan if necessary.

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 appropriate use of the site and considered minor in nature; therefore, staff support the variance, on condition.

Recommendation:

Based on the preceding information, staff recommends that the proposed severances and requested variances be approved as the proposal conforms to the intent of the Urban Hamilton Official Plan and former City of Hamilton Zoning By-law No. 6593.

CONDITIONS: (If Approved)

1. That the proponent shall carry out an archaeological assessment on each new lot 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 the applicant submits a Tree Protection Plan or Tree Management Plan to the satisfaction of the Manager of Development Planning, Heritage and Design, if required.

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. In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.
3. In order to clear conditions, the applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.

4. Variances to permit the use and a reduced rear yard for the retained lands will be required for zoning compliance of the lands to be retained.

CONDITIONAL UPON:

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 – 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 submit survey evidence that the lands to be retained, including the location of any existing structure(s), parking and landscaping, etc., 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).

Development Engineering:

Information:

1. The municipal services which surround the subject property are as described:
Mount Albion Road
 - 600mmø 0.5% Sanitary Sewer
 - 600mmø 0.5% Storm Sewer
 - 300mmø Watermain
Glen Forest Drive
 - 250mmø 0.7% Sanitary Sewer
 - 375mmø 0.7% Storm Sewer
 - 200mmø Watermain
2. A right-of-way widening is not applicable to Mount Albion Road and Glen Forest Drive as they are both already at the maximum described widths of the Urban Official Plan and classified as collector and local road ways.

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), all to the satisfaction of the Manager of Development Engineering Approvals.

Transportation Planning & Parking Division (Traffic):

Transportation Planning has no objection to the land severance application.

See attached for additional comments.



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Building Division
71 Main Street West
Hamilton, Ontario, Canada, L8P 4Y5
Phone: 905.546.2720 Fax: 905.546.2764
www.hamilton.ca

Committee of Adjustment
Application For Consent/Land Severance
Building Division Staff Review Sheet

February 2, 2021

FILE: HM/B-20:68
FOLDER: 20-192007-00 COA
ATTENTION OF: Victoria Brito
TELEPHONE NO: (905) 546-2424
EXTENSION: 7628

Attention: Jamila Sheffield

Re: Zoning District: C/S-1162
File Number: HM/B-20:68
Address: 322 MOUNT ALBION RD , HAMILTON

The following comments are provided for your meeting scheduled for November 19, 2020 respecting the above noted:

COMMENTS:

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. In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.
3. In order to clear conditions, the applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.
4. Variances for a reduced rear yard for the retained lands will be required for zoning compliance of the lands to be retained.

CONDITIONAL UPON:

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 – Examination Section).
6. 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).
7. The owner shall submit survey evidence that the lands to be retained, including the location of any existing structure(s), parking and landscaping, etc., 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).

February 2, 2021

To: City of Hamilton Committee of Adjustment

Re: Notice of Public Hearing-Minor Variance

Subject Property 322 Mount Albion Road, Hamilton

Application #s HM/A-20:217; HM/B-20:68; ; HM/B-20:69; ; HM/B-20:70

We have received communication from Mr E.J Fothergill who states he is a professional planning consultant on behalf of A & L Colalilo. In his communication he provides information on questions and concerns from all the various neighbors who have concerns about the proposed "Minor Variance" application for 322 Mount Albion Road, Hamilton.

As Mr Fothergill goes thru the number of concerns and references city by-laws, zoning requirements, provincial planning and City of Hamilton Urban Plan he tries to reassure that this plan "fits in" with the current well established neighbourhood. While Mr Fothergill states he is a professional consultant in these matters he is also a professional at selling ideas and concepts not approved and when selling these ideas and concepts it is more important the things that are left out of communications when selling these ideas and concepts to people that are not familiar with all policies, procedures and plans.

I have reviewed the plan with land developers I know and they have stated that this plan is an effort to maximize a profit scenario by going outside the current policies in place. Otherwise they would not have to go to the Committee of Adjustment to seek such an approval. One could state that perhaps Mr Fothergill is incentivized and the number of lots he is able to achieve from this property regardless of the consequences on the neighbourhood.

When newer homes were built in this neighbourhood that currently exist at 334, 338, 342, & 346 Mount Albion Road we do not recall having to go thru this process and they have fit in quite nicely. We oppose this application as it stands for the reason above and what we initially sent in on November 16, 2020. We have not seen anything that allows for this gross misalignment of property.

Thank you,

Anna & Dave Brandow & Family

312 Mount Albion Road

"Davis Creek" Hamilton, ON, CANADA

cc. Chad Collins

November 16, 2020

To: City of Hamilton Committee of Adjustment

Re: Notice of Public Hearing-Minor Variance

Subject Property 322 Mount Albion Road, Hamilton

Application #s HM/A-20:217; HM/B-20:68; ; HM/B-20:69; ; HM/B-20:70

We are residents of this neighbourhood known as “Davis Creek” for over 30 years. The main reason we **chose** this neighbourhood was for its secluded type of environment here that is nestled part way up the Niagara Escarpment in the Red Hill Valley. It has all the amenities nearby to raise a family and be a home that included single family homes that included property that supported the aspirations for such families to lay down their roots for generations. It was vastly different from the new neighbourhoods being constructed whose main concern was for executing on maximum profits by squeezing in as many new style “single family homes” with barely a postage stamp size yard. This type of living was not what my wife and I envisioned for our family to live in and why we **chose** Davis Creek. We have been strong supporters of this neighbourhood at the school, church, and businesses.

To the application of record scheduled to be heard under Minor Variance is in our opinion is a gross misrepresentation of what the current new owners’ intentions. From what we can ascertain from the on-line submission is that these current new owners intention is to do exactly what we and the many other neighbours of which many are long-term residents as we are, and to now drag Davis Creek into the same “modern” neighbourhoods that we did not to be part of. Specifically speaking of the notice and intentions we can ascertain but not clear on specifics:

- Severing into 4 separate lots that require City approval as they fall below existing minimum lot size requirements
- The notice that went out to neighbours within 60 metres is very confusing and vastly different than what can be found on-line
- Our understanding of these types of notices is that full drawings of what the minor variance is to encompass must be including in this hearing – there are no such renderings of the single family homes that are to be constructed
- All the other minor variance applications scheduled to be heard on November 19, 2020 along with this one do include all required drawings and are respective of the neighbourhood they are in

We strongly oppose this application as it is a **MAJOR VARIANCE** that will set a precedent for land severance in this neighbourhood that cannot be reversed and has been established for a very long time in the City of Hamilton. The City of Hamilton is a city that embraces diversity which this City is proud to recognize and support and why we embraced this city as our home even with opportunities of professional growth in other cities. We strongly recommend that this Committee reject this application in support of the people of Davis Creek to maintain what has been established and keep this hamlet as it was intended to be.

Thank you,

Anna & Dave Brandow & Family

312 Mount Albion Road

“Davis Creek” Hamilton, ON, CANADA

From: [Mignano, Martha](#)
To: [Mignano, Martha](#)
Subject: RE: Correspondence: Opposition to Committee of Adjustment Application for 322 Mt. Albion Road
Date: February 2, 2021 12:31:45 PM

From: Finelli, Lucy <Lucy.Finelli@hamilton.ca>
Sent: February 2, 2021 12:15 PM
To: Sheffield, Jamila <Jamila.Sheffield@hamilton.ca>; Costa, Samantha <Samantha.Costa@hamilton.ca>
Cc: Collins, Chad <Chad.Collins@hamilton.ca>
Subject: Fw: Correspondence: Opposition to Committee of Adjustment Application for 322 Mt. Albion Road

Hello, as per Councillor Collins' request please note his letter below respecting 322 Mt. Albion Road.

Thank you ..Lucy

Lucy Finelli

Assistant to Councillor Chad Collins

Ward 5

905-920-7527

From: Collins, Chad
Sent: Tuesday, February 2, 2021 12:10 PM
To: Finelli, Lucy
Subject: Correspondence: Opposition to Committee of Adjustment Application for 322 Mt. Albion Road

Hi Lucy, can you please forward? Thanks.

To Members of the Committee of Adjustment:

I write this email **in opposition** to the requested variances and severances for the property in my ward located at 322 Mt. Albion Road. As noted in the staff report the property is of Heritage interest; owned by multiple generations of the Peace family up until the latter part of the last century. I have read all of the comments submitted by area residents and agree with their comments

of opposition they've registered including but limited to issues related to parking, over intensification, loss of mature trees on the property and a number of other related matters. I'm of the opinion that the variances requested are not 'minor' in nature and wish to address the committee regarding the same.

Chad Collins
Councillor, Ward 5
Centennial



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: January 27, 2021

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: 322 Mount Albion Road, Hamilton
File: HM/B-20:68

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, February 4, 2020 regarding the above subject area under discussion, the Forestry and Horticulture Section has reviewed the submission associated with the Application for Minor Variance 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.**

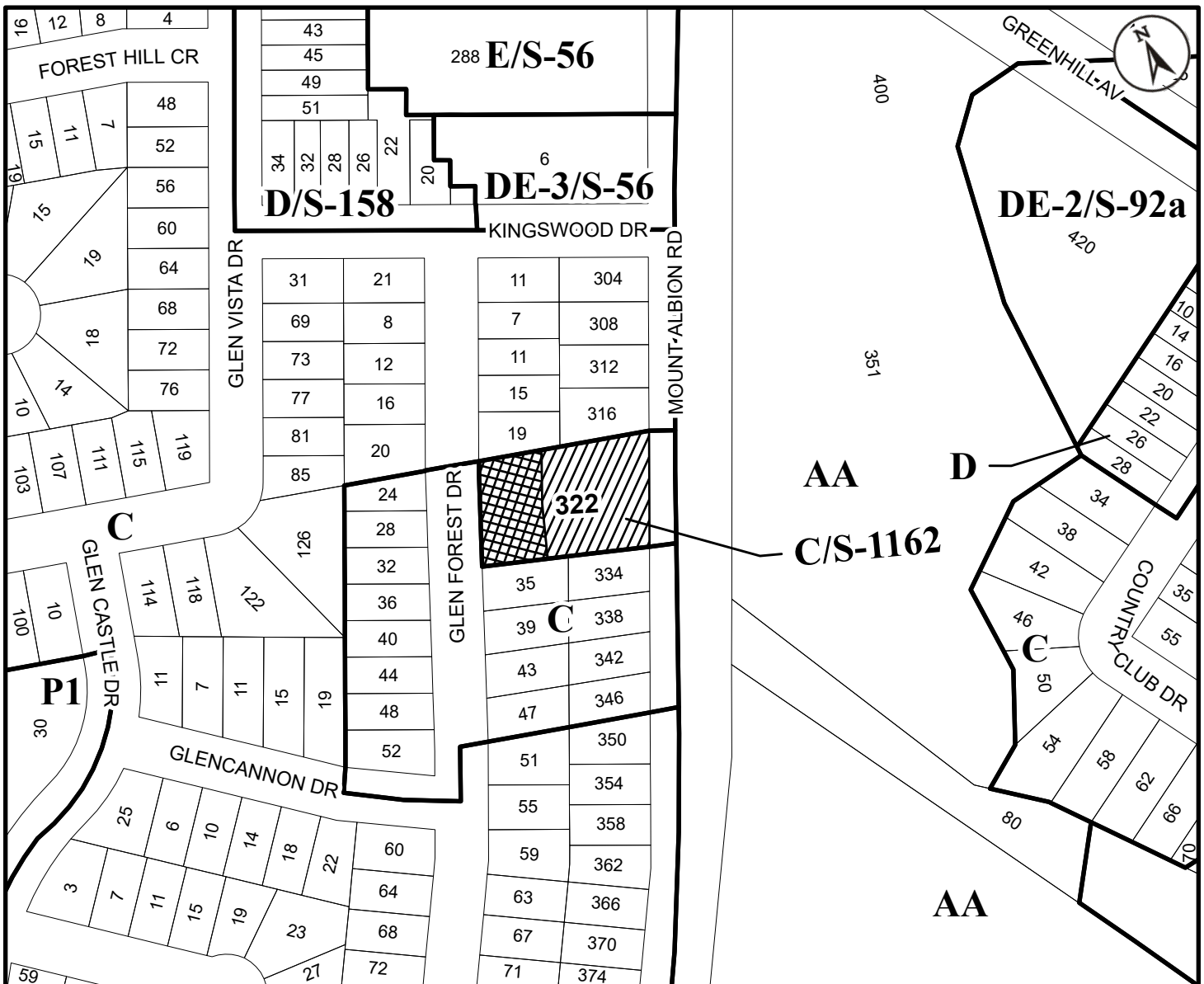
We encourage you to forward a complete copy of our comments to the applicant and should you or the Applicant require clarification or technical assistance, please do not hesitate to contact me at (905) 546-2424 Ext. 4219.

Regards,

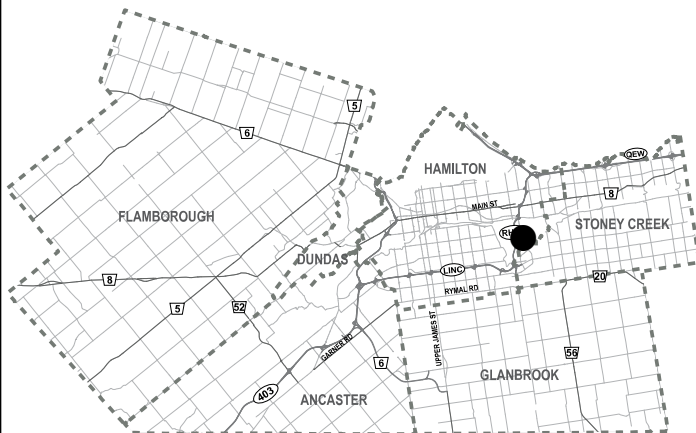
A handwritten signature in black ink, appearing to read "Shannon Clarke". The signature is fluid and cursive, with the first name "Shannon" and last name "Clarke" clearly distinguishable.

Shannon Clarke
Urban Forest Health Technician

HST # 22828-000100



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

322 Mount Albion Road, Hamilton (Ward 5)



Lands to be Retained



Lands to be Severed

File Name/Number:

HM/B-20:68

Date:

November 6, 2020

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/B-20:69 – 322 Mount Albion Rd., 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 hard copy and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. That the proponent shall carry out an archaeological assessment on each new lot 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).
3. That the applicant submits a Tree Protection Plan or Tree Management Plan to the satisfaction of the Manager of Development Planning, Heritage and Design, if required.
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 – 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 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), all to the satisfaction of the Manager of Development Engineering Approvals.

7. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

HM/B-20:69 – 322 Mount Albion Rd., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the creation of four new lots (Parts 2 - 5 inclusive) and maintain an existing duplex dwelling on Part 1 as per Consent Applications HM/B-20:68, HM/B-20:69, HM/B-20:70, 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 F.1.14.3.1, E.3.2.3 and E.3.4.3 amongst others, are applicable and permit single detached and duplex dwellings, and supports the severance of the land for residential purposes.

The proposed severance will allow for the creation of a total of five lots including four new lots for residential purposes and the existing lot containing the existing duplex dwelling. The proposed lots are fully serviced by municipal water and wastewater systems and have frontage onto Mount Albion Road or Glen Forest Drive. While the proposal does not follow the exact lot pattern of the area, the proposed lots reflect the general scale and character of the surrounding area and will allow for residential development consistent with the established residential character of the neighbourhood. In addition, staff acknowledge the proposed severance will allow for the conservation of the existing duplex dwelling identified as having cultural heritage value. As such, the general intent of the Urban Hamilton Official Plan is being maintained.

Cultural Heritage:

The dwelling on the property at 322 Mount Albion Road, Hamilton was constructed circa 1891 and is included on the Municipal Heritage Inventory as a non-designated property.

The proposed severance of one lot from the north portion of the existing property and three lots on the rear portion of the subject property is not anticipated to have an adverse impact on the cultural heritage value of the existing dwelling. The dwelling will be retained in situ and will remain centred on the retained lot, therefore, maintaining its central, landmark presence on the street.

The detached garage to be removed appears to be a modern structure and does not contribute to the subject property’s cultural heritage value.

Staff note that any new dwellings should be built in a manner that is compatible with the existing heritage inventoried dwelling in terms of their scale, height, setbacks and materials in order to preserve the existing dwelling's landmark character.

Archaeology:

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

- 9) In an area of sandy soil in areas of clay or stone;
- 10) 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;
- 11) In areas of pioneer EuroCanadian settlement; and,
- 12) 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 variance is granted, Staff require that the Committee of Adjustment attach the condition below to the application.

Former City of Hamilton Zoning By-law No. 6593

The subject lands are zoned "C/S-1162" (Urban Protected Residential – One and Two Family Dwellings) District, Modified, which permits the existing two family dwelling and new single family dwellings.

Part 1 (Duplex Dwelling)

Variance 1

The applicant is requesting a variance to allow a maximum height of 2.5 storeys to be permitted, notwithstanding the maximum permitted 2.5 storeys and 11.0 metres. The general intent of the Zoning By-law is to maintain a consistent streetscape.

The variance recognizes the existing height of the duplex dwelling that will remain unchanged as a result of the proposed severance. In order to comply with the maximum height requirement of the Zoning By-law, alterations to the existing duplex dwelling would be necessary which would cause the applicant undue hardship and could impact the

cultural heritage value of the existing dwelling. The variance is considered minor in nature and desirable for the development as no negative impact is anticipated on the subject lands or surrounding area as a result of the proposed severance.

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 appropriate use of the site and considered minor in nature; therefore, staff support the variance.

Variance 2

The applicant is requesting a variance to allow a minimum rear yard depth of 1.2 metres to be permitted, notwithstanding the minimum required rear yard depth 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 duplex 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 proposed severance will allow for residential development along Glen Forest Drive which is the existing rear yard of the two storey duplex dwelling. The proposed severance will result in a reduced rear yard for the retained lands containing the existing duplex as the existing building is setback significantly from Mount Albion Road. Staff are satisfied there is sufficient space remaining on the subject property, within the side and front yards, to function as amenity area for the existing dwelling. Staff note there would be sufficient space on Part 1 to accommodate the required rear yard depth of 7.5 metres if the existing duplex dwelling was relocated, however Cultural Heritage Staff have noted the dwelling being retained in situ will maintain its central, landmark presence on the street.

There is minimal glazing on the westerly façade of the existing duplex dwelling and therefore staff is satisfied the requested variance will not adversely impact the privacy of the proposed single detached dwellings on Part 3, 4 and 5.

Staff comments dated November 13, 2020 identified concern regarding potential adverse shadow impacts of the existing duplex dwelling on the rear yard of the proposed single detached dwellings, in particular on the single detached dwelling proposed on Part 4. The applicant has submitted a Sun Shadow Study demonstrating the shadow impacts of the existing duplex dwelling on Parts 3, 4 and 5 on March 21st and September 21st, between the hours of 8:50 am, 1.5 hours after sunrise, and 5:50 pm, 1.5 hours before sunset. The submitted Shadow Impact Study has been completed with regard for the City of Hamilton Site Plan Guidelines and the Terms of Reference for Downtown Hamilton and is considered acceptable for the purposes of the proposed severance. The Sun Shadow Study indicates there are shadow impacts on Part 4 for a total of 2.5 hours on March 21st and September 21st with minimal impact after 11:50 am. In accordance with the

requirements for Downtown Hamilton, there is sun coverage for at least 3 hours between 10:00 am and 4:00 pm on all the newly created lots. Therefore, Staff is satisfied the existing duplex dwelling will not cause adverse impacts on the rear yards of the proposed single detached dwellings. Therefore, the general intent of the Zoning By-law is being maintained.

Staff recommends the identified shadow impact on Part 4 be disclosed to future buyers of the property.

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 appropriate use of the site and considered minor in nature; therefore, staff support the variance.

Parts 3, 4 and 5 (New Single Detached Dwellings)

Variance 3

The applicant is requesting a variance to allow a minimum lot area of 310.0 square metres to be permitted for Part 3, Part 4 and Part 5, notwithstanding the minimum required lot area of 360.0 square metres required for a single detached dwelling. The general intent of the Zoning By-law is to provide a consistent streetscape, and to allow sufficient space to accommodate a single detached dwelling with the necessary landscaped area, amenity area and parking to satisfy the needs of the tenants.

The applicant is proposing to construct new single detached dwellings on the newly created residential lots (Parts 3, 4 and 5) which will have frontage onto Glen Forest Drive. This portion of Glen Forest Drive is characterized by one to one and a half storey single detached dwellings. The residential lots along this portion of Glen Forest Drive range from approximately 13.6 metres to 18.4 metres in lot width and from approximately 448.6 square metres to 613.8 square metres in lot area.

While the proposed lot area of 310.0 square metres for the newly created lots is smaller than the surrounding residential lots along Glen Forest Drive, Staff acknowledge the newly created lots will have lot widths ranging from 12.8 metres and 13.63 metres which does not deviate significantly from that of the surrounding properties and is in compliance with the requirements of the Zoning By-law. Staff note the majority of the surrounding properties have lot depths of approximately 30.0 metres which allows for larger lot areas. The proposed lots on Parts 3, 4 and 5 cannot accommodate the same lot depth due to the location of the existing duplex dwelling but Staff note there is sufficient space to accommodate the minimum required front yard and rear yard depth.

Based on the submitted site plan and preliminary elevation drawings, staff is satisfied the proposed lots are sufficient in size to accommodate single detached dwellings that are

compatible with the established streetscape in conformity with the requirements of the Zoning By-law.

Staff acknowledge the proposal to construct new single detached dwellings may impact the existing mature trees on the subject property. Staff request the applicant consult with Natural Heritage Staff and submit a Tree Protection Plan or Tree Management Plan if necessary.

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 appropriate use of the site and considered minor in nature; therefore, staff support the variance, on condition.

Recommendation:

Based on the preceding information, staff recommends that the proposed severances and requested variances be approved as the proposal conforms to the intent of the Urban Hamilton Official Plan and former City of Hamilton Zoning By-law No. 6593.

CONDITIONS: (If Approved)

1. That the proponent shall carry out an archaeological assessment on each new lot 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 the applicant submits a Tree Protection Plan or Tree Management Plan to the satisfaction of the Manager of Development Planning, Heritage and Design, if required.

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. In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.
3. In order to clear conditions, the applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.

4. Variances to permit a reduced lot areas will be required for zoning compliance of both the lands to be retained and the lands to be severed.

CONDITIONAL UPON:

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 – 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).

Development Engineering:

Information:

1. The municipal services which surround the subject property are as described:
Mount Albion Road
 - 600mmø 0.5% Sanitary Sewer
 - 600mmø 0.5% Storm Sewer
 - 300mmø Watermain
Glen Forest Drive
 - 250mmø 0.7% Sanitary Sewer
 - 375mmø 0.7% Storm Sewer
 - 200mmø Watermain
2. A right-of-way widening is not applicable to Mount Albion Road and Glen Forest Drive as they are both already at the maximum described widths of the Urban Official Plan and classified as collector and local road ways.

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), all to the satisfaction of the Manager of Development Engineering Approvals.

Transportation Planning & Parking Division (Traffic):

Transportation Planning has no objection to the land severance application.

See attached for additional comments.

February 2, 2021

To: City of Hamilton Committee of Adjustment

Re: Notice of Public Hearing-Minor Variance

Subject Property 322 Mount Albion Road, Hamilton

Application #s HM/A-20:217; HM/B-20:68; ; HM/B-20:69; ; HM/B-20:70

We have received communication from Mr E.J Fothergill who states he is a professional planning consultant on behalf of A & L Colalilo. In his communication he provides information on questions and concerns from all the various neighbors who have concerns about the proposed "Minor Variance" application for 322 Mount Albion Road, Hamilton.

As Mr Fothergill goes thru the number of concerns and references city by-laws, zoning requirements, provincial planning and City of Hamilton Urban Plan he tries to reassure that this plan "fits in" with the current well established neighbourhood. While Mr Fothergill states he is a professional consultant in these matters he is also a professional at selling ideas and concepts not approved and when selling these ideas and concepts it is more important the things that are left out of communications when selling these ideas and concepts to people that are not familiar with all policies, procedures and plans.

I have reviewed the plan with land developers I know and they have stated that this plan is an effort to maximize a profit scenario by going outside the current policies in place. Otherwise they would not have to go to the Committee of Adjustment to seek such an approval. One could state that perhaps Mr Fothergill is incentivized and the number of lots he is able to achieve from this property regardless of the consequences on the neighbourhood.

When newer homes were built in this neighbourhood that currently exist at 334, 338, 342, & 346 Mount Albion Road we do not recall having to go thru this process and they have fit in quite nicely. We oppose this application as it stands for the reason above and what we initially sent in on November 16, 2020. We have not seen anything that allows for this gross misalignment of property.

Thank you,

Anna & Dave Brandow & Family

312 Mount Albion Road

"Davis Creek" Hamilton, ON, CANADA

cc. Chad Collins

November 16, 2020

To: City of Hamilton Committee of Adjustment

Re: Notice of Public Hearing-Minor Variance

Subject Property 322 Mount Albion Road, Hamilton

Application #s HM/A-20:217; HM/B-20:68; ; HM/B-20:69; ; HM/B-20:70

We are residents of this neighbourhood known as “Davis Creek” for over 30 years. The main reason we **chose** this neighbourhood was for its secluded type of environment here that is nestled part way up the Niagara Escarpment in the Red Hill Valley. It has all the amenities nearby to raise a family and be a home that included single family homes that included property that supported the aspirations for such families to lay down their roots for generations. It was vastly different from the new neighbourhoods being constructed whose main concern was for executing on maximum profits by squeezing in as many new style “single family homes” with barely a postage stamp size yard. This type of living was not what my wife and I envisioned for our family to live in and why we **chose** Davis Creek. We have been strong supporters of this neighbourhood at the school, church, and businesses.

To the application of record scheduled to be heard under Minor Variance is in our opinion is a gross misrepresentation of what the current new owners’ intentions. From what we can ascertain from the on-line submission is that these current new owners intention is to do exactly what we and the many other neighbours of which many are long-term residents as we are, and to now drag Davis Creek into the same “modern” neighbourhoods that we did not to be part of. Specifically speaking of the notice and intentions we can ascertain but not clear on specifics:

- Severing into 4 separate lots that require City approval as they fall below existing minimum lot size requirements
- The notice that went out to neighbours within 60 metres is very confusing and vastly different than what can be found on-line
- Our understanding of these types of notices is that full drawings of what the minor variance is to encompass must be including in this hearing – there are no such renderings of the single family homes that are to be constructed
- All the other minor variance applications scheduled to be heard on November 19, 2020 along with this one do include all required drawings and are respective of the neighbourhood they are in

We strongly oppose this application as it is a **MAJOR VARIANCE** that will set a precedent for land severance in this neighbourhood that cannot be reversed and has been established for a very long time in the City of Hamilton. The City of Hamilton is a city that embraces diversity which this City is proud to recognize and support and why we embraced this city as our home even with opportunities of professional growth in other cities. We strongly recommend that this Committee reject this application in support of the people of Davis Creek to maintain what has been established and keep this hamlet as it was intended to be.

Thank you,

Anna & Dave Brandow & Family

312 Mount Albion Road

“Davis Creek” Hamilton, ON, CANADA



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: January 27, 2021

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: 322 Mount Albion Road, Hamilton
File: HM/B-20:69

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, February 4, 2020 regarding the above subject area under discussion, the Forestry and Horticulture Section has reviewed the submission associated with the Application for Minor Variance 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

From: [Mignano, Martha](#)
To: [Mignano, Martha](#)
Subject: RE: Correspondence: Opposition to Committee of Adjustment Application for 322 Mt. Albion Road
Date: February 2, 2021 12:31:45 PM

From: Finelli, Lucy <Lucy.Finelli@hamilton.ca>
Sent: February 2, 2021 12:15 PM
To: Sheffield, Jamila <Jamila.Sheffield@hamilton.ca>; Costa, Samantha <Samantha.Costa@hamilton.ca>
Cc: Collins, Chad <Chad.Collins@hamilton.ca>
Subject: Fw: Correspondence: Opposition to Committee of Adjustment Application for 322 Mt. Albion Road

Hello, as per Councillor Collins' request please note his letter below respecting 322 Mt. Albion Road.

Thank you ..Lucy

Lucy Finelli

Assistant to Councillor Chad Collins

Ward 5

905-920-7527

From: Collins, Chad
Sent: Tuesday, February 2, 2021 12:10 PM
To: Finelli, Lucy
Subject: Correspondence: Opposition to Committee of Adjustment Application for 322 Mt. Albion Road

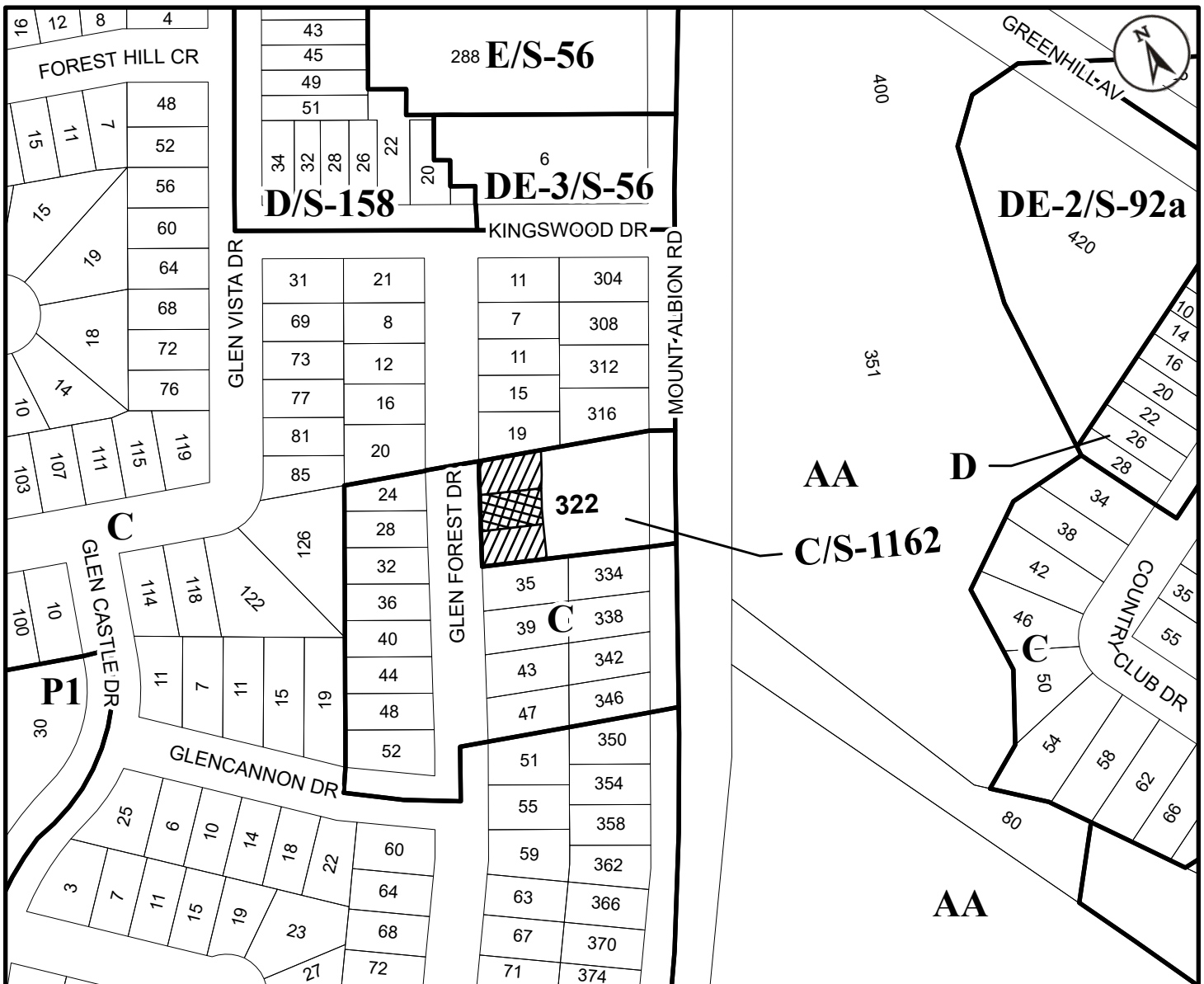
Hi Lucy, can you please forward? Thanks.

To Members of the Committee of Adjustment:

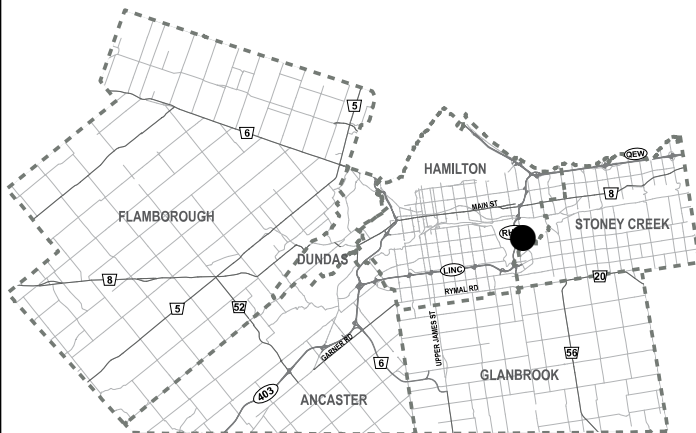
I write this email **in opposition** to the requested variances and severances for the property in my ward located at 322 Mt. Albion Road. As noted in the staff report the property is of Heritage interest; owned by multiple generations of the Peace family up until the latter part of the last century. I have read all of the comments submitted by area residents and agree with their comments

of opposition they've registered including but limited to issues related to parking, over intensification, loss of mature trees on the property and a number of other related matters. I'm of the opinion that the variances requested are not 'minor' in nature and wish to address the committee regarding the same.

Chad Collins
Councillor, Ward 5
Centennial



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

322 Mount Albion Road, Hamilton (Ward 5)



Lands to be Retained (Parts 3 and 5)



Lands to be Severed (Part 4)

File Name/Number:

HM/B-20:68

Date:

November 6, 2020

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/B-20:70 – 322 Mount Albion Rd., 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 hard copy and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. That the proponent shall carry out an archaeological assessment on each new lot 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).
3. That the applicant submits a Tree Protection Plan or Tree Management Plan to the satisfaction of the Manager of Development Planning, Heritage and Design, if required.
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 – Examination Section).
5. 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), all to the satisfaction of the Manager of Development Engineering Approvals.

6. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

HM/B-20:70 – 322 Mount Albion Rd., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the creation of four new lots (Parts 2 - 5 inclusive) and maintain an existing duplex dwelling on Part 1 as per Consent Applications HM/B-20:68, HM/B-20:69, HM/B-20:70, 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 F.1.14.3.1, E.3.2.3 and E.3.4.3 amongst others, are applicable and permit single detached and duplex dwellings, and supports the severance of the land for residential purposes.

The proposed severance will allow for the creation of a total of five lots including four new lots for residential purposes and the existing lot containing the existing duplex dwelling. The proposed lots are fully serviced by municipal water and wastewater systems and have frontage onto Mount Albion Road or Glen Forest Drive. While the proposal does not follow the exact lot pattern of the area, the proposed lots reflect the general scale and character of the surrounding area and will allow for residential development consistent with the established residential character of the neighbourhood. In addition, staff acknowledge the proposed severance will allow for the conservation of the existing duplex dwelling identified as having cultural heritage value. As such, the general intent of the Urban Hamilton Official Plan is being maintained.

Cultural Heritage:

The dwelling on the property at 322 Mount Albion Road, Hamilton was constructed circa 1891 and is included on the Municipal Heritage Inventory as a non-designated property.

The proposed severance of one lot from the north portion of the existing property and three lots on the rear portion of the subject property is not anticipated to have an adverse impact on the cultural heritage value of the existing dwelling. The dwelling will be retained in situ and will remain centred on the retained lot, therefore, maintaining its central, landmark presence on the street.

The detached garage to be removed appears to be a modern structure and does not contribute to the subject property’s cultural heritage value.

Staff note that any new dwellings should be built in a manner that is compatible with the existing heritage inventoried dwelling in terms of their scale, height, setbacks and materials in order to preserve the existing dwelling's landmark character.

Archaeology:

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

- 13) In an area of sandy soil in areas of clay or stone;
- 14) 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;
- 15) In areas of pioneer EuroCanadian settlement; and,
- 16) 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 variance is granted, Staff require that the Committee of Adjustment attach the condition below to the application.

Former City of Hamilton Zoning By-law No. 6593

The subject lands are zoned "C/S-1162" (Urban Protected Residential – One and Two Family Dwellings) District, Modified, which permits the existing two family dwelling and new single family dwellings.

Part 1 (Duplex Dwelling)

Variance 1

The applicant is requesting a variance to allow a maximum height of 2.5 storeys to be permitted, notwithstanding the maximum permitted 2.5 storeys and 11.0 metres. The general intent of the Zoning By-law is to maintain a consistent streetscape.

The variance recognizes the existing height of the duplex dwelling that will remain unchanged as a result of the proposed severance. In order to comply with the maximum height requirement of the Zoning By-law, alterations to the existing duplex dwelling would be necessary which would cause the applicant undue hardship and could impact the

cultural heritage value of the existing dwelling. The variance is considered minor in nature and desirable for the development as no negative impact is anticipated on the subject lands or surrounding area as a result of the proposed severance.

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 appropriate use of the site and considered minor in nature; therefore, staff support the variance.

Variance 2

The applicant is requesting a variance to allow a minimum rear yard depth of 1.2 metres to be permitted, notwithstanding the minimum required rear yard depth 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 duplex 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 proposed severance will allow for residential development along Glen Forest Drive which is the existing rear yard of the two storey duplex dwelling. The proposed severance will result in a reduced rear yard for the retained lands containing the existing duplex as the existing building is setback significantly from Mount Albion Road. Staff are satisfied there is sufficient space remaining on the subject property, within the side and front yards, to function as amenity area for the existing dwelling. Staff note there would be sufficient space on Part 1 to accommodate the required rear yard depth of 7.5 metres if the existing duplex dwelling was relocated, however Cultural Heritage Staff have noted the dwelling being retained in situ will maintain its central, landmark presence on the street.

There is minimal glazing on the westerly façade of the existing duplex dwelling and therefore staff is satisfied the requested variance will not adversely impact the privacy of the proposed single detached dwellings on Part 3, 4 and 5.

Staff comments dated November 13, 2020 identified concern regarding potential adverse shadow impacts of the existing duplex dwelling on the rear yard of the proposed single detached dwellings, in particular on the single detached dwelling proposed on Part 4. The applicant has submitted a Sun Shadow Study demonstrating the shadow impacts of the existing duplex dwelling on Parts 3, 4 and 5 on March 21st and September 21st, between the hours of 8:50 am, 1.5 hours after sunrise, and 5:50 pm, 1.5 hours before sunset. The submitted Shadow Impact Study has been completed with regard for the City of Hamilton Site Plan Guidelines and the Terms of Reference for Downtown Hamilton and is considered acceptable for the purposes of the proposed severance. The Sun Shadow Study indicates there are shadow impacts on Part 4 for a total of 2.5 hours on March 21st and September 21st with minimal impact after 11:50 am. In accordance with the

requirements for Downtown Hamilton, there is sun coverage for at least 3 hours between 10:00 am and 4:00 pm on all the newly created lots. Therefore, Staff is satisfied the existing duplex dwelling will not cause adverse impacts on the rear yards of the proposed single detached dwellings. Therefore, the general intent of the Zoning By-law is being maintained.

Staff recommends the identified shadow impact on Part 4 be disclosed to future buyers of the property.

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 appropriate use of the site and considered minor in nature; therefore, staff support the variance.

Parts 3, 4 and 5 (New Single Detached Dwellings)

Variance 3

The applicant is requesting a variance to allow a minimum lot area of 310.0 square metres to be permitted for Part 3, Part 4 and Part 5, notwithstanding the minimum required lot area of 360.0 square metres required for a single detached dwelling. The general intent of the Zoning By-law is to provide a consistent streetscape, and to allow sufficient space to accommodate a single detached dwelling with the necessary landscaped area, amenity area and parking to satisfy the needs of the tenants.

The applicant is proposing to construct new single detached dwellings on the newly created residential lots (Parts 3, 4 and 5) which will have frontage onto Glen Forest Drive. This portion of Glen Forest Drive is characterized by one to one and a half storey single detached dwellings. The residential lots along this portion of Glen Forest Drive range from approximately 13.6 metres to 18.4 metres in lot width and from approximately 448.6 square metres to 613.8 square metres in lot area.

While the proposed lot area of 310.0 square metres for the newly created lots is smaller than the surrounding residential lots along Glen Forest Drive, Staff acknowledge the newly created lots will have lot widths ranging from 12.8 metres and 13.63 metres which does not deviate significantly from that of the surrounding properties and is in compliance with the requirements of the Zoning By-law. Staff note the majority of the surrounding properties have lot depths of approximately 30.0 metres which allows for larger lot areas. The proposed lots on Parts 3, 4 and 5 cannot accommodate the same lot depth due to the location of the existing duplex dwelling but Staff note there is sufficient space to accommodate the minimum required front yard and rear yard depth.

Based on the submitted site plan and preliminary elevation drawings, staff is satisfied the proposed lots are sufficient in size to accommodate single detached dwellings that are

compatible with the established streetscape in conformity with the requirements of the Zoning By-law.

Staff acknowledge the proposal to construct new single detached dwellings may impact the existing mature trees on the subject property. Staff request the applicant consult with Natural Heritage Staff and submit a Tree Protection Plan or Tree Management Plan if necessary.

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 appropriate use of the site and considered minor in nature; therefore, staff support the variance, on condition.

Recommendation:

Based on the preceding information, staff recommends that the proposed severances and requested variances be approved as the proposal conforms to the intent of the Urban Hamilton Official Plan and former City of Hamilton Zoning By-law No. 6593.

CONDITIONS: (If Approved)

1. That the proponent shall carry out an archaeological assessment on each new lot 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 the applicant submits a Tree Protection Plan or Tree Management Plan to the satisfaction of the Manager of Development Planning, Heritage and Design, if required.

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. In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.

CONDITIONAL UPON:

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 – Examination Section).

Development Engineering:

Information:

1. The municipal services which surround the subject property are as described:
Mount Albion Road
 - 600mmø 0.5% Sanitary Sewer
 - 600mmø 0.5% Storm Sewer
 - 300mmø Watermain
Glen Forest Drive
 - 250mmø 0.7% Sanitary Sewer
 - 375mmø 0.7% Storm Sewer
 - 200mmø Watermain
2. A right-of-way widening is not applicable to Mount Albion Road and Glen Forest Drive as they are both already at the maximum described widths of the Urban Official Plan and classified as collector and local road ways.

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), all to the satisfaction of the Manager of Development Engineering Approvals.

Transportation Planning & Parking Division (Traffic):

Transportation Planning has no objection to the land severance application.

See attached for additional comments.

February 2, 2021

To: City of Hamilton Committee of Adjustment

Re: Notice of Public Hearing-Minor Variance

Subject Property 322 Mount Albion Road, Hamilton

Application #s HM/A-20:217; HM/B-20:68; ; HM/B-20:69; ; HM/B-20:70

We have received communication from Mr E.J Fothergill who states he is a professional planning consultant on behalf of A & L Colalilo. In his communication he provides information on questions and concerns from all the various neighbors who have concerns about the proposed "Minor Variance" application for 322 Mount Albion Road, Hamilton.

As Mr Fothergill goes thru the number of concerns and references city by-laws, zoning requirements, provincial planning and City of Hamilton Urban Plan he tries to reassure that this plan "fits in" with the current well established neighbourhood. While Mr Fothergill states he is a professional consultant in these matters he is also a professional at selling ideas and concepts not approved and when selling these ideas and concepts it is more important the things that are left out of communications when selling these ideas and concepts to people that are not familiar with all policies, procedures and plans.

I have reviewed the plan with land developers I know and they have stated that this plan is an effort to maximize a profit scenario by going outside the current policies in place. Otherwise they would not have to go to the Committee of Adjustment to seek such an approval. One could state that perhaps Mr Fothergill is incentivized and the number of lots he is able to achieve from this property regardless of the consequences on the neighbourhood.

When newer homes were built in this neighbourhood that currently exist at 334, 338, 342, & 346 Mount Albion Road we do not recall having to go thru this process and they have fit in quite nicely. We oppose this application as it stands for the reason above and what we initially sent in on November 16, 2020. We have not seen anything that allows for this gross misalignment of property.

Thank you,

Anna & Dave Brandow & Family

312 Mount Albion Road

"Davis Creek" Hamilton, ON, CANADA

cc. Chad Collins

November 16, 2020

To: City of Hamilton Committee of Adjustment

Re: Notice of Public Hearing-Minor Variance

Subject Property 322 Mount Albion Road, Hamilton

Application #s HM/A-20:217; HM/B-20:68; ; HM/B-20:69; ; HM/B-20:70

We are residents of this neighbourhood known as “Davis Creek” for over 30 years. The main reason we **chose** this neighbourhood was for its secluded type of environment here that is nestled part way up the Niagara Escarpment in the Red Hill Valley. It has all the amenities nearby to raise a family and be a home that included single family homes that included property that supported the aspirations for such families to lay down their roots for generations. It was vastly different from the new neighbourhoods being constructed whose main concern was for executing on maximum profits by squeezing in as many new style “single family homes” with barely a postage stamp size yard. This type of living was not what my wife and I envisioned for our family to live in and why we **chose** Davis Creek. We have been strong supporters of this neighbourhood at the school, church, and businesses.

To the application of record scheduled to be heard under Minor Variance is in our opinion is a gross misrepresentation of what the current new owners’ intentions. From what we can ascertain from the on-line submission is that these current new owners intention is to do exactly what we and the many other neighbours of which many are long-term residents as we are, and to now drag Davis Creek into the same “modern” neighbourhoods that we did not to be part of. Specifically speaking of the notice and intentions we can ascertain but not clear on specifics:

- Severing into 4 separate lots that require City approval as they fall below existing minimum lot size requirements
- The notice that went out to neighbours within 60 metres is very confusing and vastly different than what can be found on-line
- Our understanding of these types of notices is that full drawings of what the minor variance is to encompass must be including in this hearing – there are no such renderings of the single family homes that are to be constructed
- All the other minor variance applications scheduled to be heard on November 19, 2020 along with this one do include all required drawings and are respective of the neighbourhood they are in

We strongly oppose this application as it is a **MAJOR VARIANCE** that will set a precedent for land severance in this neighbourhood that cannot be reversed and has been established for a very long time in the City of Hamilton. The City of Hamilton is a city that embraces diversity which this City is proud to recognize and support and why we embraced this city as our home even with opportunities of professional growth in other cities. We strongly recommend that this Committee reject this application in support of the people of Davis Creek to maintain what has been established and keep this hamlet as it was intended to be.

Thank you,

Anna & Dave Brandow & Family

312 Mount Albion Road

“Davis Creek” Hamilton, ON, CANADA



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: January 27, 2021

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: 322 Mount Albion Road, Hamilton
File: HM/B-20:70

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, February 4, 2021 regarding the above subject area under discussion, the Forestry and Horticulture Section has reviewed the submission associated with the Application for Minor Variance 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

From: [Mignano, Martha](#)
To: [Mignano, Martha](#)
Subject: RE: Correspondence: Opposition to Committee of Adjustment Application for 322 Mt. Albion Road
Date: February 2, 2021 12:31:45 PM

From: Finelli, Lucy <Lucy.Finelli@hamilton.ca>
Sent: February 2, 2021 12:15 PM
To: Sheffield, Jamila <Jamila.Sheffield@hamilton.ca>; Costa, Samantha <Samantha.Costa@hamilton.ca>
Cc: Collins, Chad <Chad.Collins@hamilton.ca>
Subject: Fw: Correspondence: Opposition to Committee of Adjustment Application for 322 Mt. Albion Road

Hello, as per Councillor Collins' request please note his letter below respecting 322 Mt. Albion Road.

Thank you ..Lucy

Lucy Finelli

Assistant to Councillor Chad Collins

Ward 5

905-920-7527

From: Collins, Chad
Sent: Tuesday, February 2, 2021 12:10 PM
To: Finelli, Lucy
Subject: Correspondence: Opposition to Committee of Adjustment Application for 322 Mt. Albion Road

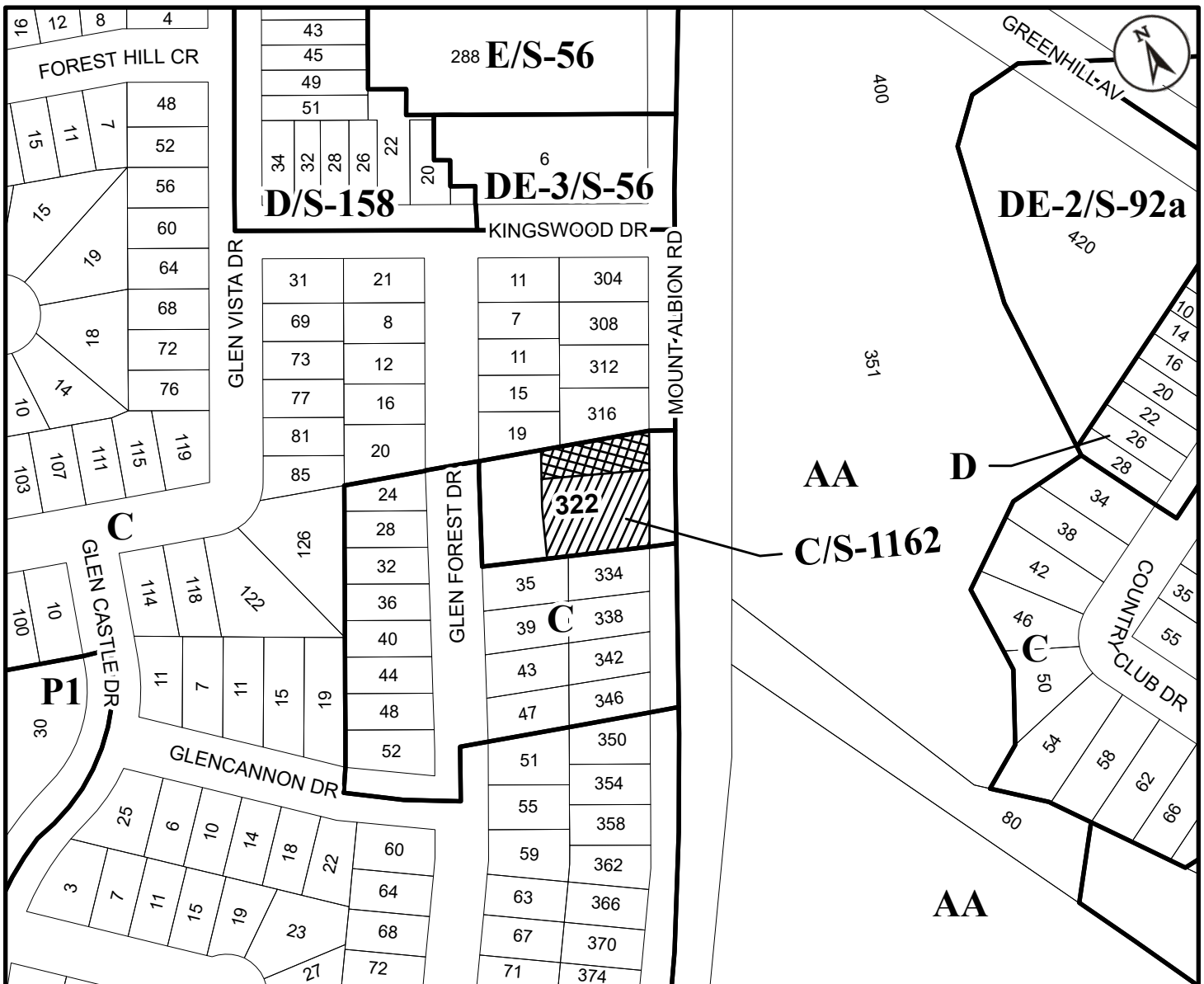
Hi Lucy, can you please forward? Thanks.

To Members of the Committee of Adjustment:

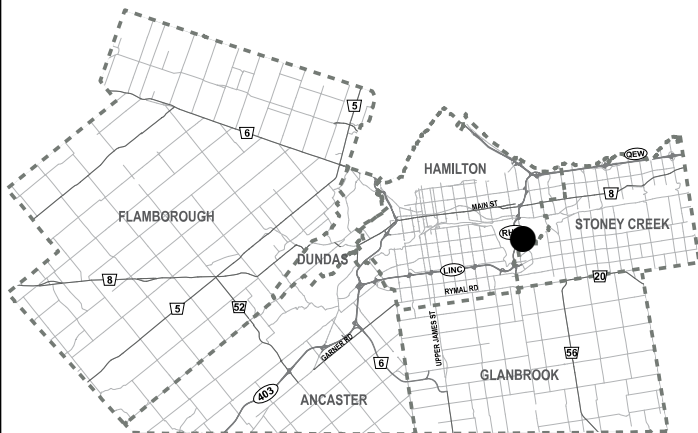
I write this email **in opposition** to the requested variances and severances for the property in my ward located at 322 Mt. Albion Road. As noted in the staff report the property is of Heritage interest; owned by multiple generations of the Peace family up until the latter part of the last century. I have read all of the comments submitted by area residents and agree with their comments

of opposition they've registered including but limited to issues related to parking, over intensification, loss of mature trees on the property and a number of other related matters. I'm of the opinion that the variances requested are not 'minor' in nature and wish to address the committee regarding the same.

Chad Collins
Councillor, Ward 5
Centennial



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

322 Mount Albion Road, Hamilton (Ward 5)



Lands to be Retained



Lands to be Severed

File Name/Number:

HM/B-20:70

Date:

November 6, 2020

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/A-20:287 – 555 Bay St. N.

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the construction of a 50.0 square metre accessory building for the Hamilton Yacht Club consisting of washroom facilities, notwithstanding following variances. The applicant received exemption from Site Plan Control on April 20, 2020 and exemption from a submission to the Design Review Panel on February 20, 2020 for the proposed accessory building.

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. Section 3.1, amongst others, are applicable and permit accessory buildings.

West Harbour Setting Sail Secondary Plan

The subject property is designated “Marine Recreation” on Schedule M-2: General Land Use and is identified as a “Waterfront Recreation Area” on Schedule M-1: Planning Area and Sub-Areas. Policies A.6.3.3.1.26 and A.6.3.5.1.3, amongst others, are applicable and permit improvements to marine recreation facilities, including marina buildings and club houses.

Former City of Hamilton Zoning By-law No. 6593

The subject lands are zoned “F-1/S-838a” (Waterfront Recreation) District, which permits a private club and accessory buildings to any use not prohibited within the “F-1” District.

Variance 1

The applicant is requesting a variance to allow a maximum height of 4.5 metres for an accessory building, notwithstanding the maximum permitted building height of 4.0 metres for an accessory building. The general intent of the Zoning By-law is to maintain the existing character of the area and to ensure an accessory building is ancillary to the principal use of the subject property.

The applicant is proposing to construct an accessory building to be used as washrooms for the Hamilton Yacht Club, the principal use of the subject property. Based on the submitted materials, Staff is satisfied the accessory building will be ancillary to the principal building, in terms of scale and use. The elevation drawings show the height of the proposed accessory building as 4.04 metres from the slab to the roof peak, although, the proposed accessory building will be installed above helical piers, as per the foundation plan, and therefore the exact height, measured from grade, has not been included.

The variance is maintaining the intent of the Zoning By-law as the proposed increase in height will not be perceived from Bay Street North due to the significant difference in grade. As such, Staff do not anticipate any impact on the established streetscape. The variance is considered minor in nature and is desirable for the development of the site 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 appropriate use of the site and considered minor in nature; therefore, staff support the variance.

Variance 2

The applicant is requesting a variance to allow an accessory building to be located within a required side yard, a minimum of 2.1 metres from a side lot line, notwithstanding that accessory buildings are permitted in the rear yard only. The general intent of the Zoning By-law is to maintain an appropriate distance separation from any lot line and to avoid any impact on the adjacent properties.

The subject property is an irregular shaped lot with no distinct differentiation between the recognized rear yard and side yard, in accordance with the definition of the Zoning By-law. There is no available space within the required rear yard that would be appropriate to construct the proposed accessory building. The proposed accessory building will be located in close proximity to the rear property line near the existing Hamilton Yacht Club docks. Staff is of the opinion the proposed location of the accessory building is appropriate for the proposed use and do not anticipate any impacts on the subject property or the surrounding area.

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, West Harbour (Setting Sail) Secondary Plan and 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 property is zoned Site-Specific F-1/S-838a (Waterfront Recreational) District which was approved April 15, 1985 by the Ontario Municipal Board. The property is occupied by the Hamilton Yacht Club and Hamilton Sailing Club which operate a marina and private clubs which are permitted in the F-1/S-838a District.
2. The F-1 District regulations apply to development on the subject lands.
3. Variances have been written as requested by the applicant.
4. Building Permit #20-162685, issued on May 14, 2021, for a proposed washroom facility for the Hamilton Yacht Club remains under review and not finalized.
5. Be advised that the property is located within a floodplain area. Please contact the Hamilton Conservation Authority at 905-525-21-81 for further information.
6. Be advised that Ontario Building Code regulations may require specific setback and construction types.

Development Engineering:

No Comment

Letter of Permission will be required for the proposed accessory structure (pool house) that is the subject of the variance application. As part of this, we will be confirming if the structure is located beyond the previously reviewed development setback.

SC/A-20:275 – 184 Winona Rd. – Portions of the property are regulated by HCA given the presence of tributaries of Stoney Creek Watercourse 12. The proposed addition will require review and approval through a permit or Letter of Permission.

In reviewing the agenda, HCA also has an interest in **HM/A-20:287** – 555 Bay St. N. The subject property and proposed accessory building location are regulated given the potential for shoreline related flooding and erosion hazards. New development is generally not permitted within areas affected by shoreline hazards. The proposed facility will require review and approval through a permit.

Kind regards,
Mike

Mike Stone MA, MCIP, RPP | Manager, Watershed Planning Services | Hamilton Conservation Authority

838 Mineral Springs Road, P.O. Box 81067, Ancaster (Hamilton), Ontario L9G 4X1

T: 905.525.2181 ext. 133 | E: mike.stone@conservationhamilton.ca | W:

www.conservationhamilton.ca

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From: Costa, Samantha <Samantha.Costa@hamilton.ca>

Sent: Tuesday, January 19, 2021 12:43 PM

To: Mike Stone <Mike.Stone@conservationhamilton.ca>

Subject: February 4th 2021 Agenda Available!

Good Afternoon,

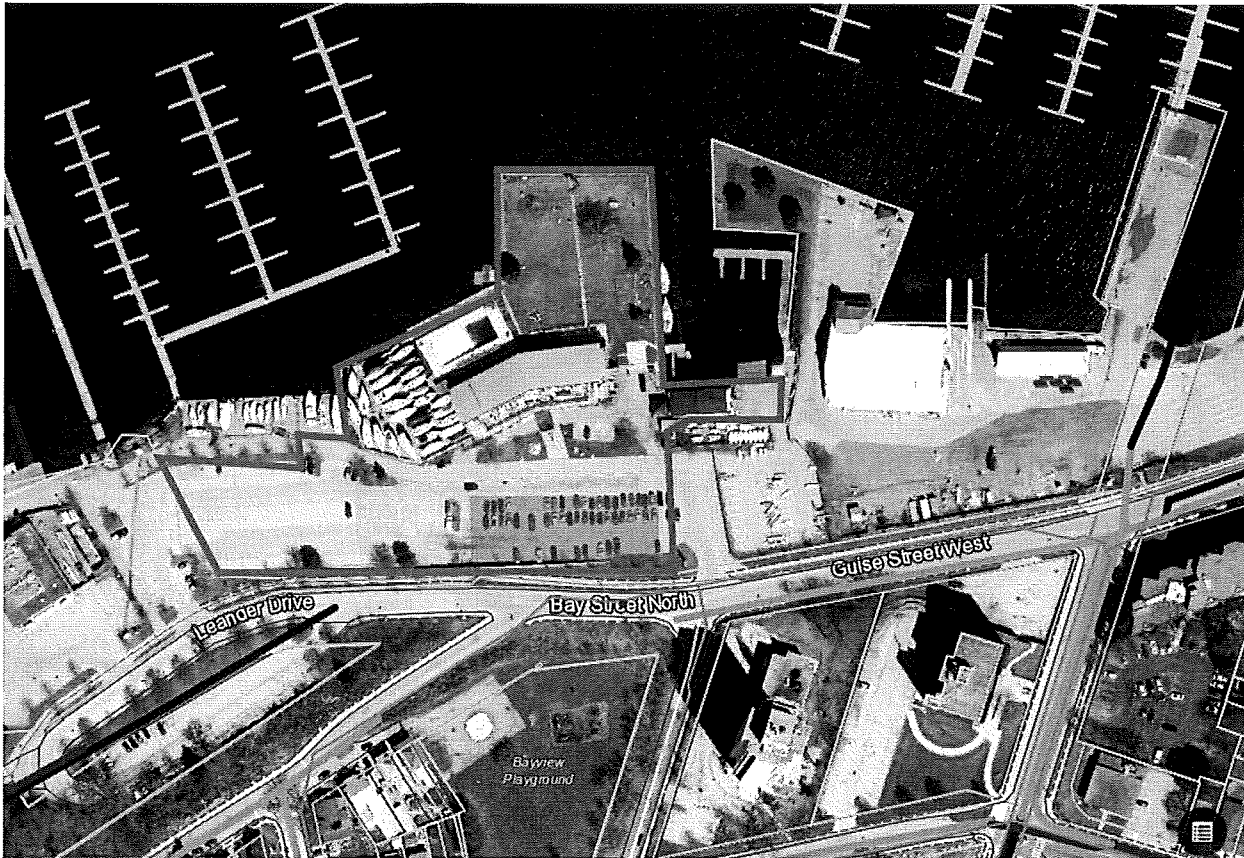
Please be advised the agenda for February 4th 2021 hearing date is now on our website.

See link below

<https://www.hamilton.ca/council-committee/council-committee-meetings/committee-adjustment>

**** Please be advised final comments are due by noon, January 29th, if not received, you will be required to attend the virtual hearing, late comments will not**

555 Bay St. N, Hamilton



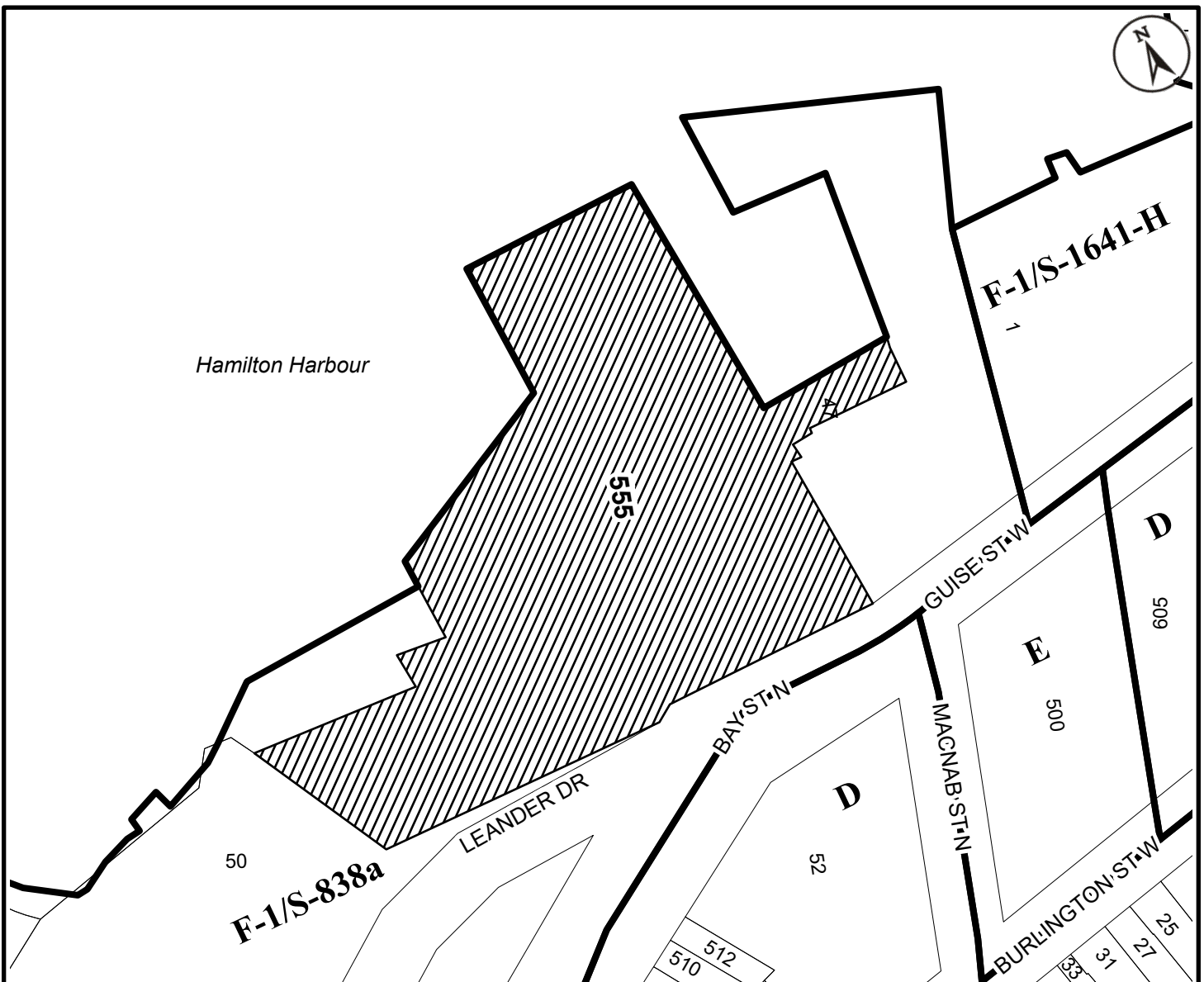
Applicants Proposal: To permit the construction of a 50sq m accessory building for the Royal Hamilton Yacht Club consisting of washroom facilities

Variances for Property:

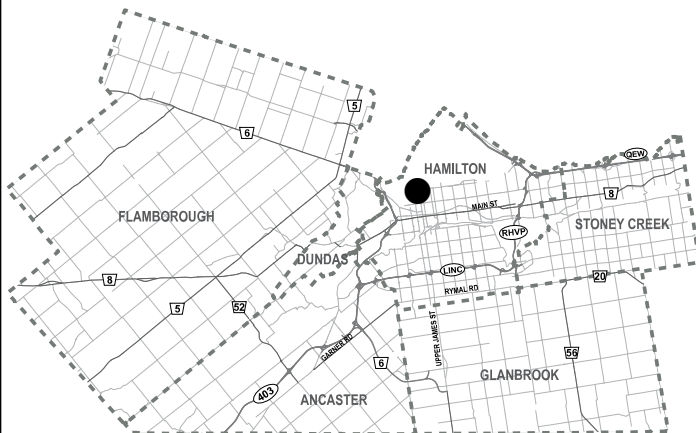
- **Accessory Building Height:** maximum accessory building shall be 4.5m instead of the required maximum height of 4m
- **Accessory Building Location:** An accessory building may be permitted in a required side yard distant 2.1m from a side lot line whereas accessory building are permitted only within the rear yard.

Impacts: There are expected impacts resulting from the proposed variances.

Recommendations: Real Estate has no objection.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



555 Bay Street North, Hamilton
(Ward 2)

File Name/Number:

HM/A-20:287

Date:

January 27, 2021

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/A-20:274 – 130 Huxley Ave. S., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the creation of two lots in conjunction with Severance Application HM/B-20:94, and the construction of a single detached dwelling on the portion of the lands to be severed, notwithstanding following variances. The severed lands will have a lot area of 305.67 square metres and a lot width of 7.96 metres, and the retained lands will have a lot area of 296.44 square metres and a lot width of 9.33 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 F.1.14.3.1, E.3.2.3, and E.3.4.3 amongst others, are applicable and permit single detached dwellings.

The proposed severance will allow for the creation of two lots for residential purposes. The severed and retained lot are fully serviced by municipal water and wastewater systems and have frontage onto Huxley Avenue South. The proposal is consistent with the established lot pattern and residential character of the neighbourhood. As such, the general intent of the Urban Hamilton Official Plan is being maintained.

Former City of Hamilton Zoning By-law No. 6593

The subject lands are zoned “C” (Urban Protected Residential) District, which permits a single family dwelling.

Severed Lands:

Variance 1

The applicant is requesting a variance to allow a minimum front yard depth of 4.5 metres, notwithstanding the minimum required front yard depth of 6.0 metres. The general intent of the Zoning By-law is to maintain the consistent streetscape and to allow sufficient space in the front yard to accommodate the necessary landscaped area.

The established residential streetscape on this portion of Huxley Avenue South maintains a consistent front yard depth that ranges between approximately 3.0 – 5.9 metres. The variance is maintaining the intent of the Zoning By-law as the proposed front yard depth of 4.5 metres 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 Urban Hamilton Official Plan and Zoning By-law is being maintained, the variances are desirable for the development and minor in nature; therefore, staff support the variance.

Variance 2

The applicant is requesting a variance to allow a minimum northerly side yard width of 0.6 metres, notwithstanding the minimum required side yard width of 0.9 metres. The general 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 side yard widths are consistent along this portion of Huxley Avenue South. One side of each dwelling maintains side yard widths of approximately 2.0 metres and the other side maintains side yard widths less than 1.0 metre for uniform spacing between dwellings. The variance maintains the general intent of the Zoning By-law as the spacing between the proposed dwelling and the existing adjacent dwellings 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.

Staff note the approval of Variance 2 does not grant the applicant access onto any neighbouring property without the necessary permissions.

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 appropriate use of the site and considered minor in nature; therefore, staff support the variance.

Variance 3 and 5

The applicant is requesting a variance to allow a minimum lot width of 7.96 metres and a minimum lot area of 305.76 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 dwelling with the necessary landscaped areas, amenity area, and parking.

This portion of Huxley Avenue South is characterized by one and a half to two storey single detached dwellings. The residential lots range from approximately 9.0 metres to 15.7 metres in lot width and from approximately 320.0 square metres to 450.0 square metres in lot area. While the severed lot will be smaller than the surrounding residential

lots along Huxley Avenue South, the proposed lot width and lot area does not deviate significantly from that of the surrounding properties.

The side property line between the severed lands and 134 Huxley Avenue South maintains an irregular angle resulting in a reduced lot width along the front property line for the severed lands. As such, regardless of the reduced lot width, the proposed dwellings on the severed lands will maintain appropriate spacing between the adjacent dwellings, consistent with the established streetscape.

Based on the submitted site plan, staff is satisfied the proposed lots are sufficient in size to accommodate single detached dwellings that are compatible with the established streetscape with sufficient amenity area to meet the needs of a single detached dwelling. However, the submitted site plan does not show any parking spaces or the proportion of landscaped area within the front yard. Therefore, it is unclear whether the necessary parking and landscaped area can be provided. Until the applicant can demonstrate the ability to provide the necessary parking, and landscaped area in the front yard, Staff is of the opinion the general intent of the Zoning By-law is not being maintained.

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

Variance 7

The applicant is requesting a variance to allow no on-site manoeuvring space to be provided for the two required parking spaces for the portion of the lands to be severed, notwithstanding the requirement that a manoeuvring space abutting and accessory to each required parking space shall be 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 submitted site plan does not show any parking spaces on the severed lands. Staff acknowledge an existing asphalt driveway is shown on the site plan, partially on both the severed lands and retained lands. The applicant has not indicated how this driveway will be utilized subject to the approval of the proposed severance. As such the general intent of the Zoning By-law is not being maintained.

Based on the foregoing, while the general intent of the Urban Hamilton Official Plan is 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.

Retained Lands:

Variance 4 and 6

The applicant is requesting a variance to allow a minimum lot width of 9.33 metres and a minimum lot area of 296.44 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 dwelling with the necessary landscaped areas, amenity area, and parking.

This portion of Huxley Avenue South is characterized by one and a half to two storey single detached dwellings. The residential lots range from approximately 9.0 metres to 15.7 metres in lot width and from approximately 320.0 square metres to 450.0 square metres in lot area. While the retained lot will be smaller than the surrounding residential lots along Huxley Avenue South, the proposed lot width and lot area does not deviate significantly from that of the surrounding properties.

Based on the submitted site plan, staff is satisfied the proposed lot is sufficient in size to accommodate a single detached dwelling that is compatible with the established streetscape with sufficient amenity area to meet the needs of a single detached dwelling. However, the submitted site plan does not show any parking spaces or the proportion of landscaped area within the front yard. Therefore, it is unclear whether the necessary parking and landscaped area can be provided. Until the applicant can demonstrate the ability to provide the necessary parking and landscaped area in the front yard, Staff is of the opinion the general intent of the Zoning By-law is not being maintained.

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

Variance 8

The applicant is requesting a variance to allow no onsite manoeuvring space to be provided for the two required parking spaces for the portion of the lands to be severed, instead of the requirement that a manoeuvring space abutting and accessory to each required parking space shall be 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 submitted site plan does not show any parking spaces on the severed lands. Staff acknowledge an existing asphalt driveway is shown on the site plan, partially on both the severed lands and retained lands. The applicant has not indicated how this driveway will be utilized subject to the approval of the proposed severance. As such, the general intent of the Zoning By-law is not being maintained.

Based on the foregoing, while the general intent of the Urban Hamilton Official Plan is 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, Variances 1 and 2 maintain the general intent and purpose of the Urban Hamilton Official Plan and former City of Hamilton Zoning By-law No. 6593. Variances 1 and 2 are considered to be minor in nature and desirable for the appropriate use of the property.

While Variances 3, 4, 5, 6, 7 and 8 maintain the general intent and purpose of the Urban Hamilton Official Plan, Variances 3, 4, 5, 6, 7 and 8 do not maintain former City of Hamilton Zoning By-law No. 6593. Variances 3, 4, 5, 6, 7 and 8 are not considered to be minor in nature nor desirable for the appropriate use of the property.

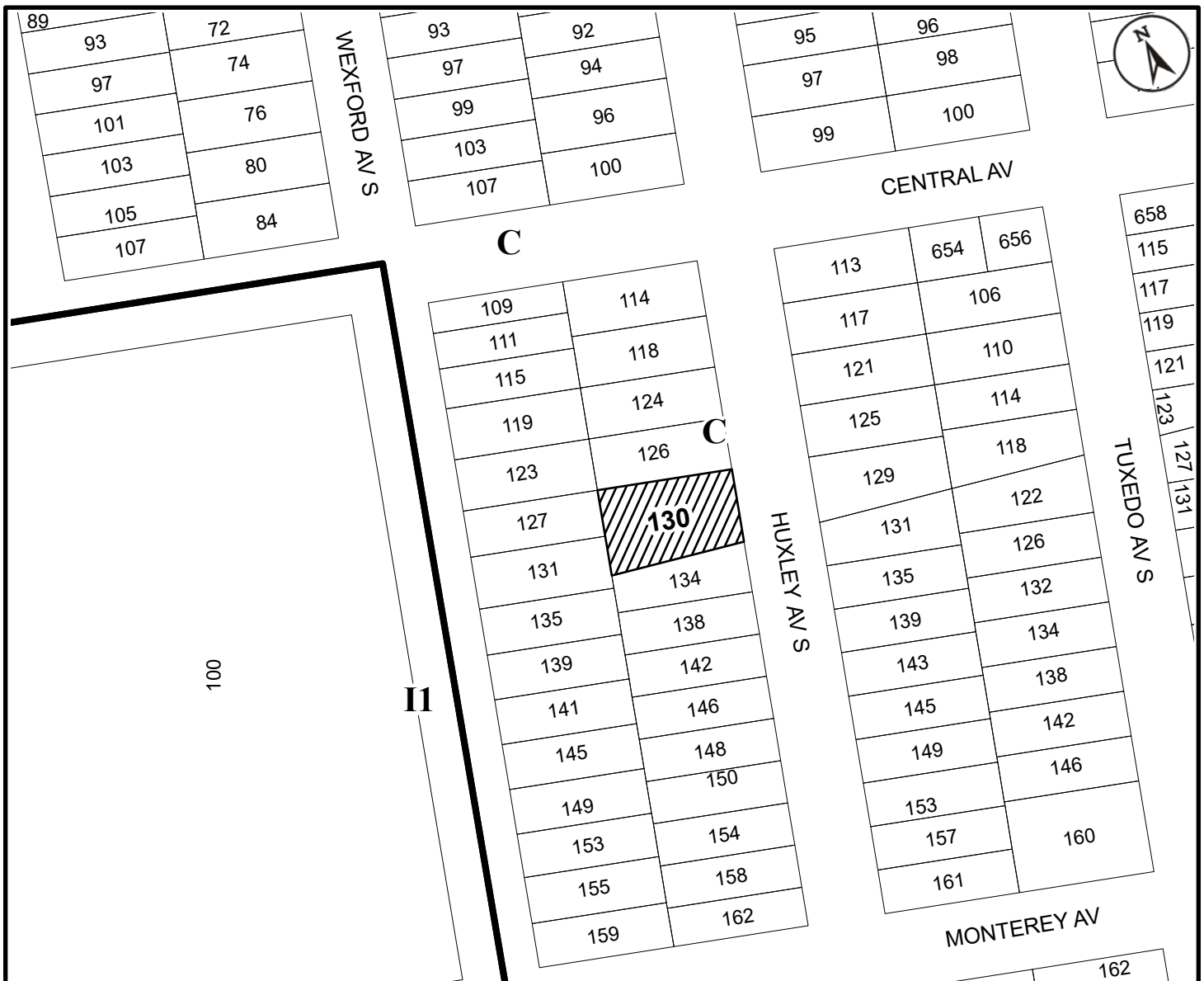
In conclusion, Staff recommends that the proposed severance and requested variances be denied at this time.

Building Division:

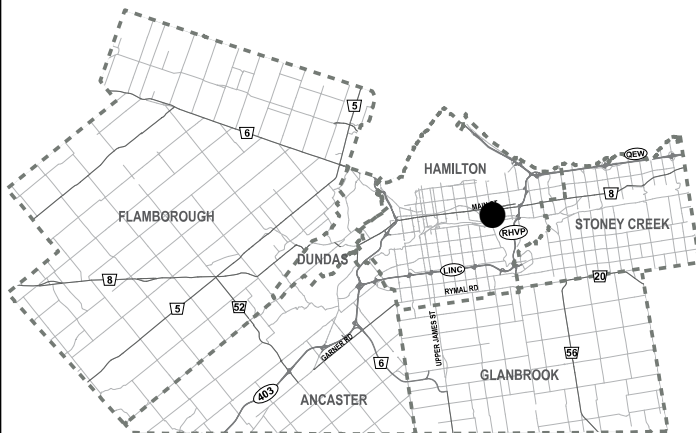
1. Please note this application is to be heard in conjunction with Severance Application HM/B-20:94.
2. Specific details regarding the percentage of gross area of the front yard that is to be used for landscaping have not been provided. Additional variances may be required if compliance with Section 18(14)(i) cannot be achieved.
3. Specific details regarding proposed yard encroachments and other supplementary requirements as established by Section 18, were not included as part of this application. Additional variances may be required if compliance with Section 18 cannot be achieved.
4. Detailed elevation drawings were not included as part of this application to confirm the height of the proposed dwelling. Please note that as per Section 9(2), no building shall exceed two and a half storeys, and no structure shall exceed 11.0 metres in height. Further variances may be required if compliance with Section 9(2) is not possible.
5. Construction of the proposed development is subject to the issuance of a building permit in the normal manner. Be advised that Ontario Building Code regulations may require specific setbacks and construction types.
6. A demolition permit may be required for the demolition any existing structures ("shed") on the lands to be conveyed that are to be removed.

Development Engineering:

Development Engineering Approvals requires a minimum 0.9m side yard set back in accordance with the City Lot Grading Policy. We recommend variance #2 be **tabled** until such a time that the Owner / Applicant demonstrates compliance with the Lot Grading Policy, all to the satisfaction of the Manager of Development Engineering Approvals.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



130 Huxley Avenue South, Hamilton
(Ward 4)

File Name/Number:

HM/A-20-274

Date:

January 27, 2021

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/B-20:94 – 130 Huxley Ave. S., 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 hard copy and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. The owner shall receive final and binding approval of minor variance application HM/A-20:274.
3. The owner shall submit survey evidence that the lands to conveyed/retained, including the location of any existing structure(s), parking and landscaping, and permitted yard encroachments 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).
4. The owner shall demolish the accessory building ("shed") on the lands to be conveyed 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 in order for the accessory building ("shed") to remain when no principal use is existing (Building Division – Zoning Section). May be subject to a demolition permit issued in the normal manner.
5. 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), all to the satisfaction of the Manager of Development Engineering Approvals.

6. Separate and independent water and sewer services shall be provided to both retained and severed parcels, all to the satisfaction of the Manager of Development Engineering Approvals.
7. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.
8. The owner submits to the Committee of Adjustment office an administration fee of \$18.00 payable to the City of Hamilton to cover the costs of setting up new tax accounts for the newly created lots.

HM/B-20:94 – 130 Huxley Ave. S., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

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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.

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The subject lands are zoned “C” (Urban Protected Residential) District, which permits a single family dwelling.

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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 variances are desirable for the development and minor in nature; therefore, staff support the variance.

Variance 2

The applicant is requesting a variance to allow a minimum northerly side yard width of 0.6 metres, notwithstanding the minimum required side yard width of 0.9 metres. The general 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 side yard widths are consistent along this portion of Huxley Avenue South. One side of each dwelling maintains side yard widths of approximately 2.0 metres and the other side maintains side yard widths less than 1.0 metre for uniform spacing between dwellings. The variance maintains the general intent of the Zoning By-law as the spacing between the proposed dwelling and the existing adjacent dwellings 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.

Staff note the approval of Variance 2 does not grant the applicant access onto any neighbouring property without the necessary permissions.

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 appropriate use of the site and considered minor in nature; therefore, staff support the variance.

Variance 3 and 5

The applicant is requesting a variance to allow a minimum lot width of 7.96 metres and a minimum lot area of 305.76 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 dwelling with the necessary landscaped areas, amenity area, and parking.

This portion of Huxley Avenue South is characterized by one and a half to two storey single detached dwellings. The residential lots range from approximately 9.0 metres to 15.7 metres in lot width and from approximately 320.0 square metres to 450.0 square metres in lot area. While the severed lot will be smaller than the surrounding residential

lots along Huxley Avenue South, the proposed lot width and lot area does not deviate significantly from that of the surrounding properties.

The side property line between the severed lands and 134 Huxley Avenue South maintains an irregular angle resulting in a reduced lot width along the front property line for the severed lands. As such, regardless of the reduced lot width, the proposed dwellings on the severed lands will maintain appropriate spacing between the adjacent dwellings, consistent with the established streetscape.

Based on the submitted site plan, staff is satisfied the proposed lots are sufficient in size to accommodate single detached dwellings that are compatible with the established streetscape with sufficient amenity area to meet the needs of a single detached dwelling. However, the submitted site plan does not show any parking spaces or the proportion of landscaped area within the front yard. Therefore, it is unclear whether the necessary parking and landscaped area can be provided. Until the applicant can demonstrate the ability to provide the necessary parking, and landscaped area in the front yard, Staff is of the opinion the general intent of the Zoning By-law is not being maintained.

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Variance 7

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The submitted site plan does not show any parking spaces on the severed lands. Staff acknowledge an existing asphalt driveway is shown on the site plan, partially on both the severed lands and retained lands. The applicant has not indicated how this driveway will be utilized subject to the approval of the proposed severance. As such the general intent of the Zoning By-law is not being maintained.

Based on the foregoing, while the general intent of the Urban Hamilton Official Plan is 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.

Retained Lands:

Variance 4 and 6

The applicant is requesting a variance to allow a minimum lot width of 9.33 metres and a minimum lot area of 296.44 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 dwelling with the necessary landscaped areas, amenity area, and parking.

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Based on the submitted site plan, staff is satisfied the proposed lot is sufficient in size to accommodate a single detached dwelling that is compatible with the established streetscape with sufficient amenity area to meet the needs of a single detached dwelling. However, the submitted site plan does not show any parking spaces or the proportion of landscaped area within the front yard. Therefore, it is unclear whether the necessary parking and landscaped area can be provided. Until the applicant can demonstrate the ability to provide the necessary parking and landscaped area in the front yard, Staff is of the opinion the general intent of the Zoning By-law is not being maintained.

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

Variance 8

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The submitted site plan does not show any parking spaces on the severed lands. Staff acknowledge an existing asphalt driveway is shown on the site plan, partially on both the severed lands and retained lands. The applicant has not indicated how this driveway will be utilized subject to the approval of the proposed severance. As such, the general intent of the Zoning By-law is not being maintained.

Based on the foregoing, while the general intent of the Urban Hamilton Official Plan is 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, Variances 1 and 2 maintain the general intent and purpose of the Urban Hamilton Official Plan and former City of Hamilton Zoning By-law No. 6593. Variances 1 and 2 are considered to be minor in nature and desirable for the appropriate use of the property.

While Variances 3, 4, 5, 6, 7 and 8 maintain the general intent and purpose of the Urban Hamilton Official Plan, Variances 3, 4, 5, 6, 7 and 8 do not maintain former City of Hamilton Zoning By-law No. 6593. Variances 3, 4, 5, 6, 7 and 8 are not considered to be minor in nature nor desirable for the appropriate use of the property.

In conclusion, Staff recommends that the proposed severance and requested variances be denied at this time.

Building Division:

1. Please note this application is to be heard in conjunction with minor variance application HM/A-20:274, to permit a minimum lot width of 7.96 metres for the portion of the lands to be severed and a minimum lot width of 9.33 metres for the portion of the lands to be retained, instead of the minimum required lot width of 12.0 metres; and a minimum lot area of 305.76 square metres for the portion of the lands to be severed, and a minimum lot area of 296.44 square metres for the portion of the lands to be retained, instead of the minimum required lot area of 360.0 square metres.
2. 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.
3. No details regarding parking and landscaping and proposed yard encroachments for the lands to be conveyed/retained have been shown on the submitted survey; therefore, this Division cannot confirm zoning compliance.
4. Detailed elevation drawings were not included as part of this application to confirm the height of the proposed dwelling. Please note that as per Section 9(2), no building shall exceed two and a half storeys, and no structure shall exceed 11.0 metres in height. Further variances may be required if compliance with Section 9(2) is not 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.
6. A variance may be required to permit an accessory structure (“shed”) to remain on the conveyed lands when no main use/building has been established.

CONDITIONAL UPON:

1. If the application is approved, we request the following condition(s):
2. The owner shall receive final and binding approval of minor variance application HM/A-20:274.
3. The owner shall submit survey evidence that the lands to conveyed/retained, including the location of any existing structure(s), parking and landscaping, and permitted yard encroachments 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).
4. The owner shall demolish the accessory building (“shed”) on the lands to be conveyed 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 in order for the accessory building (“shed”) to remain when no principal use is existing (Building Division – Zoning Section). May be subject to a demolition permit issued in the normal manner.

Development Engineering:

Information:

1. The municipal services which surround the subject property are as described:
Huxley Avenue South
 - 375mmø 0.8% Combined Sanitary and Storm Sewer
 - 150mmø Watermain
 - No standalone Storm Sewer
2. A right-of-way widening is not applicable to Huxley Avenue South as it’s already at the maximum described widths of the Urban Official Plan and classified as local road way in the older urban built up areas.
3. Connections to the combined sewer shall be as per City Standard SEW-303 and a backflow preventer for sewage is recommended.

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), all to the satisfaction of the Manager of Development Engineering Approvals.
2. Separate and independent water and sewer services shall be provided to both retained and severed parcels, all to the satisfaction of the Manager of Development Engineering Approvals.

Growth Management:

Note: Based on these applications being approved and all conditions being met, the owner / applicant should be made aware that the lands to be retained will remain as **130 Huxley Avenue South (Hamilton)**, and the lands to be conveyed will be assigned the address of **132 Huxley Avenue South (Hamilton)**.

Transportation Planning & Parking Division (Traffic):

Transportation Planning has no objection to the land severance application. Without setting precedent, Transportation Planning will waive the required right-of-way dedication for Huxley Avenue.

See attached for additional comments.

Sheffield, Jamila

From: Merulla, Sam
Sent: January 27, 2021 4:18 PM
To: Sheffield, Jamila
Cc: Merulla, Sam; Piedimonte, Diane; mjohnston@urbansolutions.info
Subject: FW: HM/A-20:274 & HM/B-20:94 - 130 Huxely Ave. S, Hamilton

Jamila,

The subject Severance and Minor Variance application (HM/A-20:274 & HM/B-20:94) for 130 Huxley Avenue South is scheduled for the February 4th Committee of Adjustment hearing.

Please advise the Committee of Adjustment members that I have support the proposal and have no objections or concerns.

Feel free to contact me with any questions.

Thank you,

Sam,

Councillor Sam Merulla,
Ward 4, East Hamilton,
[71 Main St., W.](#), 2nd., Floor,
Hamilton, ON., Canada,
City Hall; [905.546.4512](tel:905.546.4512)



Shannon Clarke, Urban Forest Health Technician
Hamilton 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: January 27, 2021

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

From: Shannon Clarke, Urban Forest Health Technician

Subject: 130 Huxley Ave S., Hamilton
File: HM/B-20:94

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, February 4, 2021 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 "Shannon Clarke". The signature is written in a cursive, flowing style.

Shannon Clarke
Urban Forest Health Technician

From: pythonomorpha@gmail.com
To: [Committee of Adjustment](#)
Subject: RE: a notice of public hearing regarding land severance (application number HM/B-20:94).
Date: January 25, 2021 12:51:08 PM

Hello,
Thank you for the clarification.

I oppose the conveyance of a new lot for residential purposes, since the city requirements cannot be met in full.

Reduced size of a front yard would decrease the area of the land facing the public road, which in turn would affect both visual appeal and vegetation amount. Congested construction increases the load on public infrastructure and roads. We are already experiencing problems with on-street parking spots due to proximity to the elementary school. Building another house (be it with or without parking spots) can potentially exacerbate this problem. Planting of trees on the 2 lots resulting from the division would become impossible due to lack of necessary space. Extensive tree coverage is essential for Hamilton to maintain good air quality. As I suffer from congestive rhinitis any encroachment (be it real or potential) on green spaces is a very sensitive subject to me.

I request the City and Committee of Adjustment to uphold the municipal standards and bylaws and do not permit the proposed conveyance of a new lot.

Kind regards,
Maxim Mikheev
153 Wexford Ave S
Hamilton, ON L8K 2N9

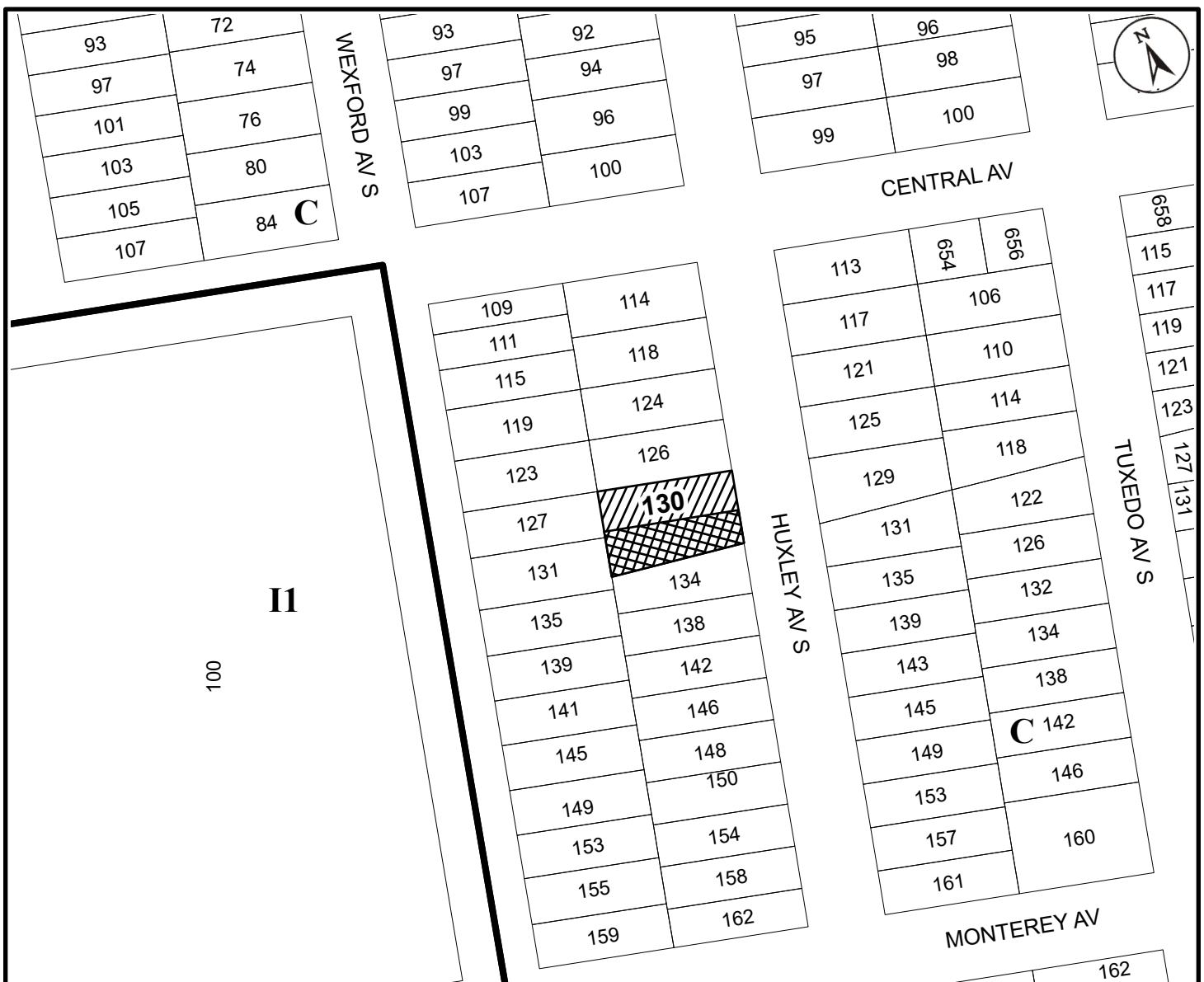
From: Committee of Adjustment [<mailto:CofA@hamilton.ca>]
Sent: Friday, January 22, 2021 10:25 AM
To: pythonomorpha@gmail.com
Subject: RE: a notice of public hearing regarding land severance (application number HM/B-20:94).

Hi Max

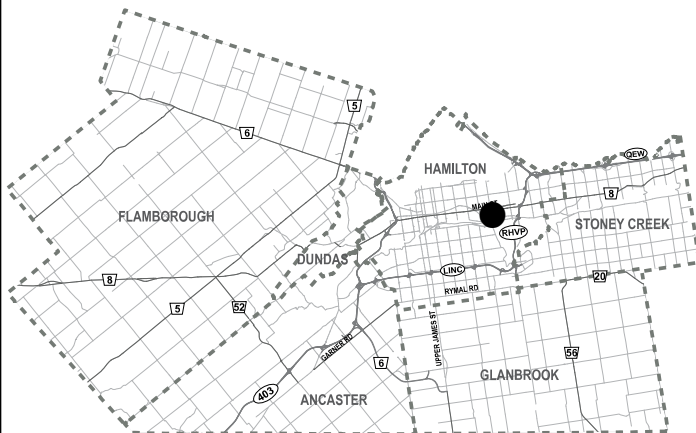
You are correct

From: pythonomorpha@gmail.com <pythonomorpha@gmail.com>
Sent: January 21, 2021 1:55 PM
To: Committee of Adjustment <CofA@hamilton.ca>
Subject: a notice of public hearing regarding land severance (application number HM/B-20:94).

Hello,
Today I received a notice of public hearing regarding land severance (application number HM/B-20:94).
Did I understand correctly that the applicants seek to split an existing lot into two parts and build a second residential house on a second newly formed lot?



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

130 Huxley Avenue South, Hamilton (Ward 4)



Lands to be Retained



Lands to be Severed

File Name/Number:

HM/B-20:94

Date:

January 27, 2021

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

AN/A-20:286 – 1040 Garner Rd. W., Ancaster

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to permit a restaurant use within the Planned Business Centre currently under construction, notwithstanding that a variance is required to permit the restaurant use. Three different restaurants are proposed on the subject lands. The proposed gross floor area for the restaurant use has not been identified.

History

The lands are subject to Site Plan Control application DA-18-027, which was granted Final Approval on March 24, 2020. The application was deemed complete and circulated for comments on November 23, 2018. Comments received from the Building Division – Zoning Section on December 10, 2018, and emailed to the applicant on December 14, 2018, clearly identify on page one that restaurants as a principal use are not permitted on the subject lands:

Re: Zoning District: “M3, 376” (Hamilton Zoning By-law 05-200)
File Number: DA-18-027
Address: 1040 GARNER RD W., ANCASTER

The above, under cover of your letter dated November 23, 2018, has been examined and the following comments are offered.

COMMENTS:

1. The applicant proposes to construct three (3), two (2) storey, prestige industrial buildings, each with the possibility of multiple tenants, with associated landscaping and parking. A total of 5,062m² of gross floor area is proposed. Condominium tenure is proposed.
2. The type of uses within each the buildings has not been provided to determine compliance with those uses permitted pursuant to Section 9.3.1 and those uses prohibited by Section 9.3.2 of the “M3” zone. Be advised that **Restaurants are not permitted**, unless it accessory to another permitted use, as this lot is not located on the South Service Road, Barton Street or the north side of Hwy No. 5 as required by Section 9.3.3 r) i) a), b) and c).

Comments received on the next resubmission for DA-18-027 from the Building Division – Zoning Section on July 5, 2019, and emailed to the applicant on July 9, 2019, again identified that restaurants are not permitted:

The above, under cover of your letter dated May 17, 2019, has been examined and the following comments are offered.

COMMENTS:

1. The applicant proposes to construct three (3), two (2) storey, prestige industrial buildings, each with the possibility of multiple tenants, with associated landscaping and parking. A total of 6,336m² of gross floor area is proposed. Condominium tenure is proposed.
2. The type of uses within each the buildings has not been provided to determine compliance with those uses permitted pursuant to Section 9.3.1 and those uses prohibited by Section 9.3.2 of the "M3" zone. Be advised that **Restaurants are not permitted**, unless it accessory to another permitted use, as this lot is not located on the South Service Road, Barton Street or the north side of Hwy No. 5 as required by Section 9.3.3 r) i) a), b) and c).

Subsequent to receiving the above-noted comments in December 2018 and July 2019, the applicant requested a Zoning Verification and Property Report on the subject lands for several proposed uses, including restaurants. The zoning verification submitted with this Minor Variance application, dated September 17, 2019, states restaurants are a permitted use. The foregoing document was issued in error, and three weeks later, on October 8, 2019, a corrected zoning verification was issued stating that restaurants are permitted "...pursuant to section 9.3 (see attached)." Section 9.3.3 r) i) of the Zoning By-law prescribes that restaurants shall only be permitted in certain locations. The subject lands are not within the prescribed locations.

Urban Hamilton Official Plan

The subject lands are identified as "Employment Areas" on Schedule "E" – Urban Structure and designated "Business Park" on Schedule "E-1" – Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP). The designation permits a range of employment and employment support uses, such as manufacturing and trade schools, and ancillary uses which primarily support businesses and employees within business parks, such as hotels and restaurants, in accordance with the Zoning By-law (E.5.4.3). Lands designated Employment Area are to be protected from non-employment uses (E.5.1.4).

The ancillary restaurant use is restricted by location and unit floor area in the Prestige Business Park (M3) Zone, applicable to the subject lands, and is not permitted at this location. Employment Area lands are protected from non-employment uses through UHOP policies and the implementing Zoning By-law. There are some non-employment uses that are ancillary to Employment Areas, such as restaurants, which may be permitted in accordance with the Zoning By-law. Where these ancillary uses are not permitted by the Zoning By-law, any amendment to the zoning to permit the use must meet the prescribed criteria of E.5.4.4 in order to maintain the intent of the UHOP.

There is a commercial area which permits restaurants on the north side of Garner Rd W adjacent to the subject lands. There are a number of existing restaurants within one kilometre of the subject lands, including Boston Pizza, Pub Fiction, and Sunrise Grill.

In accordance with E.5.4.4, the Zoning By-law may permit a limited number of restaurants where the need for the uses to support the businesses and employees within the Employment Area has been determined. In order to make this determination, a land needs assessment and/or market analysis report prepared by a qualified professional demonstrating that the restaurants are needed to support the employment area rather than the residents of the surrounding community, and that the surrounding commercial areas aren't sufficient to meet the needs, would be required. No rationale has been provided to justify the need for the proposed restaurants.

Because the need for the non-employment restaurant use has not been justified, the proposed restaurant use does not maintain the intent of the UHOP.

Hamilton Zoning By-law No. 05-200

The subject lands are zoned Prestige Business Park (M3, 376, 678) Zone. The M3 Zone is intended to provide for a range of employment and employment support uses, subject to the applicable provisions. The M3 Zone also permits some uses ancillary to employment uses, such as offices and restaurants; however, the location and/or the gross floor area of these uses are restricted. On South Service Road and on Barton St, between Lake Ave and Winona Rd, except those properties with frontage on Fruitland Rd, a restaurant is permitted up to a maximum GFA of 280 sq. m and an additional restriction that the maximum GFA for a restaurant on South Service Rd cannot exceed 30% of the total GFA on the property. Restaurants are permitted on the north side of Highway #5, west of Highway #6 without any restrictions to the maximum GFA. In all other locations, the M3 Zone permits restaurants only as an accessory use.

Variance 1

A restaurant use shall be permitted at this location, whereas the Zoning By-law does not permit a restaurant as a principal use at this location. The intent of the provision is to ensure the supply of lands for employment uses in the M3 Zone.

In the opinion of staff, the proposal to locate the commercial (non-employment) restaurant use on the subject lands does not maintain the intent of the Zoning By-law. The proposed restaurants would reduce the GFA available for employment uses on the site, which is not desirable or minor. Based on the foregoing, the variance does not maintain the intent of the Official Plan or Zoning By-law, and it is not desirable or minor. Accordingly, staff **does not** support the variance.

Recommendation:

Having regard for the matters under subsection 45(1) of the Planning Act, staff is not satisfied that the requested variance maintains the purpose and intent of the Official Plan and the Zoning By-law. In the opinion of staff, the variance is not desirable for the

appropriate development of the land, nor minor in nature. Staff recommends that the requested variance, as outlined in the Notice of Hearing, be **denied**.

Building Division:

1. A Restaurant use is listed as a permitted use in the M3 Zone; however, pursuant to Section 9.3.3 r) of the Zoning By-law, the use of a Restaurant is restricted to specific locations and is limited by a maximum gross floor area.
2. The Planned Business Centre currently under construction was approved by site plan application DA-18-027.
3. Tenant improvements change of use, conversions, renovations, alterations, additions or new buildings are subject to the issuance of a building permit from the Building Division.

Development Engineering:

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

See attached for additional comments.

From: [Nadia & David](#)
To: [Committee of Adjustment](#)
Subject: application #AN/A-20:286
Date: February 1, 2021 12:04:16 PM

Dear Sir/Madam,

Please accept this email as my written comments/concerns with the above noted application for the construction site at 1040 Garner Road West. Ancaster.

This application is for the approval of a restaurant on this location which is currently approved for a Business Park.

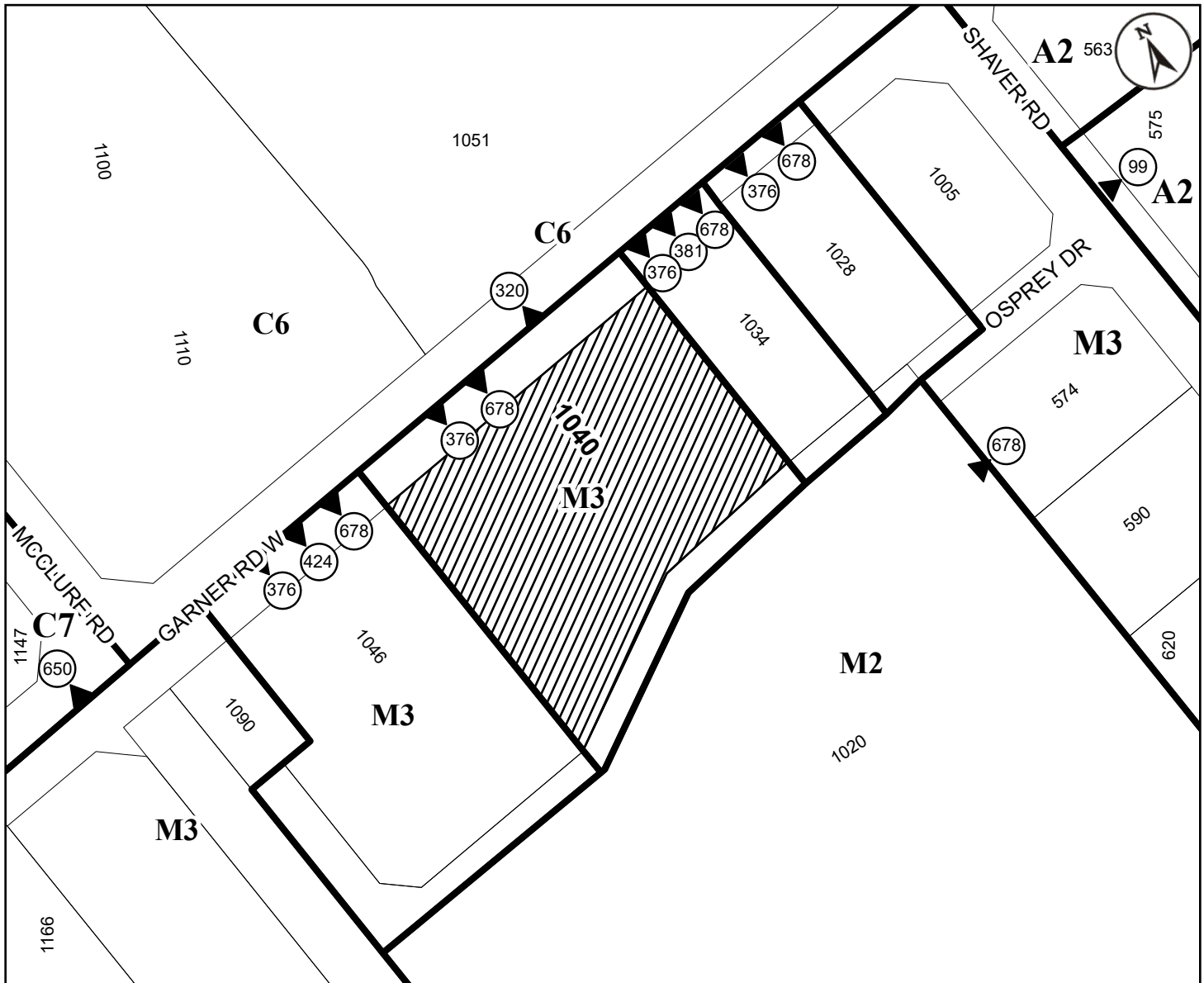
My objection, being a residential property owner, is simply I do not want a restaurant so close to my house and backyard. The hours of business and the volume of traffic would be overly intrusive and disturbing to my standard of living. I am currently dealing with over exposed light pollution and traffic/noise pollution with the current developments in my backyard. A restaurant has longer operating hours than a business exposing me to this volume late into the evening and night. Possibly even jeopardizing my safety.

Not to mention this area is saturated with restaurants. Three restaurant just west of this site, many more across the street in the Wal Mart plaza, and dozens up the road at the Lowes, LCBO Wilson Street plaza. At a time when patrons cannot even go to restaurants why would another one be needed? Just take a look at the TinCup. Not even completed.

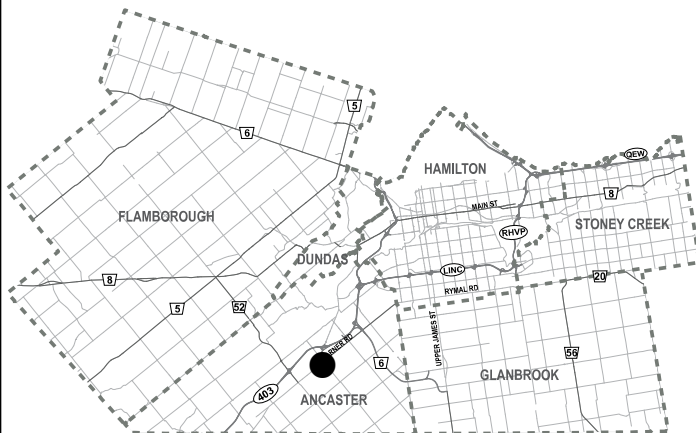
This site has been approved as a Business Park and viable business' are what this economy needs right now. Not volatile restaurants with high turn over and low success rates. People need a place of business to earn income before they can spend it at restaurants.

I hope this committee will review my concerns and reverse the decision to move forward the this restaurant.

Sincerely,
Nadia Hamilton
1028 Garner Road W.
Ancaster, Ontario
L9G 3K9



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



1040 Garner Road West, Ancaster
(Ward 12)

File Name/Number:

AN/A-20:286

Date:

January 27, 2021

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

SC/A-20:275 – 184 Winona Rd., Stoney Creek

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Rural

The purpose of this application is to permit the construction of a new 16.5m², one (1) storey addition in the rear yard of the existing Single Detached Dwelling, along with a new 23.0m² covered rear porch and front porch.

Rural Hamilton Official Plan

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

- C.3.1.4 The following uses shall be permitted in the Agriculture, Specialty Crop, and Rural designations, provided the applicable conditions are met: (OPA (R)-5)
- a) Except as permitted in Sections D.2.1.1.4 and C.3.1.4 b) and c) of this Plan, a maximum of one dwelling per lot shall be permitted in designations where residential uses are permitted. The Zoning By-law shall limit permitted dwellings to a maximum of one residence per lot in designations where residential uses are permitted;”

The subject lands are located within the Specialty Crop and a single detached dwelling is a permitted use.

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

The subject property is zoned “A1” (Agricultural) Zone, to which the use complies.

Variance 1

The applicant is seeking a variance for a roofed-over porch to project 2.5m into a required front yard (therefore being 7.6m from the front lot line) instead of the maximum permitted front porch encroachment of 1.5m.

Staff acknowledge that the existing porch and stairs which are currently existing are being modernized. The porch and stairs are needed to enter the dwelling due to the raised front door. Staff believes that the By-law is being maintained as the decreased setback from the street line is still detracting from a pleasant residential streetscape and is a continuation of an existing condition that has not caused any known negative impact to date. Staff notes that there is approximately 8.4 metres between the lot line and right-of-way, which will help with the site lines for any vehicle exiting the subject lands. 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 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 for a northerly side yard setback of 2.3m to be provided instead of the minimum required side yard setback of 3.0m.

Staff note that the existing westerly side yard setback is 2.3m, at the closest point between the existing single detached dwelling and the northerly side lot line, which is a pre-existing condition that is triggered as a technicality due to the proposal to construct a rear addition to the existing single detached dwelling. Staff note that the existing single detached footprint will not encroach further into the northerly side yard than what is currently an existing occurrence (2.3m). 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

Staff recommends that the variances be approved, as the variances maintain the general intent and purpose of the Rural Hamilton Official Plan and the Hamilton Zoning By-law No. 05-200. The variances are considered to be minor in nature and are desirable for the appropriate use of the property

Building Division:

1. Please be advised that a portion of this property is under Conservation Management. Please contact Hamilton Conservation for further information.
2. A building permit is required in the normal manner for the construction of the proposed addition and front and rear porch. Be advised that Ontario Building Code regulations may require specific setback and construction types.
3. Order to Comply #20-190358 (construction without a permit) dated October 26, 2020 remains not finalized.
4. A variance has also been requested to address the existing lot area however pursuant to subsection 4.12(d) of Hamilton Zoning By-law 05-200, the existing lot area is deemed to conform under the vacuum clause. As such, this variance is not required to facilitate the proposed construction.

Development Engineering:

Provided existing drainage patterns are maintained, Development Engineering has no comments on the minor variance as proposed.

See attached for additional comments.

From: [Brenda Johnson](#)
To: [Sheffield, Jamila](#)
Cc: [Committee of Adjustment](#)
Subject: SC/A-20:275 184 Winona Road
Date: January 22, 2021 4:01:00 PM

Good afternoon Ms. Sheffield

I received your notice about this application for my neighbour's addition to his home

I live at 194 Winona Road and I support this addition.

Thank you
Glen A. Johnson

Sent from my iPad

From: [Mike Stone](#)
To: [Costa, Samantha](#)
Cc: [Sheffield, Jamila](#); [Val Pazzi](#)
Subject: RE: February 4th 2021 Agenda Available!
Date: February 1, 2021 11:58:31 AM
Attachments: [image001.png](#)

Hello Samantha,

Thank you for your email below. I don't believe we have received fee payment for either of the applications noted. As such, we won't be submitting formal written comments, but would note the following for the Committee's information.

SC/A-20:279 - 1031 North Service Rd. – HCA has issued a recent permit for shorewall repairs at this property. Further review and approval through a permit or Letter of Permission will be required for the proposed accessory structure (pool house) that is the subject of the variance application. As part of this, we will be confirming if the structure is located beyond the previously reviewed development setback.

SC/A-20:275 – 184 Winona Rd. – Portions of the property are regulated by HCA given the presence of tributaries of Stoney Creek Watercourse 12. The proposed addition will require review and approval through a permit or Letter of Permission. In reviewing the agenda, HCA also has an interest in **HM/A-20:287** – 555 Bay St. N. The subject property and proposed accessory building location are regulated given the potential for shoreline related flooding and erosion hazards. New development is generally not permitted within areas affected by shoreline hazards. The proposed facility will require review and approval through a permit.

Kind regards,

Mike

Mike Stone MA, MCIP, RPP | Manager, Watershed Planning Services | Hamilton Conservation Authority

838 Mineral Springs Road, P.O. Box 81067, Ancaster (Hamilton), Ontario L9G 4X1

T: 905.525.2181 ext. 133 | E: mike.stone@conservationhamilton.ca | W:

www.conservationhamilton.ca

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From: Costa, Samantha

Sent: Tuesday, January 19, 2021 12:43 PM

To: Mike Stone

Subject: February 4th 2021 Agenda Available!

Good Afternoon,

Please be advised the agenda for February 4th 2021 hearing date is now on our website.

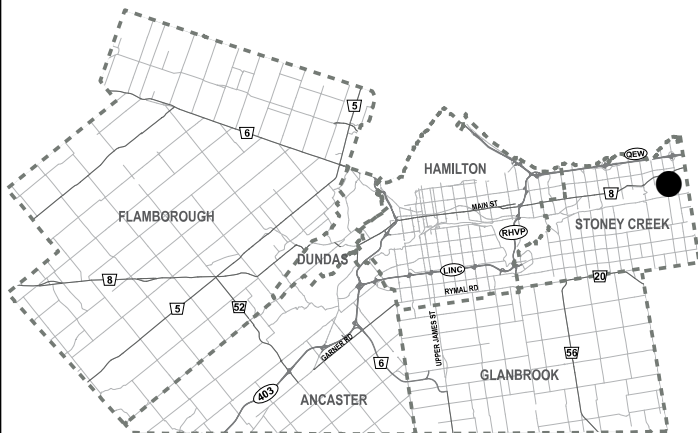
See link below

<https://www.hamilton.ca/council-committee/council-committee-meetings/committee-adjustment>

**** Please be advised final comments are due by noon, January 29th, if not received, you will be required to attend the virtual hearing, late comments will not**



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



184 Winona Road, Stoney Creek
(Ward 10)

File Name/Number:

SC/A-20:275

Date:

January 27, 2021

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/B-20:63 – 832 Upper Wentworth 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 hard copy and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. 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).
3. The applicant shall provide confirmation of the existing uses on the lands to be retained/conveyed in order to determine compliance with the permitted uses of the "C5" Mixed
4. Use Medium Density Zone or alternatively apply for and receive final approval of a Zoning Bylaw Amendment as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
5. A successful application for a rezoning is a course of action you might take to permit the intended use. For further information, please contact the Development Planning Division at (905) 546-2424 extension 1355 or email pd.generalinquiry@hamilton.ca.
6. 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).

7. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

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 Government and Consumer Services (416-212-7499).

HM/B-20:63 – 832 Upper Wentworth St., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to permit the conveyance of a ± 18.29 metre by ± 66.58 metre parcel of land having an area of $\pm 1,217.75$ square metres for commercial purposes, and to retain a ± 18.29 metre by ± 66.58 metre parcel of land having an area of $\pm 1,217.75$ square metres for commercial purposes.

History

Consent Application HM/B-20:63 was tabled by the Committee of Adjustment at the hearing on November 5, 2020, in order for the applicant to review the conditions of approval recommended by Growth Management. Development Planning staff had no concerns and recommended approval because the proposed consent conformed to the Official Plan and the requirements of the Planning Act. The proposal has not been revised from what was initially heard on November 5, 2020.

Urban Hamilton Official Plan

The subject lands are identified as “Neighbourhoods” and within a “Sub Regional Service Node” on Schedule “E” – Urban Structure and designated “Mixed Use Medium Density” on Schedule “E-1” – Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP). Policy E.4.6.5 applies, amongst others, and permits a range of commercial uses intended to serve the surrounding community and immediate area, including retail stores, medical clinics and personal services, as well as permitting a variety of other uses such as multiple dwellings and institutional uses.

The severed and retained lands merged on title when they were brought under identical ownership. The lands continue to function independently. The proposal would re-establish the former lot line. The severed lands contain an existing commercial building which is currently vacant. The retained lands contain an existing Audiologist office. There are no changes proposed to either the severed or retained lands through this Consent application.

Consents for new lot creation for both the severed and retained lands for commercial uses in the Commercial and Mixed Use designation are permitted when they meet the conditions of Policy F.1.14.3.4. The lots comply with UHOP policies, conform to the Zoning By-law, have full municipal services and frontage on a public road. Accordingly, the consent meets the conditions for lot creation.

Cultural Heritage
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 the vicinity of distinctive or unusual landforms; 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 of the note following the recommendation.

Based on the foregoing, staff is of the opinion that the proposed consent conforms to the UHOP. As a result, staff **supports** the proposed consent.

Hamilton Zoning By-law No. 05-200

The subject lands are zoned Mixed Use Medium Density – Pedestrian Focus (C5a) which permits a range of commercial uses, subject to the applicable provisions. There is no minimum required lot width, lot area, or interior side yard setback.

Recommendation:

Having regard for the matters under subsection 51(24) of the Planning Act, staff is satisfied that the proposed lots are suitable for the use of the land, and that the proposed consent conforms to the Official Plan. Staff recommends that the proposed consent, as outlined in the Notice of Hearing, be **approved**.

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 Government and Consumer Services (416-212-7499).

Building Division:

1. In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.
2. In order to clear conditions, the applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.
3. A successful application for a rezoning is a course of action you might take to permit the intended use. For further information, please contact the Development Planning Division at (905) 546-2424 extension 1355 or email pd.generalinquiry@hamilton.ca.

CONDITIONAL UPON:

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 applicant shall provide confirmation of the existing uses on the lands to be retained/conveyed in order to determine compliance with the permitted uses of the “C5” Mixed
3. Use Medium Density Zone or alternatively apply for and receive final approval of a Zoning Bylaw Amendment as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
4. A successful application for a rezoning is a course of action you might take to permit the intended use. For further information, please contact the Development Planning Division at (905) 546-2424 extension 1355 or email pd.generalinquiry@hamilton.ca.
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).

Development Engineering:

Information:

According to our GIS records, the subject section of Upper Wentworth Street is classified as a minor arterial roadway with an ultimate road allowance right-of-way width of 36.576m by Schedule C-2 of the Urban Hamilton Official Plan. The current road allowance right-of-way width of the subject section of Upper Wentworth Street is ± 36.6 m. Therefore, a widening dedication will not be required.

According to our GIS records, the subject section of Fieldway Drive 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 Fieldway Drive is ± 20.1 m. Therefore, a widening dedication will not be required.

It is our understanding that the proposed severance application is for land assembly purposes only and does not propose any new construction, therefore we have no requirements moving forward.

Transportation Planning & Parking Division (Traffic):

Transportation Planning has no objection to the land severance application.

See attached for additional comments.



Shannon Clarke, Urban Forest Health Technician
Hamilton 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: January 27, 2021

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

From: Shannon Clarke, Urban Forest Health Technician

Subject: 832 Upper Wentworth St., Hamilton
File: HM/B-20:63

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, February 4, 2021, 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 "Shannon Clarke". The signature is written in a cursive, flowing style.

Shannon Clarke
Urban Forest Health Technician

HM/A-20:283 - 53 Stone Church Rd. W., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to permit the construction of a single detached dwelling, notwithstanding a variance is required to permit the proposed 1.2 m minimum side yard.

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). Policy E.3.4.3 applies, amongst others, and permits a single detached dwelling. As such, staff is of the opinion that the proposal maintains the intent of the Official Plan.

Former City of Hamilton Zoning By-law No. 6593

The subject lands are split-zoned, with the lands in the front portion of the lot zoned “C/S-1788” District (Urban Protected Residential, Etc.) and the rear lands zoned “AA” District (Agricultural). A single detached dwelling is permitted, subject to the applicable provisions.

When a lot is situated in two zones, the buildings must conform to the requirements of both zones with respect to setbacks. A minimum side yard of 4.5 m is required by the “AA” District and a minimum side yard of 1.2 m is required by the “C/S-1788” District.

Variance 1

A 1.2 m minimum side yard setback is proposed, whereas a minimum side yard setback of 4.5 m is required by the Zoning By-law. The intent of the provision is to ensure that adequate space is provided for access, maintenance, drainage, and compatibility between uses. Side yard setbacks can also contribute to a consistent streetscape by defining the minimum spacing between buildings. Staff defers to Development Engineering Approvals for all drainage concerns.

Staff is satisfied that the proposed setback provides adequate space for access and maintenance purposes, and staff perceives no negative impact to compatibility as a result of approval of this variance. The proposed side yard is in keeping with the neighbourhood context.

Based on the foregoing, staff is satisfied that the variance maintains the intent of the Official Plan and the Zoning By-law, and that it is desirable and minor in nature. Accordingly, staff **supports** the variance.

Recommendation:

Having regard for the matters under subsection 45(1) of the Planning Act, staff is satisfied that the requested variance maintains the purpose and intent of the Official Plan and the Zoning By-law. The variance is desirable for the appropriate development of the land, and hence minor in nature. Staff recommends that the requested variance, as outlined in the Notice of Hearing, be **approved**.

Building Division:

1. This property is subject to two (2) zoning districts. Pursuant of Section 3(9)(b) of the Zoning By-law, where a building is erected on a lot subject to two or more zoning districts and the use is permitted in each of the zoning districts, the lot shall comply with the least stringent width and area requirements of each of the districts. As such, the variance requested for a reduced lot width and lot area is not required as the lot complies with the least stringent requirements of the two zoning districts, which is a minimum lot width of 12.0 metres and a minimum lot area of 360 square metres, as required by the "C" zoning district.
2. 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 two and a half storeys or 11.0 metres.
3. Details regarding yards encroachments have not been provided. A further variance will be required if the eave and gutter encroach greater than 0.6 metres into a required side yard.
4. Details regarding front yard landscaping have not been provided. A further variance will be required if a minimum of 50% of the gross area of the front yard is not provided as landscaped area.
5. Details regarding parking have not been provided. Further variances will be required is compliance with Section 18A of the Zoning By-law (Parking and Loading Requirements) cannot be complied with. Please be advised, for a single family dwelling, two (2) parking spaces for the first eight (8) habitable rooms in the dwelling plus 0.5 spaces for each additional habitable room are required to be provided.
6. A further variance will be required should the intent be to maintain any existing accessory structure upon demolition of the existing single family dwelling.
7. Construction of the proposed dwelling is subject to the issuance of a building permit from the Building Division. Be advised that Ontario Building Code regulations may require specific setbacks and construction types.

8. Demolition of all existing structures are subject the issuance of a demolition permit from the Building Division.

Development Engineering:

For the information of the applicant, a $\pm 5.2\text{m}$ road widening dedication would be required (as part of any future site plan or severance applications) across the frontage of the subject lands on Stone Church Road West per the requirements of Schedule C-2 of the Urban Hamilton Official Plan. The Development Approvals section has no issues with the minor variances as proposed.

See attached for additional comments.

From: [Danko, John-Paul](#)
To: [Costa, Samantha](#)
Cc: [Wojewoda, Nikola](#)
Subject: RE: February 4th 2021 Agenda Available!
Date: January 19, 2021 1:03:25 PM
Attachments: [image001.png](#)

Samantha,

Please share my following concerns with HM/A-20:283 with Committee:

1. With a 60' wide lot, there is really no reason to build to the extreme limits of the proposed side yard setbacks.
2. This is a very large single family home, building to 1.2m and 2.0m of the lot line will impact neighbouring properties and could have impacts on future redevelopment opportunities.
3. Building a home of this size that close to the property line may create future home maintenance and drainage issues with adjacent properties (ie. with a 1.2m setback for a home of this size, it will be impossible to access the side of this home with a ladder).
4. Building to 1.2m and 2.0m of the side yard property line could impact usable access to the backyard for maintenance equipment.

Thank-you.

John-Paul Danko, P. Eng.

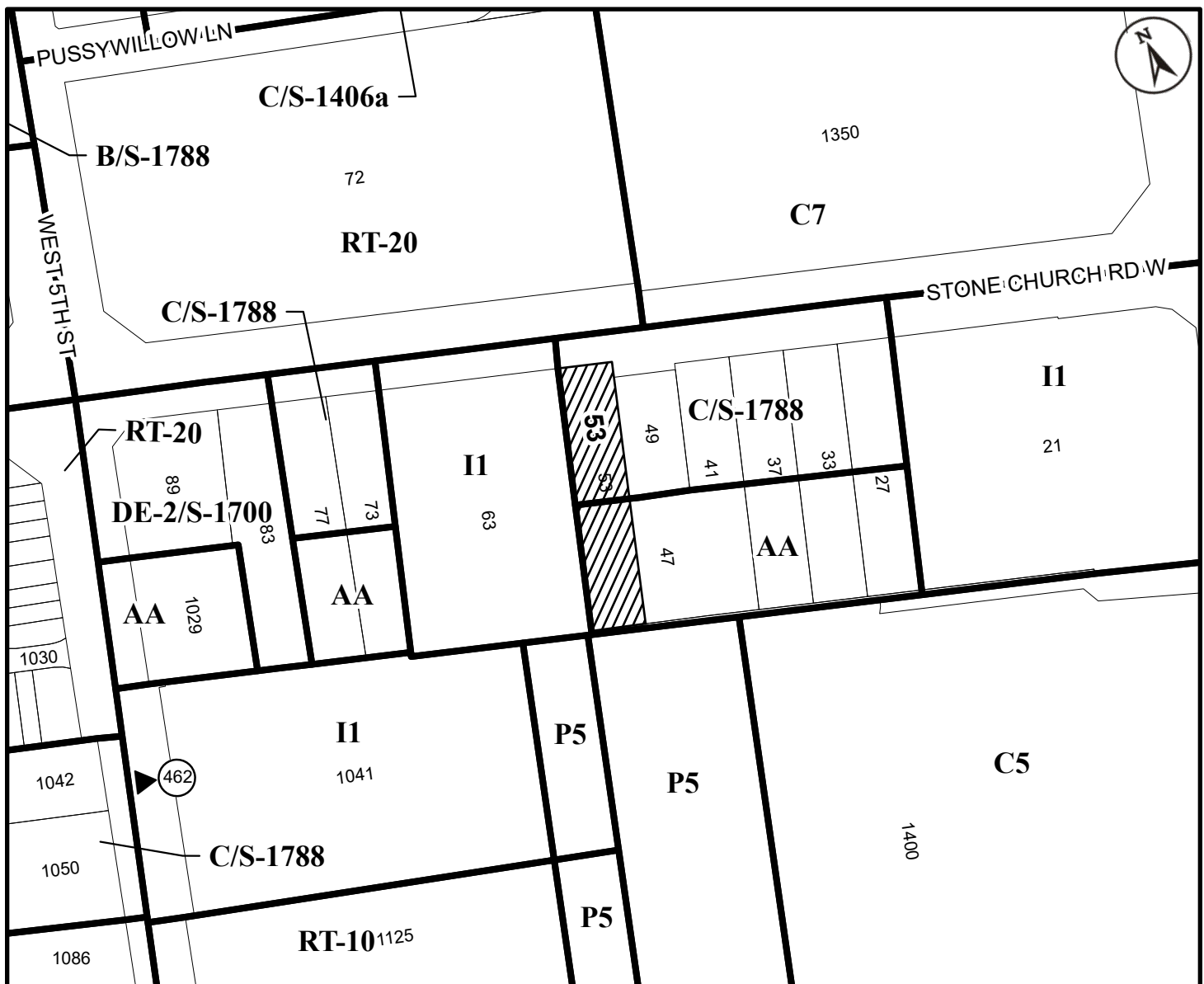
Councillor Ward 8

West Central Mountain

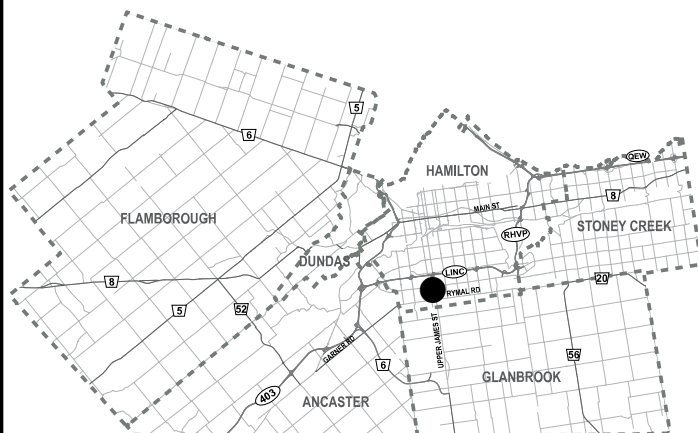
Hamilton, Ontario

john-paul.danko@hamilton.ca

905.521.3954



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



53 Stone Church Road West,
Hamilton (Ward 8)

File Name/Number:

HM/A-20:283

Date:

January 27, 2021

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

SC/A-20:248 – 32 Trillium Ave., 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:

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 Government and Consumer Services (416-212-7499).

SC/A-20:248 – 32 Trillium Ave., Stoney Creek

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of Consent application SC/B-20:78 is to permit the conveyance of a ± 6.10 metre by ± 60.74 metre parcel of land with an area of ± 370.510 square metres for the purpose of assembling it with the abutting property to the west, municipally known as 1097 North Service Rd, in order to facilitate a boundary adjustment between the two lots. A ± 19.68 metre by ± 45.72 metre parcel of land with an area of ± 899.77 square metres is proposed to be retained for continued residential use. Staff notes that the ± 399.77 area of the retained lands on the Notice of Hearing appears to be a typographical error.

The purpose of Minor Variance application SC/A-20:248 is to facilitate the concurrent consent application, and to permit the development of a two-storey addition to an existing single detached dwelling, notwithstanding the variances below.

History

These applications were tabled by the Committee of Adjustment at the meeting on December 3, 2020. Planning staff recommended approval of the consent application and denial of the variances that were proposed to permit the addition.

The proposed addition has been revised, and as a result, the variances are revised and noted below. Further, two additional variances were identified as a result of no road widening land dedication condition recommendation from Development Engineering Approvals for the severed lands along the westerly edge of Trillium Ave.

Variances Required for Revised Proposal:

1. A minimum front yard of 0.46 metres shall be permitted, instead of the minimum required front yard of 7.5 metres. (Unchanged).
2. Deleted.
3. Deleted.
4. An eave/gutter shall be permitted to project a maximum of 7.5 metres into the required front yard and may be as close as 0.0 m to the front lot line instead of the maximum 0.5 m projection permitted. (Unchanged).

5. An unenclosed porch/balcony shall be permitted to project a maximum of 7.04 metres into the required front yard and may be as close to 0.46 metres to the front lot line instead of the maximum 1.5 metre projection. (Unchanged).
6. A driveway, lane or aisle, having a minimum width of 1.10 m shall be permitted instead of the minimum 6.0 metres driveway, lane or aisle width required. (Revised).
7. To allow access to the two (2) proposed parking spaces located within the proposed attached garage to be partially provided by means of the abutting property, whereas a Parking Space, as defined in Stoney Creek Zoning By-law No. 3692-92 requires adequate access to permit ingress and egress of a motor vehicle from the street. (Additional).
8. A minimum lot frontage of 13.58 metres shall be permitted, instead of the minimum required lot frontage of 15 metres. (Additional).

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 subject lands are within the Urban Lakeshore Area Secondary Plan and are designated “Low Density Residential 2b” on Land Use Plan Map B.7.3-1 (UHOP – Volume 2).

The proposed consent will facilitate a minor lot adjustment which is permitted provided there is no increased fragmentation of a *core area* and the adjustment does not conflict with the intent of the policies of the UHOP (Volume 1-F.1.14.3.6). The subject lands are not within a core area. A variance is required to permit the proposed lot frontage for the retained lands and is being sought concurrently. As a result, staff recommends a condition to ensure the lot is in conformity with the Zoning By-law. Staff is of the opinion that the proposed adjustment is consistent with the above-noted policy and that the proposed consent conforms to the Official Plan, subject to conditions 1 and 2 following the recommendation.

Cultural Heritage

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) 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,
- 2) In an area of sandy soil in areas of clay or stone.

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 of the note following the recommendation.

Based on the foregoing, staff **supports** the proposed consent, subject to the conditions following the recommendation.

Former City of Stoney Creek Zoning By-law No. 3692-92

The subject lands are zoned Rural Residential “RR” Zone, which permits single detached dwellings, subject to the applicable provisions.

Variances 1, 4, 5 & 6

A front yard setback of 0.46 m is proposed, whereas the Zoning By-law requires a minimum 7.5 m front yard setback (Variance 1). Variance 4 to permit an eave/gutter to be 0.0 m from the front lot line, Variance 5 to permit a 0.46 m front yard setback for an unenclosed porch/balcony, and Variance 6 to permit a 1.10 m wide access driveway whereas a minimum of 6.0 m is required, are necessary to facilitate the proposed front yard setback.

The intent of the front yard setback requirement is to aid in creating and maintaining a consistent streetscape by having dwellings set back a similar and compatible distance from the street and to ensure adequate space for landscaping, drainage, and parking. Staff defers to Development Engineering Approvals with regards to all drainage concerns.

Staff had concerns with the initial proposal with regards to the impact on streetscaping with the garage façade along the street and the second storey. The plans were revised from a triple garage to a double garage, and the minimum front yard setback of the two storey addition was increased from 0.50 m to 0.90 m (dwelling – laundry room) and 1.10 m (double garage) causing it to be recessed behind the existing façade. The revised plans satisfy staff’s concerns. Staff is of the opinion that the variances meets the intent of the

Official Plan and the Zoning By-law, and that they are desirable and minor in nature. Staff **supports** the variances.

Variances 2 & 3

Deleted.

Variance 7

This variance is required as a result of the proposed consent. Once the consent is final, access to a portion of the proposed garage would be provided over the severed lands that will form part of the abutting property. There is an existing easement over this portion of the severed lands in favour of the City of Hamilton for the purpose of constructing and maintaining underground municipal services. The services are in place and no structures can be erected on the easement lands.

In order to ensure adequate access is provided to maintain the intent of the Zoning By-law, staff recommends a condition for an access easement over a portion of the severed lands to be registered on title in favour of the retained lands. Staff is of the opinion that the variance meets the intent of the Official Plan and the Zoning By-law, and that it is desirable and minor in nature. Staff **supports** the variance, subject to condition 3 following the recommendation being attached to any approvals of the proposed consent.

Variance 8

This variance is required as a result of the proposed consent. Although the lot width is not being reduced, the lot frontage is measured along the street line and is therefore reduced as a result of the proposed consent. As a result of the lot width and façade width of the existing dwelling being maintained, staff is of the opinion that the variance will have no negative impact on the streetscape. Staff is of the opinion that the variance meets the intent of the Official Plan and the Zoning By-law, and that it is desirable and minor in nature. Staff **supports** the variance.

Recommendation:

Having regard for the matters under subsection 45(1) of the Planning Act, staff is satisfied that the requested variances for the revised proposal maintain the purpose and intent of the Official Plan and the Zoning By-law. The variances are desirable for the appropriate development of the land, and hence minor in nature. Staff recommends that the requested variances, as outlined above, be **approved**.

Staff is satisfied that the proposed consent conforms to the Official Plan, and that the minor lot adjustment is suitable. Having regard for the matters under subsection 50(12) of the *Planning Act*, R.S.O. 1990, staff recommends that the proposed consent, as outlined in the Notice of Hearing, be **approved** subject to the conditions outlined below:

CONDITIONS: (If Approved)

1. That, pursuant to subsection 50(12) of the Ontario *Planning Act*, R.S.O. 1990, it is hereby stipulated that subsection 50(3) or subsection 50(5) shall apply to any subsequent conveyance of or other transaction involving the identical subject parcel of land. Therefore, the applicant will provide the Secretary-Treasurer with a Solicitor's undertaking that the condition of the Committee of Adjustment will be implemented and that the severed lands, as outlined in the Notice of Hearing, will merge with lands municipally known as 1097 North Service Rd and become one parcel of land.
2. That final and binding approval of Minor Variance application SC/A-20:248 be received, to the satisfaction of the Manager of Development Planning, Heritage and Design.
3. That an easement for access purposes over a portion of the severed lands, in favour of the retained lands, be registered on the titles of the lands, to ensure vehicular access to the garage and parking spaces, 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 Government and Consumer Services (416-212-7499).

Building Division:

1. Please note this application is to be heard in conjunction with Consent/Land Severance Application SC/B-20:78.
2. Legally established rights of ways shall be properly registered on title to provide access between properties (lands to be conveyed and retained) and sharing of the parking area.
3. Please note that a revised proposal has been received that includes an increase to the minimum easterly side yard from 0.60 metres to the required 1.25 metres. As such, the variance(s) shall be altered to delete Variance(s) No. 2 respecting the minimum required easterly side yard.
4. Please note that the revised proposal also includes an increase to the minimum width of the driveway from 0.46 metres to 1.10 metres. Therefore Variance No. 6 shall be altered to read as follows:

*"A driveway, lane or aisle, having a minimum width of **1.10 metres** shall be permitted instead of the minimum 6.0 metres driveway, lane or aisle width required".*

5. As the minimum required easterly side yard has been increased, the applicant has advised that compliance with Section 4.19.1(b), regarding the encroachment of the proposed eaves/gutters into the required easterly side yard, will be achieved. As such, the requested variances shall be altered to delete Variance No. 3 respecting the encroachment eaves/gutters into the required easterly side yard.

Please note that a detailed site plan indicating the specific projection of the proposed eaves/gutters was not included as part of this application, and further variances may be required if compliance with Section 4.19.1(b) is not possible

6. The variances shall be altered to include a variance to the definition of "Parking Space", and shall read as follows:

"To allow access to the two (2) proposed parking spaces located within the proposed attached garage to be partially provided by means of the abutting property, whereas a Parking Space, as defined in Stoney Creek Zoning By-law No. 3692-92 requires adequate access to permit ingress and egress of a motor vehicle from the street".

7. The variances shall be altered to include a variance to Section 5.4.3(b) and shall read as follows:

"A minimum lot frontage of 13.58 metres shall be permitted, instead of the minimum required lot frontage of 15 metres".

8. Detailed elevation drawings were not included as part of this application to confirm the height of the proposed building addition. Please note that as per Section 5.4.3(f), the maximum permitted building height is 11.0 metres. Further variances may be required if compliance with Section 5.4.3(f) is not possible.
9. Specific details regarding lot coverage were not included as part of this application. Please note that as per Section 5.4.3(c) of Stoney Creek Zoning By-law No. 3692-92, the maximum permitted lot coverage is 40 percent. Additional variances may be required if compliance with Section 5.4.3(c) is not possible.
10. Note that as per Section 4.13.2(a) of Stoney Creek Zoning By-law No. 3692-92, notwithstanding any other yard provisions of this By-law, a minimum yard of 7.5 metres for all single detached dwellings, semi-detached dwellings or duplexes, from the top of the bank of the Lake Ontario shoreline shall be provided where lakeshore protection works have been installed in accordance with the requirements of the Province of Ontario. In no case shall shoreline protection works be constructed to an elevation of less than 78 metres Geodetic Survey of Canada unless otherwise agreed to by the Ministry of Natural Resources of the Province of Ontario, the Hamilton Region Conservation Authority and the City of Stoney Creek.
11. Please be advised that a portion of this property is under Conservation Management. Please contact Hamilton Conservation at 905-525-4622 prior to any development.
12. Construction of the proposed addition is subject to the issuance of a building permit in the normal manner. Be advised that Ontario Building Code regulations may require specific setbacks and construction types.

Development Engineering:

Development Approvals has no comments on the Minor Variance as proposed.

All engineering comments are provided under Severance Application, SC/B-20:78.

See attached for additional comments.

From: [Boucetta, Alexandra \(MTO\)](#)
To: [Costa, Samantha](#); [Committee of Adjustment](#)
Subject: RE: February 4th 2021 Agenda Available!
Date: January 25, 2021 7:08:29 PM
Attachments: [image001.png](#)

Good day,

APPLICATION NO.: SC/A-20:248

32 Trillium Ave., Stoney Creek

Ministry has no concerns regarding the proposed minor variances. The property is within Ministry's Permit Control and permit will be required before any construction takes place. Requirements: Site Plan, Grading Plan, Architectural drawings, Letter of Authorization from the owner of the property.

APPLICATION NO.: SC/A-20:281

1031 North Service Rd., Stoney Creek

Ministry has no concerns regarding the proposed minor variances. The property is within Ministry's Permit Control and permit will be required before any construction takes place. Requirements: Site Plan, Grading Plan, Architectural drawings, Letter of Authorization from the owner of the property.

The BLU (Building and Land Use) permit application can be submitted through the link below:

<https://www.hcms.mto.gov.on.ca/>

Thank you,

Alexandra Boucetta

Corridor Management Officer – Hamilton/Niagara

From: Costa, Samantha <Samantha.Costa@hamilton.ca>

Sent: January 19, 2021 12:32 PM

To: Committee of Adjustment <CofA@hamilton.ca>

Subject: February 4th 2021 Agenda Available!

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Good Afternoon,

Attached is a copy of the Agenda for the February 4th hearing date, please follow the link below for a copy of the package.

***** Please be advised final comments are due by noon, January 29th, if not received, you will be required to attend the virtual hearing, late comments will not be accepted.***

■

January 22, 2021

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

Attention: Samantha Costa

File# SC/A-20:248

Re: 32 Trillium Ave

In response to your correspondence dated January 19, 2021, 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.
- Minimum 4m horizontal clearance from existing O/H line(s) must be maintained at all times as per Alectra Utilities Standard 3-105. Please consult with Alectra Utilities if further clarification is required.
- 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.

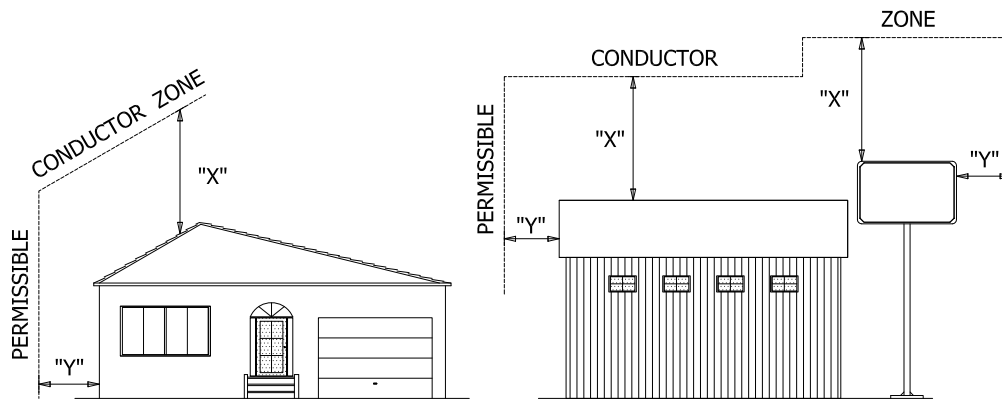
- CALL BEFORE YOU DIG, arrange for underground hydro cable locate(s) before beginning construction by contacting Ontario One Call @ 1-800-400-2255.
- Clearances from Overhead and Underground existing electrical distribution system must be maintained in accordance to:
 - Ontario Building Code (1997) Section 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



- UNDER NO CIRCUMSTANCES SHALL A CONDUCTOR BE PERMITTED TO PENETRATE THE ENVELOPE SHOWN BY THE DOTTED LINE.

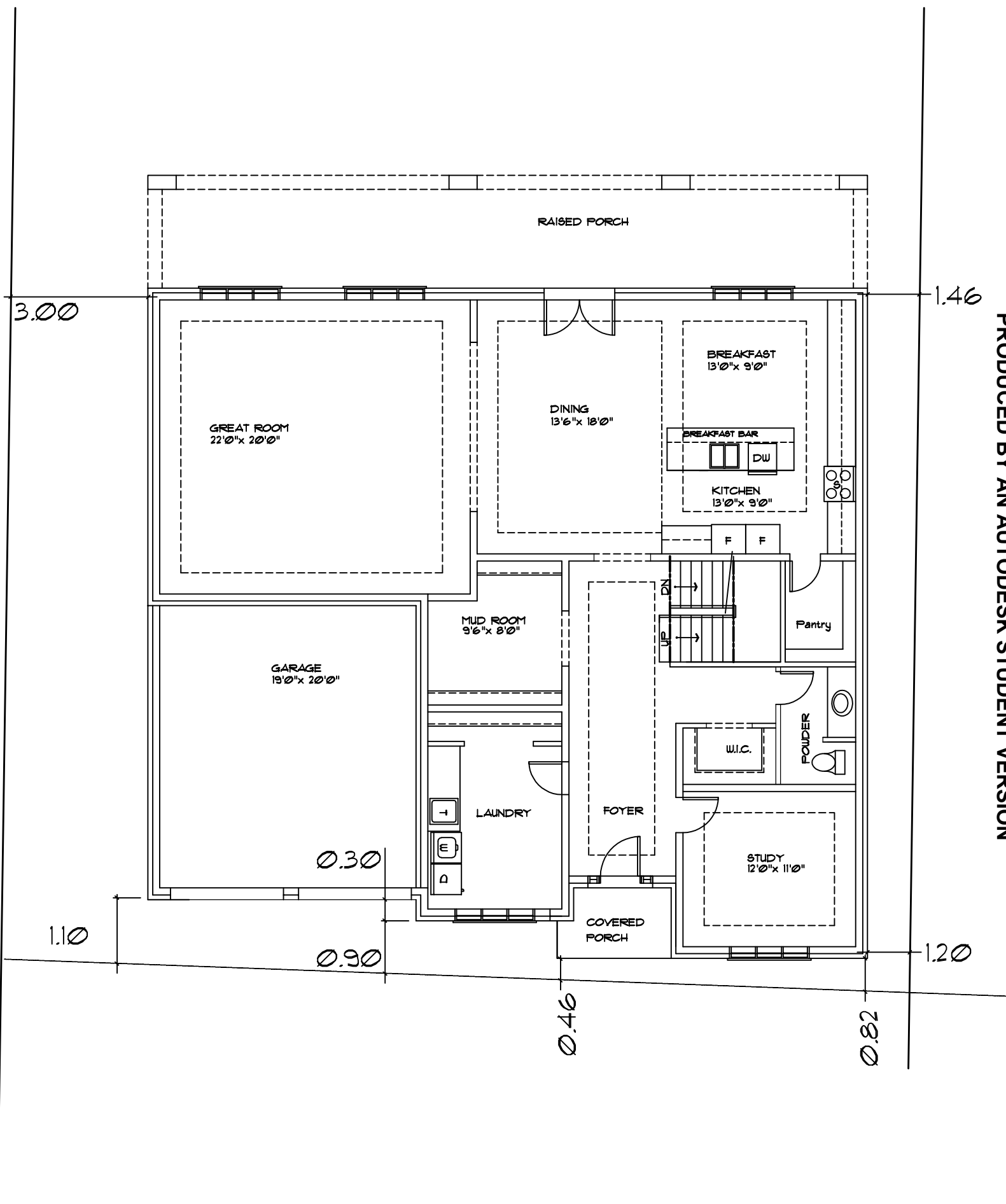
SYSTEM VOLTAGE	MINIMUM HORIZONTAL CLEARANCE DIMENSION "Y"	MINIMUM VERTICAL CLEARANCE DIMENSION "X"
0 - 750 V*	2.0 m (SEE NOTE 1)	4.5 m (SEE NOTE 3)
OVER 750 - 50000 V	4.0 m (SEE NOTE 2)	7.0 m (SEE NOTE 4)

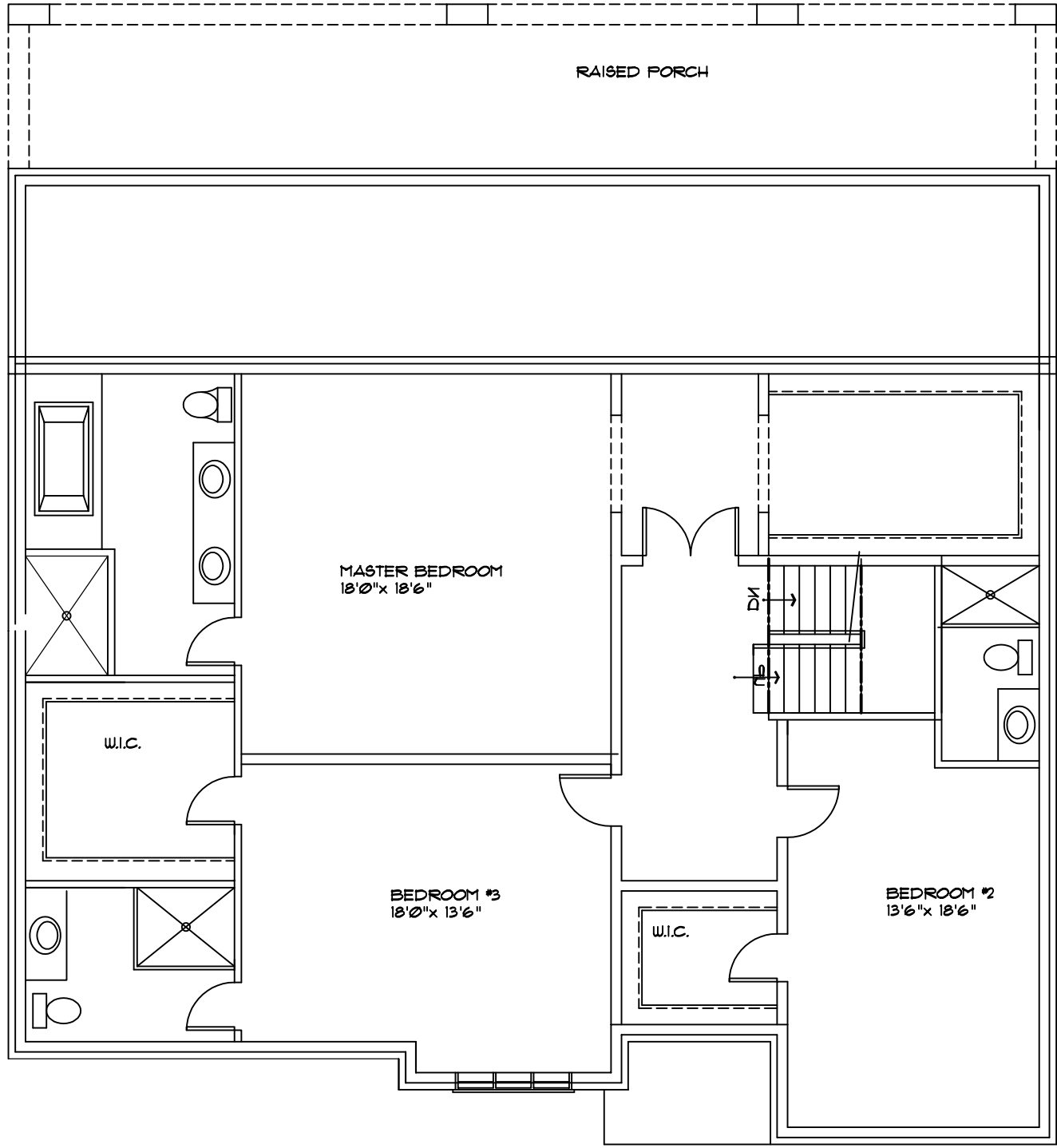
* - INCLUDES MULTI-GROUNDED NEUTRALS

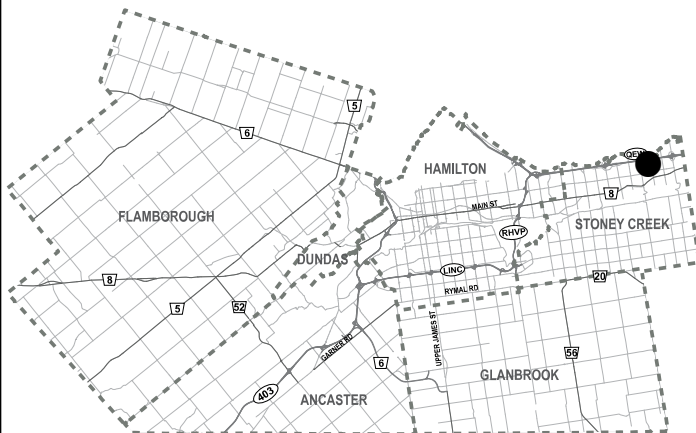
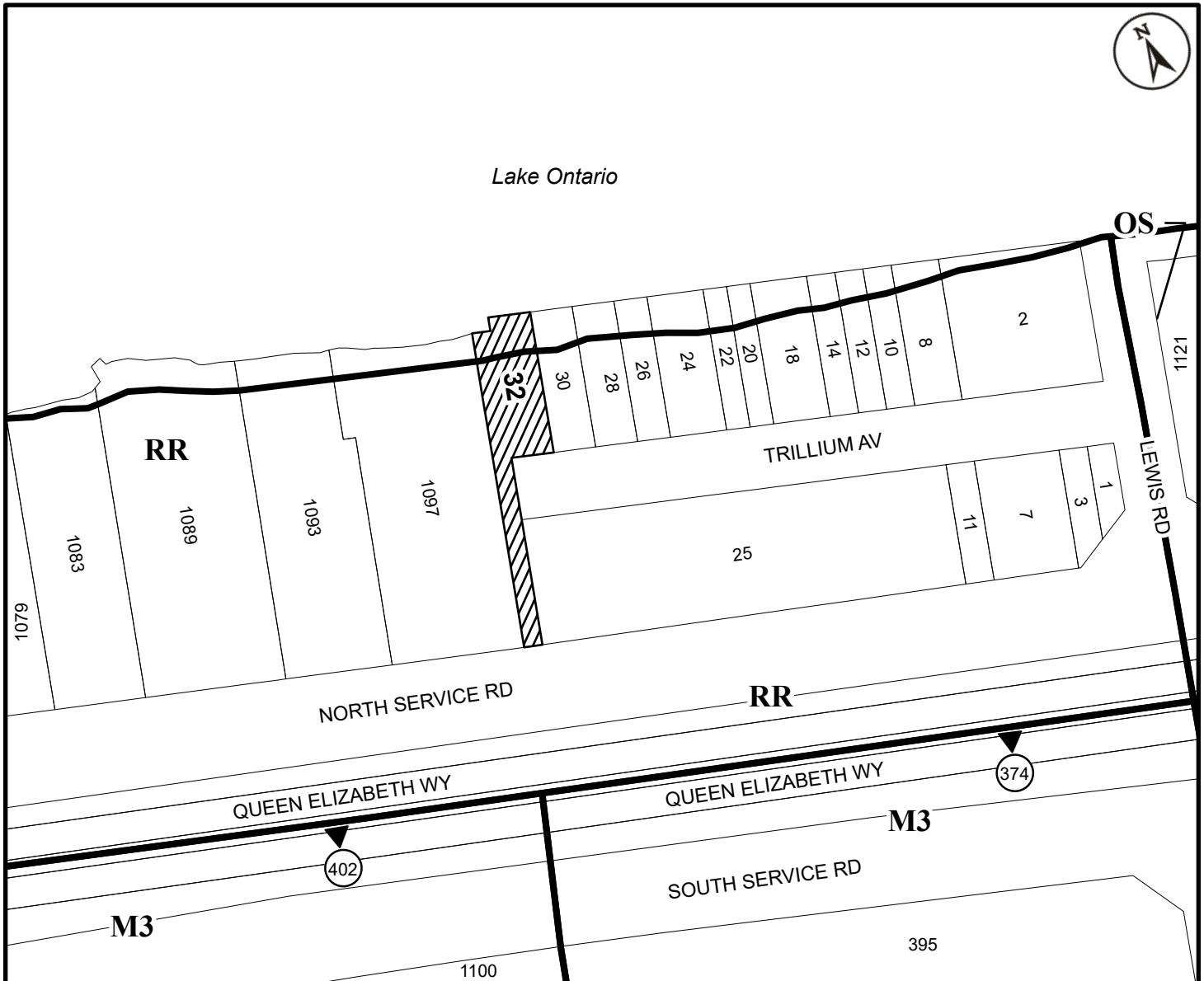
NOTES:

- THIS CLEARANCE IS MADE UP OF A 1.0 m MINIMUM APPROACH CLEARANCE PLUS A 1.0 m ALLOWANCE FOR CONDUCTOR SWING. WHERE CONDUCTOR PASS IN FRONT OF A WINDOW OR OTHER OPENING, THIS 2.0 m CLEARANCE SHOULD BE INCREASED TO 2.5 m. WHERE BUILDINGS EXCEED 3 STOREYS OR 15.0 m IN HEIGHT, THE 2.0 m CLEARANCE SHOULD BE INCREASED TO 3.0 m TO ALLOW FOR RAISING OF LADDERS BY THE LOCAL FIRE DEPARTMENT.
- THIS CLEARANCE IS MADE UP OF A 3.0 m MINIMUM APPROACH CLEARANCE PLUS A 1.0 m ALLOWANCE FOR CONDUCTOR SWING.
- THIS DIMENSION PROVIDES 1.0 m MINIMUM APPROACH CLEARANCE FROM A 2.0 m TALL WORKMAN, PLUS A 1.5 m ALLOWANCE FOR CONDUCTOR SAG. (BASED ON AVERAGE SPAN OF 40 m)
- THIS DIMENSION PROVIDES 3.0 m MINIMUM APPROACH CLEARANCE FROM A 2.0 m TALL WORKMAN, PLUS A 2.0 m ALLOWANCE FOR CONDUCTOR SAG. (BASED ON AVERAGE SPAN OF 40 m).
- THE ABOVE CLEARANCES ARE MINIMUM VALUES. EFFORTS SHOULD BE MADE TO INCREASE THESE CLEARANCES ABOVE THOSE SHOWN, WHERE POSSIBLE. TO KEEP WORKMEN AND THEIR EQUIPMENT ON THE BUILDING ETC., AT THE MINIMUM CLEARANCE SHOWN, DIMENSION "X" AND "Y" ARE TO BE INCREASED BY THE REQUIRED WORKING DISTANCE.









Committee of Adjustment



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

SC/B-20:78 – 32 Trillium Ave., 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 hard copy and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. That, pursuant to subsection 50(12) of the Ontario *Planning Act*, R.S.O. 1990, it is hereby stipulated that subsection 50(3) or subsection 50(5) shall apply to any subsequent conveyance of or other transaction involving the identical subject parcel of land. Therefore, the applicant will provide the Secretary-Treasurer with a Solicitor's undertaking that the condition of the Committee of Adjustment will be implemented and that the severed lands, as outlined in the Notice of Hearing, will merge with lands municipally known as 1097 North Service Rd and become one parcel of land.
3. That an easement for access purposes over a portion of the severed lands, in favour of the retained lands, be registered on the titles of the lands, to ensure vehicular access to the garage and parking spaces, to the satisfaction of the Manager of Development Planning, Heritage and Design.
4. 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).
5. The owner shall receive final and binding approval of minor variance application SC/A-20:248.
6. The lands to be conveyed shall be merged in title with the lands to which they are to be added.
7. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

8. Approximately 3.0 metres are to be dedicated to the right-of-way on North Service Road, as per the Council Approved Urban Official Plan: Chapter C - City Wide Systems and Designations, 4.5 Road Network Functional Classification, 4.5.2. Collector Roads (North Service Road) are to be 26.213 metres.

A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening(s).

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 Government and Consumer Services (416-212-7499).

SC/B-20:78 – 32 Trillium Ave., Stoney Creek

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of Consent application SC/B-20:78 is to permit the conveyance of a ± 6.10 metre by ± 60.74 metre parcel of land with an area of ± 370.510 square metres for the purpose of assembling it with the abutting property to the west, municipally known as 1097 North Service Rd, in order to facilitate a boundary adjustment between the two lots. A ± 19.68 metre by ± 45.72 metre parcel of land with an area of ± 899.77 square metres is proposed to be retained for continued residential use. Staff notes that the ± 399.77 area of the retained lands on the Notice of Hearing appears to be a typographical error.

The purpose of Minor Variance application SC/A-20:248 is to facilitate the concurrent consent application, and to permit the development of a two-storey addition to an existing single detached dwelling, notwithstanding the variances below.

History

These applications were tabled by the Committee of Adjustment at the meeting on December 3, 2020. Planning staff recommended approval of the consent application and denial of the variances that were proposed to permit the addition.

The proposed addition has been revised, and as a result, the variances are revised and noted below. Further, two additional variances were identified as a result of no road widening land dedication condition recommendation from Development Engineering Approvals for the severed lands along the westerly edge of Trillium Ave.

Variances Required for Revised Proposal:

9. A minimum front yard of 0.46 metres shall be permitted, instead of the minimum required front yard of 7.5 metres. (Unchanged).
10. Deleted.
11. Deleted.
12. An eave/gutter shall be permitted to project a maximum of 7.5 metres into the required front yard and may be as close as 0.0 m to the front lot line instead of the maximum 0.5 m projection permitted. (Unchanged).

13. An unenclosed porch/balcony shall be permitted to project a maximum of 7.04 metres into the required front yard and may be as close to 0.46 metres to the front lot line instead of the maximum 1.5 metre projection. (Unchanged).
14. A driveway, lane or aisle, having a minimum width of 1.10 m shall be permitted instead of the minimum 6.0 metres driveway, lane or aisle width required. (Revised).
15. To allow access to the two (2) proposed parking spaces located within the proposed attached garage to be partially provided by means of the abutting property, whereas a Parking Space, as defined in Stoney Creek Zoning By-law No. 3692-92 requires adequate access to permit ingress and egress of a motor vehicle from the street. (Additional).
16. A minimum lot frontage of 13.58 metres shall be permitted, instead of the minimum required lot frontage of 15 metres. (Additional).

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 subject lands are within the Urban Lakeshore Area Secondary Plan and are designated “Low Density Residential 2b” on Land Use Plan Map B.7.3-1 (UHOP – Volume 2).

The proposed consent will facilitate a minor lot adjustment which is permitted provided there is no increased fragmentation of a *core area* and the adjustment does not conflict with the intent of the policies of the UHOP (Volume 1-F.1.14.3.6). The subject lands are not within a core area. A variance is required to permit the proposed lot frontage for the retained lands and is being sought concurrently. As a result, staff recommends a condition to ensure the lot is in conformity with the Zoning By-law. Staff is of the opinion that the proposed adjustment is consistent with the above-noted policy and that the proposed consent conforms to the Official Plan, subject to conditions 1 and 2 following the recommendation.

Cultural Heritage 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) 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,
- 2) In an area of sandy soil in areas of clay or stone.

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 of the note following the recommendation.

Based on the foregoing, staff **supports** the proposed consent, subject to the conditions following the recommendation.

Former City of Stoney Creek Zoning By-law No. 3692-92

The subject lands are zoned Rural Residential “RR” Zone, which permits single detached dwellings, subject to the applicable provisions.

Variances 1, 4, 5 & 6

A front yard setback of 0.46 m is proposed, whereas the Zoning By-law requires a minimum 7.5 m front yard setback (Variance 1). Variance 4 to permit an eave/gutter to be 0.0 m from the front lot line, Variance 5 to permit a 0.46 m front yard setback for an unenclosed porch/balcony, and Variance 6 to permit a 1.10 m wide access driveway whereas a minimum of 6.0 m is required, are necessary to facilitate the proposed front yard setback.

The intent of the front yard setback requirement is to aid in creating and maintaining a consistent streetscape by having dwellings set back a similar and compatible distance from the street and to ensure adequate space for landscaping, drainage, and parking. Staff defers to Development Engineering Approvals with regards to all drainage concerns.

Staff had concerns with the initial proposal with regards to the impact on streetscaping with the garage façade along the street and the second storey. The plans were revised from a triple garage to a double garage, and the minimum front yard setback of the two storey addition was increased from 0.50 m to 0.90 m (dwelling – laundry room) and 1.10 m (double garage) causing it to be recessed behind the existing façade. The revised plans satisfy staff’s concerns. Staff is of the opinion that the variances meets the intent of the

Official Plan and the Zoning By-law, and that they are desirable and minor in nature. Staff **supports** the variances.

Variances 2 & 3

Deleted.

Variance 7

This variance is required as a result of the proposed consent. Once the consent is final, access to a portion of the proposed garage would be provided over the severed lands that will form part of the abutting property. There is an existing easement over this portion of the severed lands in favour of the City of Hamilton for the purpose of constructing and maintaining underground municipal services. The services are in place and no structures can be erected on the easement lands.

In order to ensure adequate access is provided to maintain the intent of the Zoning By-law, staff recommends a condition for an access easement over a portion of the severed lands to be registered on title in favour of the retained lands. Staff is of the opinion that the variance meets the intent of the Official Plan and the Zoning By-law, and that it is desirable and minor in nature. Staff **supports** the variance, subject to condition 3 following the recommendation being attached to any approvals of the proposed consent.

Variance 8

This variance is required as a result of the proposed consent. Although the lot width is not being reduced, the lot frontage is measured along the street line and is therefore reduced as a result of the proposed consent. As a result of the lot width and façade width of the existing dwelling being maintained, staff is of the opinion that the variance will have no negative impact on the streetscape. Staff is of the opinion that the variance meets the intent of the Official Plan and the Zoning By-law, and that it is desirable and minor in nature. Staff **supports** the variance.

Recommendation:

Having regard for the matters under subsection 45(1) of the Planning Act, staff is satisfied that the requested variances for the revised proposal maintain the purpose and intent of the Official Plan and the Zoning By-law. The variances are desirable for the appropriate development of the land, and hence minor in nature. Staff recommends that the requested variances, as outlined above, be **approved**.

Staff is satisfied that the proposed consent conforms to the Official Plan, and that the minor lot adjustment is suitable. Having regard for the matters under subsection 50(12) of the *Planning Act*, R.S.O. 1990, staff recommends that the proposed consent, as outlined in the Notice of Hearing, be **approved** subject to the conditions outlined below:

CONDITIONS: (If Approved)

1. That, pursuant to subsection 50(12) of the Ontario *Planning Act*, R.S.O. 1990, it is hereby stipulated that subsection 50(3) or subsection 50(5) shall apply to any subsequent conveyance of or other transaction involving the identical subject parcel of land. Therefore, the applicant will provide the Secretary-Treasurer with a Solicitor's undertaking that the condition of the Committee of Adjustment will be implemented and that the severed lands, as outlined in the Notice of Hearing, will merge with lands municipally known as 1097 North Service Rd and become one parcel of land.
2. That final and binding approval of Minor Variance application SC/A-20:248 be received, to the satisfaction of the Manager of Development Planning, Heritage and Design.
3. That an easement for access purposes over a portion of the severed lands, in favour of the retained lands, be registered on the titles of the lands, to ensure vehicular access to the garage and parking spaces, 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 Government and Consumer Services (416-212-7499).

Building Division:

1. Please note this application is to be heard in conjunction with minor variance application SC/A-20:248 to permit the following: a minimum lot frontage of 13.58 metres for the portion of the lands to be retained, instead of the minimum required lot frontage of 15 metres; a minimum front yard of 0.46 metres, instead of the minimum required front yard of 7.5 metres; an eave/gutter shall be permitted to project a maximum of 7.5 metres into the required front yard instead of the maximum 0.5 metres projection; an unenclosed porch/balcony shall be permitted to project a maximum of 7.04 metres into the required front yard and may be as close to 0.46 metres to the front lot line instead of the maximum 1.5 metre projection; a driveway, lane or aisle, having a minimum width of 1.10 m shall be permitted instead of the minimum 6.0 metre driveway, lane or aisle width required; and, the definition of "Parking Space" shall be altered to allow access to the two (2) proposed parking spaces within the proposed attached garage to be partially provided by means of the abutting property.
2. No dimensions for the existing Single Detached Dwelling or the existing accessory structure ("Frame Shed") as indicated on "Schedule B", on the lands that are to be conveyed have been shown on the submitted survey; therefore, this Division cannot confirm zoning compliance.
3. The lands to be conveyed shall be merged in title with the lands to which they are to be added.
4. In order to clear conditions, the applicant will be required to make an application for a Zoning Compliance Review and pay the relevant fees.
5. Legally established rights of ways shall be properly registered on title to provide access between properties (lands to be conveyed and retained) and sharing of the parking areas.

CONDITIONAL UPON:

1. If the application is approved, we request the following condition(s):
2. 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).
3. The owner shall receive final and binding approval of minor variance application SC/A-20:248.

Development Engineering:

Information:

There is an existing City easement over the strip of land to be transferred to 1097 North Service Road. This easement is for a municipal watermain and sanitary sewer that cannot be obstructed.

Transportation Planning & Parking Division (Traffic):

Transportation Planning has no objection to the land severance application, provided the following conditions are met:

- a. Approximately 3.0 metres are to be dedicated to the right-of-way on North Service Road, as per the Council Approved Urban Official Plan: Chapter C - City Wide Systems and Designations, 4.5 Road Network Functional Classification, 4.5.2. Collector Roads (North Service Road) are to be 26.213 metres.

A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening(s).

See attached for additional comments.



Shannon Clarke, Urban Forest Health Technician
Hamilton 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: January 27, 2021

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

From: Shannon Clarke, Urban Forest Health Technician

Subject: 32 Trillium Ave., Stoney Creek
File: SC/B-20:78

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, February 4, 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 "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

15 Church Street, Ancaster



Applicants Proposal: To create a new lot for residential purposes, containing 6 townhouse dwellings.

Variances for Property:

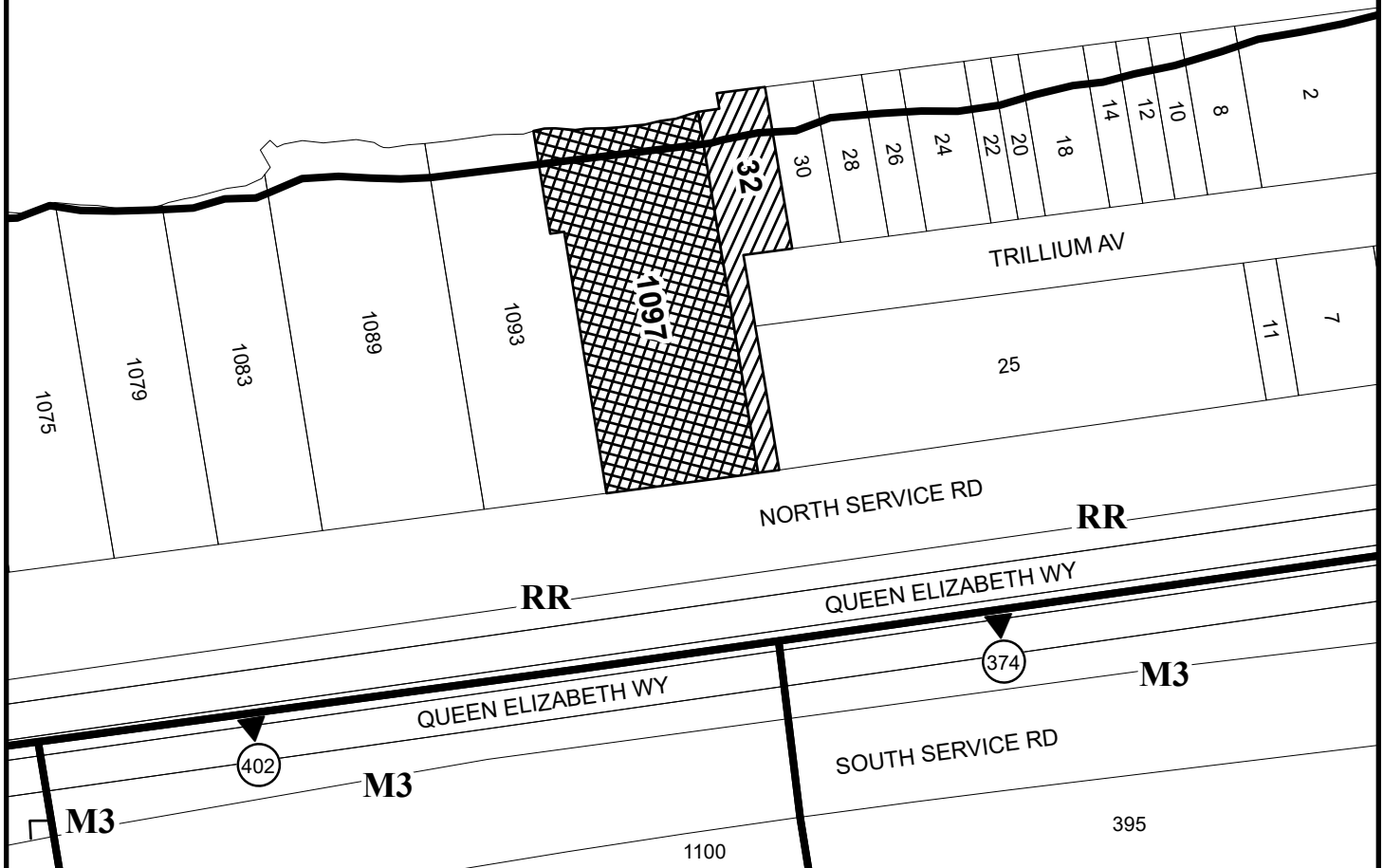
- N/a

Impacts: N/a

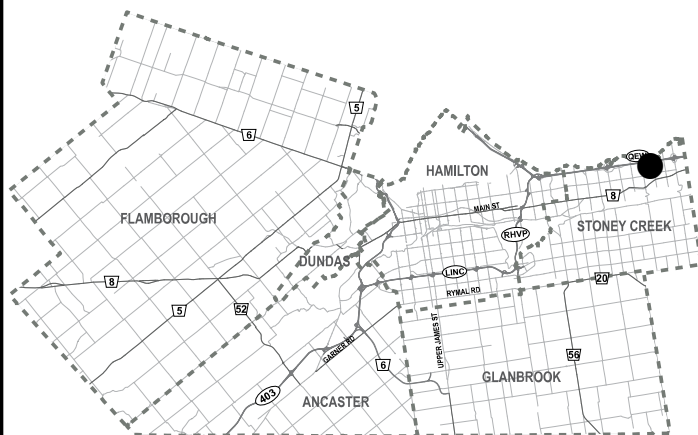
Recommendations: N/a



Lake Ontario



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

32 Trillium Avenue, Stoney Creek (Ward 10)



Lands to be Retained



Lands to be Severed

File Name/Number:

SC/B-20:78

Date:

January 28, 2021

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

SC/A-20:281 – 1031 North Service Rd., Stoney Creek

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to permit the construction of an accessory structure (pool house) to the existing single detached dwelling, notwithstanding the following variance:

- 1) To increase the required maximum height for an accessory building from 4.5 metres to 6.31 meters.

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 this designation (Volume 1 – E.3.4.3). Further, the lands are designated Low Density Residential 2b in the Urban Lakeshore Area Secondary Plan (Map B.7.3-1). Policy B.7.3.1.3 applies, amongst others, and permits single detached dwellings.

Former City of Stoney Creek Zoning By-law No. 3692-92

The subject lands are zoned Rural Residential “RR”, which permits single detached dwellings and structures accessory thereto, in accordance with the applicable provisions.

Variance 1

A maximum height of 6.31 metres is proposed for the accessory structure, whereas a maximum height of 4.5 m is permitted by the Zoning By-law. The intent of the provision is to ensure that accessory structures remain subordinate to the primary use both functionally and visually. Further, that there are no privacy/overlook concerns with the adjacent lands thus maintaining a consistent neighbourhood character and streetscape.

On Friday January 22, 2021 staff conducted a site inspection and notes that the single detached dwelling of the applicant is two Storeys tall and will screen the proposed accessory structure (pool house) from the street. The detached dwelling to the east is directly in line with the applicants’ dwelling and the proposed structure has a significant setback from the shared side lot line. This lot line also has significant plantings of coniferous trees that provide a natural screen between the rear yards of the subject land and the abutting eastern lot. Staff note that the western detached dwelling is setback significantly further than that of the subject property and will be adjacent to the proposed pool house. Staff is satisfied that there will be no adverse impacts to these lands as there is significant plantings of coniferous trees that will act as a natural screen between the proposed structure and the existing dwelling. Further, the proposed setback of 2.45

metres from the westerly side lot line is 1.95 metres beyond the minimum required setback.

Staff is satisfied that the intent of the Zoning By-law is being maintained as the proposed accessory structure will be functionally and visually subordinate to the dwelling, that the streetscape is being maintained as a result, and that there is enough natural buffering and setbacks from the adjacent lands to mitigate any overlook or privacy concerns. Staff is supportive of the requested variance.

Recommendation:

Having regard for the matters under subsection 45(1) of the *Planning Act*, staff is satisfied that the proposed increase of the maximum required height for an accessory building will have no adverse affect on the surrounding lands. Staff is also satisfied that the purpose and intent of the Urban Hamilton Official Plan and Zoning By-law are maintained, that the variance is desirable for the appropriate development of the land and is minor in nature. Staff recommends that the requested variance, as outlined in the Notice of Hearing, be **Approved**.

Building Division:

1. Please note that specific details regarding total lot coverage were provided as supplemental information to the initial submission. The total lot coverage is indicated as 8.53 percent and therefore complies with Section 5.4.3(c) of Stoney Creek Zoning By-law No. 3692-92, which permits a maximum 40 percent lot coverage for all buildings on a lot.
2. Please note that specific details regarding the encroachment of eaves or gutters was provided as supplemental information to the initial submission. The eaves/gutters of the proposed accessory structure ("pool house") are indicated as being a minimum of 2.15 metres from a lot line and do not encroach into a required yard. Therefore the eaves/gutters of the proposed accessory structure ("pool house") comply with Section 4.19.1(c) of Stoney Creek Zoning By-law No. 3692-92.
3. Human habitation is prohibited within the proposed accessory building ("pool house"). In addition, the existing accessory building shall only be used for incidental uses associated with the principle use. Any use or storage not associated with the principle uses (i.e. warehousing) is not permitted.
4. Please note that the initial circulated notice indicated that the variance request is to Section "6.14(a)" of Stoney Creek Zoning By-law No.3692-92, whereas, the variance being sought is to Section "6.1.4(a)".
5. Please be advised that a portion of this property is under Conservation Management. Please contact Hamilton Conservation at 905-525-2181 for further information.

6. Construction of the proposed accessory building ("pool house") is subject to the issuance of a building permit in the normal manner. Be advised that Ontario Building Code regulations may require specific setbacks and construction types.

Development Engineering:

Provided existing drainage patterns are maintained, Development Engineering has no comments on the minor variance as proposed.

See attached for additional comments.

From: [Mike Stone](#)
To: [Costa, Samantha](#)
Cc: [Sheffield, Jamila](#); [Val Pazzi](#)
Subject: RE: February 4th 2021 Agenda Available!
Date: February 1, 2021 11:58:31 AM
Attachments: [image001.png](#)

Hello Samantha,

Thank you for your email below. I don't believe we have received fee payment for either of the applications noted. As such, we won't be submitting formal written comments, but would note the following for the Committee's information.

SC/A-20:279 - 1031 North Service Rd. – HCA has issued a recent permit for shorewall repairs at this property. Further review and approval through a permit or Letter of Permission will be required for the proposed accessory structure (pool house) that is the subject of the variance application. As part of this, we will be confirming if the structure is located beyond the previously reviewed development setback.

SC/A-20:275 – 184 Winona Rd. – Portions of the property are regulated by HCA given the presence of tributaries of Stoney Creek Watercourse 12. The proposed addition will require review and approval through a permit or Letter of Permission. In reviewing the agenda, HCA also has an interest in **HM/A-20:287** – 555 Bay St. N. The subject property and proposed accessory building location are regulated given the potential for shoreline related flooding and erosion hazards. New development is generally not permitted within areas affected by shoreline hazards. The proposed facility will require review and approval through a permit.

Kind regards,

Mike

Mike Stone MA, MCIP, RPP | Manager, Watershed Planning Services | Hamilton Conservation Authority

838 Mineral Springs Road, P.O. Box 81067, Ancaster (Hamilton), Ontario L9G 4X1

T: 905.525.2181 ext. 133 | E: mike.stone@conservationhamilton.ca | W:

www.conservationhamilton.ca

The contents of this e-mail and any attachments are intended for the named recipient(s). This e-mail may contain information that is privileged and confidential. If you have received this message in error or are not the named recipient(s), please notify the sender and permanently delete this message without reviewing, copying, forwarding, disclosing or otherwise using it or any part of it in any form whatsoever.

From: Costa, Samantha

Sent: Tuesday, January 19, 2021 12:43 PM

To: Mike Stone

Subject: February 4th 2021 Agenda Available!

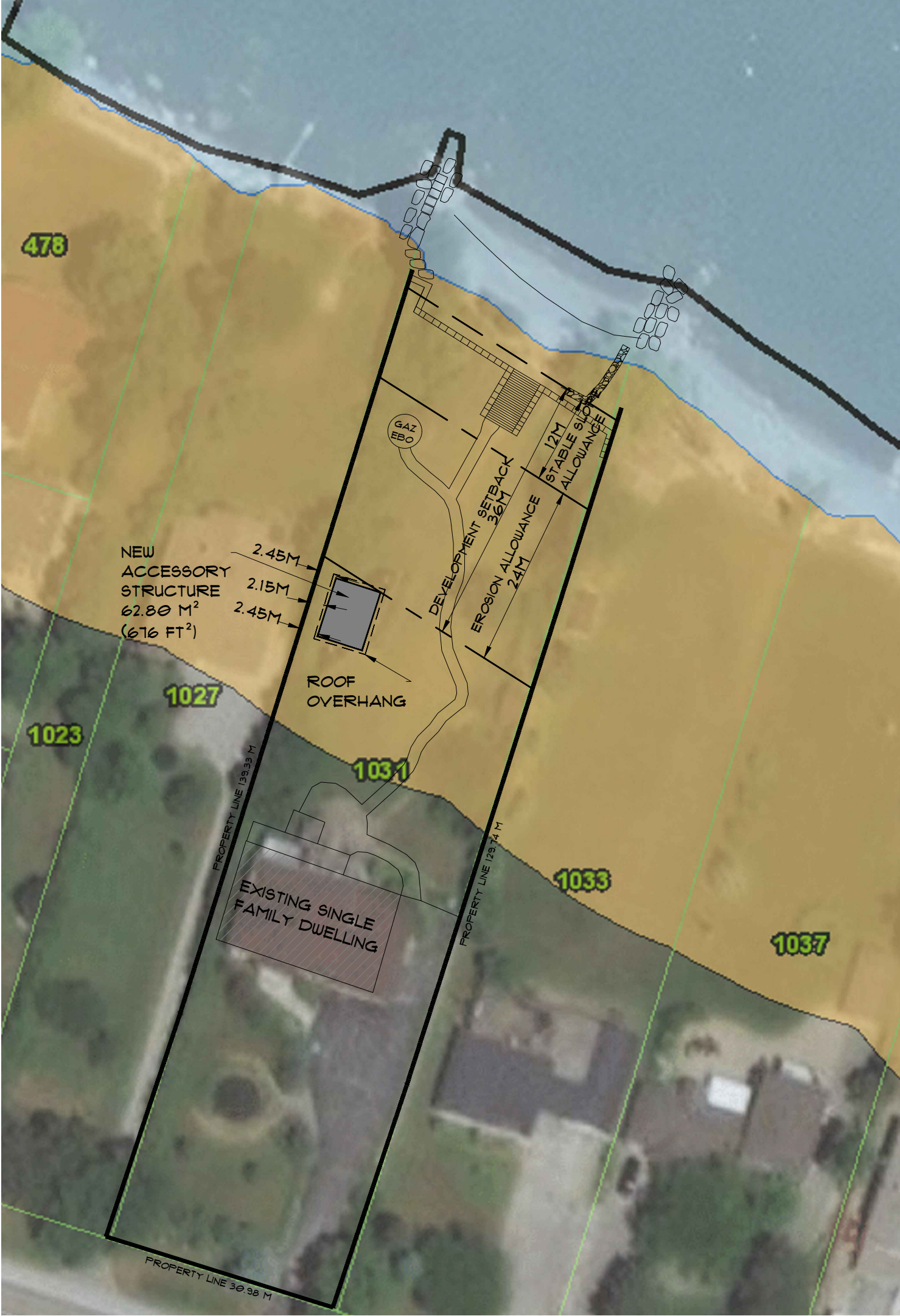
Good Afternoon,

Please be advised the agenda for February 4th 2021 hearing date is now on our website.

See link below

<https://www.hamilton.ca/council-committee/council-committee-meetings/committee-adjustment>

**** Please be advised final comments are due by noon, January 29th, if not received, you will be required to attend the virtual hearing, late comments will not**






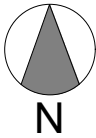
1
SP101

SITE PLAN

Scale 1:600

LOT STATISTICS
1031 North Service Road, Stoney Creek
Zoning Designation - RR Rural Residential
Lot Area: 4044.14 m²
Lot Coverage: 40% required, 8.53% provided (house + accessory structure= 345 m²)
Rear Yard: 7.5m required
Side Yard: 1.25m required
Building Height: 4.5m required
VARIANCE
Eaves/Gutters= 2.15m from prop.line

	NEW ACCESSORY STRUCTURE
	EXISTING SINGLE FAMILY DWELLING
	REGULATED AREA- HAZARD LANDS
NOTE: ALL DIMENSIONS SHOWN IN METERS UNLESS NOTED OTHERWISE	




**Ontario**
Ministry of Municipal Affairs & Housing

Qualification Information
The undersigned has reviewed and takes responsibility for this design and has qualifications and meets the requirements set out in the Ontario Building Code to be a Designer.

Signature Julia Mancini

Julia Mancini, Manco Design
BCIN 113168

	MANCO ARCHITECTURAL DESIGN Phone 905-537-9578 Email julia@mancodesign.com	1031 NORTH SERVICE RD. STONEY CREEK, ONTARIO	DRAWING SUBMISSIONS		SITE PLAN SP1.01
			DATE	TYPE	
			20-12-06	MINOR VARIANCE	

From: [Boucetta, Alexandra \(MTO\)](#)
To: [Costa, Samantha](#); [Committee of Adjustment](#)
Subject: RE: February 4th 2021 Agenda Available!
Date: January 25, 2021 7:08:29 PM
Attachments: [image001.png](#)

Good day,

APPLICATION NO.: SC/A-20:248

32 Trillium Ave., Stoney Creek

Ministry has no concerns regarding the proposed minor variances. The property is within Ministry's Permit Control and permit will be required before any construction takes place. Requirements: Site Plan, Grading Plan, Architectural drawings, Letter of Authorization from the owner of the property.

APPLICATION NO.: SC/A-20:281

1031 North Service Rd., Stoney Creek

Ministry has no concerns regarding the proposed minor variances. The property is within Ministry's Permit Control and permit will be required before any construction takes place. Requirements: Site Plan, Grading Plan, Architectural drawings, Letter of Authorization from the owner of the property.

The BLU (Building and Land Use) permit application can be submitted through the link below:

<https://www.hcms.mto.gov.on.ca/>

Thank you,

Alexandra Boucetta

Corridor Management Officer – Hamilton/Niagara

From: Costa, Samantha <Samantha.Costa@hamilton.ca>

Sent: January 19, 2021 12:32 PM

To: Committee of Adjustment <CofA@hamilton.ca>

Subject: February 4th 2021 Agenda Available!

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Good Afternoon,

Attached is a copy of the Agenda for the February 4th hearing date, please follow the link below for a copy of the package.

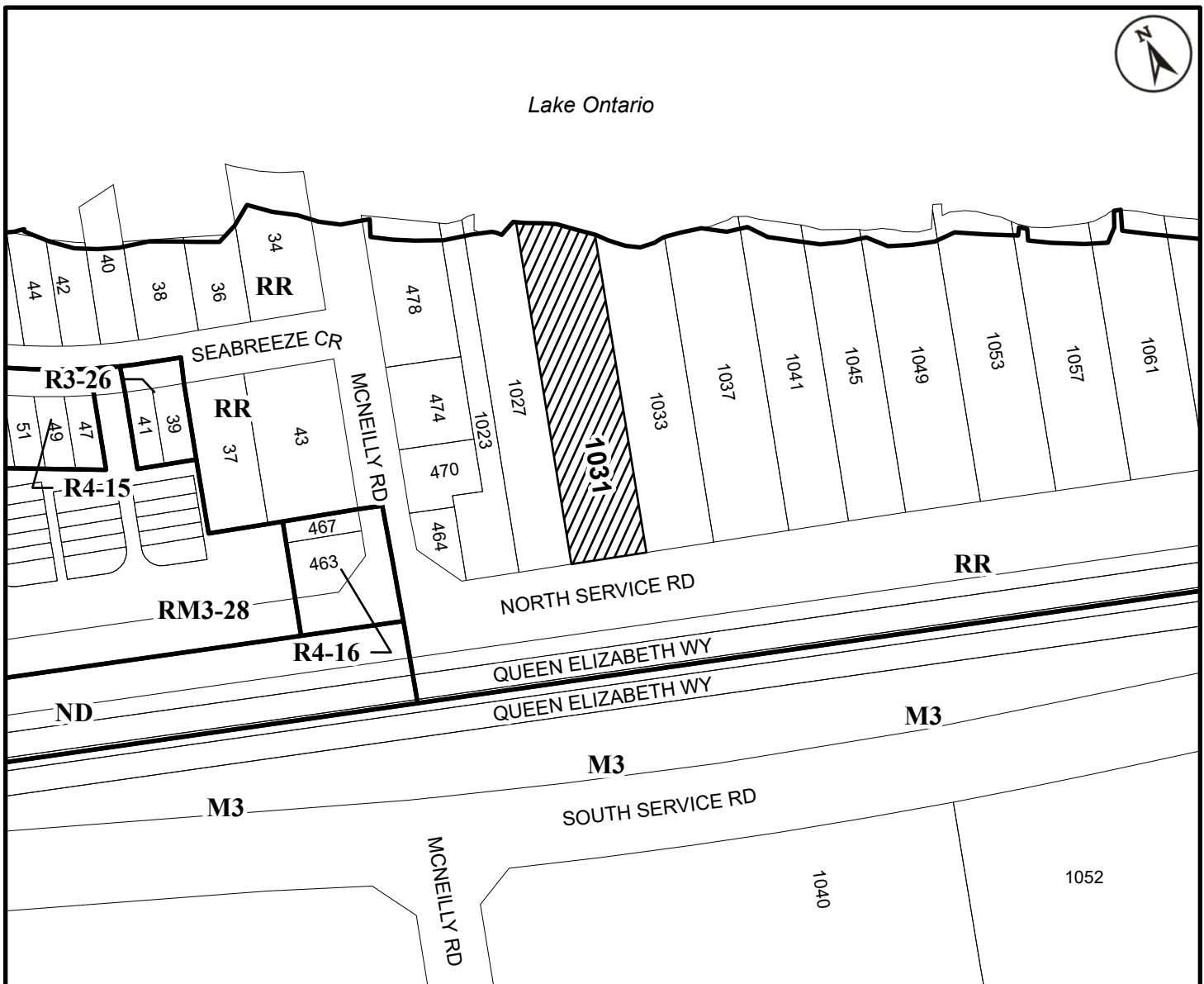
***** Please be advised final comments are due by noon, January 29th, if not received, you will be required to attend the virtual hearing, late comments will not be accepted.***

■

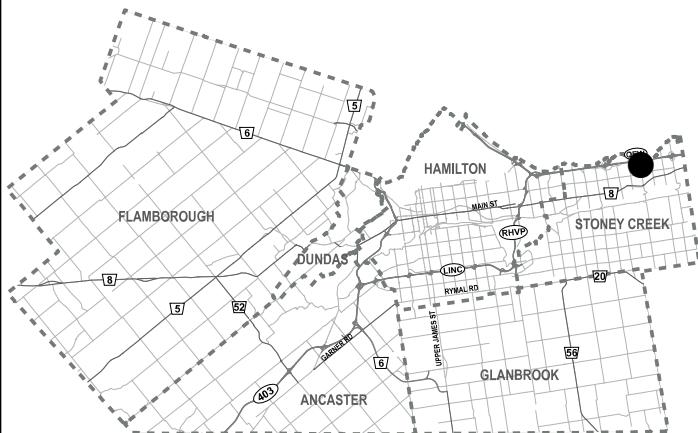
From: [Petro Kondra](#)
To: [Committee of Adjustment](#)
Subject: SC/A-20:281 1031 North Service Road, Stoney Creek
Date: January 31, 2021 11:28:11 AM

As a neighbor on the west side at 1027 N Service Rd we are very concerned that this proposed structure is situated adjacent and in front of our house and attached deck overlooking Lake Ontario. We wonder why our house location was obliterated from the submitted site plan? Now we will have a 6.31 metre wall/roof to view. Why would you need a pool house with no pool and extra height unless something else is intended? We would request a) relocation with further setback from the property line and b) lower height at a minimum in compliance with existing zoning bylaws and c) cedar hedge on the property line in the vicinity of the 'pool house'. Furthermore there are many other possible locations on their property that we have mentioned to them in an outdoor conversation that would not interfere with our view of the lake.

We have resided on this beautiful lakefront property since 1986 and appreciated the view.
Thank you for your consideration,
Peter Kondra and Marilyn Korzekwa
Legal owners of 1027 North Service Road



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



1031 North Service Road,
Stoney Creek (Ward 10)

File Name/Number:

SC/A-20:281

Date:

January 28, 2021

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

SC/A-20:282 – 325 Dewitt Rd., Stoney Creek

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

Permission is requested for the extension of a legal non-conforming use. The Applicant purposes to reconstruct a single detached dwelling that was destroyed by fire, with a greater volume than that of the original dwelling.

Planning Act

Section 45(2)(a) of the *Planning Act* gives the Committee of Adjustment the authority to permit the enlargement or extension of any building, structure, or use that was lawfully used for the purpose prohibited by the current Zoning By-Law on the day that the by-law was passed. This extension or enlargement may only be given if the use has continued until the date of the application to the Committee and cannot extend beyond the limits of the land owned and used in connection therewith, on the day that the by-law was passed.

Urban Hamilton Official Plan

The subject lands are identified as “Employment Areas” on Schedule “E” – Urban Structure and designated “Business Park” on Schedule “E-1” – Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP). Residential uses are prohibited in the “Employment Areas” designation (Volume 1-E.5.2.6). Notwithstanding, the UHOP recognizes that there are existing land uses that do not precisely align with the goals and objectives of this plan. With this understanding, expansions and enlargements of legal non-conforming uses shall be permitted provided they maintain the intent and purpose of the UHOP and the Zoning By-Law (Volume 1-F.1.12.9).

The proposed reconstruction is due to ‘force majeure’, that being a fire. The applicant is seeking an extension of a legal non-conforming use due to the increase in volume of the dwelling. For the applicant to reconstruct their home they must meet the current requirements of the Ontario Building Code (OBC), that requires a specific head height for a basement, which the former structure did not meet. The applicant proposes to increase the depth of the foundation thus increasing the head height of the basement level but not the overall height of the structure. Staff note that, “the success of the Official Plan can only be achieved through effective implementation. The Planning Act, Municipal Act, and other provincial regulations provide a series of tools to fulfil the City’s goals and objectives of this plan” (Volume 1-F). Staff is satisfied that by complying with the OBC requirement and using the effective implementation of subsection 45(2)(a) of the *Planning Act*; allowing a greater volume, thus meeting the requirement, is in keeping with the general intent of the Official Plan.

Hamilton Zoning By-Law 05-200

The subject lands are zoned Prestige Business Park (M3). This zone allows a number of industrial uses, while residential uses are not permitted.

Though residential uses are not permitted in industrial zones, both the UHOP and the Hamilton Zoning By-law 05-200 have policies in place for legal non-conforming uses. Specifically, *Section 1.11 c)* of the Hamilton Zoning By-law 05-200 allows for:

“The repair or restoration of any existing building, or part thereof, to a safe condition provided that such repair or restoration will not increase the height, area or volume, or site coverage of such building and that the building continues to be used for the same purpose and in the same manner as it was used on the effective date of this By-law; (By-law 10-076, April 14, 2010).”

The applicant proposes to increase the volume of the single detached dwelling by increasing the head height of the basement through a deeper foundation. The applicant is also increasing the volume by adding a closet and recreation room under the unexcavated foundation. Staff is satisfied that the proposed reconstruction meets the general intent of the Zoning By-law as there will be no measurable increase in site coverage or height, which typically would result in an increased volume. From a street presence and impact perspective there will be no discernable increase in the overall use from what was originally on the subject lands.

In terms of impact, the requested permission will not adversely affect compatibility of the lands with the surrounding land uses. As such, staff **supports** the requested permission.

Recommendation:

Having regard for the matters under subsection *45(2)(a) of the Planning Act*, staff is satisfied that the proposed increase of volume of the legal non-conforming single detached dwelling will not result in an enlargement beyond the limits of the lands used in connection therewith. Staff is also satisfied that the purpose and intent of the Urban Hamilton Official Plan and Zoning By-law are maintained. Staff recommends that the requested permission, as outlined in the Notice of Hearing, be **approved**.

Building Division:

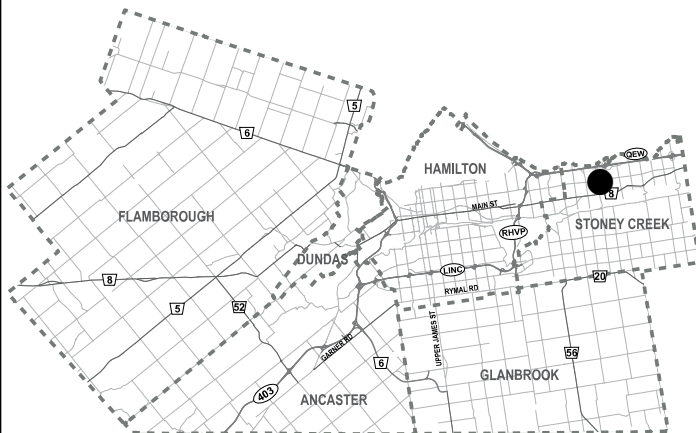
1. A building permit is required in the normal manner for the construction of the proposed building. Please be advised that Ontario Building Code regulations may require specific setback and construction types.
2. The Hamilton Zoning By-law 05-200 permits the reconstruction/rebuild of a building containing a legally established non-conforming use to a safe condition provided that the new building maintains the same height, area, volume and lot coverage of the existing structure. The volume of the building is being increased by way of increasing the height of the basement floor level and through the expansion of the basement level by excavating below the front entryway and below rear portion of the building.

Development Engineering:

Provided that drainage is maintained within the subject lands and the neighbouring lands are not negatively impacted by the proposed development, Development Engineering has no comments on the minor variance as proposed.



Site Location



City of Hamilton

Committee of Adjustment

Subject Property



325 Dewitt Road, Stoney Creek
(Ward 10)

File Name/Number:

SC/A-20:282

Date:

January 28, 2021

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

SC/B-20:95 – 136, 144 & 146 Upper Mount Albion Rd., 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 hard copy 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 – Building Engineering Section).
3. The owner shall submit survey evidence that the lands to be retained, including the location of any existing structures, parking, etc. 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).
4. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

SC/B-20:95 – 136, 144 & 146 Upper Mt. Albion Rd., Stoney Creek

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Rural

The purpose of this application is to permit the creation of a new lot and the establishment of an easement.

Severed lands (Part 5):

90.03m \pm x 57.92m \pm and an area of 5,150.4m 2 \pm

Retained lands:

46m \pm x 57.8m \pm and an area of 2,792m 2 \pm

Urban Hamilton Official Plan

The Urban Hamilton Official Plan designates the property as “Neighbourhoods” within Schedule E-1 Urban and Land Use Designation, in addition the lands are also designated “Local Commercial” within Map B.7.6-1 West Mountain Area (Heritage Green) Secondary Plan. The subject lands are also identified as “Area Specific Policy – Area B” within the West Mountain Area (Heritage Green) Secondary Plan. The following policies apply:

- “1.14.3.3 Consents for new lot creation for both the severed and retained lands for mixed uses, commercial, institutional, or open space in the Neighbourhoods 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 are in conformity with the Zoning By-law or a minor variance is approved;
 - c) the lots are fully serviced by municipal water and wastewater systems; and,
 - d) the lots have frontage on a public road.”

The proposed consent meets the criteria for lot creation for mixed uses, commercial, institutional or open space in the Neighbourhoods designation as per the aforementioned policies. Staff note that the lots will comply with the policies set out in the UHOP, since they will facilitate the maintenance of the existing commercial building (Mr. Lube) and the future development of the vacant portion of the site in accordance with the applicable UHOP policies. Staff note that the lots will comply with the Zoning By-law, and that the lots are fully serviced by municipal services and will have frontage on Paramount Drive and Upper Mount Albion Road, respectively. Based on the preceding information, the

severance maintains the intent of the Urban Hamilton Official Plan. Staff **support** the severance.

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

The subject property is zoned Community Commercial “C3, 304, 579” Zone. To which the use complies.

Recommendation

Based on the above, the proposed severed and retained lands maintain the general intent and purpose of the Urban Hamilton Official Plan and comply with the City of Hamilton Zoning By-law 05-200. In conclusion, Staff recommends that the application be **approved**.

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. In order to clear conditions, the owner will be required to make application for Ontario Building Code compliance and pay the relevant fees.
3. In order to clear conditions, the owner will be required to make application for Zoning Compliance Review and pay the relevant fees.
4. Legally established rights of ways shall be properly registered on title to provide access between properties (lands to be conveyed and retained).
5. A holding provision (H82) is currently assigned to this property (conveyed and retained) which may prevent the future development until such time that the conditions of the holding are satisfied in the normal manner.

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 – Building Engineering Section).
2. The owner shall submit survey evidence that the lands to be retained, including the location of any existing structures, parking, etc. 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).

Development Engineering:

These lands were reviewed by this Section under Site Plan Control Application File DA-16-139. The lands to be retained [Parts 1 and 2- 146 Upper Mount Albion Rd.] being the Phase 1 lands and the lands to be severed being the Phase 2 and 3 lands [Part 5 – 136 and 144 Upper Mount Albion Rd.] . Servicing, grading and stormwater management were reviewed and approved for all 3 phases at the time. Servicing permits were subsequently issued for 146 Upper Mount Albion Rd- Lube Shop. Sewer and water private drains were also issued and stubbed at the property line for both 136 and 144 Upper Mount Albion Rd. for the future commercial buildings.

The abutting roadways were upgraded to fully urbanized roadways as part of the Heritage Highlands (External Works) Phase 1 development. The Owner previously provided private sewer drain [MA-By-Law 12-110] and stormwater pond cost recovery payments to the City as a condition of Site Plan approval towards 146 Upper Mt. Albion Rd. No road widenings, cost recoveries or further municipal roadway servicing or road improvements are therefore required.

No further comments.

Transportation Planning & Parking Division (Traffic):

1. Transportation Planning has no objection to the land severance application and establishment of an easement.
2. Transportation Planning recommends confirmation of a legal agreement/easement is required to ensure continued shared use if/when either property is under new ownership/management.

See attached for additional comments.



Shannon Clarke, Urban Forest Health Technician
Hamilton 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: January 27, 2021

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

From: Shannon Clarke, Urban Forest Health Technician

Subject: 136,144 & 146 Upper Mt. Albion Rd., Stoney Creek
File: SC/B-20:95

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, February 4, 2021, 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 "Shannon Clarke". The signature is written in a cursive, flowing style.

Shannon Clarke
Urban Forest Health Technician



February 1, 2021

City of Hamilton
Planning & Economic Development Department
Committee of Adjustment
71 Main Street West
Hamilton ON L8P 4Y5

Attention: Ms. Jamila Sheffield
Secretary Treasurer

Dear Ms. Sheffield,

Re: Application for Consent – 2178872 Ontario Inc., City File No. SC/B-20:95
136, 144 & 146 Upper Mt. Albion Road, City of Hamilton

WEBB Planning Consultants are retained by Winterberry Paramount Corporation and Heritage Highlands Corporation to provide land use planning services in connection with the on-going development of these properties.

It has been brought to our attention that the Committee of Adjustment will be considering an Application for Consent for the above noted property at their meeting scheduled for Thursday February 4, 2021, City File NO. SC/B-20:95.

This written submission and the following comments are provided to advise the Committee that our clients have an interest in this development proposal and have asked that we submit comments on their behalf.

Our specific request of Committee is to include the necessary Conditions of Approval for the Consent application that will obligate the owner to fulfill its financial obligations to Winterberry Paramount Corporation and Heritage Highlands Corporation.

For the information of Committee, Winterberry Paramount Corporation and Heritage Highland Corporation are responsible for the implementation of the majority of the commercial and mixed use development that comprises the West Mountain Core Area.

The Heritage Greene Plan of Subdivision was Registered in 2008 and encompasses an area of 21 hectares of commercial and mixed use development. The Heritage Highland shopping centre comprises some 7 hectares with planned commercial development in the range of 19,500 square metres. Development is nearing completion with final tenancies and municipal approvals underway.

These developments necessitated the design and front-ending of significant municipal infrastructure including the construction and urbanization of municipal roads and the installation of municipal services that benefited the developments as well as specific

benefitting property owners. The developers have been responsible for the design and construction of Paramount Drive, Stone Church Road, and Upper Mt. Albion Road.

Directly relevant to the Consent application for the property at 136, 144 & 146 Upper Mt. Albion Road is that this property has directly benefitted from municipal infrastructure that was front ended by Winterberry Paramount Corporation and Heritage Highland Corporation. Completed works include the installation of water, sanitary and storm services, installation of service laterals, and road works including the installation of storm catch basins.

The review and approvals process for the construction of the municipal infrastructure included entering into Registered Subdivision Agreements and External Works Agreements with the City of Hamilton. In both cases, these Agreements have included Best Efforts provisions wherein the City has acknowledged the construction of the municipal infrastructure has benefitted specified abutting properties with detailed calculations that identifies the monies that are owing to the original developer, in this case Winterberry Paramount Corporation and Heritage Highland Corporation.

Our clients are extremely frustrated with the process to date for the recovery of substantial monies that are owing. The frustration is compounded by the City's poor effort to diligently recover the agreed upon monies owing. In 2017 the City collected a portion of the monies yet made no effort to forward the monies onto our client. In another instance, the City omitted the imposition of Conditions on a prior development approval for the benefitting property notwithstanding acknowledged obligations to recover monies owing.

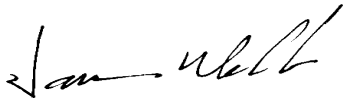
Based on input from the developer's Civil Engineer, Urbex Engineering Limited, it has been confirmed that there are significant monies that are outstanding. Subject to adjustments for the Construction Cost Index, the estimated value is in the range of \$68,000.00.

We intend to participate in the upcoming Committee of Adjustment meeting to provide an oral submission on behalf of our clients and can provide any assistance to the Committee with regard to the background and basis for the request. Further, please ensure that WEBB Planning Consultants are added to the distribution list for this particular application and provided a copy of the Notice of Decision.

Should you have any questions or require additional information in support of this submission please do not hesitate to contact our office.

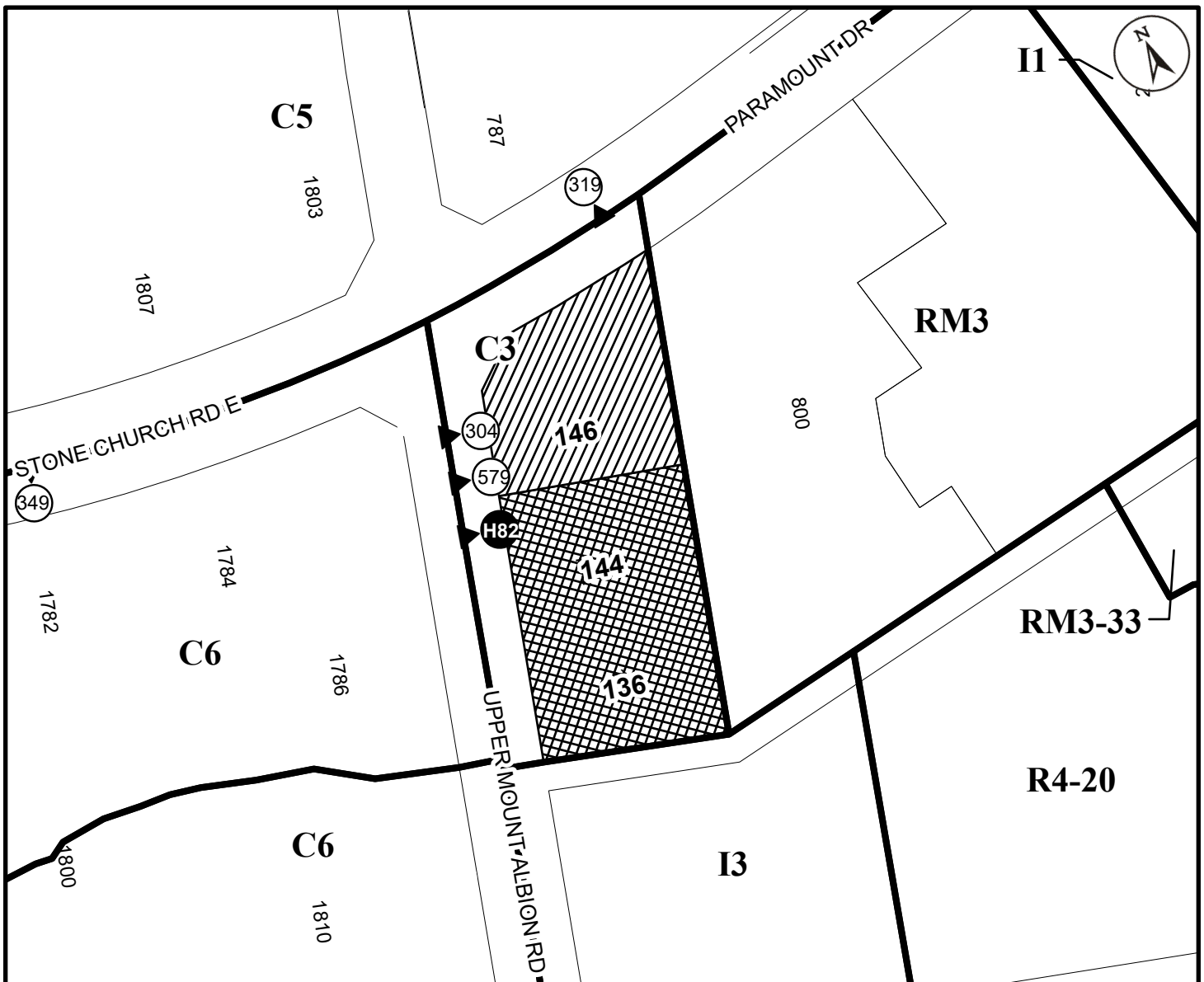
Yours truly,

WEBB Planning Consultants Inc.

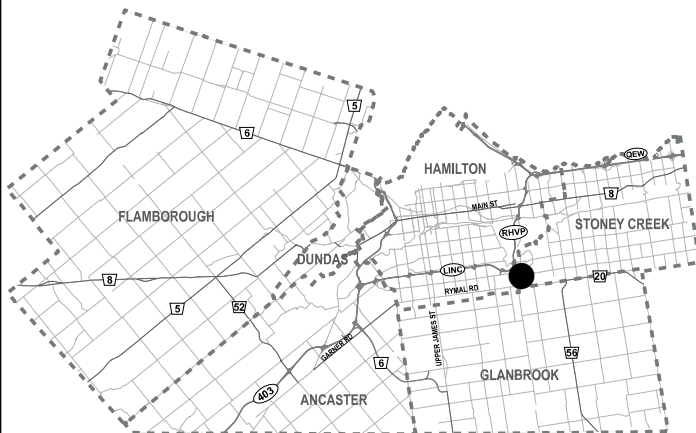
A handwritten signature in black ink, appearing to read 'James Webb', written in a cursive style.

James Webb, MCIP, RPP

cc: Winterberry Paramount Corporation
Heritage Highlands Corporation
Turkstra Mazza
Urbex Engineering



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

136, 144 & 146 Upper Mount Albion Road
Stoney Creek (Ward 9)



Lands to be Retained



Lands to be Severed

File Name/Number:

SC/B-20-95

Date:

January 25, 2021

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

GL/A-20:279 – 7285 English Church Rd., Glanbrook

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Rural

The purpose of this application is to permit the construction of a proposed 2 storey single detached dwelling along with a proposed 2 storey detached garage (at rear) containing habitable space on the second floor.

Rural Hamilton Official Plan

The Rural Hamilton Official Plan designates the property as “Agricultural” in Schedule D – Rural Land Use Designations to which the use complies. The following policy applies:

- C.3.1.4 The following uses shall be permitted in the Agriculture, Specialty Crop, and Rural designations, provided the applicable conditions are met:
- a) Except as permitted in Sections D.2.1.1.4 and C.3.1.4 b) and c) of this Plan, a maximum of one dwelling per lot shall be permitted in designations where residential uses are permitted. The Zoning By-law shall limit permitted dwellings to a maximum of one residence per lot in designations where residential uses are permitted;

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

The subject property is Zoned “A1” (Agricultural) Zone. Staff note that a single detached dwelling and accessory structure are permitted. However, as per section 4.8 (General Provisions), no accessory structure shall be used for human habitation.

Variance 1

The applicant is seeking a variance to permit the proposed habitable space on the second floor comprised of a bar, bench built-in, great room, bedroom and washroom to be permitted whereas the By-Law states under Section 4.8 that no accessory building shall be used for human habitation (i.e., as a dwelling unit with washroom and kitchen facilities).

Staff note that accessory structures are not permitted for human habitation (i.e., dwelling unit). Accessory structures are intended to be accessory to the residential uses, meaning that they are to be used as garages, sheds, storage, etc. They are to be commonly incidental, subordinate and exclusively devoted to residential use on the same lot. As such, staff recommend that the applicant revise the proposal so that a bathroom and kitchenette is not included in the plans.

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. The variance is not appropriate for the development of the property or minor, as it proposes to contain an accessory structure for human habitation which is not permitted. Accordingly, staff **do not support** the variance.

Variance 2

The applicant is seeking a variance for a maximum height of 8.9 m to be permitted for the proposed detached garage instead of the maximum permitted height of 6.0 m.

The applicant is requesting a maximum height of 8.9m whereas the By-law permits a maximum height of 6.0m. The intent of the By-law is for accessory structures to be subordinate to the primary use of the property. The applicant submitted information indicating that the height was required to accommodate a second storey loft which will contain a bedroom, bar, kitchenette, washroom, great room, and bench room. As previously mentioned, staff do not support the variance to allow human habitation within an accessory structure. Staff were not provided with any justification from the owner as to the reason for the additional 2.5m requested and are of the opinion that the height should be lowered to be subordinate to the proposed single detached dwelling. The intent of the RHOP and Zoning By-law are not maintained in this instance and the variance is not minor in nature or appropriate for the development of the subject property. Staff **do not support** the variance.

Recommendation

Based on the preceding information, the requested variances do not maintain the general intent and purpose of the Rural Hamilton Official Plan and the City of Hamilton Zoning By-law. The variance is not considered to be minor in nature and is not desirable for the appropriate use of the property. In conclusion, Staff recommends that the application be **denied**.

Building Division:

1. Please be advised that a portion of this property is within an area regulated by Niagara Peninsula Conservation Authority. Please contact The Niagara Peninsula Conservation Authority at (905) 788 – 3135 prior to any development.
2. Subject to the issuance of a building permit in the normal manner.

Development Engineering:

No Comment

See attached for additional comments.

From: [Nikolas Wensing](#)
To: [Costa, Samantha](#)
Subject: Re: February 4th 2021 Agenda Available!
Date: January 28, 2021 2:03:26 PM
Attachments: [image002.png](#)
[image003.png](#)

Hello Samantha,

An NPCA regulated Valleyland Erosion Hazard is located on the subject property. However, the NPCA is satisfied that the proposed development is located more than 7.5 metres from the top of slope. As such, it appears that the proposed development will not negatively impact the slope, and I can confirm that the NPCA has no objection to the proposed Minor Variance application.

Given the presence of an NPCA regulated hazard on the property, the NPCA will require that any further or alternate proposed development or site alteration be circulated to the NPCA for review and approval.

I can also confirm that the NPCA's fee for the review of this application has been received.

Please let me know if you have any questions.

Sincerely,

Nikolas Wensing, B.A., MPlan

Watershed Planner

Niagara Peninsula Conservation Authority (NPCA)

250 Thorold Road West, 3rd Floor, Welland, ON, L3C 3W2

905-788-3135, ext. 228

nwensing@npca.ca

www.npca.ca

From: Nikolas Wensing <nwensing@npca.ca>
Sent: Tuesday, January 19, 2021 3:40 PM
To: Costa, Samantha <Samantha.Costa@hamilton.ca>
Subject: Re: February 4th 2021 Agenda Available!

Hello Samantha,

Great! Thank you for sending this over I appreciate it.

Sincerely,

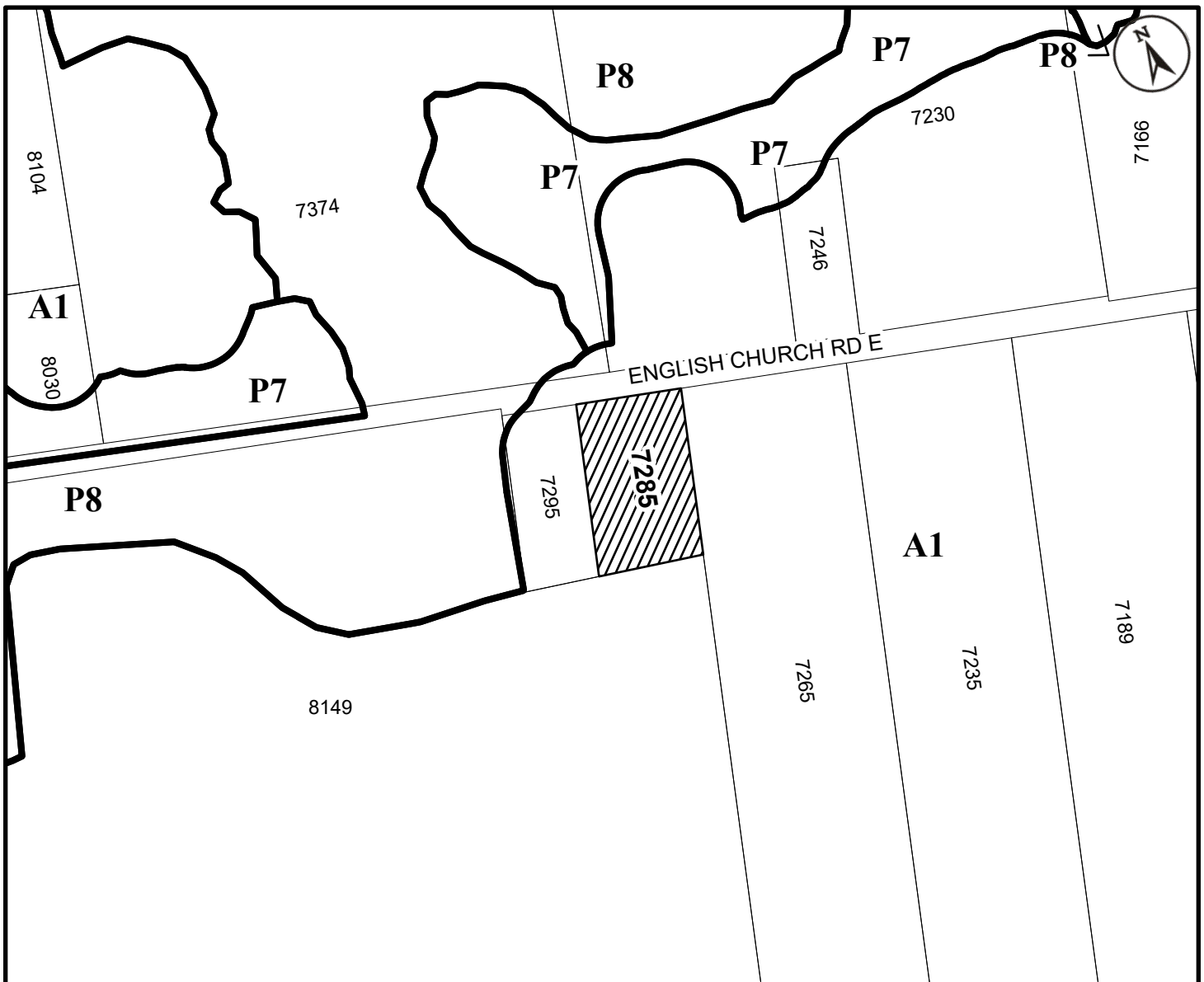
Nikolas Wensing, B.A., MPlan

Watershed Planner

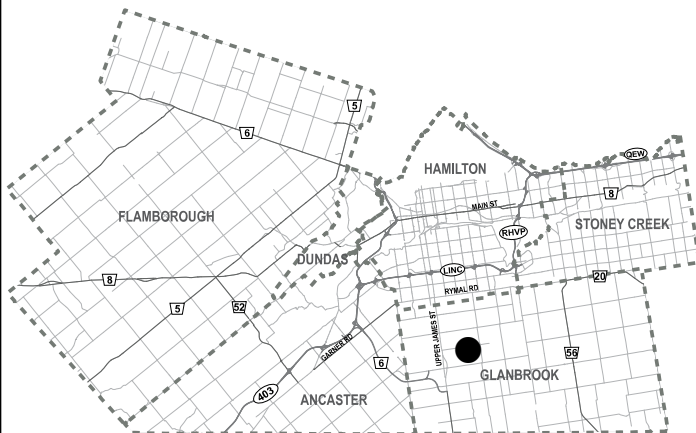
Niagara Peninsula Conservation Authority (NPCA)

250 Thorold Road West, 3rd Floor, Welland, ON, L3C 3W2

905-788-3135, ext. 228



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



7285 English Church Road,
Glanbrook (Ward 11)

File Name/Number:

GL/A-20:279

Date:

January 21, 2021

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

AN/B-20:89 – 15 Church St., 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 hard copy 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.
3. The existing right-of-way at the subject property is approximately 12.2 metres. Approximately 3 metres are to be dedicated to the right-of-way on Church Street to follow the Council Approved Urban Official Plan: Chapter C - City Wide Systems and Designations 4.5 Road Network Functional Classification 4.5.2 f) Local Roads (Church Street, 12.2 metres), subject to the following policy:

The City recognizes that in older urban built up areas there are existing road right-of-way widths significantly less than 20.117 metres. Notwithstanding the ther road right-of-way widening policies of this Plan, it is the intent of the City to increase these existing road rights-of-ways to a minimum of 15.24 metres with daylighting triangles at intersections instead of the minimum required 20.117 metre road right-of-way width, provided all the required road facilities, municipal sidewalks and utilities can be accommodated in this reduced road right-of-way width.

A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening(s).

4. The owner shall demolish all or an appropriate portion of any buildings straddling the proposed property line, to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section). May be subject to a demolition permit issued in the normal manner.
5. The owner shall receive final approval of any necessary variances/zoning amendments from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).

6. 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.
7. That the Owner dedicate to the City of Hamilton by deed, sufficient land to establish the property line Approximately 7.62 metres from the original centreline of this roadway (approximately 1.2 metres are to be dedicated to the right-of-way on Church Street). All costs associated with the dedication of the required lands are to be borne by the Owner.
8. The Owner enters into an External Works Agreement with the City to provide for the extension of the storm, and if required sanitary, sewer to the satisfaction of the Manager of Development Approvals.
9. The owner/applicant shall satisfy the requirements of the Public Works Department Operations and Maintenance Division Forestry & Horticulture Section.
10. The owner submits to the Committee of Adjustment office an administration fee of \$90.00 payable to the City of Hamilton to cover the costs of setting up new tax accounts for the newly created lots.

Growth Management:

Note: Based on these applications being approved and all conditions being met, the owner / applicant should be made aware that the lands identified as Part 1 will be assigned the address of **9 Church Street (Ancaster)**, the lands identified as Part 2 will be assigned the address of **11 Church Street (Ancaster)**, the lands identified as Part 3 will be assigned the address of **13 Church Street (Ancaster)**, the lands identified as Part 4 will remain as **15 Church Street (Ancaster)**, the lands identified as Part 5 will be assigned the address of **17 Church Street (Ancaster)**, and the lands identified as Part 6 will be assigned the address of **19 Church Street (Ancaster)**.

We ask that the following be noted to the applicants:

That the Owner agrees to physically affix the municipal numbers or full addresses to either the buildings or on signs in accordance with the City's Sign By-law, in a manner that is clearly visible from the road.

AN/B-20:89 – 15 Church St., Ancaster**PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT****Development Planning – Rural**

Applications **HM/B-20:89**, **HM/B-20:90**, and **HM/B-20:91** are to be heard concurrently. The purpose of these applications is to create five (5) lots fronting onto Church Street to permit the construction of five (5) townhouse dwelling units which can be held in separate ownership. The retained parcel will facilitate the construction of a sixth (6) townhouse dwelling unit.

The proposed lots will be created as follows:

HM/B-20:89: The severed lands being Part 2 (0.0164 ha), with the retained parcel being Parts 3-6 (0.0816 ha) on the provided sketch. Part 1 (0.0246 ha) will become its own lot by way of natural severance due to Part 2's creation;

HM/B-20:90: The severed lands being Part 4 (0.0202 ha), with the retained parcel being Parts 5-6 (0.0411 ha) on the provided sketch. Part 3 (0.0202 ha) will become its own lot by way of natural severance due to Part 4's creation: and

HM/B-20:91: The severed lands being Part 6 (0.246 ha), while the retained parcel being Parts 5 (0.0164 ha) on the provided sketch (see Table 1)

Table 1

Applications	Severed Lands	Retained Lands	Natural Severance
HM/B-20:89	Part 2 on submitted sketch	Parts 3-6 on submitted sketch	Part 1 on submitted sketch
HM/B-20:90	Part 4 on submitted sketch	Parts 5-6 on submitted sketch	Part 3 on submitted sketch
HM/B-20:91	Part 6 on submitted sketch	Part 5 on submitted sketch	N/A

Background

Prior to the consideration of the current applications **HM/B-20:89**, **HM/B-20:90**, and **HM/B-20:91** by the Committee of Adjustment, the applicant of the subject lands is currently in the process of completing an Official Plan and Zoning By-law Amendment which, if enacted by Hamilton City Council and passes the twenty (20) day appeal period,

will permit the proposed development. The applications UHOPA-20-006 and ZAC-20-01 will be heard concurrently at the February 10, 2021 Council Meeting.

Planning Act

Subsection 53(12) of the *Planning Act* states, when determining whether provisional consent is to be given that the Committee shall have regard for the criteria set out in subsection 51(24) of the *Planning Act*. Specifically,

(b) whether the proposed subdivision is premature or in the public interest; and

(c) whether the plan conforms to the Official Plan and adjacent Plans of Subdivision if any.

Staff is of the opinion that the applications are premature as the proposed severances do not comply with the current official plan designation and zoning By-law classification until such time as the Official Plan and Zoning By-law Amendments approved at the January 12, 2021 Planning Committee meeting are approved by Council. It is noted that staff is in support of the proposed Official Plan and Zoning By-law Amendments and would be in a position to support the proposed consents once the amending By-laws are enacted by Council.

Urban Hamilton Official Plan

The subject lands are designated as “Community” in Schedule E – Urban Structure, and designated as “Mixed Use Medium Density” in Schedule E-1 – Urban Land Use Designations in Volume 1 of the Urban Hamilton Official Plan (UHOP). Further, the lands are designated “Low Density Residential 1” in the Ancaster Wilson Street Secondary Plan (Map B.2.8-1 Volume 2). Policy B.2.8.7.3.a) applies, amongst others, and permits single detached and semi-detached dwellings. Townhouse dwellings are not permitted in this designation.

Staff note that the applicant’s Official Plan Amendment proposes to designate the subject lands to “Low Density Residential 3” which does permit all forms of townhouse dwellings

The proposal is defined as Residential Intensification, and accordingly, must be evaluated based on the policies of Sections B.2.4.1.4 and B.2.4.2.2 (Volume 1). The surrounding neighbourhood to the east consists primarily of single detached dwellings on regular lots with similar frontages, to the west the properties fronting on Wilson Street East consist of various commercial and personal service type uses with lots similar in size and shape. Specifically, policy 2.4.1.4.g) requires that for staff to support Residential Intensification the proposed development needs to comply with all applicable policies. However, until amending By-laws for applications UHOPA-20-006 and ZAC-20-011 are approved by council, staff must evaluate the proposed severance applications based on the current policies and thus recommend deferral until the Official Plan and Zoning designations are in place to allow the severances to occur.

New lots for residential uses in the “Commercial/Mixed Use” designation are permitted

when they meet the criteria of F.1.14.3.4 (Volume 1). Specifically, policy F1.14.3.4 b) & c) state, that the lots are to be in conformity with the Zoning By-law and comply with all relevant policies of the UHOP. As noted previously, until the proposed Official Plan and Zoning By-law Amendments are approved by council staff are not able to recommend approval of the applications as they are premature.

Staff is of the opinion that the proposed severances represent good planning and would be able to support the applications if the Official Plan and Zoning By-law Amendments are approved by Council. It must also be noted that the applications are supported by the in-depth analysis and consideration of the policies of E.3.0 (Volume 1) completed in the report 'PED20205' prepared by staff for the proposed Official Plan and Zoning By-law Amendments.

Town of Ancaster By-law No 87-57.

The subject lands are currently zoned Existing Residential "ER". The current zoning only permits one (1) detached dwelling on one lot and uses, buildings and structures accessory thereto. Townhouses are not currently permitted in the "ER" zone. As previously iterated, the applicant has applied for a zoning by-law amendment which proposes that the subject lands be reclassified as "H-RM2-712". The Residential Medium 2 zone allows the townhouse use while special provision 712 requires several site-specific provisions for the proposed lots and the proposed dwellings. Staff cannot support the proposed severances until the proposed zoning by-law amendment is considered and approved by Council. Staff recommends that the applications be deferred until after the February 10, 2021 Council meeting.

Recommendation:

Having regard for the matters under subsection 51(24) of the Planning Act, staff is not satisfied that the proposed lots are suitable for the use of the land, the proposed consents do not conform to the current Official Plan and Zoning By-law. Staff recommends that the proposed consents, as outlined in the Notices of Hearing, be **Deferred**.

Building Division:

1. This application shall be heard in conjunction with consent applications AN/B-20:90 & AN/B-20:91 in order to establish a total of six (6) individual lots.
2. The intended use of Street Townhouse Dwelling(s) are not permitted in the current 'ER' (Existing Residential) zone.

Please note that Building Division records indicate that a Zoning Amendment application (ZAC-20-011) has been made to rezone the subject lands in order to permit the intended use of Street Townhouses. As of today's date, this application remains not finalized.

3. Zoning compliance for each of the proposed lots cannot be determined until such time that the proposed zoning amendment is final and binding. As a condition of this consent application, the owner will be required to demonstrate zoning compliance once the new zoning is in effect.
4. The owner 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
5. Demolition of all or an appropriate portion of the building straddling the proposed property line shall be a condition of consent. Such demolition is subject to a demolition permit issued in the normal manner.

CONDITIONAL UPON:

1. The owner shall demolish all or an appropriate portion of any buildings straddling the proposed property line, to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section). May be subject to a demolition permit issued in the normal manner.
2. The owner shall receive final approval of any necessary variances/zoning amendments from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).

Development Engineering:

Information:

For the information of the Committee, this application is also open under file ZAC-20-011.

According to the City of Hamilton Transportation Planning, the existing right-of-way at the subject property is approximately 12.2 metres. Approximately 1.2 metres are to be dedicated to the right-of-way on Church Street to follow the Council Approved Urban Official Plan. The City recognizes that in older urban built up areas there are existing road right-of-way widths significantly less than 20.117 metres. Notwithstanding the other road right-of-way widening policies of this Plan, it is the intent of the City to increase these existing road rights-of-ways to a minimum of 15.24 metres with daylighting triangles at intersections instead of the minimum required 20.117 metre road right-of-way width, provided all the required road facilities, municipal sidewalks and utilities can be accommodated in this reduced road right-of-way width.

The proponent will be required to submit a deposited R-Plan and land transfer deed in accordance with the City of Hamilton Road Widening Procedural Guide.

According to our GIS records, the existing municipal services front the subject property as follows:

Church Street

1. 200mmø Sanitary Sewer
2. 200mmø PVC Watermain

Currently, there is also a 525mmø Storm Sewer along Church Street however it does not extend to the frontage of 15 Church Street. As a result, an extension of the storm sewer will be required. Additionally, whereas there is a sanitary sewer flanking the subject property, our GIS records indicate that the sanitary sewer may not cover the entire frontage of the property. Therefore, an External Works Agreement is recommended as a Condition of Severance or Condition of Site Plan Approval.

The proponent will be required to provide separate independent sewer and water services to both the severed and retained parcels, i.e. all proposed lots.

Recommendations:

1. 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.
2. That the Owner dedicate to the City of Hamilton by deed, sufficient land to establish the property line Approximately 7.62 metres from the original centreline of this roadway (approximately 1.2 metres are to be dedicated to the right-of-way on Church Street). All costs associated with the dedication of the required lands are to be borne by the Owner.
3. The Owner enters into an External Works Agreement with the City to provide for the extension of the storm, and if required sanitary, sewer to the satisfaction of the Manager of Development Approvals.

Growth Management:

Note: Based on these applications being approved and all conditions being met, the owner / applicant should be made aware that the lands identified as Part 1 will be assigned the address of **9 Church Street (Ancaster)**, the lands identified as Part 2 will be assigned the address of **11 Church Street (Ancaster)**, the lands identified as Part 3 will be assigned the address of **13 Church Street (Ancaster)**, the lands identified as Part 4 will remain as **15 Church Street (Ancaster)**, the lands identified as Part 5 will be assigned the address of **17 Church Street (Ancaster)**, and the lands identified as Part 6 will be assigned the address of **19 Church Street (Ancaster)**.

We ask that the following be noted to the applicants:

That the Owner agrees to physically affix the municipal numbers or full addresses to either the buildings or on signs in accordance with the City's Sign By-law, in a manner that is clearly visible from the road.

Transportation Planning & Parking Division (Traffic):

1. Transportation Planning has no objection to the land severance application, provided the following conditions are met:
 - a. The existing right-of-way at the subject property is approximately 12.2 metres. Approximately 3 metres are to be dedicated to the right-of-way on Church Street to follow the Council Approved Urban Official Plan: Chapter C - City Wide Systems and Designations 4.5 Road Network Functional Classification 4.5.2 f) Local Roads (Church Street, 12.2 metres), subject to the following policy:

The City recognizes that in older urban built up areas there are existing road right-of-way widths significantly less than 20.117 metres. Notwithstanding the other road right-of-way widening policies of this Plan, it is the intent of the City to increase these existing road rights-of-ways to a minimum of 15.24 metres with daylighting triangles at intersections instead of the minimum required 20.117 metre road right-of-way width, provided all the required road facilities, municipal sidewalks and utilities can be accommodated in this reduced road right-of-way width.

A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening(s).

See attached for additional comments.

From: [Heather Bull](#)
To: [Committee of Adjustment](#)
Subject: 15 Church Street, Ancaster
Date: January 31, 2021 12:45:52 AM

January 27, 2021

To Whom It May Concern;

Re: Severance Application at 15 Church Street Ancaster

I am writing to lodge my objection to the proposed development at 15 Church Street, Ancaster and the resulting request for severance for six (6) freehold lots to allow for six (6) townhouses to be erected.

My understanding from the plan is that there will be two (2) buildings with three (3) units in each building. As it stands, the total lot coverage exceeds what is allowable, further, the middle unit in each building amount to approximately 49% of the lot coverage – far exceeding allowable limits. It should not matter that the entire plan exceeds the lot coverage allowance by only several percent. The fact remains that two (2) units on two (2) lots, privately owned, will dramatically exceed the limit. How is that different than a property with ten percent coverage, allowing an adjacent property to go to sixty percent coverage because, between the two, the average is only thirty five percent?

To get to this point in the process, zoning has had to be changed and some twenty (20) variances have had to be granted, and now the current lot with one dwelling will be split in six (6) lots with six (6) dwellings. Clearly this type of development is not right for Ancaster in general, and the Maywood neighborhood in particular.

If this severance is granted it will set the tone for future development, where the main driver is maximum profit for the developer without consideration for, and at the expense of, local residents. I cannot imagine on what grounds future applications would be declined using this project as a benchmark; I do not think any zoning regulation or bylaw has been respected thus far.

To date, this development has progressed over the objections of the entire neighborhood, whose legitimate concerns have been ignored by town planners and the local councilor, who has been an enthusiastic supporter of the developer, rather than representing the clear desires of his constituents.

So, my ask is simple, please respect zoning regulations and existing local bylaws, and reject this application as being totally unsuitable to the landscape of the neighborhood. Please consider and respect the wishes of the local residents.

With Respect,

Eldon Bull
327 Lodor Street
Ancaster, ON.



330 Lodor St, Hamilton L9G 2Z2

City of Hamilton
Planning & Economic Development Department
Committee of Adjustment
71 Main Street West
Hamilton ON L8P 4Y5

**Re: Applications AN/B 20:89, AN/B 20:90, AN/B 20:91
15 Church Street, Ancaster**

Ancaster Village Heritage Community Inc (AVHC) is a non-profit organization working to preserve heritage in Ancaster, one of Canada's oldest towns, improve quality of life, and support positive development.

AVHC has been involved with Planning Applications UHOPA-20-006 and ZAC 20-011 on behalf of its members. We are opposed to the project proposed in these applications and note that 56 public submissions opposed to the applications were submitted to the Planning Committee. There were none supporting it.

Any of the persons who participated in the Planning Committee proceedings in writing or via delegation may choose to appeal approval to the Local Planning Appeal Tribunal (LPAT). AVHC does not believe that the Committee of Adjustment should deal with this matter until any appeals have been determined.

Further, prior to releasing the Hold on rezoning, a Documentation and Salvage Report and a Stage 4 Archeological study is required for the site.

Thus, ultimate approval and implementation of the Official Plan Amendments and rezoning is likely months away. There is no need to proceed with this application at this time.

AVHC notes that the applicant filed these applications November 20, 2020, 18 days ahead of the first Planning Committee meeting considering the applications that would have to be approved to ultimately permit the requested severances. This strikes AVHC as presumptuous at best.

AVHC believes that these applications are premature and approval by the Committee of Adjustment at this time, even with the standard provision that they are effective only with the final approval of the two planning applications, sends a negative signal to the citizens who have participated. The 55+ submissions were uniformly negative. The decision of this Committee should not influence any participant in the planning process, including discouraging an LPAT appeal. Some may take a severance approval to be somehow approval of the Official Plan Amendment or Zoning.

In the event the Committee is of a mind to proceed at this time, we offer the following comments.

1. **AVHC notes that the Urban Hamilton Official Plan—Neighbourhoods states:**
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.
2. **AVHC cannot reconcile the UHOP statement “compatible with the scale and character of the existing residential neighbourhood” with the incredible impact of approving these applications set out below.**
3. AVHC agrees that intensification required under provincial policies is a positive requirement for the future of our province. The Urban Hamilton Official Plan requires 40% of residential intensification to occur in areas designated as Neighbourhoods. This can be achieved at 15 Church without the incredible disruption approval of these applications bring to this stable heritage residential neighbourhood.
4. We believe, however, that intensification must be respectful of the existing lot fabric and this application absolutely is not. Church Street has a total of 8 lots, all single family home sized which we estimate to be 15 to 20 meters each.
5. Approval of this application will add 6 lots (5 new plus the original lot) which is a 63% increase in lots. The average width of the proposed lots is 8.3 meters. Two of them are only 6.6 meters. It is a breathtaking increase in density.
6. To illustrate the enormity of approval of this application consider the east side of Church Street, where this severance is proposed. There are only 3 normal size lots the entire length of the street including 15 Church. The impact on that side of this narrow, short residential street is an increase of 267% in lot density. There are 3 driveways now. There will be 8.

Surely “intensification” does not mean this level of disruption on a small heritage neighbourhood.

While the City must deal with applications as filed, AVHC points out there is intensification potential at 15 Church that respects the lot fabric.

The current designation under the Ancaster Secondary Plan is Low Density Residential 1. This designation permits single family and semi-detached homes. The current ER zoning only permits single family homes, but the zoning could be aligned with the Official Plan to permit a single semi detached building.

Further, AVHC believes that the lot, which is 50 meters wide, could be severed and 2 single family homes built with only one minor variance required for lot size under ER zoning. ZAC 20-100 for 6 street townhomes requires more than 20 variances.

AVHC asks the Committee:

1. To **DENY** the severances requested in these 3 applications as to approve them introduces a level of disruption to a stable heritage neighbourhood that we do not believe any policy ever intended;
2. Failing DENIAL, AVHC asks that this matter be set over until ALL steps required under the Rezoning amendment are completed and the HOLD status is removed.
3. To provide AVHC with a written copy of your decision.

Respectfully Submitted

A handwritten signature in black ink, appearing to read 'Bob Maton', is positioned to the left of a vertical line.

Bob Maton
President

From: [Heather Bull](#)
To: [Committee of Adjustment](#)
Subject: FW: 15 Church Street, Ancaster. Application Number: AN/B-20:89
Date: January 31, 2021 4:01:28 PM

Application Number: AN/B-20:89

January 27, 2021

To Whom It May Concern;

Re: Severance Application at 15 Church Street Ancaster

I am writing to lodge my objection to the proposed development at 15 Church Street, Ancaster and the resulting request for severance for six (6) freehold lots to allow for six (6) townhouses to be erected.

My understanding from the plan is that there will be two (2) buildings with three (3) units in each building. As it stands, the total lot coverage exceeds what is allowable, further, the middle unit in each building amount to approximately 49% of the lot coverage – far exceeding allowable limits. It should not matter that the entire plan exceeds the lot coverage allowance by only several percent. The fact remains that two (2) units on two (2) lots, privately owned, will dramatically exceed the limit. How is that different than a property with ten percent coverage, allowing an adjacent property to go to sixty percent coverage because, between the two, the average is only thirty five percent?

To get to this point in the process, zoning has had to be changed and some twenty (20) variances have had to be granted, and now the current lot with one dwelling will be split in six (6) lots with six (6) dwellings. Clearly this type of development is not right for Ancaster in general, and the Maywood neighborhood in particular.

If this severance is granted it will set the tone for future development, where the main driver is maximum profit for the developer without consideration for, and at the expense of, local residents. I cannot imagine on what grounds future applications would be declined using this project as a benchmark; I do not think any zoning regulation or bylaw has been respected thus far.

To date, this development has progressed over the objections of the entire neighborhood, whose legitimate concerns have been ignored by town planners and the local councilor, who has been an enthusiastic supporter of the developer, rather than representing the clear desires of his constituents.

So, my ask is simple, please respect zoning regulations and existing local bylaws, and reject this application as being totally unsuitable to the landscape of the neighborhood. Please consider and respect the wishes of the local residents.

With Respect,

Eldon Bull
327 Lodor Street
Ancaster, ON.



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: January 26, 2021

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: 15 Church Street, Ancaster
File: AN/B-20-89
AN/B-20-90
AN/B-20-91

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, February 4, 2021, 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.

ANCASTER HERITAGE TREES

This property is within the Town of Ancaster, covered by the Ancaster Tree By-law which was not repealed when **The City of Hamilton Tree By-law 15-125** was enacted on May 13, 2015. The Forestry & Horticulture Section will request that a permit application be submitted for the removal of Private Heritage diameter trees {=>46 cm d.b.h.} which are located farther than 7.5 meters from the outer edge of an occupied structure.

All Private tree removals should be disclosed to the City of Hamilton's Forestry Conservation By-Law Officer, who can be contacted at mletrees@hamilton.ca. The outcome should then be reported back to Forestry and Horticulture.

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.

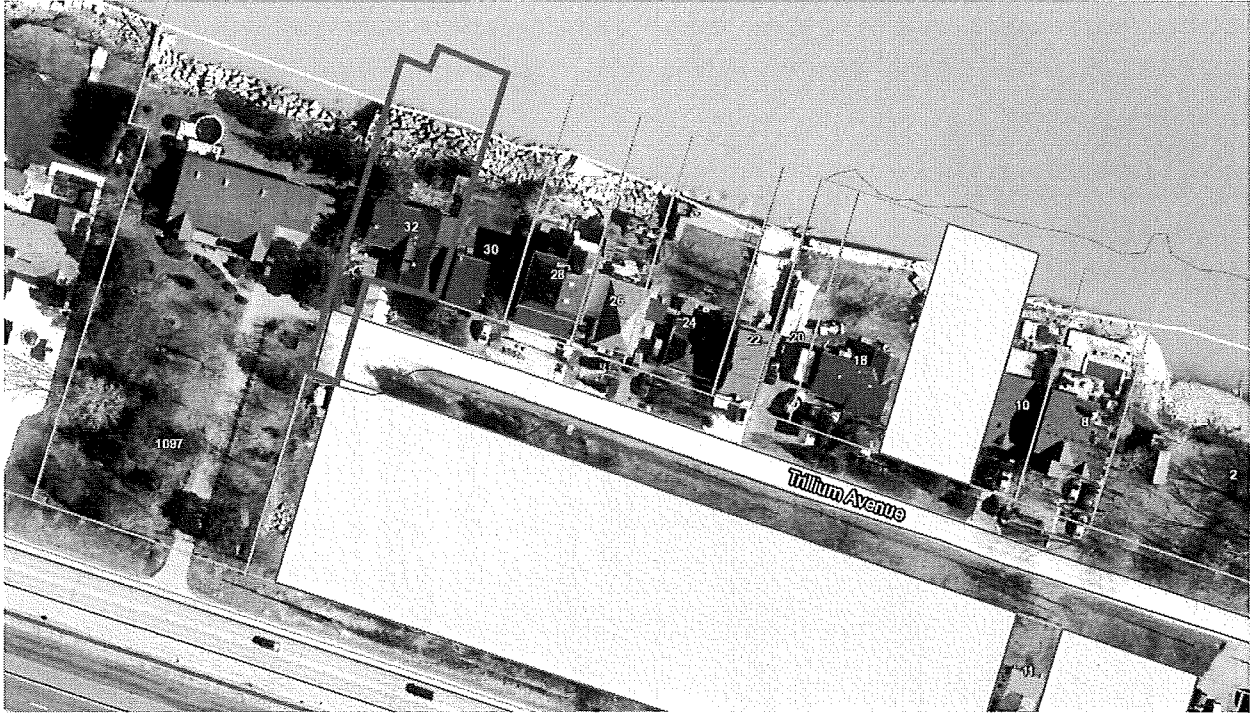
We encourage you to forward a complete copy of our comments to the applicant and should you or the Applicant require clarification or technical assistance, please do not hesitate to contact me at (905) 546- 2424 Ext. 7375.

Regards,

A handwritten signature in black ink, appearing to read 'Sam Brush'.

Sam Brush
Urban Forest Health Technician

32 Trillium Avenue, Stoney Creek



Applicants Proposal: To permit the development of a two storey addition to an existing single detached dwelling

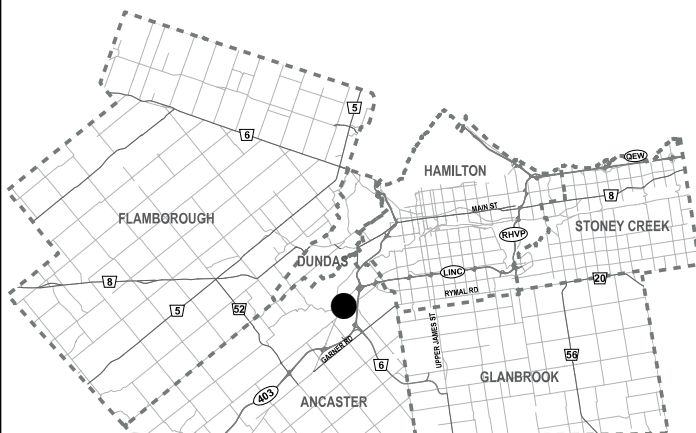
Variances for Property:

- n/a

Recommendations: That the applicant be advised of the following: Caution - City of Hamilton Easement (Instrument No. CD128942) is in direct vicinity of the proposed works. Applicant shall review easement document and ensure it compliance with the terms of the easement to ensure the safety/integrity of the City infrastructure."



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

15 Church Street, Ancaster (Ward 12)



Lands to be Retained



Lands to be Severed

File Name/Number:

AN/B-20:89

Date:

January 27, 2021

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

AN/B-20:90 – 15 Church St., 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 hard copy 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.
3. The existing right-of-way at the subject property is approximately 12.2 metres. Approximately 3 metres are to be dedicated to the right-of-way on Church Street to follow the Council Approved Urban Official Plan: Chapter C - City Wide Systems and Designations 4.5 Road Network Functional Classification 4.5.2 f) Local Roads (Church Street, 12.2 metres), subject to the following policy:

The City recognizes that in older urban built up areas there are existing road right-of-way widths significantly less than 20.117 metres. Notwithstanding the other road right-of-way widening policies of this Plan, it is the intent of the City to increase these existing road rights-of-ways to a minimum of 15.24 metres with daylighting triangles at intersections instead of the minimum required 20.117 metre road right-of-way width, provided all the required road facilities, municipal sidewalks and utilities can be accommodated in this reduced road right-of-way width.

A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening(s).

4. The owner shall demolish all or an appropriate portion of any buildings straddling the proposed property line, to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section). May be subject to a demolition permit issued in the normal manner.
5. The owner shall receive final approval of any necessary variances/zoning amendments from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).

6. 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.
7. That the Owner dedicate to the City of Hamilton by deed, sufficient land to establish the property line Approximately 7.62 metres from the original centreline of this roadway (approximately 1.2 metres are to be dedicated to the right-of-way on Church Street). All costs associated with the dedication of the required lands are to be borne by the Owner.
8. The Owner enters into an External Works Agreement with the City to provide for the extension of the storm, and if required sanitary, sewer to the satisfaction of the Manager of Development Approvals.
9. The owner/applicant shall satisfy the requirements of the Public Works Department Operations and Maintenance Division Forestry & Horticulture Section.
10. The owner submits to the Committee of Adjustment office an administration fee of \$90.00 payable to the City of Hamilton to cover the costs of setting up new tax accounts for the newly created lots.

Growth Management:

Note: Based on these applications being approved and all conditions being met, the owner / applicant should be made aware that the lands identified as Part 1 will be assigned the address of **9 Church Street (Ancaster)**, the lands identified as Part 2 will be assigned the address of **11 Church Street (Ancaster)**, the lands identified as Part 3 will be assigned the address of **13 Church Street (Ancaster)**, the lands identified as Part 4 will remain as **15 Church Street (Ancaster)**, the lands identified as Part 5 will be assigned the address of **17 Church Street (Ancaster)**, and the lands identified as Part 6 will be assigned the address of **19 Church Street (Ancaster)**.

We ask that the following be noted to the applicants:

That the Owner agrees to physically affix the municipal numbers or full addresses to either the buildings or on signs in accordance with the City's Sign By-law, in a manner that is clearly visible from the road.

AN/B-20:90 – 15 Church St., Ancaster**PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT****Development Planning – Rural**

Applications **HM/B-20:89**, **HM/B-20:90**, and **HM/B-20:91** are to be heard concurrently. The purpose of these applications is to create five (5) lots fronting onto Church Street to permit the construction of five (5) townhouse dwelling units which can be held in separate ownership. The retained parcel will facilitate the construction of a sixth (6) townhouse dwelling unit.

The proposed lots will be created as follows:

HM/B-20:89: The severed lands being Part 2 (0.0164 ha), with the retained parcel being Parts 3-6 (0.0816 ha) on the provided sketch. Part 1 (0.0246 ha) will become its own lot by way of natural severance due to Part 2's creation;

HM/B-20:90: The severed lands being Part 4 (0.0202 ha), with the retained parcel being Parts 5-6 (0.0411 ha) on the provided sketch. Part 3 (0.0202 ha) will become its own lot by way of natural severance due to Part 4's creation: and

HM/B-20:91: The severed lands being Part 6 (0.246 ha), while the retained parcel being Parts 5 (0.0164 ha) on the provided sketch (see Table 1)

Table 2

Applications	Severed Lands	Retained Lands	Natural Severance
HM/B-20:89	Part 2 on submitted sketch	Parts 3-6 on submitted sketch	Part 1 on submitted sketch
HM/B-20:90	Part 4 on submitted sketch	Parts 5-6 on submitted sketch	Part 3 on submitted sketch
HM/B-20:91	Part 6 on submitted sketch	Part 5 on submitted sketch	N/A

Background

Prior to the consideration of the current applications **HM/B-20:89**, **HM/B-20:90**, and **HM/B-20:91** by the Committee of Adjustment, the applicant of the subject lands is currently in the process of completing an Official Plan and Zoning By-law Amendment which, if enacted by Hamilton City Council and passes the twenty (20) day appeal period,

will permit the proposed development. The applications UHOPA-20-006 and ZAC-20-01 will be heard concurrently at the February 10, 2021 Council Meeting.

Planning Act

Subsection 53(12) of the *Planning Act* states, when determining whether provisional consent is to be given that the Committee shall have regard for the criteria set out in subsection 51(24) of the *Planning Act*. Specifically,

(b) whether the proposed subdivision is premature or in the public interest; and

(c) whether the plan conforms to the Official Plan and adjacent Plans of Subdivision if any.

Staff is of the opinion that the applications are premature as the proposed severances do not comply with the current official plan designation and zoning By-law classification until such time as the Official Plan and Zoning By-law Amendments approved at the January 12, 2021 Planning Committee meeting are approved by Council. It is noted that staff is in support of the proposed Official Plan and Zoning By-law Amendments and would be in a position to support the proposed consents once the amending By-laws are enacted by Council.

Urban Hamilton Official Plan

The subject lands are designated as “Community” in Schedule E – Urban Structure, and designated as “Mixed Use Medium Density” in Schedule E-1 – Urban Land Use Designations in Volume 1 of the Urban Hamilton Official Plan (UHOP). Further, the lands are designated “Low Density Residential 1” in the Ancaster Wilson Street Secondary Plan (Map B.2.8-1 Volume 2). Policy B.2.8.7.3.a) applies, amongst others, and permits single detached and semi-detached dwellings. Townhouse dwellings are not permitted in this designation.

Staff note that the applicant’s Official Plan Amendment proposes to designate the subject lands to “Low Density Residential 3” which does permit all forms of townhouse dwellings

The proposal is defined as Residential Intensification, and accordingly, must be evaluated based on the policies of Sections B.2.4.1.4 and B.2.4.2.2 (Volume 1). The surrounding neighbourhood to the east consists primarily of single detached dwellings on regular lots with similar frontages, to the west the properties fronting on Wilson Street East consist of various commercial and personal service type uses with lots similar in size and shape. Specifically, policy 2.4.1.4.g) requires that for staff to support Residential Intensification the proposed development needs to comply with all applicable policies. However, until amending By-laws for applications UHOPA-20-006 and ZAC-20-011 are approved by council, staff must evaluate the proposed severance applications based on the current policies and thus recommend deferral until the Official Plan and Zoning designations are in place to allow the severances to occur.

New lots for residential uses in the “Commercial/Mixed Use” designation are permitted

when they meet the criteria of F.1.14.3.4 (Volume 1). Specifically, policy F1.14.3.4 b) & c) state, that the lots are to be in conformity with the Zoning By-law and comply with all relevant policies of the UHOP. As noted previously, until the proposed Official Plan and Zoning By-law Amendments are approved by council staff are not able to recommend approval of the applications as they are premature.

Staff is of the opinion that the proposed severances represent good planning and would be able to support the applications if the Official Plan and Zoning By-law Amendments are approved by Council. It must also be noted that the applications are supported by the in-depth analysis and consideration of the policies of E.3.0 (Volume 1) completed in the report 'PED20205' prepared by staff for the proposed Official Plan and Zoning By-law Amendments.

Town of Ancaster By-law No 87-57.

The subject lands are currently zoned Existing Residential "ER". The current zoning only permits one (1) detached dwelling on one lot and uses, buildings and structures accessory thereto. Townhouses are not currently permitted in the "ER" zone. As previously iterated, the applicant has applied for a zoning by-law amendment which proposes that the subject lands be reclassified as "H-RM2-712". The Residential Medium 2 zone allows the townhouse use while special provision 712 requires several site-specific provisions for the proposed lots and the proposed dwellings. Staff cannot support the proposed severances until the proposed zoning by-law amendment is considered and approved by Council. Staff recommends that the applications be deferred until after the February 10, 2021 Council meeting.

Recommendation:

Having regard for the matters under subsection 51(24) of the Planning Act, staff is not satisfied that the proposed lots are suitable for the use of the land, the proposed consents do not conform to the current Official Plan and Zoning By-law. Staff recommends that the proposed consents, as outlined in the Notices of Hearing, be **Deferred**.

Building Division:

1. This application shall be heard in conjunction with consent applications AN/B-20:89 & AN/B-20:91 in order to establish a total of six (6) individual lots.
2. The intended use of Street Townhouse Dwelling(s) are not permitted in the current 'ER' (Existing Residential) zone.

Please note that Building Division records indicate that a Zoning Amendment application (ZAC-20-011) has been made to rezone the subject lands in order to permit the intended use of Street Townhouses. As of today's date, this application remains not finalized.

3. Zoning compliance for each of the proposed lots cannot be determined until such time that the proposed zoning amendment is final and binding. As a condition of this consent application, the owner will be required to demonstrate zoning compliance once the new zoning is in effect.
4. The owner 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
5. Demolition of all or an appropriate portion of the building straddling the proposed property line shall be a condition of consent. Such demolition is subject to a demolition permit issued in the normal manner.

CONDITIONAL UPON:

1. The owner shall demolish all or an appropriate portion of any buildings straddling the proposed property line, to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section). May be subject to a demolition permit issued in the normal manner.
2. The owner shall receive final approval of any necessary variances/zoning amendments from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).

Development Engineering:

Information:

For the information of the Committee, this application is also open under file ZAC-20-011.

According to the City of Hamilton Transportation Planning, the existing right-of-way at the subject property is approximately 12.2 metres. Approximately 1.2 metres are to be dedicated to the right-of-way on Church Street to follow the Council Approved Urban Official Plan. The City recognizes that in older urban built up areas there are existing road right-of-way widths significantly less than 20.117 metres. Notwithstanding the other road right-of-way widening policies of this Plan, it is the intent of the City to increase these existing road rights-of-ways to a minimum of 15.24 metres with daylighting triangles at intersections instead of the minimum required 20.117 metre road right-of-way width, provided all the required road facilities, municipal sidewalks and utilities can be accommodated in this reduced road right-of-way width.

The proponent will be required to submit a deposited R-Plan and land transfer deed in accordance with the City of Hamilton Road Widening Procedural Guide.

According to our GIS records, the existing municipal services front the subject property as follows:

Church Street

3. 200mmø Sanitary Sewer
4. 200mmø PVC Watermain

Currently, there is also a 525mmø Storm Sewer along Church Street however it does not extend to the frontage of 15 Church Street. As a result, an extension of the storm sewer will be required. Additionally, whereas there is a sanitary sewer flanking the subject property, our GIS records indicate that the sanitary sewer may not cover the entire frontage of the property. Therefore, an External Works Agreement is recommended as a Condition of Severance or Condition of Site Plan Approval.

The proponent will be required to provide separate independent sewer and water services to both the severed and retained parcels, i.e. all proposed lots.

Recommendations:

1. 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.
2. That the Owner dedicate to the City of Hamilton by deed, sufficient land to establish the property line Approximately 7.62 metres from the original centreline of this roadway (approximately 1.2 metres are to be dedicated to the right-of-way on Church Street). All costs associated with the dedication of the required lands are to be borne by the Owner.
3. The Owner enters into an External Works Agreement with the City to provide for the extension of the storm, and if required sanitary, sewer to the satisfaction of the Manager of Development Approvals.

Growth Management:

Note: Based on these applications being approved and all conditions being met, the owner / applicant should be made aware that the lands identified as Part 1 will be assigned the address of **9 Church Street (Ancaster)**, the lands identified as Part 2 will be assigned the address of **11 Church Street (Ancaster)**, the lands identified as Part 3 will be assigned the address of **13 Church Street (Ancaster)**, the lands identified as Part 4 will remain as **15 Church Street (Ancaster)**, the lands identified as Part 5 will be assigned the address of **17 Church Street (Ancaster)**, and the lands identified as Part 6 will be assigned the address of **19 Church Street (Ancaster)**.

We ask that the following be noted to the applicants:

That the Owner agrees to physically affix the municipal numbers or full addresses to either the buildings or on signs in accordance with the City's Sign By-law, in a manner that is clearly visible from the road.

Transportation Planning & Parking Division (Traffic):

1. Transportation Planning has no objection to the land severance application, provided the following conditions are met:
 - a. The existing right-of-way at the subject property is approximately 12.2 metres. Approximately 3 metres are to be dedicated to the right-of-way on Church Street to follow the Council Approved Urban Official Plan: Chapter C - City Wide Systems and Designations 4.5 Road Network Functional Classification 4.5.2 f) Local Roads (Church Street, 12.2 metres), subject to the following policy:

The City recognizes that in older urban built up areas there are existing road right-of-way widths significantly less than 20.117 metres. Notwithstanding the other road right-of-way widening policies of this Plan, it is the intent of the City to increase these existing road rights-of-ways to a minimum of 15.24 metres with daylighting triangles at intersections instead of the minimum required 20.117 metre road right-of-way width, provided all the required road facilities, municipal sidewalks and utilities can be accommodated in this reduced road right-of-way width.

A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening(s).

See attached for additional comments.

From: [Heather Bull](#)
To: [Committee of Adjustment](#)
Subject: 15 Church Street, Ancaster
Date: January 31, 2021 12:45:52 AM

January 27, 2021

To Whom It May Concern;

Re: Severance Application at 15 Church Street Ancaster

I am writing to lodge my objection to the proposed development at 15 Church Street, Ancaster and the resulting request for severance for six (6) freehold lots to allow for six (6) townhouses to be erected.

My understanding from the plan is that there will be two (2) buildings with three (3) units in each building. As it stands, the total lot coverage exceeds what is allowable, further, the middle unit in each building amount to approximately 49% of the lot coverage – far exceeding allowable limits. It should not matter that the entire plan exceeds the lot coverage allowance by only several percent. The fact remains that two (2) units on two (2) lots, privately owned, will dramatically exceed the limit. How is that different than a property with ten percent coverage, allowing an adjacent property to go to sixty percent coverage because, between the two, the average is only thirty five percent?

To get to this point in the process, zoning has had to be changed and some twenty (20) variances have had to be granted, and now the current lot with one dwelling will be split in six (6) lots with six (6) dwellings. Clearly this type of development is not right for Ancaster in general, and the Maywood neighborhood in particular.

If this severance is granted it will set the tone for future development, where the main driver is maximum profit for the developer without consideration for, and at the expense of, local residents. I cannot imagine on what grounds future applications would be declined using this project as a benchmark; I do not think any zoning regulation or bylaw has been respected thus far.

To date, this development has progressed over the objections of the entire neighborhood, whose legitimate concerns have been ignored by town planners and the local councilor, who has been an enthusiastic supporter of the developer, rather than representing the clear desires of his constituents.

So, my ask is simple, please respect zoning regulations and existing local bylaws, and reject this application as being totally unsuitable to the landscape of the neighborhood. Please consider and respect the wishes of the local residents.

With Respect,

Eldon Bull
327 Lodor Street
Ancaster, ON.



330 Lodor St, Hamilton L9G 2Z2

City of Hamilton
Planning & Economic Development Department
Committee of Adjustment
71 Main Street West
Hamilton ON L8P 4Y5

**Re: Applications AN/B 20:89, AN/B 20:90, AN/B 20:91
15 Church Street, Ancaster**

Ancaster Village Heritage Community Inc (AVHC) is a non-profit organization working to preserve heritage in Ancaster, one of Canada's oldest towns, improve quality of life, and support positive development.

AVHC has been involved with Planning Applications UHOPA-20-006 and ZAC 20-011 on behalf of its members. We are opposed to the project proposed in these applications and note that 56 public submissions opposed to the applications were submitted to the Planning Committee. There were none supporting it.

Any of the persons who participated in the Planning Committee proceedings in writing or via delegation may choose to appeal approval to the Local Planning Appeal Tribunal (LPAT). AVHC does not believe that the Committee of Adjustment should deal with this matter until any appeals have been determined.

Further, prior to releasing the Hold on rezoning, a Documentation and Salvage Report and a Stage 4 Archeological study is required for the site.

Thus, ultimate approval and implementation of the Official Plan Amendments and rezoning is likely months away. There is no need to proceed with this application at this time.

AVHC notes that the applicant filed these applications November 20, 2020, 18 days ahead of the first Planning Committee meeting considering the applications that would have to be approved to ultimately permit the requested severances. This strikes AVHC as presumptuous at best.

AVHC believes that these applications are premature and approval by the Committee of Adjustment at this time, even with the standard provision that they are effective only with the final approval of the two planning applications, sends a negative signal to the citizens who have participated. The 55+ submissions were uniformly negative. The decision of this Committee should not influence any participant in the planning process, including discouraging an LPAT appeal. Some may take a severance approval to be somehow approval of the Official Plan Amendment or Zoning.

In the event the Committee is of a mind to proceed at this time, we offer the following comments.

1. **AVHC notes that the Urban Hamilton Official Plan—Neighbourhoods states:**
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.
2. **AVHC cannot reconcile the UHOP statement “compatible with the scale and character of the existing residential neighbourhood” with the incredible impact of approving these applications set out below.**
3. AVHC agrees that intensification required under provincial policies is a positive requirement for the future of our province. The Urban Hamilton Official Plan requires 40% of residential intensification to occur in areas designated as Neighbourhoods. This can be achieved at 15 Church without the incredible disruption approval of these applications bring to this stable heritage residential neighbourhood.
4. We believe, however, that intensification must be respectful of the existing lot fabric and this application absolutely is not. Church Street has a total of 8 lots, all single family home sized which we estimate to be 15 to 20 meters each.
5. Approval of this application will add 6 lots (5 new plus the original lot) which is a 63% increase in lots. The average width of the proposed lots is 8.3 meters. Two of them are only 6.6 meters. It is a breathtaking increase in density.
6. To illustrate the enormity of approval of this application consider the east side of Church Street, where this severance is proposed. There are only 3 normal size lots the entire length of the street including 15 Church. The impact on that side of this narrow, short residential street is an increase of 267% in lot density. There are 3 driveways now. There will be 8.

Surely “intensification” does not mean this level of disruption on a small heritage neighbourhood.

While the City must deal with applications as filed, AVHC points out there is intensification potential at 15 Church that respects the lot fabric.

The current designation under the Ancaster Secondary Plan is Low Density Residential 1. This designation permits single family and semi-detached homes. The current ER zoning only permits single family homes, but the zoning could be aligned with the Official Plan to permit a single semi detached building.

Further, AVHC believes that the lot, which is 50 meters wide, could be severed and 2 single family homes built with only one minor variance required for lot size under ER zoning. ZAC 20-100 for 6 street townhomes requires more than 20 variances.

AVHC asks the Committee:

1. To **DENY** the severances requested in these 3 applications as to approve them introduces a level of disruption to a stable heritage neighbourhood that we do not believe any policy ever intended;
2. Failing DENIAL, AVHC asks that this matter be set over until ALL steps required under the Rezoning amendment are completed and the HOLD status is removed.
3. To provide AVHC with a written copy of your decision.

Respectfully Submitted

A handwritten signature in black ink, appearing to read 'Bob Maton', is positioned to the left of a vertical line.

Bob Maton
President



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: January 26, 2021

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: 15 Church Street, Ancaster
File: AN/B-20-89
AN/B-20-90
AN/B-20-91

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, February 4, 2021, 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.

ANCASTER HERITAGE TREES

This property is within the Town of Ancaster, covered by the Ancaster Tree By-law which was not repealed when **The City of Hamilton Tree By-law 15-125** was enacted on May 13, 2015. The Forestry & Horticulture Section will request that a permit application be submitted for the removal of Private Heritage diameter trees {>=46 cm d.b.h.} which are located farther than 7.5 meters from the outer edge of an occupied structure.

All Private tree removals should be disclosed to the City of Hamilton's Forestry Conservation By-Law Officer, who can be contacted at mletrees@hamilton.ca. The outcome should then be reported back to Forestry and Horticulture.

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.

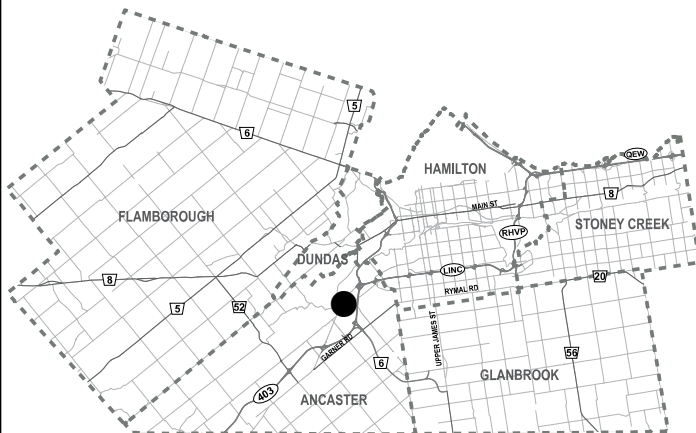
Regards,

A handwritten signature in black ink, appearing to read 'Sam Brush'.

Sam Brush
Urban Forest Health Technician



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

15 Church Street, Ancaster (Ward 12)



Lands to be Retained



Lands to be Severed

File Name/Number:

AN/B-20:90

Date:

January 27, 2021

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

AN/B-20:91 – 15 Church St., 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 hard copy 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.
3. The existing right-of-way at the subject property is approximately 12.2 metres. Approximately 3 metres are to be dedicated to the right-of-way on Church Street to follow the Council Approved Urban Official Plan: Chapter C - City Wide Systems and Designations 4.5 Road Network Functional Classification 4.5.2 f) Local Roads (Church Street, 12.2 metres), subject to the following policy:

The City recognizes that in older urban built up areas there are existing road right-of-way widths significantly less than 20.117 metres. Notwithstanding the ther road right-of-way widening policies of this Plan, it is the intent of the City to increase these existing road rights-of-ways to a minimum of 15.24 metres with daylighting triangles at intersections instead of the minimum required 20.117 metre road right-of-way width, provided all the required road facilities, municipal sidewalks and utilities can be accommodated in this reduced road right-of-way width.

A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening(s).

4. The owner shall demolish all or an appropriate portion of any buildings straddling the proposed property line, to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section). May be subject to a demolition permit issued in the normal manner.
5. The owner shall receive final approval of any necessary variances/zoning amendments from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).

6. 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.
7. That the Owner dedicate to the City of Hamilton by deed, sufficient land to establish the property line Approximately 7.62 metres from the original centreline of this roadway (approximately 1.2 metres are to be dedicated to the right-of-way on Church Street). All costs associated with the dedication of the required lands are to be borne by the Owner.
8. The Owner enters into an External Works Agreement with the City to provide for the extension of the storm, and if required sanitary, sewer to the satisfaction of the Manager of Development Approvals.
9. The owner/applicant shall satisfy the requirements of the Public Works Department Operations and Maintenance Division Forestry & Horticulture Section.
10. The owner submits to the Committee of Adjustment office an administration fee of \$90.00 payable to the City of Hamilton to cover the costs of setting up new tax accounts for the newly created lots.

Growth Management:

Note: Based on these applications being approved and all conditions being met, the owner / applicant should be made aware that the lands identified as Part 1 will be assigned the address of **9 Church Street (Ancaster)**, the lands identified as Part 2 will be assigned the address of **11 Church Street (Ancaster)**, the lands identified as Part 3 will be assigned the address of **13 Church Street (Ancaster)**, the lands identified as Part 4 will remain as **15 Church Street (Ancaster)**, the lands identified as Part 5 will be assigned the address of **17 Church Street (Ancaster)**, and the lands identified as Part 6 will be assigned the address of **19 Church Street (Ancaster)**.

We ask that the following be noted to the applicants:

That the Owner agrees to physically affix the municipal numbers or full addresses to either the buildings or on signs in accordance with the City's Sign By-law, in a manner that is clearly visible from the road.

AN/B-20:91 – 15 Church St., Ancaster**PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT****Development Planning – Rural**

Applications **HM/B-20:89**, **HM/B-20:90**, and **HM/B-20:91** are to be heard concurrently. The purpose of these applications is to create five (5) lots fronting onto Church Street to permit the construction of five (5) townhouse dwelling units which can be held in separate ownership. The retained parcel will facilitate the construction of a sixth (6) townhouse dwelling unit.

The proposed lots will be created as follows:

HM/B-20:89: The severed lands being Part 2 (0.0164 ha), with the retained parcel being Parts 3-6 (0.0816 ha) on the provided sketch. Part 1 (0.0246 ha) will become its own lot by way of natural severance due to Part 2's creation;

HM/B-20:90: The severed lands being Part 4 (0.0202 ha), with the retained parcel being Parts 5-6 (0.0411 ha) on the provided sketch. Part 3 (0.0202 ha) will become its own lot by way of natural severance due to Part 4's creation: and

HM/B-20:91: The severed lands being Part 6 (0.246 ha), while the retained parcel being Parts 5 (0.0164 ha) on the provided sketch (see Table 1)

Table 3

Applications	Severed Lands	Retained Lands	Natural Severance
HM/B-20:89	Part 2 on submitted sketch	Parts 3-6 on submitted sketch	Part 1 on submitted sketch
HM/B-20:90	Part 4 on submitted sketch	Parts 5-6 on submitted sketch	Part 3 on submitted sketch
HM/B-20:91	Part 6 on submitted sketch	Part 5 on submitted sketch	N/A

Background

Prior to the consideration of the current applications **HM/B-20:89**, **HM/B-20:90**, and **HM/B-20:91** by the Committee of Adjustment, the applicant of the subject lands is currently in the process of completing an Official Plan and Zoning By-law Amendment which, if enacted by Hamilton City Council and passes the twenty (20) day appeal period,

will permit the proposed development. The applications UHOPA-20-006 and ZAC-20-01 will be heard concurrently at the February 10, 2021 Council Meeting.

Planning Act

Subsection 53(12) of the *Planning Act* states, when determining whether provisional consent is to be given that the Committee shall have regard for the criteria set out in subsection 51(24) of the *Planning Act*. Specifically,

(b) whether the proposed subdivision is premature or in the public interest; and

(c) whether the plan conforms to the Official Plan and adjacent Plans of Subdivision if any.

Staff is of the opinion that the applications are premature as the proposed severances do not comply with the current official plan designation and zoning By-law classification until such time as the Official Plan and Zoning By-law Amendments approved at the January 12, 2021 Planning Committee meeting are approved by Council. It is noted that staff is in support of the proposed Official Plan and Zoning By-law Amendments and would be in a position to support the proposed consents once the amending By-laws are enacted by Council.

Urban Hamilton Official Plan

The subject lands are designated as “Community” in Schedule E – Urban Structure, and designated as “Mixed Use Medium Density” in Schedule E-1 – Urban Land Use Designations in Volume 1 of the Urban Hamilton Official Plan (UHOP). Further, the lands are designated “Low Density Residential 1” in the Ancaster Wilson Street Secondary Plan (Map B.2.8-1 Volume 2). Policy B.2.8.7.3.a) applies, amongst others, and permits single detached and semi-detached dwellings. Townhouse dwellings are not permitted in this designation.

Staff note that the applicant’s Official Plan Amendment proposes to designate the subject lands to “Low Density Residential 3” which does permit all forms of townhouse dwellings

The proposal is defined as Residential Intensification, and accordingly, must be evaluated based on the policies of Sections B.2.4.1.4 and B.2.4.2.2 (Volume 1). The surrounding neighbourhood to the east consists primarily of single detached dwellings on regular lots with similar frontages, to the west the properties fronting on Wilson Street East consist of various commercial and personal service type uses with lots similar in size and shape. Specifically, policy 2.4.1.4.g) requires that for staff to support Residential Intensification the proposed development needs to comply with all applicable policies. However, until amending By-laws for applications UHOPA-20-006 and ZAC-20-011 are approved by council, staff must evaluate the proposed severance applications based on the current policies and thus recommend deferral until the Official Plan and Zoning designations are in place to allow the severances to occur.

New lots for residential uses in the “Commercial/Mixed Use” designation are permitted

when they meet the criteria of F.1.14.3.4 (Volume 1). Specifically, policy F1.14.3.4 b) & c) state, that the lots are to be in conformity with the Zoning By-law and comply with all relevant policies of the UHOP. As noted previously, until the proposed Official Plan and Zoning By-law Amendments are approved by council staff are not able to recommend approval of the applications as they are premature.

Staff is of the opinion that the proposed severances represent good planning and would be able to support the applications if the Official Plan and Zoning By-law Amendments are approved by Council. It must also be noted that the applications are supported by the in-depth analysis and consideration of the policies of E.3.0 (Volume 1) completed in the report 'PED20205' prepared by staff for the proposed Official Plan and Zoning By-law Amendments.

Town of Ancaster By-law No 87-57.

The subject lands are currently zoned Existing Residential "ER". The current zoning only permits one (1) detached dwelling on one lot and uses, buildings and structures accessory thereto. Townhouses are not currently permitted in the "ER" zone. As previously iterated, the applicant has applied for a zoning by-law amendment which proposes that the subject lands be reclassified as "H-RM2-712". The Residential Medium 2 zone allows the townhouse use while special provision 712 requires several site-specific provisions for the proposed lots and the proposed dwellings. Staff cannot support the proposed severances until the proposed zoning by-law amendment is considered and approved by Council. Staff recommends that the applications be deferred until after the February 10, 2021 Council meeting.

Recommendation:

Having regard for the matters under subsection 51(24) of the Planning Act, staff is not satisfied that the proposed lots are suitable for the use of the land, the proposed consents do not conform to the current Official Plan and Zoning By-law. Staff recommends that the proposed consents, as outlined in the Notices of Hearing, be **Deferred**.

Building Division:

1. This application shall be heard in conjunction with consent applications AN/B-20:89 & AN/B-20:90 in order to establish a total of six (6) individual lots.
2. The intended use of Street Townhouse Dwelling(s) are not permitted in the current 'ER' (Existing Residential) zone.

Please note that Building Division records indicate that a Zoning Amendment application (ZAC-20-011) has been made to rezone the subject lands in order to permit the intended use of Street Townhouses. As of today's date, this application remains not finalized.

3. Zoning compliance for each of the proposed lots cannot be determined until such time that the proposed zoning amendment is final and binding. As a condition of this consent application, the owner will be required to demonstrate zoning compliance once the new zoning is in effect.
4. The owner 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
5. Demolition of all or an appropriate portion of the building straddling the proposed property line shall be a condition of consent. Such demolition is subject to a demolition permit issued in the normal manner.

CONDITIONAL UPON:

1. The owner shall demolish all or an appropriate portion of any buildings straddling the proposed property line, to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section). May be subject to a demolition permit issued in the normal manner.
2. The owner shall receive final approval of any necessary variances/zoning amendments from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).

Development Engineering:

Information:

For the information of the Committee, this application is also open under file ZAC-20-011.

According to the City of Hamilton Transportation Planning, the existing right-of-way at the subject property is approximately 12.2 metres. Approximately 1.2 metres are to be dedicated to the right-of-way on Church Street to follow the Council Approved Urban Official Plan. The City recognizes that in older urban built up areas there are existing road right-of-way widths significantly less than 20.117 metres. Notwithstanding the other road right-of-way widening policies of this Plan, it is the intent of the City to increase these existing road rights-of-ways to a minimum of 15.24 metres with daylighting triangles at intersections instead of the minimum required 20.117 metre road right-of-way width, provided all the required road facilities, municipal sidewalks and utilities can be accommodated in this reduced road right-of-way width.

The proponent will be required to submit a deposited R-Plan and land transfer deed in accordance with the City of Hamilton Road Widening Procedural Guide.

According to our GIS records, the existing municipal services front the subject property as follows:

Church Street

- 5. 200mmø Sanitary Sewer
- 6. 200mmø PVC Watermain

Currently, there is also a 525mmø Storm Sewer along Church Street however it does not extend to the frontage of 15 Church Street. As a result, an extension of the storm sewer will be required. Additionally, whereas there is a sanitary sewer flanking the subject property, our GIS records indicate that the sanitary sewer may not cover the entire frontage of the property. Therefore, an External Works Agreement is recommended as a Condition of Severance or Condition of Site Plan Approval.

The proponent will be required to provide separate independent sewer and water services to both the severed and retained parcels, i.e. all proposed lots.

Recommendations:

1. 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.
2. That the Owner dedicate to the City of Hamilton by deed, sufficient land to establish the property line Approximately 7.62 metres from the original centreline of this roadway (approximately 1.2 metres are to be dedicated to the right-of-way on Church Street). All costs associated with the dedication of the required lands are to be borne by the Owner.
3. The Owner enters into an External Works Agreement with the City to provide for the extension of the storm, and if required sanitary, sewer to the satisfaction of the Manager of Development Approvals.

Growth Management:

Note: Based on these applications being approved and all conditions being met, the owner / applicant should be made aware that the lands identified as Part 1 will be assigned the address of **9 Church Street (Ancaster)**, the lands identified as Part 2 will be assigned the address of **11 Church Street (Ancaster)**, the lands identified as Part 3 will be assigned the address of **13 Church Street (Ancaster)**, the lands identified as Part 4 will remain as **15 Church Street (Ancaster)**, the lands identified as Part 5 will be assigned the address of **17 Church Street (Ancaster)**, and the lands identified as Part 6 will be assigned the address of **19 Church Street (Ancaster)**.

We ask that the following be noted to the applicants:

That the Owner agrees to physically affix the municipal numbers or full addresses to either the buildings or on signs in accordance with the City's Sign By-law, in a manner that is clearly visible from the road.

Transportation Planning & Parking Division (Traffic):

1. Transportation Planning has no objection to the land severance application, provided the following conditions are met:
 - a. The existing right-of-way at the subject property is approximately 12.2 metres. Approximately 3 metres are to be dedicated to the right-of-way on Church Street to follow the Council Approved Urban Official Plan: Chapter C - City Wide Systems and Designations 4.5 Road Network Functional Classification 4.5.2 f) Local Roads (Church Street, 12.2 metres), subject to the following policy:

The City recognizes that in older urban built up areas there are existing road right-of-way widths significantly less than 20.117 metres. Notwithstanding the other road right-of-way widening policies of this Plan, it is the intent of the City to increase these existing road rights-of-ways to a minimum of 15.24 metres with daylighting triangles at intersections instead of the minimum required 20.117 metre road right-of-way width, provided all the required road facilities, municipal sidewalks and utilities can be accommodated in this reduced road right-of-way width.

A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening(s).

See attached for additional comments.

From: [Heather Bull](#)
To: [Committee of Adjustment](#)
Subject: 15 Church Street, Ancaster
Date: January 31, 2021 12:45:52 AM

January 27, 2021

To Whom It May Concern;

Re: Severance Application at 15 Church Street Ancaster

I am writing to lodge my objection to the proposed development at 15 Church Street, Ancaster and the resulting request for severance for six (6) freehold lots to allow for six (6) townhouses to be erected.

My understanding from the plan is that there will be two (2) buildings with three (3) units in each building. As it stands, the total lot coverage exceeds what is allowable, further, the middle unit in each building amount to approximately 49% of the lot coverage – far exceeding allowable limits. It should not matter that the entire plan exceeds the lot coverage allowance by only several percent. The fact remains that two (2) units on two (2) lots, privately owned, will dramatically exceed the limit. How is that different than a property with ten percent coverage, allowing an adjacent property to go to sixty percent coverage because, between the two, the average is only thirty five percent?

To get to this point in the process, zoning has had to be changed and some twenty (20) variances have had to be granted, and now the current lot with one dwelling will be split in six (6) lots with six (6) dwellings. Clearly this type of development is not right for Ancaster in general, and the Maywood neighborhood in particular.

If this severance is granted it will set the tone for future development, where the main driver is maximum profit for the developer without consideration for, and at the expense of, local residents. I cannot imagine on what grounds future applications would be declined using this project as a benchmark; I do not think any zoning regulation or bylaw has been respected thus far.

To date, this development has progressed over the objections of the entire neighborhood, whose legitimate concerns have been ignored by town planners and the local councilor, who has been an enthusiastic supporter of the developer, rather than representing the clear desires of his constituents.

So, my ask is simple, please respect zoning regulations and existing local bylaws, and reject this application as being totally unsuitable to the landscape of the neighborhood. Please consider and respect the wishes of the local residents.

With Respect,

Eldon Bull
327 Lodor Street
Ancaster, ON.



330 Lodor St, Hamilton L9G 2Z2

City of Hamilton
Planning & Economic Development Department
Committee of Adjustment
71 Main Street West
Hamilton ON L8P 4Y5

**Re: Applications AN/B 20:89, AN/B 20:90, AN/B 20:91
15 Church Street, Ancaster**

Ancaster Village Heritage Community Inc (AVHC) is a non-profit organization working to preserve heritage in Ancaster, one of Canada's oldest towns, improve quality of life, and support positive development.

AVHC has been involved with Planning Applications UHOPA-20-006 and ZAC 20-011 on behalf of its members. We are opposed to the project proposed in these applications and note that 56 public submissions opposed to the applications were submitted to the Planning Committee. There were none supporting it.

Any of the persons who participated in the Planning Committee proceedings in writing or via delegation may choose to appeal approval to the Local Planning Appeal Tribunal (LPAT). AVHC does not believe that the Committee of Adjustment should deal with this matter until any appeals have been determined.

Further, prior to releasing the Hold on rezoning, a Documentation and Salvage Report and a Stage 4 Archeological study is required for the site.

Thus, ultimate approval and implementation of the Official Plan Amendments and rezoning is likely months away. There is no need to proceed with this application at this time.

AVHC notes that the applicant filed these applications November 20, 2020, 18 days ahead of the first Planning Committee meeting considering the applications that would have to be approved to ultimately permit the requested severances. This strikes AVHC as presumptuous at best.

AVHC believes that these applications are premature and approval by the Committee of Adjustment at this time, even with the standard provision that they are effective only with the final approval of the two planning applications, sends a negative signal to the citizens who have participated. The 55+ submissions were uniformly negative. The decision of this Committee should not influence any participant in the planning process, including discouraging an LPAT appeal. Some may take a severance approval to be somehow approval of the Official Plan Amendment or Zoning.

In the event the Committee is of a mind to proceed at this time, we offer the following comments.

1. **AVHC notes that the Urban Hamilton Official Plan—Neighbourhoods states:**
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.
2. **AVHC cannot reconcile the UHOP statement “compatible with the scale and character of the existing residential neighbourhood” with the incredible impact of approving these applications set out below.**
3. AVHC agrees that intensification required under provincial policies is a positive requirement for the future of our province. The Urban Hamilton Official Plan requires 40% of residential intensification to occur in areas designated as Neighbourhoods. This can be achieved at 15 Church without the incredible disruption approval of these applications bring to this stable heritage residential neighbourhood.
4. We believe, however, that intensification must be respectful of the existing lot fabric and this application absolutely is not. Church Street has a total of 8 lots, all single family home sized which we estimate to be 15 to 20 meters each.
5. Approval of this application will add 6 lots (5 new plus the original lot) which is a 63% increase in lots. The average width of the proposed lots is 8.3 meters. Two of them are only 6.6 meters. It is a breathtaking increase in density.
6. To illustrate the enormity of approval of this application consider the east side of Church Street, where this severance is proposed. There are only 3 normal size lots the entire length of the street including 15 Church. The impact on that side of this narrow, short residential street is an increase of 267% in lot density. There are 3 driveways now. There will be 8.

Surely “intensification” does not mean this level of disruption on a small heritage neighbourhood.

While the City must deal with applications as filed, AVHC points out there is intensification potential at 15 Church that respects the lot fabric.

The current designation under the Ancaster Secondary Plan is Low Density Residential 1. This designation permits single family and semi-detached homes. The current ER zoning only permits single family homes, but the zoning could be aligned with the Official Plan to permit a single semi detached building.

Further, AVHC believes that the lot, which is 50 meters wide, could be severed and 2 single family homes built with only one minor variance required for lot size under ER zoning. ZAC 20-100 for 6 street townhomes requires more than 20 variances.

AVHC asks the Committee:

1. To **DENY** the severances requested in these 3 applications as to approve them introduces a level of disruption to a stable heritage neighbourhood that we do not believe any policy ever intended;
2. Failing DENIAL, AVHC asks that this matter be set over until ALL steps required under the Rezoning amendment are completed and the HOLD status is removed.
3. To provide AVHC with a written copy of your decision.

Respectfully Submitted

A handwritten signature in black ink, appearing to read 'Bob Maton', is positioned to the left of a vertical line.

Bob Maton
President



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: January 26, 2021

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: 15 Church Street, Ancaster
File: AN/B-20-89
AN/B-20-90
AN/B-20-91

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, February 4, 2021, 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.

ANCASTER HERITAGE TREES

This property is within the Town of Ancaster, covered by the Ancaster Tree By-law which was not repealed when **The City of Hamilton Tree By-law 15-125** was enacted on May 13, 2015. The Forestry & Horticulture Section will request that a permit application be submitted for the removal of Private Heritage diameter trees {=>46 cm d.b.h.} which are located farther than 7.5 meters from the outer edge of an occupied structure.

All Private tree removals should be disclosed to the City of Hamilton's Forestry Conservation By-Law Officer, who can be contacted at mletrees@hamilton.ca. The outcome should then be reported back to Forestry and Horticulture.

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.

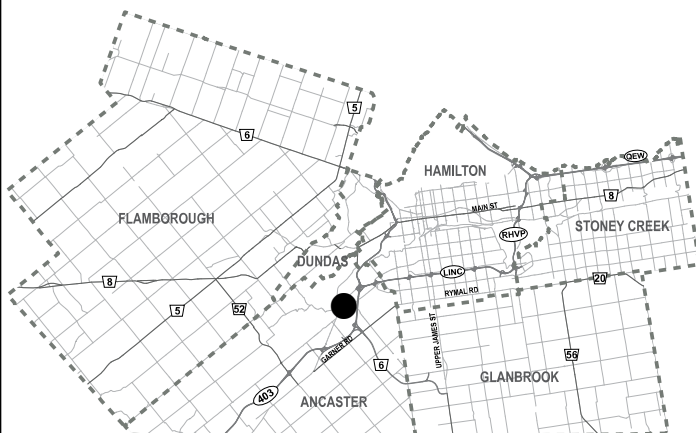
Regards,

A handwritten signature in black ink, appearing to read 'Sam Brush'.

Sam Brush
Urban Forest Health Technician



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

15 Church Street, Ancaster (Ward 12)



Lands to be Retained



Lands to be Severed

File Name/Number:

AN/B-20:90

Date:

January 27, 2021

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

DN/A-20:278 – 189 Melville St., Dundas

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Rural

The purpose of this application is to permit the construction of a one-storey rear addition to 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 for a minimum rear yard of 4.4m to be permitted instead of the minimum 7.5m rear yard required.

The proposed variance is a minor reduction in the minimum rear yard setback requirement. Staff are satisfied the proposed variance will have no impact on the neighbouring properties, nor reduce the liveability of the property. Therefore, the variance is minor in nature and appropriate for the development of the subject property. Accordingly, **staff support** the variance.

The proposed variance is intended to enable the construction of a one storey rear addition to the existing single detached dwelling. Staff note that the abutting properties have rear-yard setbacks that vary from 2m to 14m, and as such staff are not concerned that the proposed variance will have a negative impact on the surrounding properties. With regard to drainage, staff defer to Development Engineering Approvals.

The intent of the RHOP and Zoning By-law are maintained as the setback is compatible with the neighbourhood character and provides the single detached dwelling with an amenity area within the rear yard. The variance is minor in nature and appropriate for the development of the subject property as the configuration, form and mass of the proposed addition is compatible with the character of the neighbourhood. Accordingly, **staff support** the variance.

Recommendation

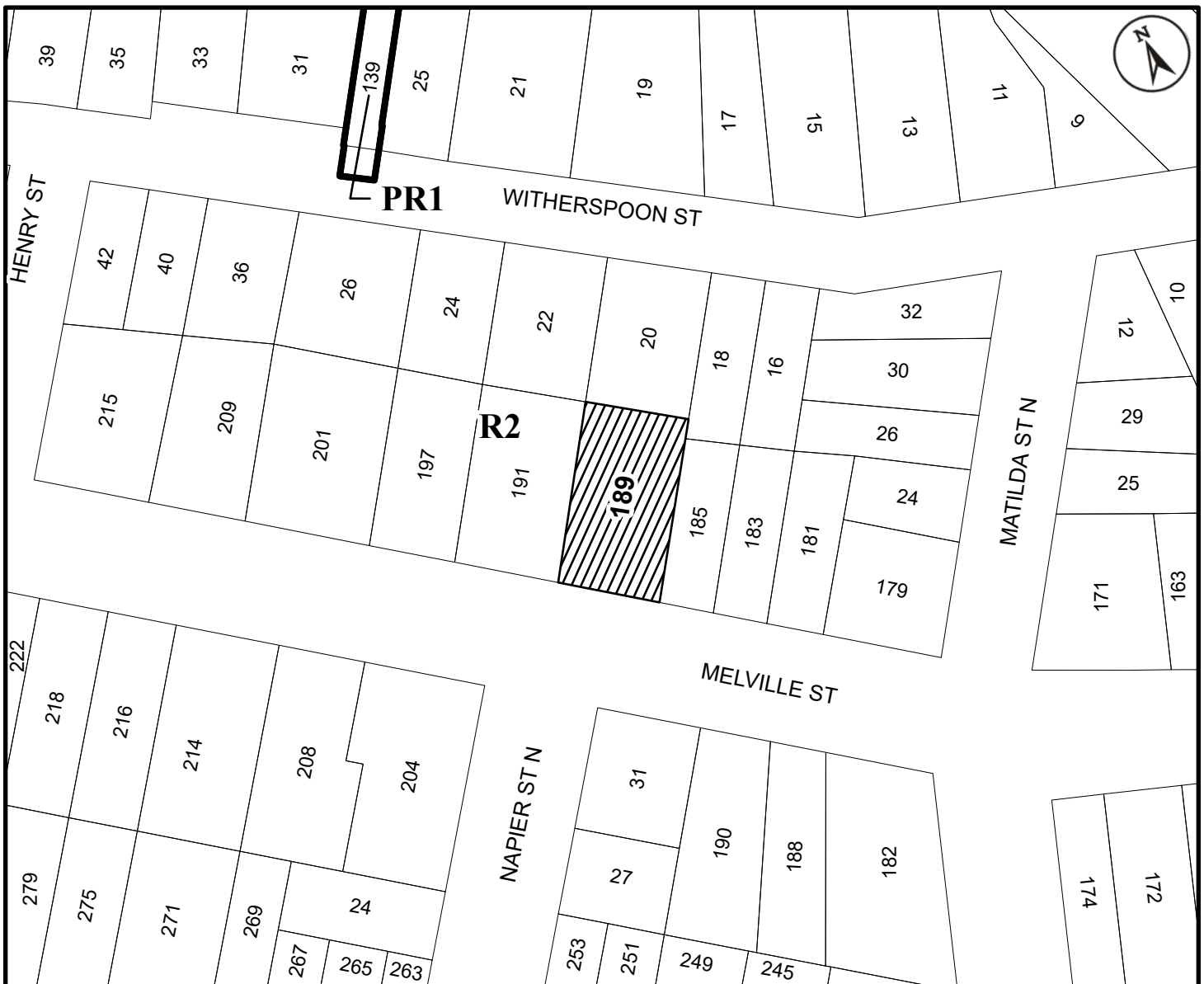
Staff recommend that the variance be **approved**, as the variance maintains the general intent and purpose of the Urban Hamilton Official Plan and the City of Hamilton Zoning By-law 05-200. The variance is minor in nature and is desirable for the appropriate development of the lands.

Building Division:

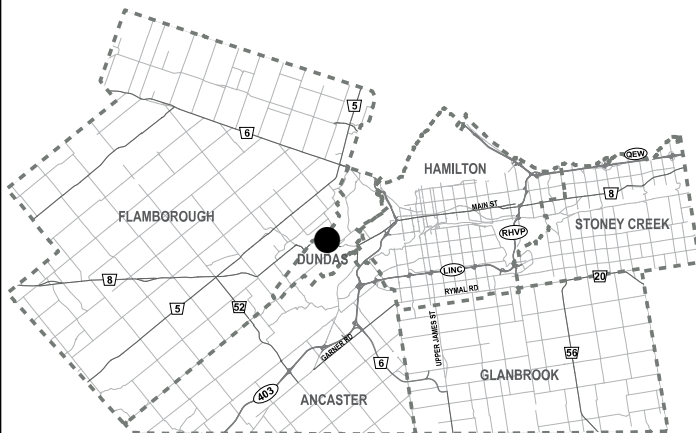
1. A building permit is required for the proposed rear one-storey addition.
2. This property is listed in the City of Hamilton's Inventory of Buildings of Architectural and/or Historical Interest as a property of cultural heritage value or interest. Please contact a Cultural Heritage Planner at (905) 546-2424, extension 1202 or 1214, or visit www.hamilton.ca/heritageplanning for further information.
3. The applicant shall ensure that the maximum 10.5m height is not exceeded. No elevation plans were provided.
4. The zoning By-law permits an eave or gutter to project a maximum of 1.5m into a rear yard and permits a projection of an eave or gutter into a side yard to a maximum of one-half of its width or 1.0m whichever is lesser. No details were provided to confirm compliance.

Development Engineering:

No Comment



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



189 Melville Street, Dundas
(Ward 13)

File Name/Number:

DN/A-20:278

Date:

January 27, 2021

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

FL/A-20:285 – 35 Taylor Cres., Flamborough

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Rural

The purpose of this application is to permit the construction of a new 18.3m x 8.0m, one (1) storey accessory building in the rear yard of the existing Single Detached Dwelling.

Rural Hamilton Official Plan:

The property is within the “Greensville Rural Settlement Area” and is designated as “Settlement Residential” in Volume 2: Map 8a Greensville Rural Settlement Area Plan. Policy A.3.5.5 amongst others, is applicable and permits a single detached dwelling.

Hamilton Zoning By-law 05-200:

The subject property is zoned (S1) Settlement Residential Zone which permits a single detached dwelling.

Variance 1

The applicant is seeking a variance for an area of 145.0m² within an accessory building to be devoted for parking whereas a maximum parking area of 97.0m² is permitted within an accessory structure.

Zoning By-law 05-200 requires that all buildings accessory to a residential use, within the Settlement Residential (S1) Zone, shall not exceed 30% lot coverage of the yard in which the accessory buildings are located, including areas devoted exclusively to parking, to a maximum of 97 square metres.

In evaluating the appropriateness of a large accessory structure, the use of the accessory structures must remain subordinate to the primary use, in this case being the single detached dwelling. Accordingly, due to the amount of gross floor area dedicated to the accessory structure (145.0m²) being bigger than the area of the single detached dwelling (approximately 90m²), the proposed accessory structure becomes larger than the principle use of the property and as such no longer meets the definition of being subordinate to the primary use. 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 2

The applicant is seeking a variance for a building height of 5.8m to be provided instead of the maximum permitted accessory building height of 5.0m.

The intent of this provision is to keep accessory structures subordinate to the single detached dwelling. In this case, the proposed accessory structure (with a proposed height of 5.8m) is subordinate to the existing single detached dwelling (with a height of approximately 6m). The height of the structure does not have an impact on the neighbouring properties and is compatible with the surrounding neighbourhood. Based on the foregoing, the general intent of 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 3

The applicant is seeking a variance for a height of 4.5m to be provided to the underside of any fascia eaves, overhand or the lower ends of the roof joists, rafters or trusses whereas the by-law permits a maximum height of 3.0m.

The intent of this provision is to keep accessory structures subordinate to the dwelling and to reduce the impacts on neighbouring properties. The variance is necessary due to the design of the accessory structure. The roof is characterized by a gable style roof. The height of the structure is compatible with the neighbourhood as it is subordinate to the single detached dwelling. The variance maintains the general intent of the RHOP and Zoning By-law as the height of the accessory structure is subordinate to the single detached dwellings in the neighbourhood. The variance is minor in nature and appropriate for the development of the subject lands as there are no perceived impacts on the neighbouring properties. **Staff support** the variance.

Recommendation

Staff recommend that variance 1 be **denied**, as the variance do not maintain the general intent and purpose of the Rural Hamilton Official Plan and the Hamilton Zoning By-law No. 05-200. The variance is not minor in nature and is not desirable for the development of the lands.

Staff recommends that variances 2 and 3 be **approved**, as the variances maintain the general intent and purpose of the Rural Hamilton Official Plan and the Hamilton Zoning By-law No. 05-200. The variances are considered to be minor in nature and are desirable for the appropriate use of the property.

Building Division:

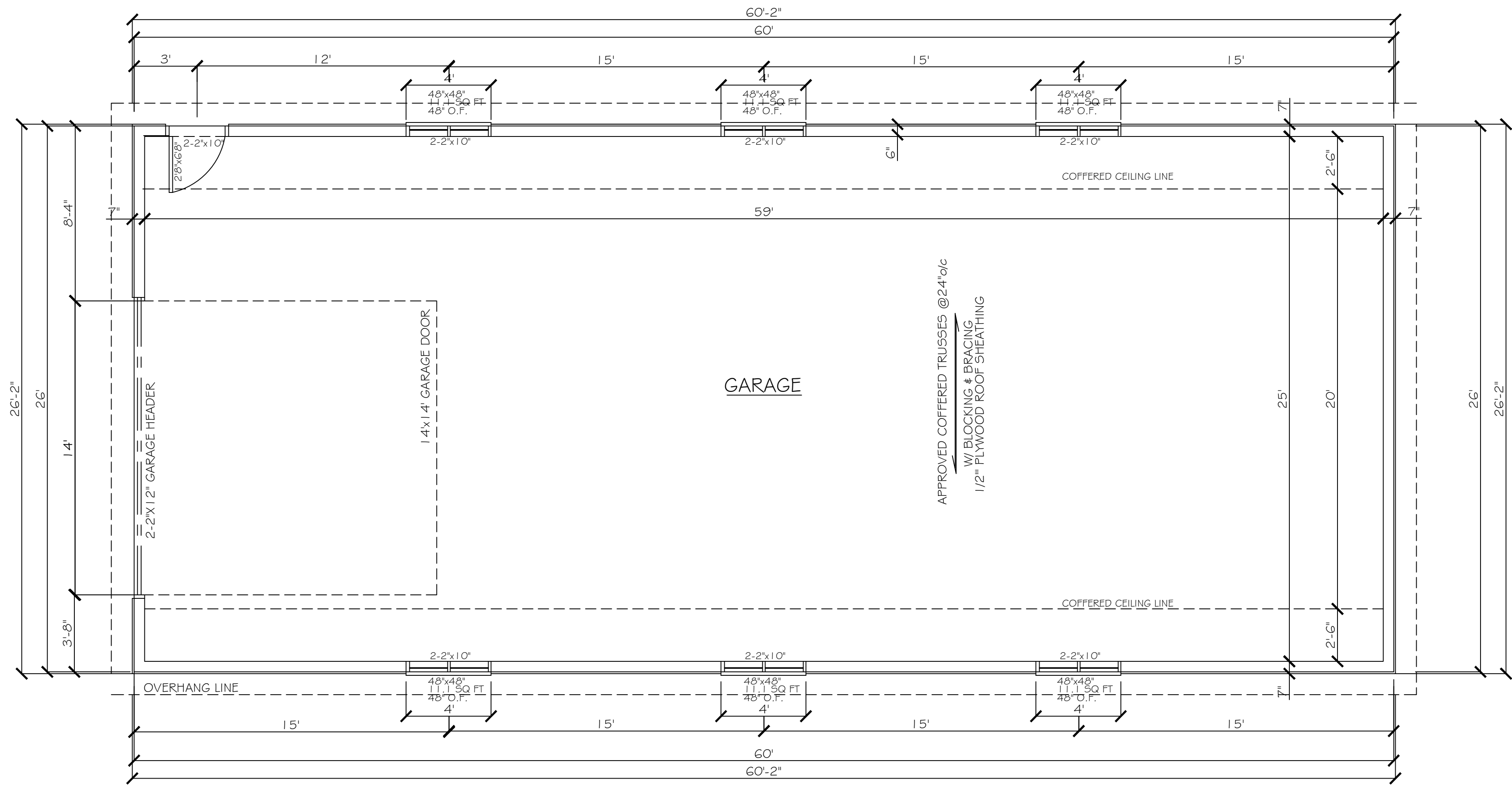
1. Please be advised that no accessory building shall be used for human habitation. The accessory structure appears to be intended entirely for parking purposes however floor plans have not been provided to confirm zoning compliance.

2. A building permit is required in the normal manner for the construction of the proposed building. Please be advised that Ontario Building Code regulations may require specific setback and construction types.

Development Engineering:

No Comment

See attached for additional comments.



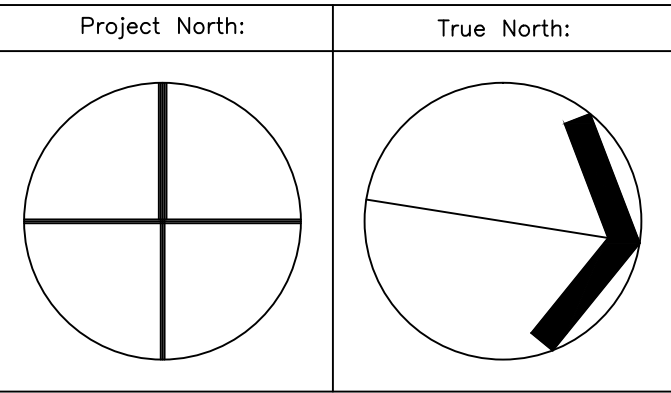
FLOOR PLAN
SCALE 1/4"=1'-0"

NOTE:
ALL BUILDING MATERIALS AND CONSTRUCTION METHODS TO COMPLY WITH CURRENT OBC
VERIFY ALL DIMENSIONS BEFORE AND DURING CONSTRUCTION TO CONFIRM ACCURACY
VERIFY ALL DIMENSIONS OF SPECIALTY ITEMS BEFORE ORDERING TO CONFIRM ACCURACY

NOTE:
TRUSS DESIGNS AND LAYOUT PROVIDED BY TRUSS MANUFACTURER

NOTE:
DUE TO THE POSSIBLE VARIANTS ON THE SITE IT IS IMPORTANT FOR
THE CONTRACTOR AND TRUSS MANUFACTURER VERIFY
ALL DIMENSIONS, BEARING AND ROOF PITCHES OF TRUSSES
ON SITE AND ON ALL PAGES OF ARCHITECTURAL DRAWINGS TO
ASSURE ACCURACY AND SOFFIT ALIGNMENT

NOTE:
FINAL GRADING WILL DEPEND ON SIGHT AND SOIL CONDITIONS
FINAL DEPTH OF FOUNDATION WILL DEPEND ON SIGHT AND SOIL CONDITIONS



THE UNDERSIGNED HAS REVIEWED AND TAKES
RESPONSIBILITY FOR THIS DESIGN AND HAS THE
QUALIFICATIONS AND MEETS THE REQUIREMENTS
AS SET OUT IN THE ONTARIO BUILDING CODE
2.17.4.1.(2)(a) TO BE AN "OTHER DESIGNER"
QUALIFICATION INFORMATION
IRON CRICKMORE BCIN: 41922

Iron Crickmore

No. Date: Issue/Revision By:

Drawing Issues/Revisions:

Note:
ALL DIMENSIONS AND INFORMATION SHOWN ON THESE DRAWINGS
MUST BE CHECKED AND VERIFIED ON SITE AND ANY
DISCREPANCIES REPORTED TO THE DESIGNER PRIOR TO
CONSTRUCTION AND FABRICATION OF ITS COMPONENTS. SHOULD
EXISTING CONDITIONS OR SERVICES BE FOUND TO VARY FROM
THAT INDICATED ON THE DRAWINGS, THE DESIGNER MUST BE
NOTIFIED IMMEDIATELY.

FEATURES OF CONSTRUCTION NOT FULLY SHOWN ARE ASSUMED
TO BE THE SAME CHARACTER AS THOSE NOTED FOR SIMILAR
CONDITIONS.

UNLESS SPECIFICALLY NOTED OTHERWISE ON THE DRAWINGS, NO
PROVISION HAS BEEN MADE IN THE DESIGN FOR CONDITIONS
OCCURRING DURING CONSTRUCTION. IT SHALL BE THE
RESPONSIBILITY OF THE CONTRACTOR TO PROVIDE ALL
NECESSARY BRACING, SHORINGS, SHEET PILING OR OTHER
TEMPORARY SUPPORTS, TO SAFEGUARD ALL EXISTING OR
ADJACENT STRUCTURES AFFECTED BY THIS WORK.

ALL DRAWINGS AND RELATED DOCUMENTS SHALL REMAIN THE
PROPERTY AND COPYRIGHT OF S.D.H. DESIGNS.

USE LATEST REVISED DRAWINGS. DO NOT SCALE DRAWINGS.

CRICKMORE DESIGN

111 Valhurst Street, Ajax, Ontario, Canada L9C 4D8
Tel: 905-970-9255

Project:
**MATT HENDERSON
PROPOSED GARAGE**
35 TAYLOR CRESCENT
GREENSVILLE ONTARIO

Sheet Title:
**PROPOSED GARAGE
GARAGE FLOOR PLAN**

Design By: RJC
Scale: 1/4"=1'-0"
Drawn By: RJC
Date: SEPT 2020
Approved By: RJC
Project No.: 20042

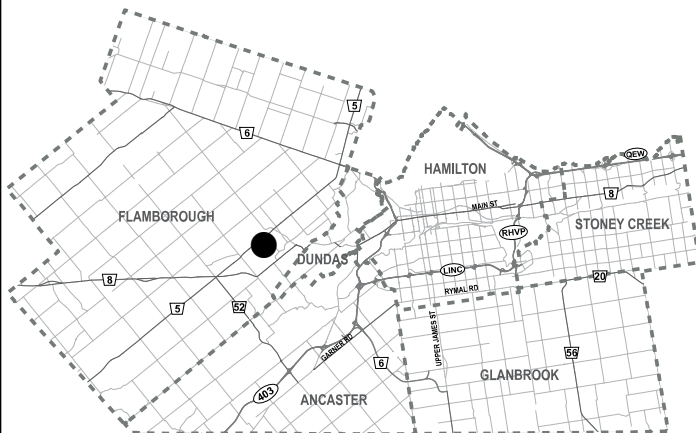
Drawing No:

A2

Drawing Series:



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



35 Taylor Crescent, Flamborough
(Ward 13)

File Name/Number:

FL/A-20:285

Date:

January 27, 2021

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

FL/A-20:276 – 44 Main St. N., 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:

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

1. The applicant shall submit and receive approval for an archeological assessment, for the area to be severed, to the satisfaction of the Manager, Development Planning Heritage & Design.

FL/A-20:276 – 44 Main St. N., Flamborough

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Rural

The purpose of this application is to permit the conveyance of a vacant parcel of land with an approximate area of 2647 square metres and the retention of a parcel of land with an approximate area of 524 square metres containing an existing single detached dwelling.

Urban Hamilton Official Plan

The Urban Hamilton Official Plan designates the property as “Neighbourhoods: in Schedule E-1 – Urban Land Use Designations.

- “1.14.3.3 Consents for new lot creation for both the severed and retained lands for mixed uses, commercial, institutional, or open space in the Neighbourhoods 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 are in conformity with the Zoning By-law or a minor variance is approved;
 - c) the lots are fully serviced by municipal water and wastewater systems; and,
 - d) the lots have frontage on a public road.”

Please see discussion under the Interim Control By-law No. 20-101 section below.

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

The subject lands are zoned “R1” Urban Residential (Single Detached) Zone.

Variance 1, 2, 3,

V1) The applicant is seeking a variance for a minimum lot area of 524 square metres to be permitted for the lands to be retained instead of the minimum required lot area of 665 square metres.

V2) The applicant is seeking a variance for a minimum lot frontage of 14 metres to be permitted for the lands to be retained instead of the minimum required lot frontage of 18 metres.

V3) As discussed above, staff consider that the proposed variance is premature until the relevant studies are completed.

Please see discussion under the Interim Control By-law No. 20-101 below.

Interim Control By-law No. 20-101

Please note that the subject lands are currently subject to Interim Control By-law No. 20-101 which relevant sections are outline below.

“Council of the Corporation of the City of Hamilton enacts as follows:

- 1. Staff are directed to undertake planning studies in respect of land use policies and zoning by-law regulations, in the areas described in Schedule “A”.*
- 2. No buildings or structures are permitted on the lands subject to this by-law, except for those legally existing on the date of passage of this by-law. Notwithstanding the foregoing restriction, the following actions are permitted:*
 - a) an expansion of legally existing buildings or structures, to a maximum of 10%*
 - b) of the existing gross floor area;*
 - c) a change to the interior or facade of legally existing buildings or structures;*
 - d) the repair or restoration of any existing, non-conforming building or structure, or part thereof, to a safe condition provided that such repair or restoration will not increase the height, area or volume of such building or structure and the building or structure continues to be used for the same purpose and in the same manner as it was used on the date of passing of this By-law; and,*
 - e) the erection of a new accessory building or structure.*
- 4. This By-law shall be in effect for a period of one year from the date of passage of this By-law.*
- 5. The Municipal Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.*

Please be advised that this Interim Control By-law will be in place **until May 20, 2021**.

The subject property is located within the study area for the Waterdown Community Node Secondary Plan Study. The study was initiated in 2018 and is expected to be completed later this year (2021). Specific policies and land use directions may be established or amended through the study. A Cultural Heritage Review and Urban Design Guidelines are also being considered to support the study. This property is located within a potential cultural heritage landscape identified in the Cultural Heritage Review.

A separate study, the Waterdown Village Built Heritage Inventory is also being completed in this area. This initiative will update the City of Hamilton's database of information on heritage buildings in the village. The inventory will evaluate each property to determine if it has cultural heritage value or interest that should be recognized by adding it to the Municipal Heritage Register or further evaluated for potential designation under the Ontario Heritage Act. Inventory recommendations are expected to be considered by Council in early 2021. The subject property is recommended to be added to the Municipal Heritage Register as part of this process.

Recommendation

Therefore, staff recommend that this **application be tabled** as the proposed variance application is premature until the planning studies within the Interim Control By-law area are completed. Staff are of the opinion that it is not good planning to permit the creation of lots and approve associated variances which may or may not end up being compliant once the review is completed.

The proposed new lots must be compliant with the "R1" Urban Residential Zone while under the interim control by-law.

- The proposed lot does not comply with the minimum lot area of 524 metres for the lands to be retained.
- The proposed lot does not comply with the minimum lot frontage of 18 metres for the lands to be retained.

Staff recommend tabling the application.

CONDITION:

Should the Committee approve the application, staff require the following conditions be added to the application:

1. The applicant shall submit and receive approval for an archeological assessment, for the area to be severed, to the satisfaction of the Manager, Development Planning Heritage & Design.

Building Division:

1. The subject lands are currently subject to Interim Control By-law 20-101 which restricts a land owner from replacing any building on a lot, from building on a vacant lot, or from increasing the existing building size by more than 10%. Please be advised that this Interim Control By-law will be in place until May 20, 2021.
2. A further variance will be required should the intent be for the existing accessory structure (frame shed) is intended to be maintained on the lands to be conveyed.
3. Details regarding the height of the existing building have not been provided. A further variance will be required if the height of the existing single detached dwelling exceeds 11.0 metres, provided in accordance with the definition of “*Height*” and “*Grade*” as defined within the Zoning By-law.
4. Details regarding yard encroachments have not been provided. Further variances will be required if compliance with Section 5.30 of the Zoning By-law cannot be achieved.
5. It is unclear if the minimum required rear yard of 7.5 metres is provided from the existing structure to the new rear lot line (most easterly lot line of the lands to be retained). A further variance will be required if the minimum required rear yard of 7.5 metres is not provided.
6. Details regarding landscaping have not been provided. A further variance will be required if a minimum of 50% of the front yard, which is not crossed by a driveway, is not provided as landscaped open space.
7. Details regarding parking have not been provided. Further variances will be required if compliance with Section 5.21 of the Zoning By-law (Parking Regulations) cannot be achieved. Please be advised, for a single detached dwelling, a minimum of one (1) parking space is required to be provided.
8. These variances are necessary to facilitate land severance application FL/B-20:96, to be heard in conjunction with this application.
9. Demolition of the existing accessory building (frame shed) located on the lands to be conveyed is subject to the issuance of a demolition permit from the Building Division.

10. The portion of the property known as 44 Main Street North is listed in the City of Hamilton's Inventory of Buildings of Architectural and/or Historical Interest as a property of cultural value or interest.

Development Engineering:

No Comment

See attached for additional comments.

From: [Marianne Brown](#)
To: [Committee of Adjustment](#)
Cc: [Nick Brown](#); [Nathan Brown](#); [Andrew Brown](#); [Partridge, Judi](#)
Subject: 44 Main Street North, FL/A-20:276
Date: January 21, 2021 2:51:04 PM
Importance: High

To the Committee of Adjustment:

I am writing on behalf of the owners of 25 Mill Street North, Waterdown to register comments with respect to the above noted severance application. The owners of 25 Mill Street North are also residents of Main Street North, although not within 60 m of the subject property.

This neighbourhood contains many historical homes and buildings located on large prime lots. The neighbourhood has experienced various recent residential redevelopments whereby existing smaller homes were demolished, or extensively added too, significantly changing the street landscape. The charm of this neighbourhood is the treed street boulevards, attractively landscaped front yards and larger than minimum yard setbacks. While we recognize that homes will be bought and sold and renovated to meet modern needs, it would be unacceptable to lose the heritage aspect of the overall neighbourhood, which is reflected in pockets of heritage homes and buildings, along with green space.

At 25 Mill Street North we paid a premium to purchase and to renovate according to (and beyond) Heritage requirements. This was done with full recognition and respect for the neighbourhood's and City's commitment to maintaining the heritage characteristics. We were encouraged, supported and recognized by neighbours and the City for the respect we paid to the history of our building and our neighbourhood. It would be a disappointing and serious contradiction to us and our neighbours if the development at 44 Main St. North is approved as-proposed.

We understand that this particular lot at 44 Main Street is exceptionally large and are not opposed to a severance in general, but we do not agree that the current proposal for 44 Main Street North is minor in nature or in keeping with the rest of the neighbourhood properties.

We are opposed to permitting a reduction of the minimum lot size of 665 sqm, reducing the minimum lot frontage by 4.0 m, and permitting a lot coverage of 27.4% instead of not more than 25%. All of those minimum requirements can be met, while still permitting a large severed lot sufficient for a single family dwelling to be constructed on the new lot, which will also meet the present zoning requirements.

Regards,
2538754 Ontario Inc.
Nicholas Brown
Nathan Brown
Andrew Brown

From: [Loiacono, Johnpaul \(MNRF\)](#)
To: [Costa, Samantha](#)
Cc: [Committee of Adjustment](#)
Subject: RE: February 4th 2021 Agenda Available!
Date: January 29, 2021 5:44:04 PM
Attachments: [image001.png](#)

Good afternoon,

NEC staff have reviewed the agenda for the upcoming meeting on February 4, 2021.

The following items pertain to lands that are subject to the policies of the Niagara Escarpment Plan (NEP).

- 184 Winona Road (SC/A-20:275)

This site is located with the NEP area and it is designated Escarpment Protection Area, however it is outside the area of Development Control.
NEC staff have no objection to this application.

- 44 Main Street North (FL/A-20:276)

This site is located with the NEP area and it is designated Urban Area, however it is outside the area of Development Control.
NEC staff have no objection to this application.

Thank you,
Johnpaul

Johnpaul Loiacono

Senior Planner

Niagara Escarpment Commission

232 Guelph Street | Georgetown, ON | L7G 4B1

Tel: 289-924-1315 | **Website:** www.escarpment.org

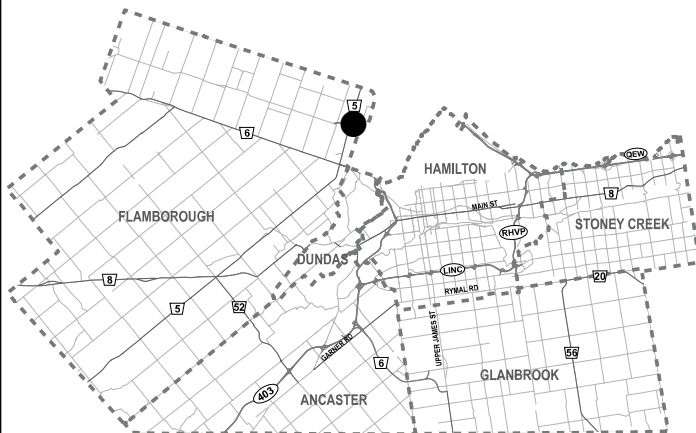
Please let me know if you require communication supports or alternate formats.

In order to ensure a safe and secure environment for staff and clients and in response to recommendations by health professionals, the NEC offices are closed to the public until further notice. The NEC is continuing to provide services via email and telephone. Updates can be found on our website: <https://www.escarpment.org/Commission/COVID19>

From: necgeorgetown (MNRF) <necgeorgetown@ontario.ca>
Sent: January 19, 2021 12:43 PM
To: Loiacono, Johnpaul (MNRF) <Johnpaul.Loiacono@ontario.ca>
Subject: FW: February 4th 2021 Agenda Available!



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

44 Main Street North, Flamborough (Ward 15)



Lands to be Retained



Lands to be Severed

File Name/Number:

FL/A-20:276

Date:

January 27, 2021

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

FL/B-20:96 – 44 Main St. N., 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:

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 hard copy and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. The applicant shall submit and receive approval for an archeological assessment, for the area to be severed, to the satisfaction of the Manager, Development Planning Heritage & Design.
3. 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 – input either Plan Examination Section).
4. The owner shall demolish the existing accessory building (frame shed) located on the lands to be conveyed 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 in order for the existing accessory building (frame shed) to remain when no principal use is existing (Building Division – Zoning Section). May be subject to a demolition permit issued in the normal manner.
5. The owner shall submit survey evidence that the lands to be retained including the location of any existing structure(s), parking, landscaping, and all other zoning requirements as listed on the Public Notice for Minor Variance application FL/A-20:276 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).
6. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.
7. Approximately 4.0 metres are to be dedicated to the right-of-way on Main Street North, as per the Council Approved Urban Official Plan: Chapter C - City Wide

Systems and Designations, 4.5 Road Network Functional Classification, 4.5.2. Collector Roads (Main Street North) are to be 26.213 metres.

- b. A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening(s).
8. The owner/applicant shall satisfy the requirements of the Public Works Department Operations and Maintenance Division, Forestry & Horticulture Section.

FL/B-20:96 – 44 Main St. N., Flamborough

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Rural

The purpose of this application is to permit the creation of a new lot for existing residential use.

Severed lands:

14.70 m \pm x 33.80 m \pm and an area of 524.3 m 2 \pm

Retained lands:

28.60 m \pm x 72.30 m \pm and an area of 2647.70 m 2 \pm

Urban Hamilton Official Plan

The Urban Hamilton Official Plan designates the property as “Neighbourhoods: in Schedule E-1 – Urban Land Use Designations.

- “1.14.3.3 Consents for new lot creation for both the severed and retained lands for mixed uses, commercial, institutional, or open space in the Neighbourhoods 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 are in conformity with the Zoning By-law or a minor variance is approved;
 - c) the lots are fully serviced by municipal water and wastewater systems; and,
 - d) the lots have frontage on a public road.”

Please see discussion under Interim Control By-law No. 20-101 section below.

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

The subject lands are zoned “R1” Urban Residential (Single Detached) Zone.

Interim Control By-law No. 20-101

The subject lands are currently subject to Interim Control By-law No. 20-101.

Council of the Corporation of the City of Hamilton enacts as follows:

1. Staff are directed to undertake planning studies in respect of land use policies and zoning by-law regulations, in the areas described in Schedule “A”.
2. No buildings or structures are permitted on the lands subject to this by-law, except for those legally existing on the date of passage of this by-law. Notwithstanding the foregoing restriction, the following actions are permitted:
 - a) an expansion of legally existing buildings or structures, to a maximum of 10%
 - b) of the existing gross floor area;
 - c) a change to the interior or facade of legally existing buildings or structures;
 - d) the repair or restoration of any existing, non-conforming building or structure, or part thereof, to a safe condition provided that such repair or restoration will not increase the height, area or volume of such building or structure and the building or structure continues to be used for the same purpose and in the same manner as it was used on the date of passing of this By-law; and,
 - e) the erection of a new accessory building or structure.
3. Within the area described in Schedules “A”, a building permit may be issued in accordance with the following provisions:
 - a) a building permit may be issued to permit the erection of a building or structure in accordance with any minor variance or site plan that has been approved or conditionally approved by the City of Hamilton or the Local Planning Area Tribunal as it read on the day before By-law No. 20-101 was passed by Council; and,
 - b) a building permit may be issued to permit the construction of a building or structure in accordance with a building permit application received by the City of Hamilton on or before the day before By-law No. 20-101 was passed by Council.

For the purposes of determining zoning conformity, the following conditions shall apply:

- i) This By-law is deemed to be modified to the extent necessary to permit a building or structure that is erected in accordance with Subsection a) or b) above.
 - ii) Once the permit or approval under Subsection a) or b) above, has been granted, the provisions of this By-law apply in all other respects to the land in question.
4. This By-law shall be in effect for a period of one year from the date of passage of this By-law.
5. The Municipal Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.

Please be advised that this Interim Control By-law will be in place **until May 20, 2021**.

The subject property is located within the study area for the Waterdown Community Node Secondary Plan Study. The study was initiated in 2018 and is expected to be completed later this year (2021). Specific policies and land use directions may be established or amended through the study. A Cultural Heritage Review and Urban Design Guidelines are also being considered to support the study. This property is located within a potential cultural heritage landscape identified in the Cultural Heritage Review.

A separate study, the Waterdown Village Built Heritage Inventory is also being completed in this area. This initiative will update the City of Hamilton's database of information on heritage buildings in the village. The inventory will evaluate each property to determine if it has cultural heritage value or interest that should be recognized by adding it to the Municipal Heritage Register or further evaluated for potential designation under the Ontario Heritage Act. Inventory recommendations are expected to be considered by Council in early 2021. The subject property is recommended to be added to the Municipal Heritage Register as part of this process.

Recommendation

Therefore, staff recommend that this **application be tabled** as the proposed variance application is premature until the planning studies within the Interim Control By-law area are completed. Staff are of the opinion that it is not good planning to permit the creation of lots and approve associated variances which may or may not end up being compliant once the review is completed.

The proposed new lots must be compliant with the "R1" Urban Residential Zone while under the interim control by-law.

- The proposed lot does not comply with the minimum lot area of 524 metres for the lands to be retained.
- The proposed lot does not comply with the minimum lot frontage of 18 metres for the lands to be retained.

Archeology

The subject property meets four 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;
- 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;
- 3) In areas of pioneer EuroCanadian settlement; and,
- 4) 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 to sever application 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 severed 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).”

Cultural Heritage

Both the subject property at 44 Main Street North proposed to be retained and the property 50 Main Street North proposed to be severed are within the Village of Waterdown Cultural Heritage Landscape area as well as within the current Waterdown Village Built Heritage Inventory area. The subject property at 44 Main Street North is a heritage

inventoried property and is currently being considered for potential addition to the municipal heritage register as part of the ongoing Inventory project.

CONDITION:

Should the Committee approve the application, staff require the following conditions be added to the application:

1. The applicant shall submit and receive approval for an archeological assessment, for the area to be severed, to the satisfaction of the Manager, Development Planning Heritage & Design.

Building Division:

1. The subject lands are currently subject to Interim Control By-law 20-101 which restricts a land owner from replacing any building on a lot, from building on a vacant lot, or from increasing the existing building size by more than 10%. Please be advised that this Interim Control By-law will be in place until May 20, 2021.
2. Demolition of the existing accessory building (frame shed) shall be a condition of consent. Such demolition is subject to the issuance of a demolition permit from the Building Division.
3. Details regarding existing conditions on the lands to be retained (as noted on the Public Notice for minor variance application FL/A-20:276) have not been provided; therefore, this Division cannot confirm zoning compliance.
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. In order to clear conditions, the applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.
6. The R1 zoning district permits limited residential uses. The applicant may wish to ensure that the proposed residential use for the lands to be conveyed is permitted.
7. Variances for a reduced lot area, a reduced lot frontage and an increased lot coverage will be required for zoning compliance for the lands to be 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 – input either Plan Examination Section).

2. The owner shall demolish the existing accessory building (frame shed) located on the lands to be conveyed 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 in order for the existing accessory building (frame shed) to remain when no principal use is existing (Building Division – Zoning Section). May be subject to a demolition permit issued in the normal manner.
3. The owner shall submit survey evidence that the lands to be retained including the location of any existing structure(s), parking, landscaping, and all other zoning requirements as listed on the Public Notice for Minor Variance application FL/A-20:276 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).

Development Engineering:

Information:

Municipal Services

According to our GIS records, there is an existing 150mmØ watermain, 200mmØ sanitary, and 375mmØ storm sewer that front the subject property.

Right-of-way Widening

According to our GIS records, the subject section of Main Street North is classified as a collector roadway with an ultimate road allowance right-of-way width of 26.213m according to Schedule C-1 of the Urban Hamilton Official Plan. The current road allowance right-of-way width of the subject section of Main Street North is approximately ±17.1m. Based on Transportation mapping, Development Engineering does not anticipate or require any road widening dedications along Main Street North. Please note in future development applications on the lands, Transportation Planning shall determine final road widening dedications.

The application indicates that lands are to be severed and retained. The application, however, does not indicate if any further development will be occurring on either the lands to be conveyed, retained etc. Therefore, the Owner must be advised that if the future intent is to develop any of the lands in the future, the lands in question will be subject to an applicable Development Application with and to the satisfaction of the Manager Development Engineering Approvals.

Recommendations:

No comments with regards to the severed and retained lands.

Transportation Planning & Parking Division (Traffic):

1. Transportation Planning has no objection to the land severance application, provided the following conditions are met:
 - a. Approximately 4.0 metres are to be dedicated to the right-of-way on Main Street North, as per the Council Approved Urban Official Plan: Chapter C - City Wide Systems and Designations, 4.5 Road Network Functional Classification, 4.5.2. Collector Roads (Main Street North) are to be 26.213 metres.
 - b. A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening(s).
2. Without setting precedent, Transportation Planning will reduce the right-of-way dedication to approximately 2.5 metres, in order to bring the right-of-way to 20.117 metres.

See attached for additional comments.

From: [Marianne Brown](#)
To: [Committee of Adjustment](#)
Cc: [Nick Brown](#); [Nathan Brown](#); [Andrew Brown](#); [Partridge, Judi](#)
Subject: 44 Main Street North, FL/A-20:276
Date: January 21, 2021 2:51:04 PM
Importance: High

To the Committee of Adjustment:

I am writing on behalf of the owners of 25 Mill Street North, Waterdown to register comments with respect to the above noted severance application. The owners of 25 Mill Street North are also residents of Main Street North, although not within 60 m of the subject property.

This neighbourhood contains many historical homes and buildings located on large prime lots. The neighbourhood has experienced various recent residential redevelopments whereby existing smaller homes were demolished, or extensively added too, significantly changing the street landscape. The charm of this neighbourhood is the treed street boulevards, attractively landscaped front yards and larger than minimum yard setbacks. While we recognize that homes will be bought and sold and renovated to meet modern needs, it would be unacceptable to lose the heritage aspect of the overall neighbourhood, which is reflected in pockets of heritage homes and buildings, along with green space.

At 25 Mill Street North we paid a premium to purchase and to renovate according to (and beyond) Heritage requirements. This was done with full recognition and respect for the neighbourhood's and City's commitment to maintaining the heritage characteristics. We were encouraged, supported and recognized by neighbours and the City for the respect we paid to the history of our building and our neighbourhood. It would be a disappointing and serious contradiction to us and our neighbours if the development at 44 Main St. North is approved as-proposed.

We understand that this particular lot at 44 Main Street is exceptionally large and are not opposed to a severance in general, but we do not agree that the current proposal for 44 Main Street North is minor in nature or in keeping with the rest of the neighbourhood properties.

We are opposed to permitting a reduction of the minimum lot size of 665 sqm, reducing the minimum lot frontage by 4.0 m, and permitting a lot coverage of 27.4% instead of not more than 25%. All of those minimum requirements can be met, while still permitting a large severed lot sufficient for a single family dwelling to be constructed on the new lot, which will also meet the present zoning requirements.

Regards,
2538754 Ontario Inc.
Nicholas Brown
Nathan Brown
Andrew Brown

From: [Megan Clarke](#)
To: [Committee of Adjustment](#)
Subject: Application FL/A-20:276 & FL/B-20:96
Date: January 27, 2021 11:25:30 AM

Members of the Committee of Adjustment,

I am writing you today in regards to minor variance application FL/A-20:276 and application for severance of land FL/B-20:96 for 44 Main St N, Flamborough. I am the homeowner of 57 Main St N, Flamborough, which is located across the street from 44 Main St N.

As a homeowner in this neighborhood, I have many reservations about both of these applications, mainly with regards to the Minor Variance Application, and object to the reduction of the lot size as the variance application is requesting. Based on the information provided on the variance application, the lot would be greatly reduced and would be completely out of character with the larger residential properties along the residential portions of Main Street North. The decrease in lot size would also not be in keeping with the current standard of historic single family detached residential homes, character homes (some of which are located within the Mill Street Heritage District), larger properties and treed lots. If the variance were to be approved 44 Main St N would be the smallest residential property within the Main and Mill Street North properties in the Old Core. Although this property is not considered a heritage home, it should be noted that this house was built in 1916 and was captured in the heritage inventory project, and is an important part to the appearance of the "old core" of Waterdown.

As for the application for land severance, FL/B-20:96, I also oppose this application. The applicants are essentially requesting to reduce the size of 44 Main St N, making it an extremely small property, to have a larger space on the neighboring property for future residential use, and to my knowledge there have been no plans submitted for new residential use.

To summarize, I respectfully ask the committee to decline the parties request to sever the property and decrease the size of the existing property of 44 Main St N.

Thank you for your attention to this matter and reviewing my concerns,
Megan Clarke

Sent from [Outlook](#)

From: [Deb Balassiano](#)
To: [Committee of Adjustment](#)
Subject: Application for Consent/Land Severance, Application number FL/B-20:96.
Date: January 31, 2021 3:52:56 PM

As owners of the property located at 65 Mill St. North, we strongly object to the Applications for several reasons. With regards to the Minor Variance Application, we object to the reduction of the lot size as the Variance Application is requesting the 44 Main Street North lot be reduced to such a smaller size that it would be completely out of character with the larger residential properties all along the residential portions of Main Street North and would not be in keeping with the current standard of historic single family detached residential homes, character homes (some of which are located within the Mill Street Heritage District), larger properties and treed lots. In fact, it would then be the smallest residential property within the Main and Mill Street North properties in the Old Core. With respect to the Consent/Land Severance Application, the requested severance would create a large "L" shaped lot which is currently zoned R1 - Urban Residential (Single Detached) zoning.

Furthermore, additional details have not been provided such as the height of the building, yard encroachment, landscaping, parking.

We look forward to hearing the findings and results from the hearing scheduled for Feb. 4th, 2021.

Thank you,

Debra Balassiano and Bernard Romancio

65 Mill St. North

Waterdown

debbalassiano@gmail.com

From: [Ken & Jill Hill](#)
To: [Committee of Adjustment](#)
Subject: Committee of Adjustment - Application # FL/A 20-276
Date: January 28, 2021 2:01:42 PM

I am writing to express my opinions of the application for Minor Variance submitted by Ralph, Anthony & Nino Naccarato for the property located at 44 Main Street North, Waterdown. This is application # FL/A 20-276 scheduled to be adjudicated on Feb. 4, 2021.

As a long time resident of Waterdown and a member of the Waterdown/Mill Street Heritage Committee I am strongly opposed to this application. I have lived in the Heritage area of Waterdown for over 25 years and during that time I have witnessed too much of the beautiful heritage of our town destroyed only to be replaced by buildings that do not fit architecturally into the streetscape of our village.

This application will create a new lot size where the existing residential building currently sits. The lot, if this variance is approved, will be so small it will become what can only be described as a "lame duck" lot. It will be useless, a tiny little lot in a residential area among other homes that due to their age have large lots that are common in homes of this era. The existing house on this lot is sadly not protected under the Heritage Act it does however have heritage qualities to it and it will be a shame if it is bulldozed to the ground.

I understand that the Committee of Adjustment can only consider the matter in front of them at the present time, but I urge you to consider exactly what the end goal of the Naccarato's is. Main Street North (and the core of Waterdown) cannot withstand further high density development. Traffic is already a nightmare and our tree canopy has already been compromised. There are many rumours as to what the Naccarato's plan to do with this land and most of them will not make Waterdown a better place to live, they will only serve to line the pockets of these developers.

I strongly oppose these variance applications and urge the committee to reject them.

Respectfully,

Gillian Hill
76 Mill Street North
Waterdown, ON.
L0R 2H0

Robert Bruce Mitchell and Nicola Mary Mitchell
49 Main St. N., Box 156, Waterdown, ON, L0R 2H0
robmitchell@bell.net



January 27, 2021

Committee of Adjustment
City of Hamilton
City Hall, 5th floor, 71 Main Street West
Hamilton, ON, L8P 4Y5
Via email: cofa@hamilton.ca

Re: Notice of Public Hearings for:
Application for Minor Variance FL/ A-20:276 and
Application for Consent/ Land Severance FL/ B-20:96 .
Subject Property: 44 Main St. N., Flamborough (Waterdown)

Dear Committee of Adjustment,

Regarding the matter of Minor Variance for the subject property,

Whereas:

- a) The subject property is listed in the Waterdown Village Built Heritage Inventory as being a Character-Defining Resource as well as significant Design/Physical, Historical/ Associative and Contextual Value.
- b) The subject property abuts a Character-Supporting Resource to the south (40 Main St. N, the old Griffin's Flour & Feed; Walter B. Job's Feed Store) and a Character-Supporting Resource to the north (56 Main St. N)
- c) The subject property is immediately across the road from a Character-Defining Resource (our house, 49 Main St N, McGregor House; The Clunes) as well as the leafy and sprawling 47 Main St N (McGregor Village Retirement Living).

R.M. mm



- d) The road (Main St N) narrows from just to the north of the subject property south towards the Waterdown business area which forces a single lane of traffic when cars are parked on both sides of the road. This results in congestion and frequent road rage as people maneuver to get through.

We therefore feel that both the Minor Variances and Land Severance (as proposed) should be denied for the following reasons:

- a) To allow any variance in lot size restrictions to the remaining small property with the house, would minimize its importance, balance and perspective with respect to the adjacent lot sizes and be inconsistent with the fabric of the neighborhood.
- b) There is no need to minimize the required lot area, frontage or maximum permitted lot coverage beyond existing requirements.
- c) The existing zoning is "R1" Urban Residential (Single Detached). Even with all proposed variances on the smaller lot with house denied, the road frontage on the new detached land would be approximately 80 feet, enough for any Single-Detached large home to be comfortably built.
- d) The proposed severance line behind the existing house which cuts off the existing frame shed is not necessary and inconsistent with lot line logic in the surrounding neighborhood.
- e) It is our opinion that both the application for Minor Variances and Application for Consent/Land Severance has nothing to do with severing with the intent to build a single-detached home on the remaining lot (of which we have no objection). Instead, we feel that the owner is specifically trying to make the lot with the existing house as small as possible so that the new vacant lot is large enough to build up to 16 - 18 townhouses or low-rise building(s) with a 2-lane driveway and parking / further structure behind the existing small house. We foresee that this development may be applied for after May 20,2021 when the Interim Control By-law is scheduled to be ended and the results of the Waterdown Community Node Secondary Plan Study is in place with potentially new uses for existing land. We oppose this high-density development as we feel that it will detract from the surrounding Waterdown Village Built Heritage Inventory.
- f) Traffic on Main Street North is extremely heavy in a non-Covid world. The extra congestion and loss of adjacent street parking would not be acceptable.

Run. mm

To be clear, we understand that large lots like this are often severed to permit a new Single-detached home being built. We are fine with that if all minimum lot areas, frontages and lot coverages are adhered to. We would be in support of that but not a high-density development.

Also note that we know the owner, Ralph Nacarato. We like Ralph very much and wish him and his family all the best. Our issue is not personal. We are concerned that this proposed development will negatively impact our neighborhood.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Mitchell", written over a horizontal line.

Robert Mitchell

A handwritten signature in cursive script, appearing to read "Nicola Mitchell", written over a horizontal line.

Nicola Mitchell

From: [Michael Thistle](#)
To: [Committee of Adjustment](#)
Subject: FL/A-20:276 and FL/B-20:96
Date: February 1, 2021 9:46:48 AM

Hello

My name is Michael Thistle and I live at 57 Mill St. N in the Village of Waterdown. My call number is 226.220.8050 should you need to contact me. I writing this email to make it known that I strongly opposed the Variance and Severance Applications currently being made for 44 and 50 Main St. which was first brought to my attention via two letters from the City: Notice of Public Hearing: Minor Variance and Notice of Public Hearing: Application for Consent/Land Severance, both dated January 19, 2021. My lot backs on to 50 Main St. and is directly affected by this application. In severing these lots, it appears the owner is asking for approval to create a lot with a smaller frontage, a smaller lot area, and a great percent coverage, than allowed in the current bylaw. There is no reasonable need to reduce the lot size or frontage while increasing the coverage. If approved, 44 Main St. would be so small that should the existing house be demolished, it would leave behind a lot so small that it would not be suitable for rebuilding on. The new 50 Main St. lot would result in an 'L' shaped lot which goes against the lot fabric of the neighbourhood, and in my opinion shows us the intent of the applicant. The only reason someone would want to create a lot like this would be for the purposes of high density development. I fear should the house at 44 Main St. get demolished that that lot would be made apart of the 50 Main St. lot as they have a single owner. Again, I am strongly opposed to this application.

The Village Core of Waterdown is of significant heritage to the area which would only be lost should development of a higher density use be permitted in this location. I thank you in advance for looking into this matter and taking it very seriously. Please don't hesitate to contact me should you want to discuss this further. Stay safe.

Michael Thistle, OALA, CSLA

Baker Turner Inc.

Landscape Architecture | Site Design

8501 Mississauga Road Suite 300
Brampton ON L6Y 5G8
t: 905.453.9398
m: 226.220.8050
e: michaelt@bakerturner.com
www.bakerturner.com

From: [sue/jim ruddle](#)
To: [Committee of Adjustment](#)
Cc: [Partridge, Judi](#)
Subject: Application for Variance, old core Waterdown
Date: January 31, 2021 3:01:25 PM

Re: Minor Variance Application and Consent/Land Severance Application (the "Applications")
Reference # FL/A-20:276 and FL/A-20:96

As residents of the old core, my husband and I formally object to granting this application to allow any variance to the properties of 44 and 50 Main Street North in Waterdown. This land is zoned R1 - Urban Residential (single detached). It must remain so. Bad enough that most of the healthy mature trees on these lots were cut down. The proposed "L" shaped lot with its smaller, odd conformation does not fit with the current existing neighbourhood. Further north on Main Street, two "monster" houses have been squeezed onto existing lots. While attractive, architecturally, they look completely inappropriate and out of character as they loom over adjacent homes. We do not want a similar eyesore on our block and feel that we should be protected by the current zoning.

My husband and I moved from Carlisle to the heritage district in the old core of Waterdown, attracted by the charming architecture, generous lots with mature trees, an overall aura of reassuring solidity, and the shared mindset of the local residents to protect, preserve and maintain the character of the neighbourhood. Full disclosure - we are members of the Mill Street/Waterdown Heritage Committee. We did not expect to have to fight to **retain** the **existing** zoning to avoid unwanted and out of character changes.

Yours sincerely,
Jim and Susan Ruddle
73 Mill Street N,
Waterdown, ON L0R 2H0
(905) 689-5872
j.s.ruddle@gmail.com

From: [Alex Ruddle Poechman](#)
To: [Committee of Adjustment](#)
Cc: [Partridge, Judi](#)
Subject: Objection to Lot Severance and Minor Variance at 44/50 Main St N
Date: January 31, 2021 7:26:48 PM

I'm Alex Ruddle-Poechman. My husband and I own and reside at 81 Mill St N, and we, wholeheartedly, object to the application for a Lot Severance and/or Minor Variance at 44/50 Main St N, Waterdown. We bought our home, in the HISTORICAL DISTRICT, because it is a charming old home in a pretty, characterful, unique 'sub-neighbourhood' of the ever-growing "concrete jungle" that is encroaching on the once charming village of Waterdown. When we bought here, we did so to be a part an "old feeling" neighbourhood with big lots, mature trees, gardens in the front of every yard and each large property having a characterful home of a variety of different vintages. We knew this little neighbourhood would NEVER change and were so proud to live here. Our neighbourhood was protected from changes and development outside the charming, historic, integrity of the area. Each house had a story to tell. A lovely, sought-after area, where you have space between neighbours to each side and all around. All of our properties are unique in their own way, but our properties are fairly simple and generic. A comfortably boring grid of beautifully square/rectangular properties.

We are not, and do not want to be in a neighbourhood of ram-jammed, shoebox sized lots seven inches away from neighbours all around. If we wanted to live in that type of neighbourhood, we could've saved a lot of money and bought a new home in any choice of a gabillion different charmless, treeless, cookie cutter developments that surround us. We didn't choose to buy there; we chose the historical district, which to our knowledge was protected from such development and forever would remain a historic district with its own unique charm, AND LOTS. If this severance were approved at 44/50 Main St N, the integrity of our charming neighbourhood would be compromised because the subsequent lot(s) would not fit in with the look of the neighbourhood. An irregularly shaped lot and a subsequent odd sized residential lot would forever change the 'spirit' of the neighbourhood. Who knows what the owner's intentions are with the property(ies)!?! (I think we all know, it doesn't take a brain surgeon to some idea about what will happen to these lots.) Our homes and properties aren't ram-jammed together like an irregular jigsaw puzzle. That's not how our neighbourhood works. If this severance/minor variance were to be approved, it would create a precedent setting ability for people, who lack the appreciation of this neighbourhood to buy homes/properties cut down all the old mature trees, divide up the lot shove unfitting buildings and our laneways/parking lots onto said lots in what used to be, this sought-after HISTORIC area. People who live in this neighbourhood have a vested interest to keep it just as it is.

What's being built on these weird lots anyway? I am absolutely stunned to learn, that an owner of a property, WHO DOESN'T EVEN LIVE IN THE NEIGHBOURHOOD AND THEREFORE HAS NO VESTED INTEREST OR APPRECIATION FOR THE CHARM OF THE NEIGHBOURHOOD, might have the ability to affect the integrity of where we own our homes. Collectively, we do

not want any change(s) to this neighbourhood. We have invested so much into our homes and these homes and properties are an investment for ours and our families' futures. Changing this neighbourhood will inevitably affect our investments negatively. It was not our understanding upon purchasing our historic home that an owner of property in this neighbourhood, could apply to change the integrity of it, and even more surprising, the city is considering it at other neighbourhood residents' chagrin.

The City has already allowed a God-Awful eyesore on the section of Main St N between Church and John Street to be built. Every night, when I look out the back windows of my 1865 farm house in my supposed "Historical District", I see the many, many bright interior AND exterior lights of the unsightly "Mothership". It glows bright, forever ruining the dark skyline that we used to enjoy north of our home. The home, while a beautiful and architectural marvel, DOES NOT belong in this historic neighbourhood. It should have been built elsewhere. It lacks charm, is cold, pretentious, and has ruined the curb appeal of surrounding properties. It sticks out like a sore-thumb, end of. It should have never been considered appropriate for the area. Clearly, one by one, the surrounding homes will be bought, torn down and replaced with ugly, modern, unfitting monstrosities. And now, maybe any lot in the area will be able to be cut up, into small irregular shapes, and "surprise" buildings may pop up everywhere!?! Our little historical neighbourhood is going to disappear if left to the financial interests of those who have exactly zero vested interest in the historical district that they are ruining. We didn't buy this home so we would see bright, huge, characterless buildings in the place of big lots, old trees, and beautiful homes.

We are not asking the owners not to build their "enterprise". We are simply asking that they not build their "Enterprise" in our pretty little charming neighbourhood, changing its unique integrity forever. Go elsewhere in Waterdown - not the Historic neighbourhood. The City of Hamilton needs to protect this area and the owners of its properties. Leave our two streets (Mill and Main alone). In case it has not been made jarringly clear, my husband and I formally object to the severing of lots and/or their minor variance at 44/50 Main St N. There are countless opportunities for these owners to make/build their "Enterprise" elsewhere in Waterdown, where their development plans would not interfere or affect the Historic District residents' enjoyment and pride in our own properties and neighbourhood. We're not saying they can't sever and build, we're just asking that they not do it in our supposedly "City Protected" neighbourhood.

What has happened to this area being a protected "Historic District", that could not be changed or developed? For years, I've been following the "strict" rules, applying to the City to change simple things that only affect my property; things like updating an exterior door, or cutting down a dying and potentially damaging tree or moving a window. But now, someone is trying to change the size and shapes of our historically grid-like neighbourhood?! I thought

we were protected?!? If this severance and/or minor variant is approved, what is coming next? What else will be allowed? What precedent does it set? Maybe more trees will be cut down (like what has happened, and is in the process of happening on Main St and on Church Streets) and pretentious spaceships to be put up in their place. These may seem like stupid questions to you, but are these changes happening around your 150+ year old home in its neighbourhood? Please understand, collectively, THE RESIDENTS of this neighbourhood don't want our beloved neighbourhood to be changed.

Thank you for your consideration to our objection of this shameful application and the direction in which it is attempting to steer the Mill/Main Street neighbourhood.

-Alex-

From: [Partridge, Judi](#)
To: [Committee of Adjustment](#)
Cc: [DiGiantomasso, Christine](#); [McMullen, Veronica](#); [Fabac, Anita](#); [Christy, June](#)
Subject: OPPOSED TO FL/A-20-276 Land Severance 44 Main St. North Waterdown/Flamborough
Date: February 1, 2021 9:56:37 AM

Good morning

Please be advised as the Councillor for Ward 15 Flamborough which includes the property at 44 Main St. North, Waterdown consent for land severance, I am **opposed** to this application for the following reasons:

- A Secondary Plan review is currently underway to determine development within the core of Waterdown including this property. It is expected to be completed this fall 2021.
- Interim Control Bylaw is in effect until May 2021 specifically put in place to pause this type of application.
- Main St. North between Dundas St. and Parkside Drive has significant heritage properties and may be considered as heritage value in the Secondary Plan Heritage Inventory review currently underway.
- A severance of this property will significantly change the size and scope to two small lots. The small lots would be out of character with the existing surrounding properties thus changing the built landscape forever.
- This property backs onto the existing Heritage District and should not be considered for any changes that will have a dramatic change to the neighbourhood .

kind regards

Judi

Councillor Judi Partridge

Ward 15 - City of Hamilton 905-546-2713

Admin Christine DiGiantomasso 905-546-3944

www.hamilton.ca www.judipartridge.ca

COVID-19 INFORMATION: hamilton.ca/coronavirus

To subscribe to Councillor Partridge's Monthly E-NEWS

for important community updates and events, please visit www.judipartridge.ca

From: [Mike Douglas](#)
To: [Committee of Adjustment](#)
Cc: [Partridge, Judi](#)
Subject: RE: Application FL/A-20:276 & FL/B-20:96
Date: January 31, 2021 10:07:39 AM

Janice Meyer & Michael Douglas
47 Mill Street North
PO BOX 511
Waterdown, ON L0R 2H0
(905) 407-3684

January 31, 2021

RE: Application FL/A-20:276 & FL/B-20:96

To Committee of Adjustment,

We have received the Notice of Minor Variance that will affect 44 Main Street North. We are writing to voice our concerns and objection to the proposed variance in the application. We object to each item under the Proposal.

The proposed variance is stated as:

1. A minimum lot area of 524 square metres shall be permitted for the lands to be retained instead of the minimum required lot area of 665 square metres;
2. A minimum lot frontage of 14 metres shall be permitted for the lands to be retained instead of the minimum required front of 18 meters; and,
3. A maximum lot coverage of 27.4% shall be permitted for the lands to be retained instead of the maximum permitted lot coverage of 25%.

44 Main Street North is a prominent lot in the heart of Waterdown, near the Post Office and other amenities. It is important to preserve the character of the old core. The proposed lot size would negatively alter the streetscape by creating a lot that is 21% smaller than the smallest allowable lot under the bylaw, in turn leaving a large house on a very small plot of land.

In addition, the variance does not address the north side yard of the lot. The proposal would leave a 1.5m side yard, which is less than the required 10% of the total width of the lot (17.5m).

The Applicant is indicating within the Notes that there will be multiple other variances to come. The Applicant has failed to provide information regarding the height of structure (Note 3), rear yard (Note 5), landscaping (Note 6) and parking (Note 7). It would appear that the applicant is either ill prepared at this point, or is intentionally withholding their plans for the lot.

The beauty of Waterdown is in its charm and streetscape. If someone is proposing changes of this scale, it should be done with transparency, allowing the residents and the Committee of Adjustment

to make an informed decision. A lot this small would be undesirable to any potential buyers who want to live there in a single-family residence.

Thank you for your consideration,

Mike Douglas

Janice Meyer

To Whom it may concern:

Regarding the Minor Variance Application, No: FL/A-20:276

This letter is being submitted to Committee of Adjustment to register our objection to this minor variance application. We are the owners of 51 Mill St. N. (Lot 21 in the Registered Town Plan) and back directly on to the subject properties: 44 and 50 Main St. N.

Any changes to the size and use of the subject properties (presently designated “R1” Urban Residential) would affect the enjoyment and use of our property, and – quite likely – our property value.

The applicants are applying to allow the conveyance of a large portion of the land at 44 Main St. N. to the adjacent (already much larger) R1 lot which they also own (50 Main St. N.) 50 Main St N. is already the biggest lot on Main St. A conveyance and severance could easily be configured to avoid any variances whatsoever; by conveying less land from 44 to 50 Main St. N.

Nonetheless, the applicants are applying for 3 variances:

1. A reduction in the Minimum required Lot Area; from 665 square meters to 524 square meters
2. A reduction in the Lot Frontage required; from 18 meters to 14 meters
3. An increase in the Lot Coverage (normally a maximum 25%), to a Lot Coverage of 27.4%

Viewed as a whole, the applicants would be reducing 44 Main St. N. (on which a century-old house stands) to a substandard ‘lame duck’ lot with significantly diminished market value.

There is no compelling need for these 3 variances, as the subject lots are large enough to accommodate 2 generously large R1 lots (without any need for variance from zoning standards).

No landowner would deliberately set out to reduce the value of their holdings; why then (by way of a Variance) are these applicants applying to the COA to do so? Clearly these applicants have a second stage in mind for these properties, and this end game is what concerns us.

The matter at hand does not require that the applicants disclose their long-term plans for these properties. However, we see no reason why the applicants should be 'given a bye' at this stage by affording them 3 totally unnecessary zoning variances.

As such, we hereby register our objection to the granting of the 3 Minor Variances to R1 zoning in Application FL/A-20:276.

Regards,

Lisa Anderson-Reeves

LisaReeves995@gmail.com

Robert Reeves

BobReeves995@gmail.com

51 Mill St. N.

PO Box 864,

Waterdown ON, L0R 2H0

(416) 995-9050

From: [Kyle Richardson](#)
To: [Committee of Adjustment](#)
Cc: [Partridge, Judi](#)
Subject: Re: 44/50 Main St N, Waterdown, ON.(FL/A-20:276; FL/B-20:96)
Date: February 1, 2021 10:39:55 AM

Dear Chair and Members of the Committee of Adjustment , my name is Kyle Richardson and my wife is Krystal McMaster. My phone number is 905-638-4944. We both have lived at 61 Mill Street North for five and a half years. I am writing to share with you my comments on the proposed consent and variance applications under consideration at 44/50 Main Street North in Waterdown

Thank you for the opportunity to provide comments on the proposed applications. To be clear, I recognize the development potential of the property and acknowledge that something will and should be permitted on the subject property. That said, the applications before you today are missing critical pieces of information and if approved will affect reasonable, future use of the property for subsequent land owners. It is clear that there are larger plans for the parcel as a whole, but I strongly object to the piecemeal nature in which this property is appearing to be redeveloped, notwithstanding the secondary planning process currently underway.

I object to the approval of the consent and variance applications in their current form for the following reasons:

- The application appears to be carelessly put together and is missing information that is vital to the consideration of such applications. How can a determination be made of the tests under the Planning Act with respect to being minor and nature and/or desirable if all details of the application are not known. One such example is the lack of clarity on the rear yard setback (which is not confirmed and appears to be considerably smaller than the minimum at 5.1m on the south side of the property. It is not reasonable to expect a decision on such an application with all of the facts confirmed for consideration, especially where it pertains to yards, and landscape areas (and driveways etc) which impact adjacent properties.
- The future use of the property will be significantly impacted as a result of the proposed consent and variance applications. As is characteristic of this neighbourhood, this home was constructed approximately 100 years ago and may not meet the needs of modern inhabitants without alterations. The proposed consent and severance applications will create a situation that significantly limits any potential improvements to the property and/or would require further variances, resulting in a character completely inappropriate with the streetscape and neighbourhood. The reduced size of the rear yard is not only incompatible with the adjacent properties but would prohibit any

future additions. Additionally, the proposed side yards do not allow for vehicular access to a rear garage or car storage area which is characteristic of this and many other older neighbourhoods and would result in car storage and hard surface areas being forced to be located within the front yard at a much larger percentage compared to other properties.

- This property will clearly be subject to further applications. Seemingly innocuous decisions will have a snowball effect down the road as development plans are revealed
- The secondary planning process currently underway has involved a significant amount of work and public consultation and the results of that work should be permitted to continue to their conclusion without snap decisions being made under the wire. In fact, the city felt strongly enough about protecting the space for this process to unfold that it enacted an Interim Control By-law. This application should not be considered until such time as the work on the Waterdown Node Secondary Plan is completed.
- Proposal is totally incompatible - the cumulative impact of the proposed consent and variance applications will result in a property which is totally incompatible and out of character with the other properties in the neighbourhood. This is a neighbourhood where significant investments have been made by property owners to preserve the character and look and feel of the neighbourhood for the benefit of all.
- In addition to creating an uncharacteristically small rear yard, the proposed flag-shape of the severed lands will further infringe on the privacy and use of the small rear yard proposed through this application

From: [Deb Balassiano](#)
To: [Committee of Adjustment](#)
Cc: [Partridge, Judi](#)
Subject: Fwd: Application for Consent/Land Severance, Application number FL/B-20:96.
Date: February 1, 2021 12:56:11 PM

----- Forwarded message -----

From: **Deb Balassiano** <debbalassiano@gmail.com>
Date: Sun, Jan 31, 2021 at 3:52 PM
Subject: Application for Consent/Land Severance, Application number FL/A-20:276 FL/B-20:96.
To: <cofa@hamilton.ca>

As owners of the property located at 65 Mill St. North, we strongly object to the Applications for several reasons. With regards to the Minor Variance Application, we object to the reduction of the lot size as the Variance Application is requesting the 44 Main Street North lot be reduced to such a smaller size that it would be completely out of character with the larger residential properties all along the residential portions of Main Street North and would not be in keeping with the current standard of historic single family detached residential homes, character homes (some of which are located within the Mill Street Heritage District), larger properties and treed lots. In fact, it would then be the smallest residential property within the Main and Mill Street North properties in the Old Core. With respect to the Consent/Land Severance Application, the requested severance would create a large "L" shaped lot which is currently zoned R1 - Urban Residential (Single Detached) zoning.

Furthermore, additional details have not been provided such as the height of the building, yard encroachment, landscaping, parking.

We look forward to hearing the findings and results from the hearing scheduled for Feb. 4th, 2021.

Thank you,

Debra Balassiano and Bernard Romancio

65 Mill St. North

Waterdown

debbalassiano@gmail.com



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: January 26, 2021

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: 44 Main Street N., Flamborough
File: FL/B-20:96

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, February 4, 2021, 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 trees that will become publicly owned trees through right of way widening**. At this time forestry has no jurisdiction over private trees although forestry requires confirmation that the trees to be acquired by the City of Hamilton do not pose a liability if inadequately protected through the proposed development. 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

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 \$278.80 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

- An assessment of the information provided shows that there are potential conflicts with trees that will become publicly owned trees through right of way widening.
- 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

From: [Andy MacLaren and Denise Reinhart](#)
To: cofa@hamilton.ca
Cc: [Partridge, Judi](#)
Subject: 44 Main Street North FL/A-20:276 and FL/B-20:96
Date: February 1, 2021 4:51:57 PM

RE: Notice of Public Hearing (Minor Variance)

Application No. **FL/A-20:276**

and

RE: Notice of Public Hearing (Application for Consent/Land Severance)

Application No. **FL/B-20:96**

Subject Properties: **44 Main St. North (and 50 Main St North)**

We, Andy MacLaren and Denise Reinhart, owners of 43 Mill Street North, Waterdown (lot 17), are writing to you today to register our strong objections to the above mentioned applications. Our property is located on Mill Street North and backs directly onto 44 and 50 Main Street North. Additionally, our house is located within the Mill Street Heritage District. We received the Notices as we are located within 60 metres of the subject properties. As homeowners who live within a heritage district, we are required to submit a heritage application to the City if we want to alter any part of our house/property that would affect the streetscape and we have done so on numerous occasions. Although the subject properties are not located within the Mill Street Heritage District, they do back onto the District as does the large tree canopy located on the 2 properties which add to the charm and streetscape of both Mill Street N and Main Street N.

44 Main Street N and 50 Main Street N currently exist as two large treed properties located within the “Old Core” of Waterdown reflecting the character of Main Street North. To carve up these properties into one ridiculously small lot (44 Main which includes a 1916 house) and a large “L” shaped lot with both properties being zoned R1 (Residential Single Detached), would be completely out of character with the rest of the residential portion of Main Street North.

Currently, the Waterdown “Old Core” which spans Hamilton Street to Grindstone Creek and Union Street to Parkside Avenue, is undergoing the Waterdown Node Secondary Plan process which involves reviewing the future development plans and “vision” for the area mentioned. During this time, Judi Partridge has issued an Interim Control Bylaw to limit development until such time as this Secondary Plan is complete. Although the Secondary Plan covers a wider area, there are 3 main streets within the “Original Historic Village of Waterdown” which are critical to preserve. They are Dundas Street between Mill St. and Hamilton St., Mill St. North itself and **MAIN STREET NORTH**. Preserving the character of Main Street North is just as

important as that of Mill Street North, John Street and that portion of Main Street which is already protected by the Mill Street Heritage District.

Our objections to the Minor Variance Application, are that the reduction of the minimum lot area, the reduction of the lot frontage and the increase in lot coverage of 44 Main Street N, would create an extremely small residential lot which would be totally out of character with the rest of the Main St North residential properties which include larger-sized prime treed lots. Attributing modern day planning to this older century neighbourhood street is not desirable (i.e. shortening the backyard and the property width would render this property deficient in size relative to all of the other residential properties in that neighbourhood).

Our objections to the Land Severance Application would be the resulting creation of a large "L" shaped lot zoned R-1 (Single Detached) which would also be out of character with the rest of the Main Street North residential properties and not in keeping with the current desired streetscape of the "Old Core".

We do realize that these Applications do not address any sort of apparent future development plan; however the new proposed land configurations would appear to suggest that some sort of larger scale development is planned and that deeply concerns us as we are directly affected due to the location of our property. To reduce the size of the lot coverage of 44 Main Street North to a size of lot not in keeping with the relative size of the lots of the other residential properties along Main Street North would have a serious negative effect on the historical character aspect of Main Street North. Additionally, any future development involving this desired "L" shaped lot which is obviously planned and not yet presented would directly impact our privacy and enjoyment of our backyard and our investment in our house. As previously stated, we have worked diligently with the City and Hamilton's Municipal Heritage Committee on numerous occasions in order to preserve the heritage of our entire property.

Regards,

Andy MacLaren
admac31@yahoo.ca

Denise Reinhart
deneez3@yahoo.ca

43 Mill Street North
PO Box 343
Waterdown ON
L0R 2H0
(905) 515-0531

From: [Glenn Sherwood](#)
To: [Committee of Adjustment](#); [Partridge, Judi](#)
Subject: Application for Severance FL/A-20-276 and FL/B-20-96
Date: February 2, 2021 9:46:17 AM

We are writing to voice our concerns over the above noted applications for severance of the properties as described in the applications numbered below..

FL/A-20-276 and FL/B-20-96

We immediately about these properties on the North side...our property is 56 MAin StreetNorth...and as such we will most likely be impacted quite negatively,

Should the vacant parcel be re-configured to allow anything more than for one single family dwelling, for example a 'row housing', complex or condominiums ...or any other form of housing other than a single family dwelling, we would strenuously object .

Sincerely,

Glenn And Janice Sherwood

905-690-0665

56 Main Street North

Waterdown Ontario

LOR 2H0

From: [Syd Millett](#)
To: [Committee of Adjustment](#)
Cc: [Partridge, Judi](#)
Subject: objection of FL/A-20:276 and FL/B-20:96
Date: February 2, 2021 10:06:17 AM

Hi,

I am writing as an owner in the historic core my objection to the proposed severance application referenced in the applications FL/A-20:276 and FL/B-20:96. My main concerns are that the severance is being requested without any visibility into the "master plan" of what will happen. Specifically my concerns are:

- * the lot width of 14m vs minimum of 18m -- why not make it 18m and thus the 2 lots would be more consistent in width for better overall feel
- * the lot division seems very uneven -- the retained lot is perhaps 20-25% of the total lot -- a more fitting split to fit in with the core would be closer to 50/50
- * the lot L shape causes the retained lot to be abnormally small. I heard this would make this retained lot the smallest in the area and thus not consistent with the feeling of the core with larger lots. at a minimum the lot should go "all the way back" vs an L shape

While I am not opposed to development in our core, I think mechanisms and provisions such as the heritage committee allow for a nice balance between development of properties while also maintaining the historic feel in our community. 100 years from now we want Waterdown to maintain that historic feel. The proposals read as tho the owner is looking to minimize the lot size of the current house while maximizing the lot size of a to-be-built structure.

My contact info is as follows:

Syd & Astrid Millett
41 Mill Street South
Waterdown, ON L0R 2H0
sydmillett@gmail.com
905-690-8611 (home)
416-795-7412 (cell)

thank you for your attention.

Best
Syd.

From: [Virginia Knott](#)
To: [Committee of Adjustment](#)
Subject: FL/A-20:276 and FL/B-20:96
Date: February 2, 2021 11:07:36 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

Hello,

My name is Virginia Knott and I live at 57 Mill St. N in the Village of Waterdown. I writing this email to make it known that I strongly opposed the Variance and Severance Applications currently being made for 44 and 50 Main St. which was first brought to my attention via two letters from the City: Notice of Public Hearing: Minor Variance and Notice of Public Hearing: Application for Consent/Land Severance, both dated January 19, 2021. My lot backs on to 50 Main St. and is directly affected by this application. My understanding is the owner is asking for approval to create a lot with a smaller frontage, a smaller lot area, and a great percent coverage, than allowed in the current bylaw. There is no reasonable need to reduce the lot size or frontage while increasing the coverage. If approved, 44 Main St. would be so small that should the existing house be demolished, it would leave behind a lot so small that it would not be suitable for rebuilding. The new 50 Main St. lot would result in an 'L' shaped lot which goes against the lot fabric of the neighbourhood, and in my opinion shows us the intent of the applicant. The only reason someone would want to create a lot like this would be for the purposes of high density development. I fear should the house at 44 Main St. get demolished that that lot would be made apart of the 50 Main St. lot as they have a single owner. Again, I am strongly opposed to this application.

The Village Core of Waterdown is of significant heritage to the area which would only be lost should development of a higher density use be permitted in this location. I thank you in advance for looking into this matter and taking it very seriously. Please don't hesitate to contact me should you want to discuss this further.

Thank you,

Virginia

Virginia Knott – VP, Sales

t (647) 631-9633 f (416) 535-3739

a Suite 4010, 3080 Yonge Street, Toronto ON M4N 3N1

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Dear Chair and Members of the Committee of Adjustment

Re: 44/50 Main St N, Waterdown, ON (FL/A-20:276; FL/B-20:96)

In addition to the comments submitted on behalf of my husband, Vince and myself, we are fully in support of the comments provided on behalf of the Mill Street Heritage Committee under separate cover.

Please find below our comments on the proposed consent and variance applications under consideration at 44/50 Main St N in Waterdown.

Thank you for the opportunity to provide comments on the proposed applications. I would like to start my comments with an acknowledgment of some development potential of the property and the recognition that something will and should be permitted on the subject property, specifically on the lands proposed to be severed. With that being said, the applications before the Committee currently are premature in two ways: firstly, they are being proposed without the benefit of the completion of the Waterdown Node Secondary Plan and secondly, they are proposed absent complete and critical pieces of information. Without the benefit of a complete application, it is impossible to determine if these applications could satisfy the tests under the *Planning Act*. If approved, the effect of these applications will forever impact the future use of the property for subsequent land owners and circumvents the Waterdown Node Secondary planning process. It is clear that there are larger plans for the parcel as a whole, but we strongly object to the piecemeal nature in which this property is appearing to be redeveloped.

We object to the approval of the consent and variance applications in their current form for the following reasons:

- The applications should be deemed premature. Per Section 50.1 (24)(b) of the *Planning Act*, regard must be had to whether the applications are premature or in the public interest, among other considerations. Further, the four tests outlined in Section 45 (1) of *Planning Act* requires an assessment of the proposed minor variances to determine if the application is minor in nature, desirable for the appropriate development of the lands, conforms to the general intent of the Zoning By-law and of the Official Plan. Given that all details of the application are not known at this time, nor is the work on the Waterdown Node Secondary Plan complete, a proper assessment of these applications is not possible as the full impact of the applications cannot be known. One such example is the lack of clarity on the rear yard setback (which is not confirmed and appears to be considerably smaller than the minimum at 5.1m on the south side of the property). It is not reasonable to expect a decision on such an application without all of the facts confirmed for consideration, especially where it pertains to yards, and landscape areas (and driveways, parking, etc) which impact adjacent properties.
- The secondary planning process currently underway has involved a significant amount of work and public consultation and the results of that work should be permitted to continue to their conclusion without snap decisions being made in advance. In fact, the City felt strongly enough about protecting the space for this process to unfold that it enacted an Interim Control By-law in 2020. This application should not be considered until such time as the work on the Waterdown Node Secondary Plan is completed and the Interim Control By-law is lifted by Council.
- This property will clearly be subject to further applications. Seemingly small and innocuous decisions now will have a snowball effect down the road as development plans are revealed. Upon the conclusion of the work of the secondary planning process, a complete application should be considered by this Committee and such considerations should have regard for all relevant planning documents, including the findings of the secondary plan.
- **The proposed applications are not in keeping with the general intent of the Zoning By-law.** The proposed site metrics including lot frontage, lot area and setbacks are all more reflective of other zones within the Zoning By-law which are attached to neighbourhoods of a very different era and character. The R1 zoning on this property was deliberately applied as other properties close by were given an R5 when it applied to the neighbourhood, while this property and the one adjacent to the north were specifically provided a zoning category with larger frontage and setback requirements. Additionally, the R1 zone requirements are minimums and in many cases within the neighbourhood, dwellings provide far in excess of the minimum requirements, even with significant improvements, additions and alterations.
- **The proposed variances are not minor in nature as presented, notwithstanding the missing information.** As identified above, the proposed lot area and setbacks are more in keeping with those contained in other zones and not the R1 zone requirements. A defacto rezoning is not considered minor in nature. If approved, the cumulative impact of the proposed consent and variance applications will result in a property which is totally incompatible and out of character with the other properties in the neighbourhood.
- **The proposed applications are not desirable** for the retained parcel or the neighbourhood. The future use of the property will be significantly impacted as a result of the proposed consent and variance applications. As is characteristic of many of the homes in this neighbourhood, this home was constructed approximately 100 years ago and may not meet the needs of modern inhabitants without alterations. The proposed consent and severance applications will create a situation that significantly limits the ability to make any potential improvements to the property and/or would require further variances, resulting in a character completely inappropriate with the streetscape and neighbourhood. The reduced size of the rear yard is not only incompatible with the adjacent properties but would prohibit any future additions to the home and or the addition of decks or rear yard amenities. Additionally, the proposed side yards do not allow for functional vehicular access to a rear garage or car storage area which is characteristic of this and many other older neighbourhoods and would likely require car storage and hard surface areas being forced to be located within the front yard at a much larger percentage compared to other properties in the

immediate and surrounding neighbourhood. In addition to creating an uncharacteristically small rear yard, the proposed flag-shape of the severed lands will further infringe on the privacy and use of the small rear yard proposed through this application.

It is evident that the applicant is attempting to create the smallest possible lot to be retained to maximize the developable area of the severed portion. This is to be expected however, the result is a lot that is incompatible with the surrounding neighbourhood and one that does not function for the present and future use of the house on the lot and or the property. Should the existing dwelling be demolished, the construction of a new one would also be significantly impacted by the proposed applications and would further deviate from the character of the neighbourhood.

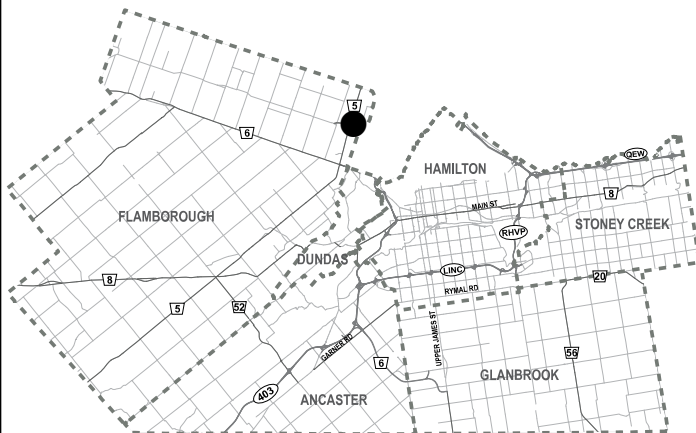
We urge you to defer this application until such time as a more fulsome review can be completed, including against the work of the Waterdown Node Secondary Plan and once more details can be provided.

Thank you for your consideration,

Vince and Jenna Puletto
47 Church St (and former Mill St N property owners)



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

44 Main Street North, Flamborough (Ward 15)



Lands to be Retained



Lands to be Severed

File Name/Number:

FL/B-20:96

Date:

January 27, 2021

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT