

FL/A-21:367 – 191 Main St. S., Flamborough

Consolidation Report

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

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

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

FL/A-21:367 – 191 Main St. S., Flamborough

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Rural

The purpose of this application is to permit an interior side yard of 1.64m instead of required 3.0m.

Urban Hamilton Official Plan

The Urban Hamilton Official Plan designates the property as “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations, to which the use complies.

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

The subject property is zoned “R1-6” Urban Residential (Single Detached) Zone, to which the use complies.

Variance 1 (Side Yard setback)

The applicant is seeking a variance to allow for an interior side yard of 1.64m instead of required 3.0m.

The general intent of the purpose of the Zoning By-law requirement is to maintain the existing character and streetscape of the neighbourhood and to ensure sufficient landscaping and accessibility is available within the side yard. Staff note that some nearby properties have dwelling with side yards which are similar in size to the applicant’s proposal. Staff are satisfied that the side yard reduction is minor and is in keeping with the existing character and streetscape of the neighbourhood. The variance is in keeping with the general intent and purpose of the Hamilton Zoning By-law 05-200, and for that reason is minor in nature and is desirable for the appropriate use of the property, staff are in support of this variance. **Staff are satisfied** the proposed variance meets the intent of the Urban Hamilton Official Plan and have no negative impact on the existing character of the area.

Archaeology

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

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

- 2) In an area of sandy soil in areas of clay or stone;
- 3) In the vicinity of distinctive or unusual landforms;
- 4) In areas of pioneer EuroCanadian settlement; and
- 5) 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, the City does not require an archaeological assessment, but the proponent must be advised in writing by the Committee of Adjustment as follows:

“Acknowledgement Note: The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances. If archaeological resources are encountered, the proponent may be required to conduct an archaeological assessment prior to further impact in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI). All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the MHSTCI. Should deeply buried archaeological materials be found on the property during any of the above development activities the MHSTCI should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499).”

Cultural Heritage

The subject property is located within the Village of Waterdown Cultural Heritage Landscape, and adjacent to 188 and 201 Main Street South, properties listed in the City's Register of Property of Cultural Heritage Value or Interest. 201 Main Street South is also recommended for Designation. The subject property is also adjacent to 174 Main Street South, a property included in the City's Inventory of Heritage Buildings.

Further, the subject property is located in an active inventory area, the Waterdown Village Built Heritage Inventory, and is part of the Study Area of the Cultural Heritage Review conducted in support of the Waterdown Community Node Secondary Plan.

Where new construction and/or alterations or additions to existing structures are proposed in a Cultural Heritage Landscape, key considerations are the visual and

physical impacts on landscape features, typically public views of the building fabric, building set-back, the streetscape and significant vistas.

Accordingly, the following sections of the Urban Hamilton Official Plan, Volume 1, apply:

- B.3.4.1.3 “Ensure that all new development, site alterations, building alterations, and additions are contextually appropriate and maintain the integrity of all on-site or adjacent cultural heritage resources.” and,
- B.3.4.2.1(g) “Ensure the conservation and protection of cultural heritage resources in planning and development matters subject to the Planning Act either through appropriate planning and design measures or as conditions of development approvals.”
- B.3.4.2.1(h) “Conserve the character of areas of cultural heritage significance, including designated heritage conservation districts and cultural heritage landscapes, by encouraging those land uses, development and site alteration activities that protect, maintain and enhance these areas within the City.”

The applicant proposes to construct a new 50.0m² one storey addition and covered deck on the side yard of the existing single detached dwelling.

The proposed addition is located on the north façade of the building and is shielded from public view along Main Street South by the existing detached garage. It is not visible from the adjacent north property and was designed to be compatible with the roofline of the existing one storey portion of the house and to blend in with the architecture of the existing building.

Notwithstanding that the property is located within the Village of Waterdown Cultural Heritage Landscape and is adjacent to properties in the City’s Register of Property of Cultural Heritage Value or Interest, Staff have reviewed the application and are of the opinion that the proposed addition is compatible with the existing dwellings and that the cultural heritage value or interest of the adjacent properties will not be impacted. Staff have no further comments on the application as circulated.

Recommendation

Based on the preceding information, the requested variances maintain the general intent and purpose of the Urban Hamilton Official Plan as well as the City of Hamilton Zoning By-law 05-200. The variances are considered to be minor in nature and desirable for the appropriate use of the property. In conclusion, Staff recommends that the application be **approved**.

Building Division:

1. A Building permit is required in the normal manner for the construction of the proposed addition. Please be advised that Ontario Building Code may required specific setbacks and construction types.
2. Please be advised that a portion of this property is under Conservation Management. Please contact Conservation Halton at 905-336-1158 for further information.
3. Building Permit #20-160115, issued on August 6, 2020, to construct a one (1) storey rear yard addition in the rear yard remains not finalized.

Development Engineering:

No Comment

See attached for additional comments.

William Ernst

201 Main Street South, PO Box 413
Waterdown, Ontario
L0R 2H0

T-905 690-9229

November 21, 2021

**City of Hamilton
Committee of Adjustments**

Re: Committee of Adjustments
Application FL/A-21:367
191 Main St S, Flamborough

I've reviewed the Notice of Public Hearing for the Minor Variance at 191 Main St S

I kept asking myself – WHY?

On Main St S, all lots are of ample size. I query why would it be necessary to reduce the side yard set back by 1.4m

I think it is important to maintain the integrity of the planning process and maintain a 3m set back.

IMO, there are other alternatives

- 1) By moving the foot print of the proposed addition 1.4m further south
- 2) Reduce the size of the addition by maintaining the northern limit of the building at the 3m mark. With this suggestion, then the northern limit of the building would then align with the northern limit of the recently constructed garage (as displayed in the drawings attached to the notice)

William Ernst



November 19, 2021

Jamila Sheffield, City of Hamilton Committee of Adjustment
71 Main Street West, 5th Floor
Hamilton, Ontario L8P 4Y5

BY EMAIL ONLY (cofa@hamilton.ca)

Dear Ms. Sheffield:

**Re: Application for Minor Variance
File Number: FL/A-21:367
191 Main Street S, Flamborough
Victor – Owner; Radomski - Agent**



Planning & Watershed Management
905.336.1158 | Fax: 905.336.6684
2596 Britannia Road West
Burlington, Ontario L7P 0G3
conservationhalton.ca

Conservation Halton (CH) staff has reviewed the above-noted application as per our responsibilities under Ontario Regulation 162/06; the Provincial Policy Statement (PPS) (delegated responsibility for comments relating to provincial interests under Sections 3.1.1-3.1.7 inclusive); the Memorandum of Agreement (MOA, 2013) with the City of Hamilton; and as a public body under the *Planning Act*. These responsibilities are not mutually exclusive. Comments that pertain to items contained in the MOA may also apply to areas regulated under Ontario Regulation 162/06. The following comments relate to the items marked as "applicable" for this specific application. Comments under Ontario Regulation 162/06 are clearly identified and are requirements. Other comments are advisory.

Ontario Regulation 162/06

Lake Ontario/Burlington Bay/Hamilton Harbour Shoreline Hazards &/or allowances
River and Stream Valley Hazards (flooding/erosion) &/or allowances
Wetlands &/or Other Areas*
Hazardous Lands (Unstable Soil/Unstable Bedrock)
CH Permit Requirements

Applicable

☐
☒
☐
☐
☒

One Window Delegated Authority under PPS

Natural Hazards (Sections 3.1.1-3.1.7 inclusive)

☒

CA/MOA

Sub-watershed Planning/Master Drainage Planning
Significant Habitat of Endangered & Threatened Species
Significant Wildlife Habitat
Areas of Natural & Scientific Interest
Fish & Fish Habitat
Sensitive Surface Water Features
Sensitive Groundwater Features

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Other Comments (as a Public Body)

Niagara Escarpment Plan
Watershed Plan
Greenbelt Plan
Source Protection Plan
Hamilton Harbour Remedial Action Plan

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☐

Proposal

To permit the construction of a new 50 m² one storey addition and covered deck in the side yard of the existing single detached dwelling, notwithstanding that:

1. A northerly side yard setback of 1.6m shall be provided instead of the minimum required 3.0m interior side yard setback.

Ontario Regulation 162/06

Conservation Halton (CH) regulates all watercourses, valleylands, wetlands, Lake Ontario and Hamilton Harbour shoreline and hazardous lands, as well as lands adjacent to these features. The subject property, 191 Main Street South, is located adjacent to lands traversed by Grindstone Creek. CH regulates the flooding and erosion hazards associated with Grindstone Creek plus a 15 metre regulatory allowance from the greater hazard (Stable Top of Bank) at this particular site. Permission is required from CH prior to undertaking any development within CH's regulated area and must meet CH's *Policies and Guidelines for the Administration of Ontario Regulation 162/06*.

Proposed Development

The proposed works are not located within the allowance for the Stable Top of Bank as identified in our Approximate Regulation Limit (ARL) mapping. While not required for this work, the applicant is advised that delineation of the Stable Top of Bank and associated studies may be required for future development.

CH Permit Requirements

As the proposed development is located outside of the regulated area, a permit will not be required, and this letter can be considered as clearance from CH for the proposed development.

One Window Delegated Authority under PPS **Natural Hazards (Sections 3.1.1-3.1.7 inclusive)**

Staff are able to confirm that the development meets the Natural Hazards policies of the PPS.

Summary/Conclusion

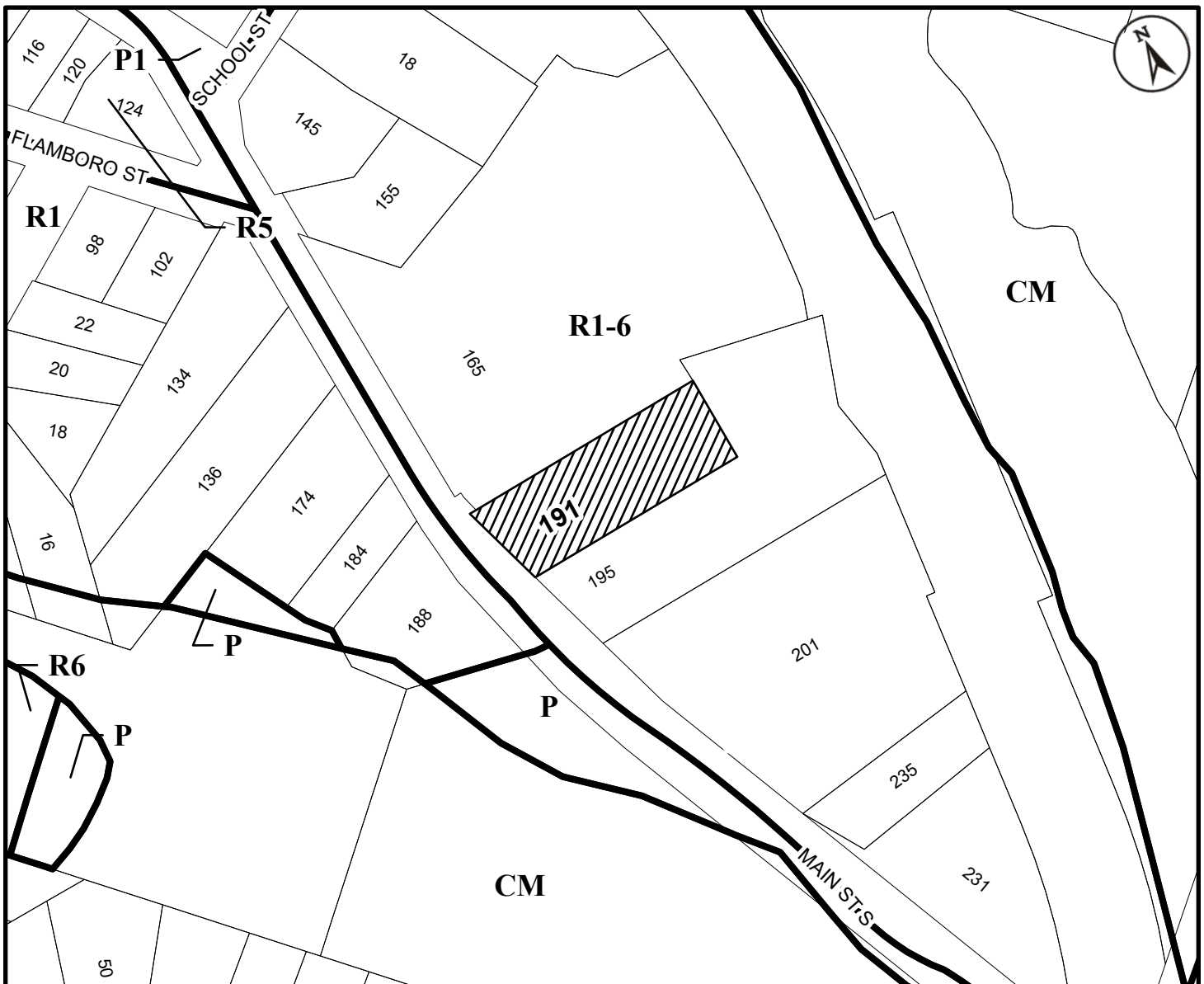
Based on the above, staff have no objection to the approval of the above noted Minor Variance Application. No further approvals are required from our office for the proposed development.

We trust the above is of assistance. If you have any questions, please contact the undersigned at ssewart@hrca.on.ca.

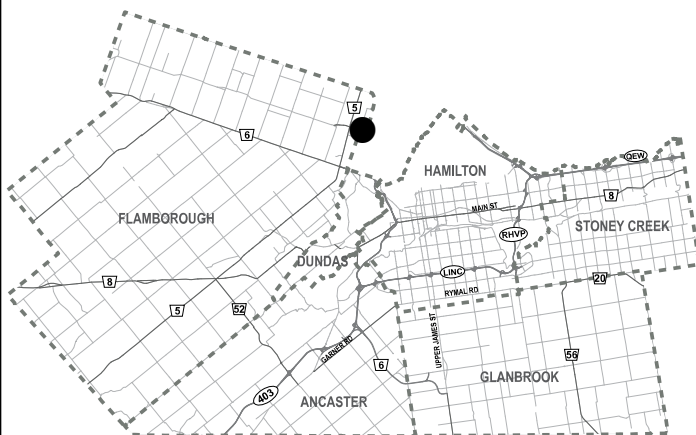
Sincerely,



Sean Stewart
Planning & Regulations Analyst
905.336.1158 ext. 2250 ssewart@hrca.on.ca



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



191 Main Street South, Flamborough
(Ward 15)

File Name/Number:

FL/A-21:367

Date:

November 10, 2021

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

GL/A-21:368 – 167 Tanglewood Dr., Glanbrook

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):

GL/A-21:368 – 167 Tanglewood Dr., Glanbrook

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Rural

The purpose of this application is to permit an existing 30.0 m² rear deck to remain at the back of the existing street townhouse dwelling notwithstanding that; the 0.0 m side yard setback shall be maintained for the interior side lot lines instead of the minimum required 1.0 m setback from any interior side lot line.

Urban Hamilton Official Plan

The Urban Hamilton Official Plan designates the subject lands as “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations.

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

The subject lands are zoned “RM2” Residential Multiple 2 Zone, the existing uses are permitted.

Variance 1 (Side Yard setback)

The applicant is seeking a variance to allow a 0.0 m side yard setback for backyard deck; whereas, a minimum setback of 1.0 m is required. Staff note that the 30.0 m² back yard deck has been constructed.

The general intent of the purpose of the Zoning By-law requirement is to maintain the existing character and streetscape of the neighbourhood and to ensure sufficient landscaping and accessibility is available within the side yard. Staff note that some nearby properties have decks with side yards which are similar in size to the applicant’s proposal.

Recommendation:

Staff are satisfied that the side yard reduction is minor and is in keeping with the existing character and streetscape of the neighbourhood. The variance is in keeping with the general intent and purpose of the Hamilton Zoning By-law 05-200, and for that reason is minor in nature and is desirable for the appropriate use of the property, staff are in support of this variance. **Staff are satisfied** the proposed variance meets the intent of the Urban Hamilton Official Plan and have no negative impact on the existing character of the area.

Building Division:

This variance is necessary to facilitate building permit application # 21-121605.

Development Engineering:

No Comment

See attached for additional comments.

From: [johnpappy3](#)
To: [Committee of adjustment](#)
Subject: Re: Application No: GL/A-21:368 Subject Property: 167 Tanglewood drive Glanbrook
Date: November 12, 2021 4:55:35 PM

To whom it may concern,

My Name is John Papagiannis. My wife Maria Rosa Stornelli and I reside at 165 Tanglewood drive and our townhome is attached to the subject property. We will go on record to state that we have no problems whatsoever in having the deck of the Gulley family to remain as it stands right now. My phone number is 647 518 0829, and Maria Rosa's is 416 420 1131. We cannot attend the hearing in person, however we are available for comment and opinion if need be.

Respectfully yours,

John Papagiannis.

Sent from my Bell Samsung device over Canada's largest network.

From: [Sheffield, Jamila](#)
To: [Committee of adjustment](#)
Subject: FW: 167 TANGLEWOOD DRIVE GL/A-21:368
Date: November 22, 2021 1:38:44 PM

From: Johnson, Brenda <Brenda.Johnson@hamilton.ca>
Sent: November 22, 2021 1:33 PM
To: Sheffield, Jamila <Jamila.Sheffield@hamilton.ca>; Ward 11 <ward11@hamilton.ca>; Dinney, Kathy <Kathy.Dinney@hamilton.ca>
Cc: Amanda & Terry Gulley <amanda_alg@hotmail.com>
Subject: 167 TANGLEWOOD DRIVE GL/A-21:368

Jamila

Hope all is well

Can you please ensure my comments below are recorded for the public record?

Many thanks

Brenda

Dear Committee Members,

I fully support the request for variance from the resident at 167 Tanglewood to permit the following:

1. 0.0 m side yard setback shall be maintained for the interior side lot lines instead of the minimum required 1.0 m setback from any interior side lot line.

The residents applied for and were granted a permit to build 16x20 deck. The building department issued the permit in error. Permitting deck to be 0.0 meters from side lot lines. As this error was not that of the resident, I support their request.

Take care and stay safe

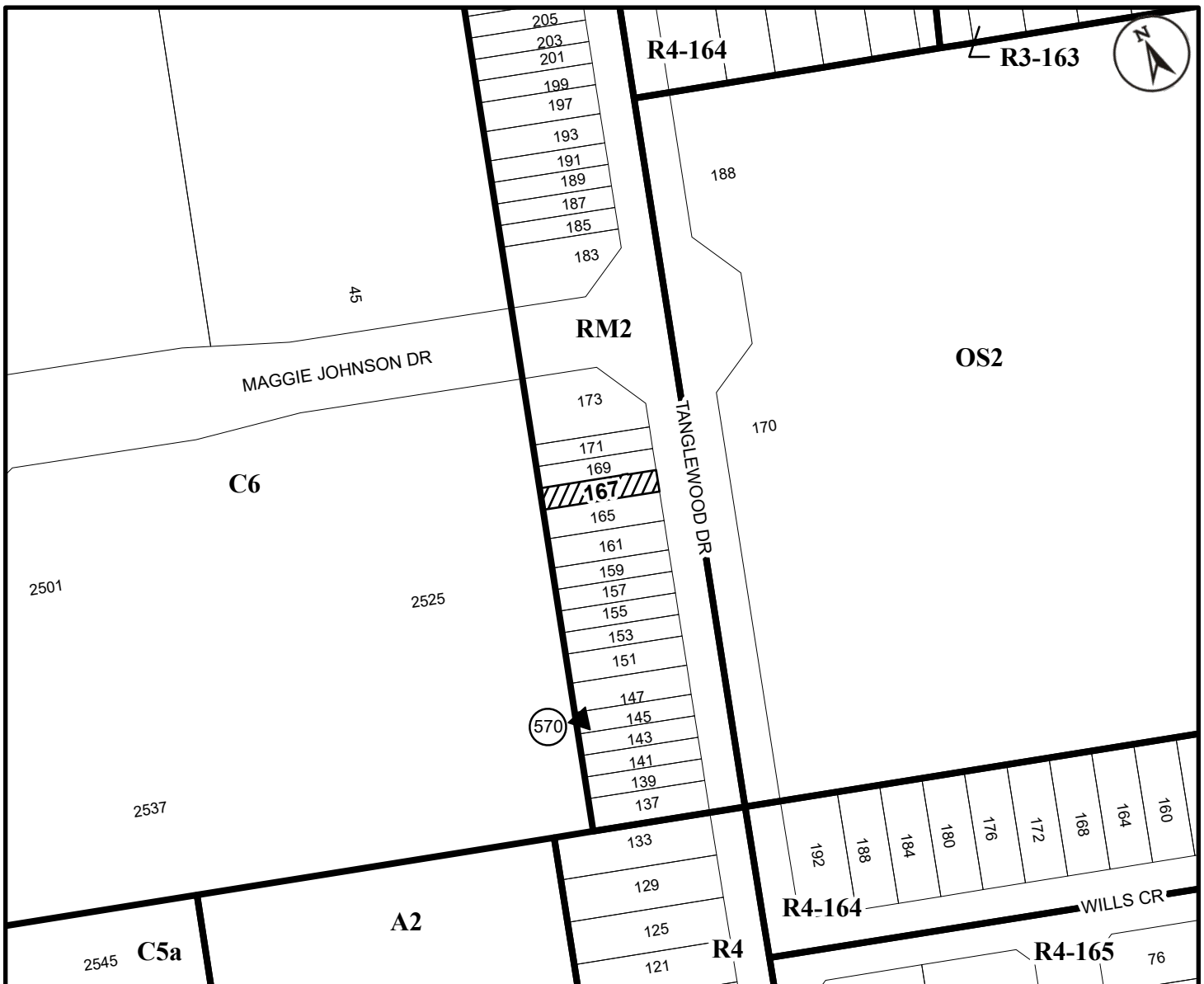
Brenda

Sent from my iPhone

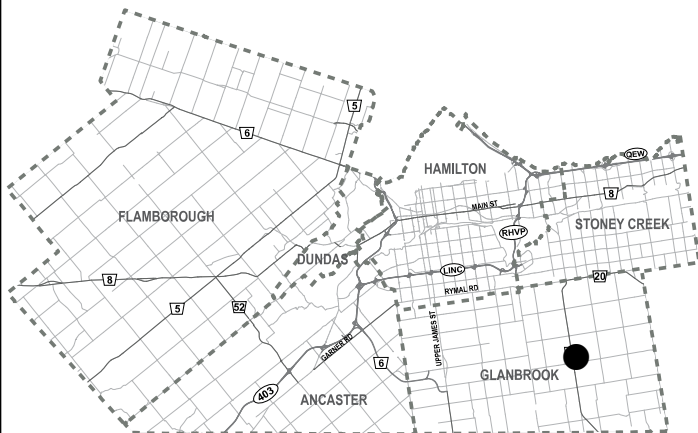
Councillor Brenda Johnson

City of Hamilton

Ward 11



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



167 Tanglewood Drive, Glanbrook
(Ward 11)

File Name/Number:

GL/A-21:368

Date:

November 11, 2021

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

AN/A-21:369 – 2333 Jerseyville Rd., Ancaster

Consolidation Report

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

“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).”

AN/A-21:369 – 2333 Jerseyville Rd., Ancaster

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Rural

The purpose of this application is to permit the construction of an addition to the westerly side of the existing detached garage in the rear yard accessory to an existing single detached dwelling notwithstanding that;

The proposed aggregate Gross Floor Area of all Accessory Buildings will be **269.5 m²**, whereas the Zoning By-law permits a maximum aggregate Gross Floor Area for all Accessory Buildings on site of not more than 200.0 m².

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.

Hamilton Zoning By-law No. 05-200

The subject lands are zoned Agriculture (A1) Zone to which the use complies.

Variance 1 (Accessory Building Coverage)

The applicant is seeking a variance for a minimum Gross Floor Area of all Accessory Buildings of 269.5 m²; whereas, the Zoning By-law requires a minimum Gross Floor Area of all Accessory Buildings of 200m² for an agricultural parcel.

The proposed area for the accessory building addition is not appropriate for the use and configuration of the subject lands. The lot is approximately 0.41 ha in size and the proposed addition to the garage would not make the accessory buildings on the property subordinate to the existing single detached dwelling (gross floor area of all Accessory Buildings will be 269.5m² while the existing single detached dwelling has a gross floor area of approximately 203 m²). The proposed addition would result in the Accessory Structures on the property having more coverage than the existing dwelling which would not make it an appropriate scale for these buildings to be considered secondary. Also, the maximum coverage for agriculture accessory structures is 5%, with the proposed addition the coverage will be a total of 5.6% which exceeds the maximum therefore we can not consider that minor. The proposed addition does not meet the intent of the Official Plan. Based on the foregoing, staff recommend that the minor variance be **denied** as it does not desirable for the subject lands.

Archaeology

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

- 1) 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) 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 approved, the proponent must be advised by the Committee of Adjustment as follows:

“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).”

Cultural Heritage

The subject property includes a circa 1880 single detached dwelling and is included in the City’s Inventory of Heritage Buildings. The property is also adjacent to 2360 Jerseyville Road West, also included in the City’s Inventory of Heritage Buildings.

Accordingly, the following sections of the Rural Hamilton Official Plan, Volume 1, apply:

- B.3.4.1.3 “Ensure that all new development, site alterations, building alterations, and additions are contextually appropriate and maintain the integrity of all on-site or adjacent cultural heritage resources.” and,
- B.3.4.2.1(g) “Ensure the conservation and protection of cultural heritage resources in planning and development matters subject to the Planning Act either through appropriate planning and design measures or as conditions of development approvals.”
- B.3.4.2.1(h) “Conserve the character of areas of cultural heritage significance, including designated heritage conservation districts and cultural heritage landscapes,

by encouraging those land uses, development and site alteration activities that protect, maintain and enhance these areas within the City.”

The applicant proposes to construct an addition to the westerly side of the existing detached garage in the rear yard, accessory to an existing single detached dwelling.

Notwithstanding that Staff have not received architectural drawings or materials of the proposed addition and the subject property is included in the City’s Inventory of Heritage Buildings, staff are of the opinion that the cultural heritage value or interest of the property will be conserved. Staff have no further comments on the application as circulated.

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 Hamilton Zoning By-law. The variance is not desirable for the appropriate use of the property. In conclusion, Staff recommends that the application be **denied**.

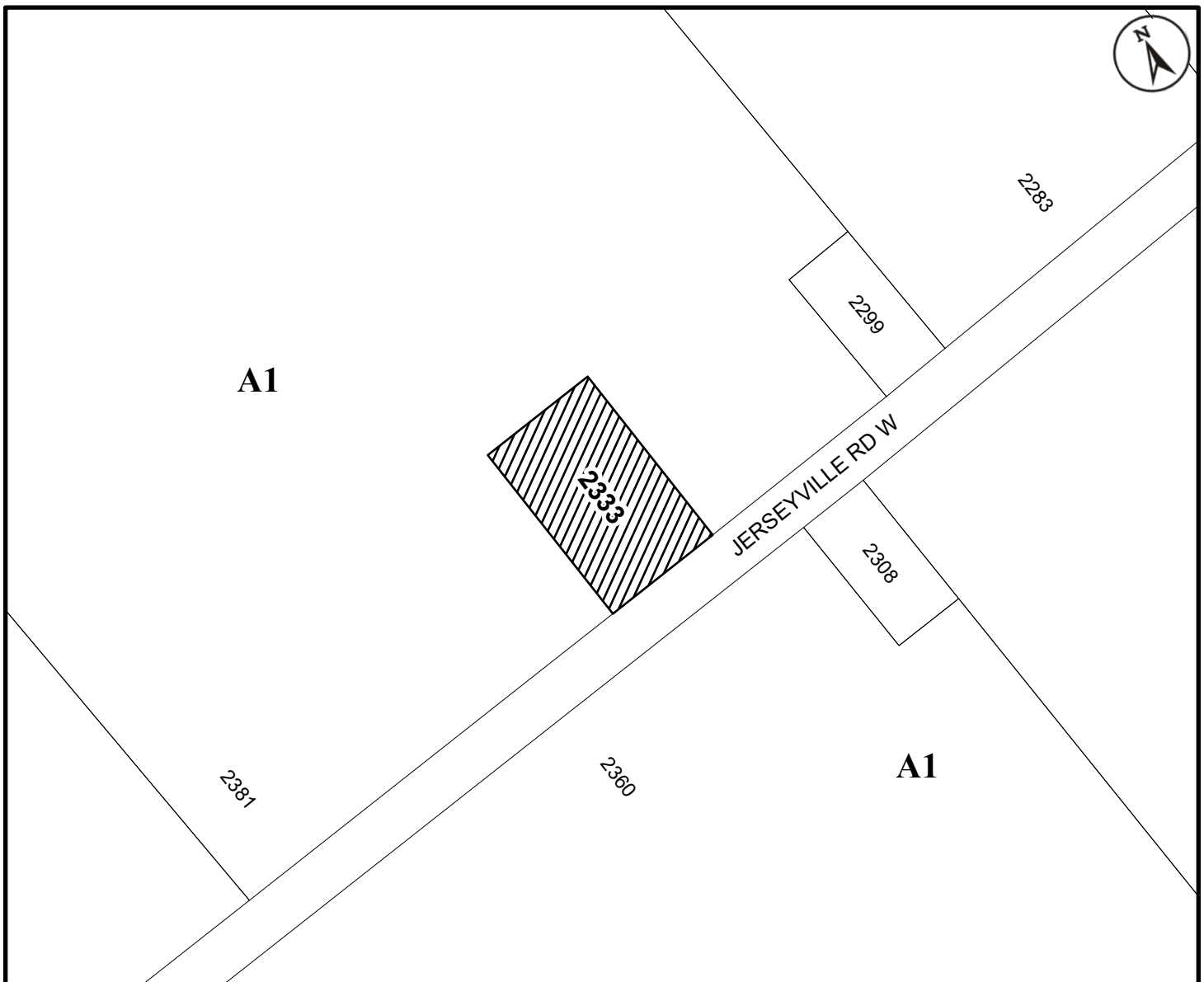
Building Division:

1. The Front lot line is considered the southerly property line.
2. Elevation drawings of the altered detached garage were not included in the submission. The applicant shall ensure compliance with Section 4.0 General Provisions with respect to building height otherwise an additional variance may be required. The applicant shall ensure the permitted building height of 6.0 metres is not exceeded when calculated in accordance with “*Height*” and “*Grade*” as defined within the Zoning By-law.
3. Floor plans of the altered detached garage were not included in the submission. The applicant shall maintain the existing parking spaces within the detached garage, otherwise an additional variance(s) may be required.
4. A building permit is required for the construction of the proposed garage addition.
5. 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 culturalheritageplanning@hamilton.ca for further information.
6. Be advised that Ontario Building Code regulations may require specific setback and construction types.

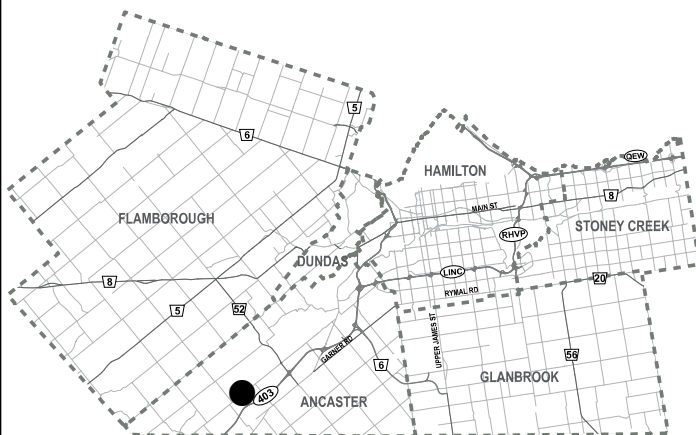
Development Engineering:

Provided the existing drainage patterns are maintained, Development Approvals has no comments.

See attached for additional comments.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



2333 Jerseyville Road, Ancaster
(Ward 12)

File Name/Number:

AN/A-21:369

Date:

November 11, 2021

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

FL/A-21:371 – 28 Oak Ave., 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:

“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).”

FL/A-21:371 – 28 Oak Ave., Flamborough

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Rural

The purpose of this application is to permit the construction of an accessory building that will comprise 37.5 square metres of gross floor area for an existing single detached dwelling, notwithstanding that:

1. The accessory building shall be located within the front yard and 10.7 metres from the front lot line, whereas, the zoning by-law does not permit accessory buildings to be located within the front yard or flankage yard.
2. The accessory building shall have a maximum height of 7.1 metres instead of the maximum height of 4.5 metres.

Rural Hamilton Official Plan

The Rural Hamilton Official Plan designates the property as “Settlement Residential” on Map: Map 8a Greensville Rural Settlement Area Plan. Amongst others, Policy 3.5.5.7 applies and permits one single detached dwelling and accessory structures.

- 3.5.5.7 New residential development shall be integrated and compatible with the existing residential character. In this respect, when development occurs adjacent to or as infilling in existing areas, the bulk, mass and height shall be similar to that of existing residential uses. In addition, consideration shall be given to the use of increased setbacks, screening and buffering to minimize any adverse impacts on existing development.

Hamilton Zoning By-law No. 05-200

The subject lands are zoned Settlement Residential (S1) Zone, residential uses are permitted.

Variance 1 (Accessory Structure in the Front Yard)

The applicant is seeking an accessory building to be permitted within a front yard, instead of the requirement that an accessory building shall not be permitted within a front or flankage yard.

In reviewing the proposed minor variance in context of the character of the surrounding neighbourhood, staff found that surrounding properties did not have detached garages in the front yard that protruded far beyond the principle dwelling. The proposed detached garage in the front yard is not in keeping with the character of the surrounding area and

does not meet the intent of the Official Plan. Based on the foregoing, staff recommend that the minor variance be **denied** as it does not desirable for the subject lands.

Variance 2 (Accessory Structure Height)

The applicant is seeking a maximum height of 7.1 metres to be permitted for an accessory building, instead of the requirement that all accessory buildings shall have a maximum height of 4.5 metres.

The proposed height increase will mask the view of the dwelling from the street making the garage seem the dominant feature on the property. Staff are concerned that the 7.1 height, of the accessory structure is excessive with it being located in the front yard. This would make the variance not minor in nature and not appropriate for the subject property as the proposal is not compatible with the character of the neighbourhood. Accordingly, **staff recommend the variance be denied.**

Archaeology

The subject property meets one 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.

“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).”

Cultural Heritage

The property known as 28 Oak Avenue (c. 1955) is part of the Greensville Cultural Heritage Landscape and the Greensville Built Heritage Active Inventory Area. Accordingly, the following section of the Provincial Policy Statement applies:

- 2.6.1 Significant built heritage resources and significant cultural heritage landscapes shall be conserved.

Additionally, the following section of the Urban Hamilton Official Plan, Volume 1, applies:

- B.3.4.6.2 Cultural heritage landscapes...shall be protected in the carrying out of any undertaking subject to the Environmental Assessment Act or the Planning Act. Where new construction and/or alterations or additions to existing structures are proposed in a Cultural Heritage Landscape, key considerations are the visual and physical impacts on landscape features, typically public views of the building fabric, building set-back, the streetscape and significant vistas.

Accordingly, the following sections of the Urban Hamilton Official Plan, Volume 1, apply:

- B.3.4.1.3 “Ensure that all new development, site alterations, building alterations, and additions are contextually appropriate and maintain the integrity of all on-site or adjacent cultural heritage resources.” and,
- B.3.4.2.1(g) “Ensure the conservation and protection of cultural heritage resources in planning and development matters subject to the Planning Act either through appropriate planning and design measures or as conditions of development approvals.”
- B.3.4.2.1(h) “Conserve the character of areas of cultural heritage significance, including designated heritage conservation districts and cultural heritage landscapes, by encouraging those land uses, development and site alteration activities that protect, maintain and enhance these areas within the City.”

The applicant proposes to construct an accessory building that will comprise 37.5m² of gross floor area for an existing single detached dwelling.

Staff have reviewed the application and are of the opinion that the proposed accessory building, to be located within the front yard, is not in keeping with the character of the Greensville Cultural Heritage Landscape due to its location and height. Staff have no further comments on the application as circulated.

Recommendation

Staff recommend that variance 1 be **denied**, the requested variances do not maintain the general intent and purpose of the Rural Hamilton Official Plan and the Hamilton Zoning By-law and is not minor in nature. The variance is not desirable for the appropriate use of the property.

Staff recommend that variance 2 be **denied**, the requested variances do not maintain the general intent and purpose of the Rural Hamilton Official Plan and the Hamilton Zoning By-law and is not minor in nature. The variance is not desirable for the appropriate use of the property.

Building Division:

1. The variance was written as requested by the applicant and an additional variance was included to address the maximum building height.
2. Variance #2 shall be modified to read as follows:

The accessory building shall have a maximum height of 4.9m metres instead of the maximum height of 4.5 metres.

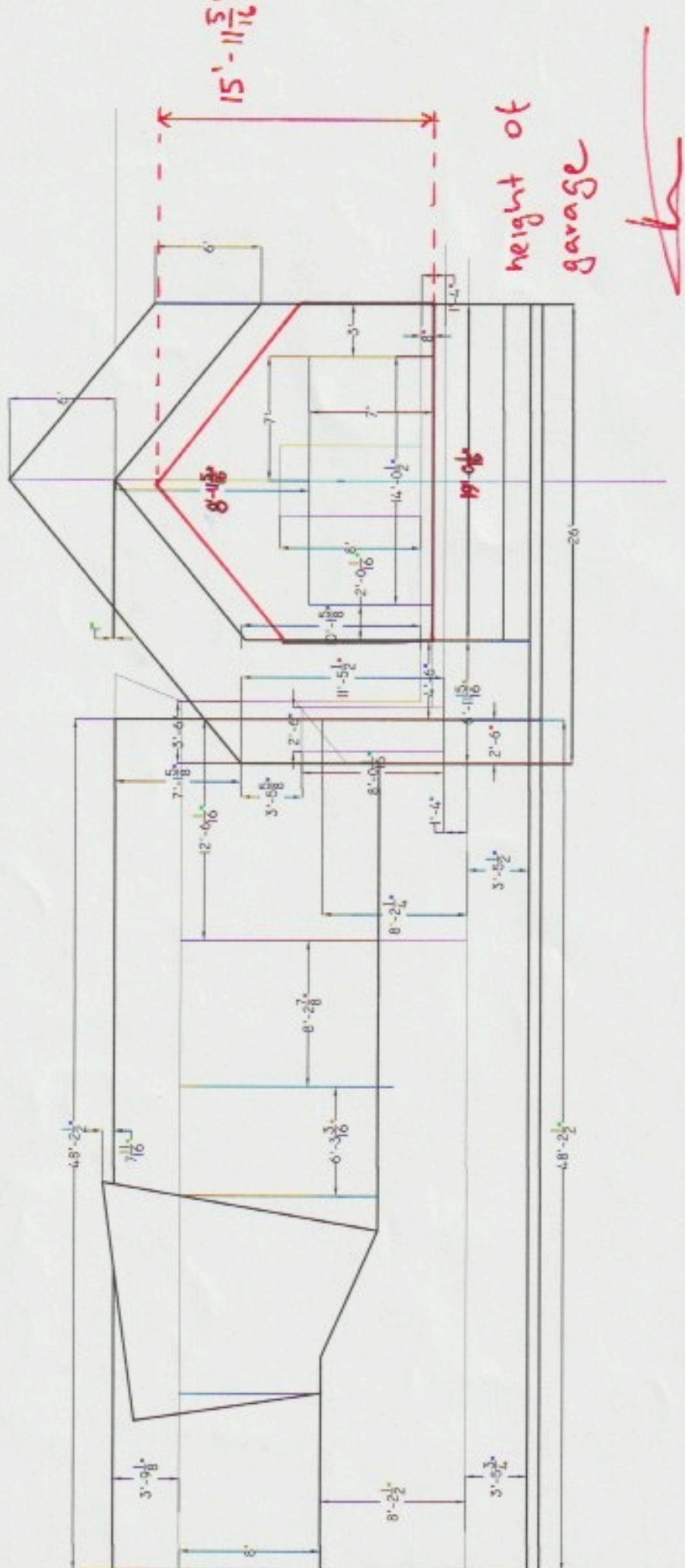
In the Notice for this application, the height was incorrectly identified to be 7.1 metres.

3. The existing 0.2 hectare lot area is recognized as legally established non-complying within the S1 Zone of Zoning By-law 05-200.
4. The drawings did not identify the required parking for the existing dwelling. The owner shall ensure that the parking space shall not be located within the required 7.5 metre front yard and that the parking space meets the minimum required dimensions of 2.8m x 5.8m or an additional variance shall be required.
5. A building permit is required for the construction of the proposed accessory building.
6. It is further noted that the applicant has applied to construct a 118.9m² addition to the existing single detached dwelling which is shown on the proposed plans for this application. As there are no zoning compliance issues for this addition, variances are not required. A building permit is required for the proposed addition to the existing dwelling.

Development Engineering:

No Comment

See attached for additional comments.



height of
garage

Handwritten signature

SCALE
0 5 10 IMPERIAL
0 1 2 3 METRES
UNLESS OTHERWISE NOTED

CLIENT
MR. MATTHEW

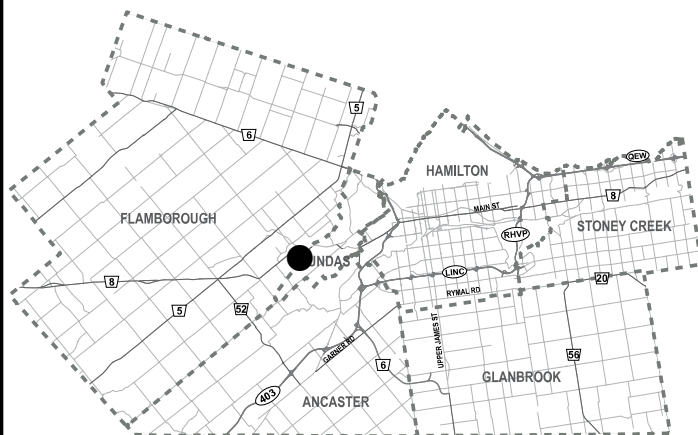
HROTKA

28 OAK AVENUE, DUNDAS ONT.
LOT 17 GRAND VISTA GARDENS REGISTERED NO. 773
TOWNSHIP OF WEST FLAMBORO
MCKAY AND MCKAY SURVEY PLAN Y-9786
JUNE 28, 1956

NOTES COMMENTS	
3	
2	
1	
REF.	DATE DESCRIPTION



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



28 Oak Avenue, Flamborough
(Ward 13)

File Name/Number:

FL/A-21:371

Date:

November 11, 2021

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

AN/B-21:94 – 2943 Jerseyville Rd. W., Ancaster

Consolidation Report

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

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

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system. (Committee of Adjustment 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).
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 applicant shall provide confirmation of the existing uses on the lands to be retained and conveyed in order to determine compliance with the permitted uses of the "A1" zone or alternatively apply for and receive final approval of a Zoning By-law Amendment as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
5. The owner shall submit survey evidence that the lands to be severed, including: the location of any existing structure(s) including accessory buildings; parking (including number of spaces, size, aisle width, access driveway, location and setback of parking spaces); lot coverage of accessory buildings; height of accessory buildings and vehicular entrance and access driveway to accessory buildings; and, Minimum Distance Separation Formula, 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 submit survey evidence from a BCIN Qualified Designer (Part 8 Sewage System) or Professional Engineer that the existing septic system complies with the clearance requirements of Part 8 of the Ontario Building Code for the lands to be severed, to the satisfaction of the Planning and Economic Development Department (Building Division –Plan Examination Section).

7. The owner shall apply for and receive any required building permits in the normal manner to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section).
8. Hamilton Water requires a Scoped Hydrogeological Report completed by a qualified professional. This report would include but not necessarily be limited to:

The applicant shall forward the Ministry of Environment Water Well Record for the existing well to Source Protection Planning for our review. If the Water Well Record can not be located OR if the well is more than 10 years old, it shall be inspected by a licensed water well contractor for its condition and its sustainable pumping rate verified to demonstrate that the existing well can continue to support the dwelling. Any improvements to the condition of the well suggested by the water well contractor shall be implemented and associated documentation shall be forwarded to Source Protection Planning for review. Find licensed water well contractors here: <https://www.ontario.ca/page/find-licensed-well-contractors>

The water well contractor or other qualified professional (P.Eng, P.Geo) shall obtain water quality samples from the onsite well. Parameters to be analyzed shall be at minimum, e. coli, total coliforms, general chemistry, major ions, nutrients, and metals. Find licensed laboratories here: <https://www.ontario.ca/page/list-licensed-laboratories>.

A revised site/local area plan shall indicate the location of the well and septic system components (tank(s) and leaching bed) and demonstrate that the locations conform with minimum clearance distances within Part 8 of the Ontario Building Code. A reserve area bed shall also be delineated to conform to Rural Hamilton Official Plan requirements.

9. The existing right-of-way at the subject property is approximately 20.0 metres. Approximately 3.0 metres are to be dedicated to the right-of-way on Jerseyville Road, as per the Council Approved Rural Official Plan: Schedule C-1 - Future Right-of-Way Dedications. Jerseyville Road is to be 26.213 metres from Shaver Road to City Boundary.

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).

10. That the Owner submits an assessment prepared by a qualified professional to demonstrate that the existing private services i.e. water well and septic system, if any, are in good working condition to continue to support the existing dwellings and that the lot size is sufficient to provide for a reserve septic bed and/or a new water well if required all supported by the existing soil conditions to the Source Water Protection Section staff and the Manager of the Engineering Approvals Section.

14. The Owner / Applicant shall provide a **Well Inspection**: If the existing well is to be used for the proposed severance, please submit the Water Well Record to Source Protection Planning. If a well record cannot be located or the well is more than 10 years old, its condition should be tested and inspected by a licensed water well contractor. If any repairs or rehabilitation is required by the water well contractor as a result of this inspection, the applicant shall demonstrate that the improvements have been implemented. This inspection shall also include a 1 hour pumping test to verify that the well can support the proposed demands from the new dwelling. Find licensed water well contractors here: <https://www.ontario.ca/page/find-licensed-well-contractors> . The Well Inspection shall be **to the satisfaction of the Director of Hamilton Water**.
15. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)
16. The owner submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)

Note: Based on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be conveyed will remain as **2943 Jerseyville Road West (Ancaster)**, and the lands to be retained will be assigned the address of **2925 Jerseyville Road West (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-21:94 – 2943 Jerseyville Rd. W., Ancaster

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Rural

The purpose of this application is to permit the conveyance of a parcel of land for existing residential use and to retain a vacant parcel of land for agricultural-related use. The existing single detached dwelling and detached garage to remain.

Severed lands:

Frontage: 137.69 m±

Depth: 88.27 m±

Area of 1.03 ha±

Retained lands:

Frontage: 232 m±

Depth: 170 m±

Area of 5.31 ha±

Provincial Policy Statement

The subject property is located within a Prime Agricultural Area. The application has been reviewed against the policies that speak to lot creation within agricultural areas, namely Section 2.3.4.1 which speaks to farm severances as a result of surplus farm dwelling severances.

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

c) a residence surplus to a farming operation as a result of farm consolidation, provided that:

1. the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and
2. the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective;”

Staff note that the applicant has not provided any information to demonstrate that the proposed consent is to facilitate a surplus farm dwelling severance. Therefore, the application is not consistent with the Provincial Policy Statement.

Rural Hamilton Official Plan

The Rural Hamilton Official Plan designates the property as Agriculture in Schedule D – Rural Land Use Designations. The following policies amongst others apply:

- 1.14.2.1 The following policies shall apply to all severances and lot additions, including minor lot line adjustments and boundary adjustments in the Agriculture, Rural, Specialty Crop, and Open Space designations, and designated Rural Settlement Areas, as shown on Schedule D – Rural Land Use Designations: (OPA18)
- a) Severances that create a new lot for the following purposes shall be prohibited:
 - i) Residential uses except in accordance with:
 - 1) Policies F.1.14.2.1 b) iii) and F.1.14.2.8, where a dwelling may be severed as a result of a farm consolidation; and,
 - 2) Policies F.1.14.2.1 b) iv) and F.1.14.2.4, where a dwelling within a designated Rural Settlement Area may be severed;
- 1.14.2.2 Severances that create a new lot in the Agriculture and Specialty Crop designations, except surplus farm dwelling severances, shall be permitted providing the following conditions are met:
- a) The permitted agricultural use or agricultural-related use shall comply with the policies of Sections D.2, Agriculture and D.3, Specialty Crop of this Plan;
 - b) The minimum lot size for newly created agricultural lots and retained agricultural lots within the:
 - i) Agriculture designation shall be 40.4 hectares (100 acres), except as provided in Section D.2.1.
- 1.14.2.8 An existing farm dwelling that is a residence surplus to a farming operation as a result of a farm consolidation may be severed provided all of the following conditions are met:
- a) In all cases where surplus farm dwellings are to be severed the following shall apply:
 - i) The farm consolidation shall have been completed prior to the time of application.

ii) The farm dwelling shall be determined to be surplus to the farm operation for no reason other than the farm dwelling is surplus to the needs of the farm consolidation. Farm dwellings that have been determined to be surplus to a farm operation prior to December 16, 2004 and prior to the acquisition of the additional farm parcel(s), or as a result of changing agricultural operations, are deemed not to be surplus farm dwellings for the purposes of Section F.1.14.2.8.

iii) The proposed surplus farm dwelling:

1) shall have been built on or before December 16, 2004; and,

2) shall be habitable on the date of the application for the surplus farm dwelling severance and shall meet the City's standards for occupancy without requiring substantial demolition and new construction.

iv) The surplus dwelling lot shall be a minimum of 0.4 hectares (1 acre), or such larger area as may be required by Section C.5.1, Private Water and Wastewater Services of this Plan. The maximum size of the surplus dwelling lot shall be the size required for servicing in accordance with Section C.5.1, with as little acreage as possible taken out of agricultural production;

v) A private water well and private sewage disposal system shall be provided in accordance with Section C.5.1, Private Water and Wastewater Services of this Plan;

vi) The shape and dimensions of the surplus farm dwelling lot shall:

1. not impair agricultural operations on the retained land; and

2. generally not exceed a depth of 122 metres (400 feet);

vii) The surplus dwelling lot shall not include barns or other farm buildings which are not suitable to be used as accessory structures to a residential use prescribed by the Zoning By-law, and no such buildings or structures shall be used for industrial or commercial purposes.

viii) Where a barn or other farm building exists within the immediate vicinity of the surplus residence, the City may require demolition of the barn.

Staff note that no information was provided with the application to demonstrate that the proposed consent is to facilitate a surplus farm dwelling severance in conformity with the RHOP policies set out under F1.14.2.8. Therefore, the application does not conform to the Rural Hamilton Official Plan.

Hamilton Zoning By-law No. 05-200

The subject lands are zoned Agriculture (A1) Zone to which the use complies. The minimum lot area required for an agricultural lot is 40.4ha the applicant is proposing 5.31ha which does not comply.

Cultural Heritage

The subject property contains a circa 1876 farmhouse and is included in the City's Inventory of Heritage Buildings. The subject property is also adjacent to 2938, 2956, 3002 and 3011 Jerseyville Road West, properties included in the City's Inventory of Heritage Buildings.

Accordingly, the following sections of the Rural Hamilton Official Plan, Volume 1, apply:

- B.3.4.1.3 "Ensure that all new development, site alterations, building alterations, and additions are contextually appropriate and maintain the integrity of all on-site or adjacent cultural heritage resources." and,
- B.3.4.2.1(g) "Ensure the conservation and protection of cultural heritage resources in planning and development matters subject to the Planning Act either through appropriate planning and design measures or as conditions of development approvals."
- B.3.4.2.1(h) "Conserve the character of areas of cultural heritage significance, including designated heritage conservation districts and cultural heritage landscapes, by encouraging those land uses, development and site alteration activities that protect, maintain and enhance these areas within the City."

The applicant proposes to convey a parcel of land for existing residential use and to retain a vacant parcel of land for agricultural-related use. The existing single-family dwelling and detached garage to remain.

Staff have reviewed the application and support the retention of the circa 1876 built heritage resource, however, the contextual value of the agricultural landscape will be impacted through a severance. Staff have no further comments on the application as circulated.

Recommendation

Based on the preceding information, the requested severance does not maintain the general intent and purpose of the Rural Hamilton Official Plan as well as the Hamilton Zoning By-law 05-200 as it does not maintain the required minimum lot area for a Agricultural lot and has not been shown to comply with the City's surplus farm dwelling severance policies. Therefore, not making it a desirable for the use of the property. In conclusion, Staff recommends that the application be **denied**.

If the application is approved staff require the following conditions:

1. The applicant shall forward the Ministry of Environment Water Well Record for the existing well to Source Protection Planning for our review. If the Water Well Record cannot be located OR if the well is more than 10 years old, it shall be inspected by a licensed water well contractor for its condition and its sustainable pumping rate verified to demonstrate that the existing well can continue to support the dwelling. Any improvements to the condition of the well suggested by the water well contractor shall be implemented and associated documentation shall be forwarded to Source Protection Planning for review. Find licensed water well contractors here: <https://www.ontario.ca/page/find-licenced-well-contractors>.
2. The water well contractor or other qualified professional (P.Eng, P.Geo) shall obtain water quality samples from the onsite well. Parameters to be analyzed shall be at minimum, e. coli, total coliforms, general chemistry, major ions, nutrients, and metals. Find licensed laboratories here: <https://www.ontario.ca/page/list-licensed-laboratories>.
3. A revised site/local area plan shall indicate the location of the well and septic system components (tank(s) and leaching bed) and demonstrate that the locations conform with minimum clearance distances within Part 8 of the Ontario Building Code. A reserve area bed shall also be delineated to conform to Rural Hamilton Official Plan requirements.

Building Division:

1. The incorrect address is indicated on the Notice. The lands are should be shown as 2943 Jerseyville Road West rather than 3029 Jerseyville Road West.
2. The applicant shall clarify the uses (including the uses in all buildings on the lands to be conveyed) on both the lands to be conveyed and the lands to be retained in order to determine zoning compliance as the application indicates the proposed use on the lands to be conveyed is "unknown/agricultural?" although it does also states a house and garage are existing building. The applicant shall ensure that the proposed uses for the lands to be conveyed and retained are permitted.

3. The applicant should obtain an appropriate municipal address for the proposed parcel(s) from the Growth Planning Section of the Planning and Economic Development Department prior to the issuance of a building permit.
4. Subject to the Minimum Distance Separation requirements for livestock facilities within agricultural areas as set out in the Zoning By-Law.
5. The applicant, as a condition of approval, shall be required to provide evidence from a qualified professional that the existing septic system will be in compliance with The Ontario Building Code with respect to its location to the new property lines. The septic system shall be located entirely within the lands to be conveyed or the lot lines shall be reconfigured to accommodate the existing septic system. A septic system is not permitted to be located on adjacent lands.
6. The building setbacks shown on the survey submitted for the lands to be conveyed are illegible. Further, the survey also does not provide details respecting the uses, gross floor areas and heights for the buildings on the lands to be conveyed. As such, this Division cannot confirm zoning compliance.
7. A variance for lot area will be required for zoning compliance of the lands to be retained as a minimum lot area of 40.4ha is required for an agriculture use and a lot area of 5.31ha is proposed.
8. In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.
9. In order to clear conditions, the applicant will be required to make application for a Zoning Compliance Review 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 – Plan Examination).
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 applicant shall provide confirmation of the existing uses on the lands to be retained and conveyed in order to determine compliance with the permitted uses of the “A1” zone or alternatively apply for and receive final approval of a Zoning By-law Amendment 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, including: the location of any existing structure(s) including accessory buildings; parking (including

number of spaces, size, aisle width, access driveway, location and setback of parking spaces); lot coverage of accessory buildings; height of accessory buildings and vehicular entrance and access driveway to accessory buildings; and, Minimum Distance Separation Formula, 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 submit survey evidence from a BCIN Qualified Designer (Part 8 Sewage System) or Professional Engineer that the existing septic system complies with the clearance requirements of Part 8 of the Ontario Building Code for the lands to be severed, to the satisfaction of the Planning and Economic Development Department (Building Division –Plan Examination Section).
6. The owner shall apply for and receive any required building permits in the normal manner to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section).

Growth Management:

Note: Based on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be conveyed will remain as **2943 Jerseyville Road West (Ancaster)**, and the lands to be retained will be assigned the address of **2925 Jerseyville Road West (Ancaster)**.

Source Water Protection:

Given the proposed lot size meets the minimum requirements, as a condition of approval Hamilton Water requires a Scoped Hydrogeological Report completed by a qualified professional. This report would include but not necessarily be limited to:

1. the applicant shall forward the Ministry of Environment Water Well Record for the existing well to Source Protection Planning for our review. If the Water Well Record can not be located OR if the well is more than 10 years old, it shall be inspected by a licensed water well contractor for its condition and its sustainable pumping rate verified to demonstrate that the existing well can continue to support the dwelling. Any improvements to the condition of the well suggested by the water well contractor shall be implemented and associated documentation shall be forwarded to Source Protection Planning for review. Find licensed water well contractors here:

<https://www.ontario.ca/page/find-licenced-well-contractors>

2. The water well contractor or other qualified professional (P.Eng, P.Geo) shall obtain water quality samples from the onsite well. Parameters to be analyzed shall be at minimum, e. coli, total coliforms, general chemistry, major ions, nutrients, and metals. Find licensed laboratories here: <https://www.ontario.ca/page/list-licensed-laboratories>.

3. A revised site/local area plan shall indicate the location of the well and septic system components (tank(s) and leaching bed) and demonstrate that the locations conform with minimum clearance distances within Part 8 of the Ontario Building Code. A reserve area bed shall also be delineated to conform to Rural Hamilton Official Plan requirements.

Transportation Planning:

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 20.0 metres. Approximately 3.0 metres are to be dedicated to the right-of-way on Jerseyville Road, as per the Council Approved Rural Official Plan: Schedule C-1 - Future Right-of-Way Dedications. Jerseyville Road is to be 26.213 metres from Shaver Road to City Boundary.

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).

Development Engineering:

Information:

Please see refer to Transportation planning's comments for information on if road widenings are required. Should they be required, the applicant shall provide the land transfer deed and certified R-plan prepared by a licensed Ontario Land Surveyor (OLS) as proof of land transfer to the City.

According to our GIS records, there are no existing municipal services front the subject property.

Recommendations:

1. That the Owner submits an assessment prepared by a qualified professional to demonstrate that the existing private services i.e. water well and septic system, if any, are in good working condition to continue to support the existing dwellings and that the lot size is sufficient to provide for a reserve septic bed and/or a new water well if required all supported by the existing soil conditions to the Source Water Protection Section staff and the Manager of the Engineering Approvals Section.
2. The Owner / Applicant shall provide a **Well Inspection**: If the existing well is to be used for the proposed severance, please submit the Water Well Record to Source Protection Planning. If a well record cannot be located or the well is more than 10 years old, its condition should be tested and inspected by a licensed water well contractor. If any repairs or rehabilitation is required by the water well contractor as a result of this inspection, the applicant shall demonstrate that the improvements have been implemented. This inspection shall also include a 1 hour pumping test to verify that the well can support the proposed demands from the new dwelling. Find

November 25th, 2021

licensed water well contractors here: <https://www.ontario.ca/page/find-licensed-well-contractors> . The Well Inspection shall be **to the satisfaction of the Director of Hamilton Water.**

See attached for additional comments.



Sam Brush, Urban Forest Health Technician
City Centre, 77 James Street North, Suite 400
Hamilton, ON L8R 2K3
Phone (905) 546-2424 Ext. 7375, Fax (905) 546-4473
Email – Sam.Brush@hamilton.ca

Hamilton

Forestry & Horticulture Section
Environmental Services Division
Public Works Department

Date: November 17, 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: 3029 Jerseyville Rd. W., Ancaster
File: AN/B-21:94

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, November 25, 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; however, it is either that there are no impacts anticipated, or the trees are identified as insignificant. 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 of Forestry.

TREE MANAGEMENT

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

LANDSCAPE PLAN

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

SUMMARY

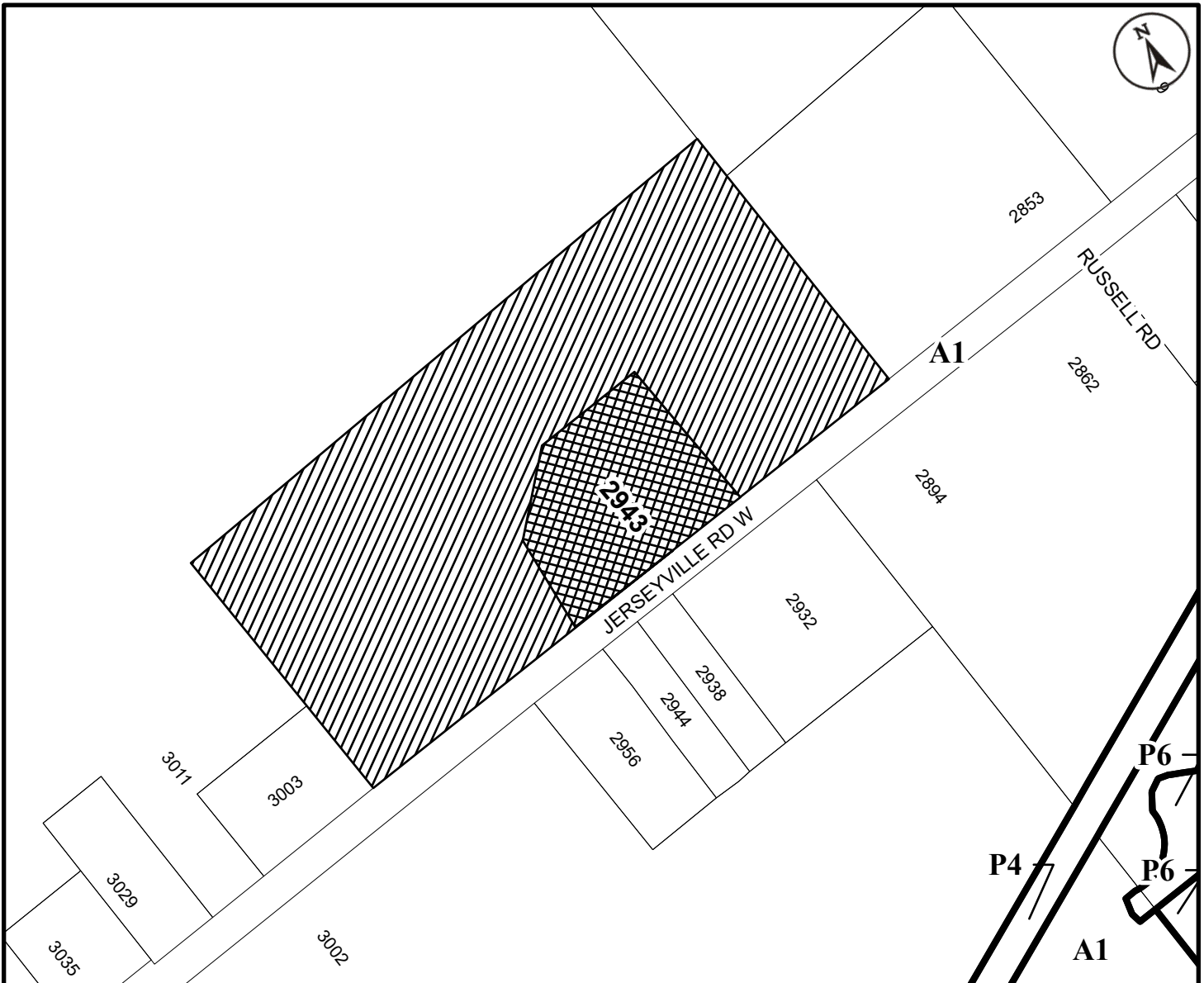
- There are Municipal Tree Assets on site, although no impacts are anticipated therefore no Tree Management Plan or Landscape plan is required.
- Note: Prior to a person performing any work on, in or around a public tree an application for a permit shall be submitted to the Director.

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

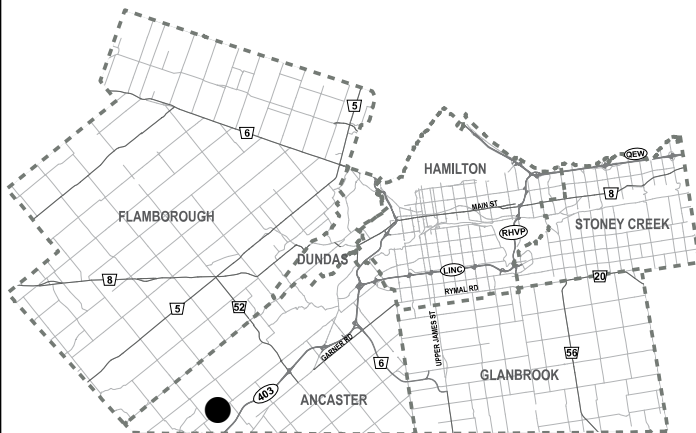
Regards,

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

Sam Brush
Urban Forest Health Technician



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

2943 Jerseyville Road West, Ancaster
(Ward 12)



Lands to be Retained



Lands to be Severed

File Name/Number:

AN/B-21:94

Date:

November 11, 2021

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

GL/B-21:58 – 4363 Harrison Rd., Glanbrook

Consolidation Report

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

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

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system. (Committee of Adjustment 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 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 – Plans Examination Section)
4. The owner shall submit survey evidence from a BCIN Qualified Designer (Part 8 Sewage System) or Professional Engineer that the existing septic system complies with the clearance requirements of Part 8 of the Ontario Building Code for the lands to be severed and or retained, to the satisfaction of the Planning and Economic Development Department (Building Division –Plan Examination Section)
5. The existing right-of-way at the subject property is approximately 20.0 metres. Approximately 3.0 metres are to be dedicated to the right-of-way on Harrison Road, as per the Council Approved Rural Official Plan: Schedule C-1 - Future Right-of-Way Dedications. Harrison Road is to be 26.213 metres from Kirk Road West to Southern Boundary of the Binbrook Conservation Area.

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

6. The applicant shall merge the subject lands on title with the lands municipally known as 4339 Harrison Road, to the satisfaction of the Manager, Development Planning, Heritage & Design.

7. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)
8. The owner submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)

Amended
GL/B-21:58 – 4363 Harrison Rd., Glanbrook

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Rural

The purpose of this application is to permit the creation of a new non-farm parcel of land for residential purposes.

Severed lands:
62.3m± x 65.2m± and an area of 1.0ha±

Retained lands:
varies x varies and an area of 22.6 ha±

Provincial Policy Statement

The application has been reviewed against the policies that speak to lot creation within agricultural areas, namely Section 2.3.4.1 which speaks to farm severances as a result of surplus farm dwelling severances.

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

- c) a *residence surplus to a farming operation* as a result of farm consolidation, provided that:
 - 1. the new lot will be limited to a minimum size needed to accommodate the use and appropriate *sewage and water services*; and
 - 2. the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective;”

As the proposal is to sever a residential lot in support of a non-abutting surplus far consolidation, the proposal is consistent with the Provincial Policy Statement.

Greenbelt Plan:

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

“4.6 Lot Creation

- f) The severance of a residence surplus to a farming operation as a result of a farm consolidation, on which a habitable residence was an existing use, provided that:
 - i. The severance will be limited to the minimum size needed to accommodate the use and appropriate sewage and water services; and
 - ii. The planning authority ensures that a residential dwelling is not permitted in perpetuity on the retained lot of farmland created by this severance. Approaches to ensuring no new residential dwellings on the retained lot of farmland may be recommended by the Province, or municipal approaches that achieve the same objective should be considered.”

Rural Hamilton Official Plan:

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

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

- i) Residential uses except in accordance with:

- 1) Policies F.1.14.2.1 b) iii) and F.1.14.2.8, where a dwelling may be severed as a result of a farm consolidation; and,

F.1.14.2.8 An existing farm dwelling that is a residence surplus to a farming operation as a result of a farm consolidation may be severed provided all of the following conditions are met:

- a) In all cases where surplus farm dwellings are to be severed the following shall apply:

- i) The farm consolidation shall have been completed prior to the time of application.

- ii) The farm dwelling shall be determined to be surplus to the farm operation for no reason other than the farm dwelling is

surplus to the needs of the farm consolidation. Farm dwellings that have been determined to be surplus to a farm operation prior to December 16, 2004 and prior to the acquisition of the additional farm parcel(s), or as a result of changing agricultural operations, are deemed not to be surplus farm dwellings for the purposes of Section F.1.14.2.8.

- iii) The proposed surplus farm dwelling:
 - 1) shall have been built on or before December 16, 2004; and,
 - 2) shall be habitable on the date of the application for the surplus farm dwelling severance and shall meet the City's standards for occupancy without requiring substantial demolition and new construction.
- iv) The surplus dwelling lot shall be a minimum of 0.4 hectares (1 acre), or such larger area as may be required by Section C.5.1, Private Water and Wastewater Services of this Plan. The maximum size of the surplus dwelling lot shall be the size required for servicing in accordance with Section C.5.1, with as little acreage as possible taken out of agricultural production;
- v) A private water well and private sewage disposal system shall be provided in accordance with Section C.5.1, Private Water and Wastewater Services of this Plan;
- vi) The shape and dimensions of the surplus farm dwelling lot shall:
 - 1. not impair agricultural operations on the retained land; and 2. generally not exceed a depth of 122 metres (400 feet);
- vii) The surplus dwelling lot shall not include barns or other farm buildings which are not suitable to be used as accessory structures to a residential use prescribed by the Zoning By-law, and no such buildings or structures shall be used for industrial or commercial purpose

- viii) Where a barn or other farm building exists within the immediate vicinity of the surplus residence, the City may require demolition of the barn.

The subject lands is a ~42.3 ha. farm parcel which has the properties municipally known as 4339 and 4363 Harrison Road merged on title. The applicant is proposing to sever a residential dwelling from the farm parcel located at 4363 Harrison Road. Development Planning staff are generally satisfied with the subject surplus farm dwelling severance, as currently the composition of 4339 and 4363 Harrison Road, include two residential dwellings.

In accordance with the above RHOP policies, a farm dwelling may be severed off as part of an abutting farm consolidation as long as the farmer maintains another farm dwelling on the subject property which would be the existing dwelling municipally known as 4339 Harrison Road. The applicant is proposing to consolidate the lands at 4339 Harrison Road while severing the surplus farm dwelling at 4363 Harrison Road.

In regard to the retained farm lot, the lot size is ~42 ha which exceeds the minimum lot size required for the farm parcels as a result of a surplus farm dwelling severance. Accordingly, based on the above information, the proposed severance meets the intent of the RHOP regarding a farm consolidation severance.

Hamilton Zoning By-law No. 05-200:

The subject lands are zoned A1 (Agriculture) Zone to which the proposed uses comply. The lot size of the lands to be severed meets the minimum required lot area and lot width in the Zoning By-law. As well, the proposed farm lot meets the minimum size required in the By-law.

Source Water Protection

Given the proposed lot size meets the minimum requirements, that a reserve area bed has been delineated, and through previous inspections/reporting of the applicant's private servicing, we have no further conditions or requests for information.

Recommendation:

Based on the preceding information, the requested severance maintains the general intent and purpose of the Rural Hamilton Official Plan and the Hamilton Zoning By-law No. 05-200. The severance is considered to be minor in nature and desirable for the appropriate use of the property. In conclusion, Staff recommends that the application be approved with conditions.

CONDITION: (If Approved)

1. The applicant shall merge the subject lands on title with the lands municipally known as 4339 Harrison Road, to the satisfaction of the Manager, Development Planning, Heritage & Design.

Building Division:

1. The current 'A1' zone of Hamilton Zoning By-law requires a minimum lot area of 40.4ha for a lot used for agricultural purposes. As such, a successful application for minor variance will be required in order to permit a lot area of 22.6ha for the lands being retained.
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. The lands to be retained shall be merged in title with the lands to which they are to be added.

CONDITIONAL UPON:

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

Source Water Protection:

Given the proposed lot size meets the minimum requirements, that a reserve area bed has been delineated, and through previous inspections/reporting of the applicant's private servicing, we have no further conditions or requests for information.

Transportation Planning:

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 20.0 metres. Approximately 3.0 metres are to be dedicated to the right-of-way on Harrison Road, as per the Council Approved Rural Official Plan: Schedule C-1 - Future Right-of-Way Dedications. Harrison Road is to be 26.213 metres from Kirk Road West to Southern Boundary of the Binbrook Conservation Area.

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

Development Engineering:

Information

This severance application has been resubmitted as it was previously tabled in the August 12 Committee hearing to address comments from Hamilton Water staff with respect to adequate lot sizing. Accordingly, the proposed severed lot has been expanded to 1 ha from 0.6 ha by shifting the southern lot line further south to accommodate the request for additional lot area by Hamilton Water.

We do not have any comments/recommendations for this severance proposal.

See attached for additional comments.

From: [Christie, Mike](#)
To: [Joseph Liberatore](#); [Committee of adjustment](#); [Sheffield, Jamila](#)
Cc: [Evans, Morgan](#); [Eric Wildschut](#)
Subject: RE: GL/B-21:58 - 4363 Harrison Road, Glanbrook - Revised Submission
Date: October 22, 2021 3:44:37 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image007.png](#)

Hi all,

Thank you for the revised sketch and report from ESSE Canada.

Provided the application maintains a 1 ha lot area, we will be able to support the application.

Thank you,

Mike Christie (he/him)
Project Manager - Source Protection Planning
Public Works
Hamilton Water, City of Hamilton
(905) 546-2424 Ext.6194



The City of Hamilton encourages physical distancing, wearing a mask in an enclosed public space, and increased handwashing. Learn more about the City's response to COVID-19 www.hamilton.ca/coronavirus.

From: Joseph Liberatore <jliberatore@gspgroup.ca>
Sent: October 15, 2021 1:55 PM
To: Committee of adjustment <cofa@hamilton.ca>; Committee of adjustment <cofa@hamilton.ca>; Sheffield, Jamila <Jamila.Sheffield@hamilton.ca>
Cc: Evans, Morgan <Morgan.Evans@hamilton.ca>; Eric Wildschut <ewildschut@gmail.com>; Christie, Mike <Mike.Christie@hamilton.ca>
Subject: GL/B-21:58 - 4363 Harrison Road, Glanbrook - Revised Submission

Good afternoon,

Please find attached our revised submission for the Consent application at 4363 Harrison Road. This was previously tabled at the August 12, 2021 Committee of Adjustment Meeting in order to address the comments from Hamilton Water. As such, the plan has been revised and attached for staff's review and to be brought forward to a future Meeting for approval.

Please advise if anything further is required in order to secure a Meeting date for this tabled application to be brought forward.



Stephen Clark, 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 – Stephen.Clark@hamilton.ca

Hamilton

Forestry & Horticulture Section
Environmental Services Division
Public Works Department

Date: November 15, 2021

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

From: Stephen Clark, Urban Forest Health Technician

Subject: 4363 Harrison Road, Glanbrook
File: GL/B-21:58

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, November 25, 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; however, it is either that there are no impacts anticipated, or the trees are identified as insignificant. 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.

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

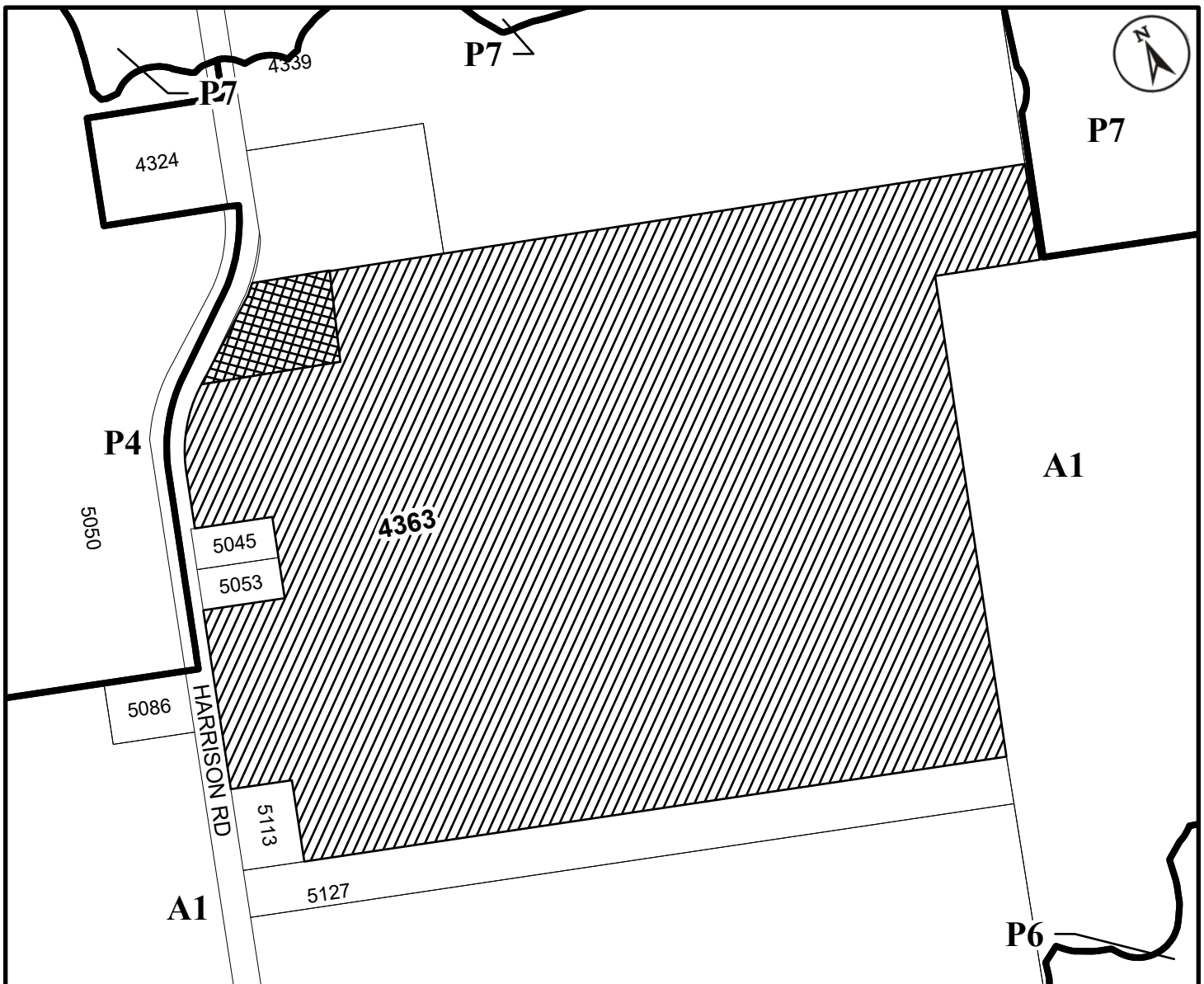
- There are Municipal Tree Assets on site, although no impacts are anticipated therefore no Tree Management Plan or Landscape plan is required.
- Note: Prior to a person performing any work on, in or around a public tree an application for a permit shall be submitted to the Director.

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.

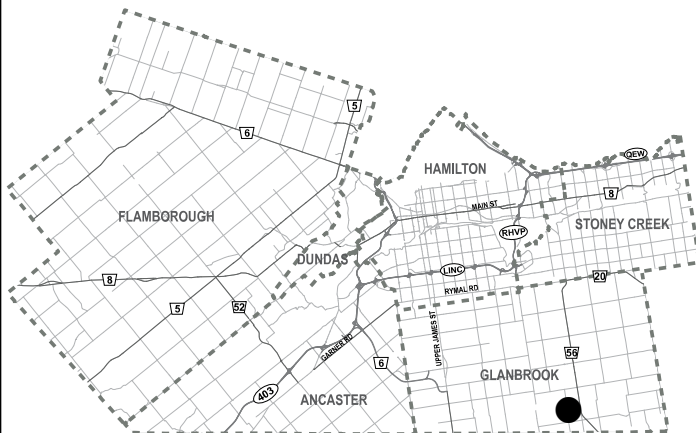
Regards,

A handwritten signature in blue ink that reads "Stephen Clark". The signature is written in a cursive, flowing style.

Stephen Clark
Urban Forest Health Technician



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

4363 Harrison Road, Glanbrook (Ward 11)



Lands to be Retained



Lands to be Severed

File Name/Number:

GL/B-21:58

Date:

November 11, 2021

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

DN/B-21:96 – 61 Ann St., Dundas

Consolidation Report

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

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

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system. (Committee of Adjustment Section)
2. That the applicant prepares a Tree Protection Plan to the satisfaction of the Manager of Development Planning, Heritage and Design.
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 / 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, 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.
5. That, the owner prepares a reference plan in order to establish an adequately sized drainage easement, centered over the existing creek, in the City favour 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. (Committee of Adjustment Section)
7. The owner submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)

Notes:

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

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

In the future, when building is proposed, the applicant may be required to prepare a Linkage Assessment, to the satisfaction of the Manager of Development Planning, Heritage and Design.

1. That the applicant carries out an archaeological assessment of the portion of the property to be conveyed and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found.

DN/B-21:96 – 61 Ann St., Dundas

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Rural

The purpose of this application is to permit the conveyance of a parcel of land for a proposed single family two-storey dwelling and to retain a parcel of land for residential use. Existing single family two-storey dwelling, accessory building and trailer to remain.

Severed lands:

Frontage: 19.24 m±

Depth: 174.01 m±

Area of 1,3026 m²±

Retained lands:

Frontage: 16.76 m±

Depth: 45.23 m±

Area of 758 m²±

Urban Hamilton Official Plan

The Urban Hamilton Official Plan designates the property as “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations. The following policies for Lot Creation in the Urban Area, amongst others, are applicable:

- 1.14.3.1 Consents for new lot creation, for both the severed and retained lands, for residential uses in the Neighbourhoods designation shown on Map E-1 – Urban Land Use Designation, shall be permitted provided the following conditions are met:
- a) The lots comply with the policies of this Plan, including secondary plans, where one exists;
 - b) The lots comply with existing Neighbourhood Plans;
 - c) The lots are in conformity with the Zoning By-law or a minor variance is approved;
 - d) The lots reflect the general scale and character of the established development pattern in the surrounding area by taking into consideration lot frontages and areas, building height, coverage, mass, setbacks, privacy and overview;
 - e) The lots are fully serviced by municipal water and wastewater systems; and,

f) The lots have frontage on a public road.

There is no Secondary or Neighbourhood Plan approved for this property. Staff note that no elevations were provided, therefore the character of the proposed detached dwellings can not be confirmed. However, the frontage and size of both the severed and retained lot is generally consistent with other residential lots within the area and the applicant is not requesting any variances to the Zoning By-law.

Planning staff defer to Development Engineering with respect to servicing the severed lot with municipal water and wastewater.

Town of Dundas Zoning By-law 3581-86

The subject property is zoned Single-Detached Residential Zone, Modified (R2-FP) to which the use complies. This zone has a required minimum lot area is 426m² and minimum lot frontage of 11.28m to which the proposed severance complies.

Archaeology

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

- 1) 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 areas of pioneer EuroCanadian settlement.

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

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

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

Cultural Heritage

The subject property, containing a circa 1930 dwelling, is adjacent to 100 Creighton Road, a property included in the City’s Inventory of Heritage Buildings.

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

The applicant proposes to convey a parcel of land for a proposed single-family two-storey dwelling and to retain a parcel of land for residential use. The existing single-family two-storey dwelling, accessory building, and trailer are to remain.

Staff have reviewed the application, however, have not received architectural drawings or materials for the proposed construction. Staff have no further comments on the application as circulated.

Natural Heritage

There is a Core Area (stream) and a Linkage (woodland) on the property. These features are shown on Schedule B (Natural Heritage System) of the Urban Hamilton Official Plan (UHOP). The site is regulated by the Hamilton Conservation Authority (HCA). The woodland on the conveyed lands is regulated by the Urban Woodland Conservation by-law

<https://www.hamilton.ca/sites/default/files/media/browser/2018-06-13/urban-woodland-14-212.pdf>

I do not have any concerns about the proposed lot to be retained (Part 2), since there is an existing home and manicured area, and the lot will be outside of the Core Areas and Linkage.

The lands to be conveyed (Part 1) will include the Core Area and Linkage. The concept plan identifies an area for a proposed new residence which is outside of the Core Area and Linkage and within an existing manicured area. The applicant should provide correspondence from HCA staff showing that this proposal for grading and development is supported and that HCA would be willing to issue a permit for development.

The future landowner should be aware that if new development or site alteration are proposed on Part 1, a Linkage Assessment may be required (refer to note below).

The concept plan shows areas of cut and fill which will impact existing tree cover. This grading may impact trees which are regulated by the Urban Woodland Conservation By-law. Therefore, a Tree Protection Plan is required prior to approving the severance.

Recommendation:

Based on the preceding information, the requested variance maintains the general intent and purpose of the Urban Hamilton Official Plan and the Town of Dundas Zoning By-law 05-200. The variance is considered to be minor in nature and desirable for the appropriate use of the property. In conclusion, Staff recommends that the application **be approved with conditions:**

Conditions:

1. That the applicant prepares a Tree Protection Plan to the satisfaction of the Manager of Development Planning, Heritage and Design.

Note:

In the future, when building is proposed, the applicant may be required to prepare a Linkage Assessment, to the satisfaction of the Manager of Development Planning, Heritage and Design.

1. That the applicant carries out an archaeological assessment of the portion of the property to be conveyed and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found.

Building Division:

1. The applicant should obtain an appropriate municipal address for the proposed parcels to be severed from the Growth Planning Section of the Economic Development Department prior to the issuance of a building permit.
2. Variances for minimum side yard, the side yard setback for an accessory building and to permit a trailer in the rear yard will be required for zoning compliance of the lands to be retained.
3. The suffix and symbol FP applicable to the R2 Zone for the proposed severed and retained parcels as well as adjacent properties refers to the location of the property within a flood plain. The Zoning By-law provides the following in Section 4.5 regarding the symbol FP:

4. *Where any parcel of land shown on a Zoning Map is marked with a symbol followed by the suffix "FP" (e.g. "R4-FP"), that parcel is susceptible to flooding and/or erosion, and the Hamilton Region Conservation Authority should be contacted before any development or redevelopment is undertaken.*
5. The rear (ravine) portion of the parcel to be severed is zoned UR Zone which is limited to agricultural uses consisting of field crop farms and fruit and vegetable farms and existing residential uses, including accessory buildings, structures and uses.

CONDITIONAL UPON:

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).

Transportation Planning:

Transportation Planning has no objection to the land severance application.

Development Engineering:

INFORMATION

Municipal Infrastructure:

- 1) The municipal services which surround the subject property are as described:
Ann Street
 - 150mmø Ductile Watermain
 - 300mmø Sanitary Sewer @ 1.24%
- 2) Development Engineering Approvals defers to Transportation Planning for any required right-of-way widenings on Ann Street.
- 3) The proponent will be required to provide separate independent sewer and water services to the severed and retained parcels.
- 4) There is an existing watercourse, bisecting the property in east-west direction, that conveys the flows from the existing municipal sewer on Sullivan's Lane. Therefore, the owner will be required to prepare a reference plan in order to establish an adequately sized drainage easement, centered over the existing creek, in the City favour.

RECOMMENDATIONS:

1. The Owner / 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, 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. That, the owner prepares a reference plan in order to establish an adequately sized drainage easement, centered over the existing creek, in the City favour to the satisfaction of the Manager of Development Engineering Approvals.

See attached for additional comments.



Sam Brush, Urban Forest Health Technician
City Centre, 77 James Street North, Suite 400
Hamilton, ON L8R 2K3
Phone (905) 546-2424 Ext. 7375, Fax (905) 546-4473
Email – Sam.Brush@hamilton.ca

Hamilton

Forestry & Horticulture Section
Environmental Services Division
Public Works Department

Date: November 17, 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: 61 Ann Street, Dundas
File: DN/B-21:96

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, November 25th, 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 'Sam Brush'.

Sam Brush
Urban Forest Health Technician

From: [goossenmfh goossenmfh](#)
To: [Committee of adjustment](#)
Subject: #61 Ann Street dwelling
Date: November 16, 2021 3:19:25 PM

Hello:

I just want to make a few comments with regard to the proposed house. Do we know the size of the dwelling to be built? What is the approximate square footage?

At present there is only one house on the street that is 2 story and that is an older brick house.

Is there a plan for off street parking for more than one vehicle? At present on Ann Street there are a number of cars parked on the street at any one time. To drive down the street I sometimes have to pull in behind one of them to let other cars go past before continuing. Multiple vehicles per household adds to the problem as well in the condo/townhouse complexes.

I will not be attending the on-line meeting.

Thanks

Mary Goossen

24 Thistle Lane, Dundas

goossenmfh@sympatico.ca

From: [April Campbell](#)
To: [Committee of adjustment](#)
Subject: Fw: Property 61 Ann St Dundas Application Number DN/B-21:96
Date: November 23, 2021 9:13:17 AM

See Below

From: April Campbell
Sent: November 23, 2021 9:11 AM
To: cofa@hamilton.ca <cofa@hamilton.ca>
Subject: Property 61 Ann St Dundas

To Whom It May Concern:

We received a notice about an application for consent/land severance for 61 Ann St Dundas. We are opposed to this severance of land. This is a water way and flood plain and a valuable piece of green space that we feel needs to be left intact. There is various wildlife that make a home here and need this safe space. We have nesting hawks and Carolina Wrens that have moved into the ravine and also a family of deer of about 10 just to mention a few that have used this space for many many years. With the urgency that is needed to help with climate change and the environment we don't believe this is the best use of this land. We are also concerned that once this gateway is open that other development will be presented in this space. I hope you take this concern seriously as we are losing more and more greenspace with new development every day.

Regards
April/Jon

From: [Tess Garland](#)
To: [Committee of adjustment](#)
Cc: alexanderstanden@gmail.com
Subject: Opposing Land Severance
Date: November 22, 2021 7:50:38 PM

To the Committee of Adjustment,

We are writing in regards to the potential land severance of 61 Ann St, Dundas ON. We would like to oppose this severance (Application Number: **DN/B-21:96**) as we firmly believe that a separation of the land to form a new lot is not in the best interest of this community.

Damage to the natural flora and fauna environment and protected forest area behind 61 Ann St, has already been greatly affected due to the destruction and removal of multiple trees, since the purchase of the property by Yu Tao (Tony) Wang.

The long-term negative environmental impacts of construction on the lot will only add to the damage that has already taken place.

Thank you kindly for your consideration.

Best,

Tess Garland & Alexander Standen
7 Sullivans Lane, Dundas, ON

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Tess Garland

From: [April Campbell](#)
To: [Committee of adjustment](#)
Subject: Property 61 Ann St Dundas
Date: November 23, 2021 9:11:17 AM

To Whom It May Concern:

We received a notice about an application for consent/land severance for 61 Ann St Dundas. We are opposed to this severance of land. This is a water way and flood plain and a valuable piece of green space that we feel needs to be left intact. There is various wildlife that make a home here and need this safe space. We have nesting hawks and Carolina Wrens that have moved into the ravine and also a family of deer of about 10 just to mention a few that have used this space for many many years. With the urgency that is needed to help with climate change and the environment we don't believe this is the best use of this land. We are also concerned that once this gateway is open that other development will be presented in this space. I hope you take this concern seriously as we are losing more and more greenspace with new development every day.

Regards
April/Jon

From: [Tess Garland](#)
To: [Committee of adjustment](#)
Cc: alexanderstanden@gmail.com
Subject: Re: Opposing Land Severance
Date: November 23, 2021 11:43:35 AM

To the Committee of Adjustment,

After speaking to our neighbours it was also brought to our attention that taking away more greenspace on 61 Ann St will negatively impact the floodplain.

The nearby streets already have issues with draining and any more changes to the natural greenspace is only going to perpetuate the problem. PipeFlo has been working for weeks cleaning out the catch basin pipes (see attached photos).

This can only be the beginning of more concern regarding flooding issues in the adjacent homes if you propose to take away more green space.

We appreciate your action with regards to this matter.

Best,

Tess Garland & Alexander Standen
7 Sullivans Lane, Dundas, ON

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Tess Garland

On Mon, Nov 22, 2021 at 7:50 PM Tess Garland <tessg0908@gmail.com> wrote:

To the Committee of Adjustment,

We are writing in regards to the potential land severance of 61 Ann St, Dundas ON. We would like to oppose this severance (Application Number: **DN/B-21:96**) as we firmly believe that a separation of the land to form a new lot is not in the best interest of this community.

Damage to the natural flora and fauna environment and protected forest area behind 61 Ann St, has already been greatly affected due to the destruction and removal of multiple trees, since the purchase of the property by Yu Tao (Tony) Wang.

The long-term negative environmental impacts of construction on the lot will only add to the damage that has already taken place.

Thank you kindly for your consideration.

Best,

Tess Garland & Alexander Standen
7 Sullivans Lane, Dundas, ON

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INTERNATIONAL



PipeFlo
Contracting Corp.

740
DT4

MOE 9438-5PJLYPP







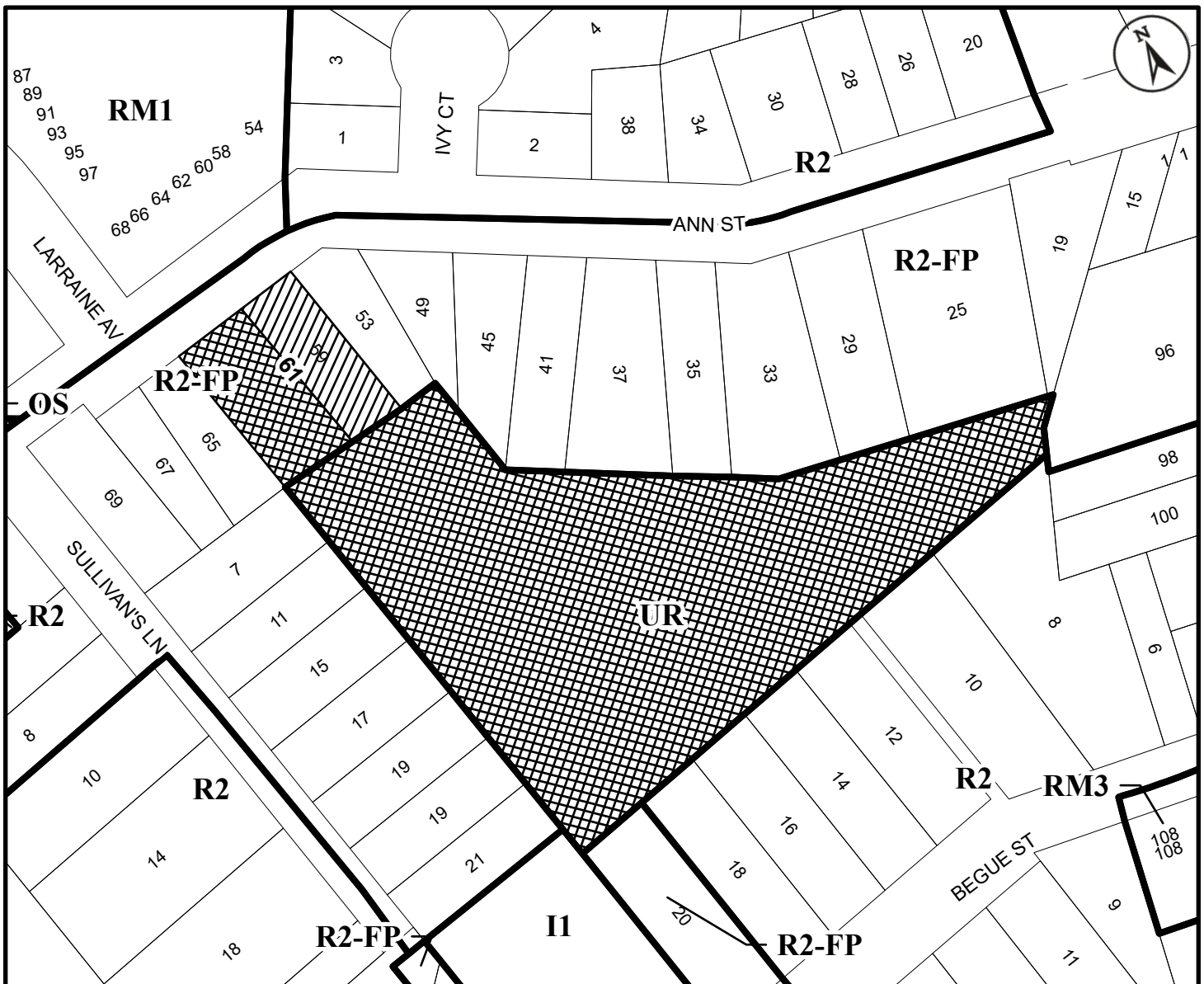
CAUTION
THIS VEHICLE MAKES
WIDE TURNS

AX-62602

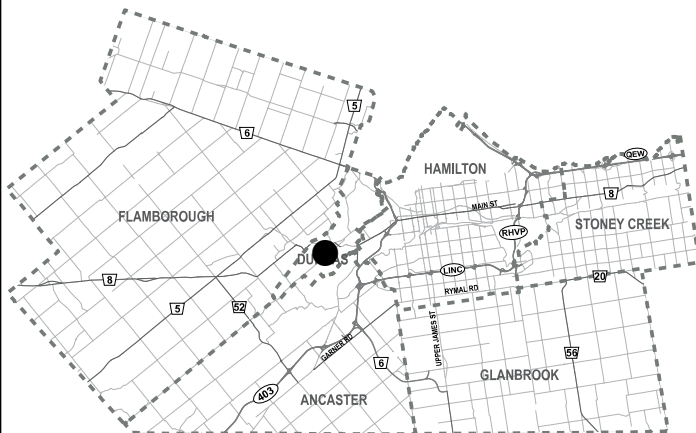
Action & Equip
Miami, FL
305-636-5
actiontruckandequip.com







● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

61 Ann Street, Dundas (Ward 13)



Lands to be Retained



Lands to be Severed

File Name/Number:

DN/B-21:96

Date:

November 15, 2021

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

AN/A-21:380 – 30 Poplar 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:

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

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

AN/A-21:380 – 30 Poplar St., Ancaster

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Rural

The purpose of this application is to permit the construction a 140.0m² accessory building in the rear yard of the existing Single Detached Dwelling notwithstanding that:

1. The aggregate Gross Floor Area of all Accessory Buildings shall not exceed 140.0m² instead of the maximum permitted Gross Floor Area of 45.0m².

Rural Hamilton Official Plan

The property is identified as Rural Settlement Area on Schedule D – Rural Land Use Designations and Settlement Residential on Map 3 – Jerseyville Rural Settlement Area Plan. Policies E.3.2.3, and E.3.4.3 amongst others, are applicable and permit a single detached dwelling.

Section 1.2.4 of the Rural Settlement Area Plan states:

1.2.4 Development in Rural Settlement Areas shall proceed in accordance with the specific policies and designations for each Rural Settlement Area and subject to the following conditions:

- a) Within the Rural Settlement Areas, development shall be of a height, density, area and nature to be compatible with the existing built environment.

Hamilton Zoning By-law 05-200

The subject lands are zoned Settlement Residential (S1) to which the use complies.

Variance 1 (Accessory Building Coverage)

The applicant is seeking a variance for a minimum Gross Floor Area of all Accessory Buildings of 140 m²; whereas, the Zoning By-law requires a minimum Gross Floor Area of all Accessory Buildings of 45m² for a residential parcel.

The proposed area for the accessory structure is appropriate for the use and configuration of the subject lands. The lot is approximately 0.43 ha in size and the proposed accessory structures on the property would have a coverage of 5% which is equal to the maximum lot coverage of accessory structures for a residential parcel (5%). There are a couple neighbouring properties with similar accessory structure size and the proposed accessory structure does not impact adjacent properties as it is masked by mature trees. The

proposed accessory structure meets the intent of the Official Plan. Based on the foregoing, staff recommend that the minor variance be approved as it is desirable for the subject lands.

Archaeology

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

- 1) Within 250 metres of known archaeological sites; and
- 2) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody.

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

“Acknowledgement Note: The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances. If archaeological resources are encountered, the proponent may be required to conduct an archaeological assessment prior to further impact in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI). All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the MHSTCI. Should deeply buried archaeological materials be found on the property during any of the above development activities the MHSTCI should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499).”

Cultural Heritage

The subject property is adjacent to 292 Sunnyridge Road, a property included in the City's Inventory of Heritage Buildings.

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

The applicant proposes to construct a 140.0m² accessory building in the rear yard of the existing Single Detached Dwelling.

Notwithstanding that 30 Poplar Street is adjacent to a property included in the City's Inventory of Heritage Buildings, Staff have reviewed the application and are of the opinion that the cultural heritage value or interest of the adjacent inventoried property will be conserved. Staff have no further comments on the application as circulated.

Recommendation

Based on the size of the lot and the development not impacting surrounding properties, the requested variance maintains the general intent and purpose of the Rural Hamilton Official Plan and the Hamilton Zoning By-law. Staff are satisfied it is in keeping with the existing character and streetscape of the neighbourhood. The variance is considered to be minor in nature and is desirable for the appropriate use of the property. In conclusion, Staff recommends that the application be **approved**.

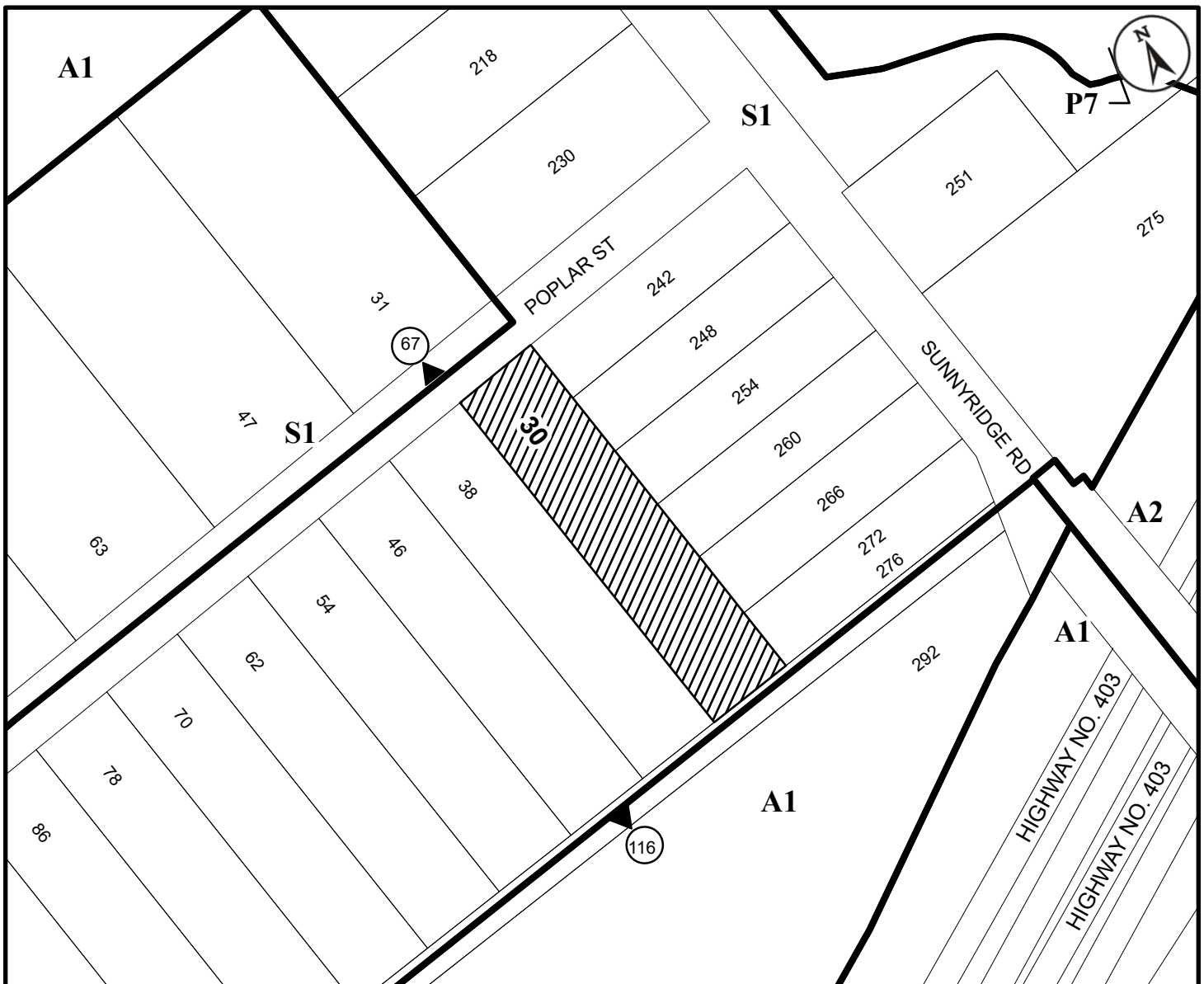
Building Division:

1. The applicant shall be advised that any eaves and gutters associated with the proposed Accessory Building may encroach into a required yard to a maximum of 0.45m and the maximum permitted building height for an accessory building is 4.5m. Insufficient information has been provided in order to confirm compliance with these regulations.
2. A building permit is required in the normal manner for the construction of the proposed accessory building.

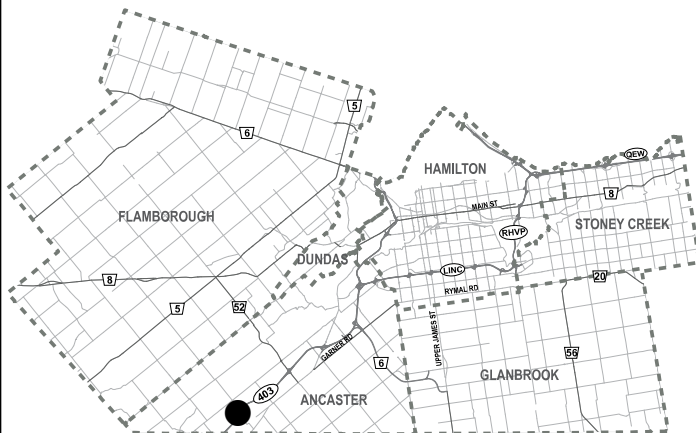
Development Engineering:

Provided the existing drainage patterns are maintained, Development Approvals has no comments.

See attached for additional comments.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



30 Poplar Street, Ancaster
(Ward 12)

File Name/Number:

AN/A-21:380

Date:

November 15, 2021

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/A-21:366 – 38 Rendell Boulevard, Hamilton

Consolidation Report

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

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

HM/A-21:366 – 38 Rendell Boulevard, Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of the application is to permit the conversion of an existing detached garage into a Detached Secondary Dwelling Unit (SDU) notwithstanding the following variance:

- 1) That the required parking be reduced to two spaces, whereas Zoning By-law No. 6593 requires three spaces to be provided.

Urban Hamilton Official Plan

The subject lands are designated as “Neighbourhoods” in Schedule E – Urban Structure, and designated as “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations in Volume – 1 of the Urban Hamilton Official Plan (UHOP) and permits Secondary Dwelling Units.

Hamilton Zoning By-law No. 6593

The subject lands are zoned Urban Protected Residential “C” District which permits the use of Secondary Dwelling Units and structures accessory thereto, in accordance with the applicable provisions.

Variances 1

The applicant is seeking to reduce the required minimum number of parking spaces for a single detached dwelling from three (3) spaces to two (2) spaces. The intent of the provision is to ensure that there is sufficient parking for residential dwellings in order to minimize on-street parking.

he subject land’s proximity to HSR Bus Routes and being located within 120 metres of a bus stop. Therefore, the proposed SDU will have potential to increase the use of transit by discouraging car ownership. Staff are of the opinion that the reduction of one parking space is minor in nature and will not result in an increase in on street parking.

Recommendation:

Having regard for the matters under subsections *45(1) of the Planning Act*, staff is satisfied that the proposed reduction in the required parking will have no adverse affect on the surrounding lands and streetscape. Staff is also satisfied that the purpose and intent of the Urban Hamilton Official Plan and Zoning By-law is 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. A building permit is required for the proposed development. Be advised that Ontario Building Code regulations may require specific setback and construction types.
2. Building Permit No. 21-139653, issued on September 7th, 2021, to convert the existing single family dwelling to contain a secondary dwelling unit, remains not finalized.
3. Please note that from the materials provided, apart the replacement of the existing garage door with a new exterior wall and window, no alterations to the exterior of the existing accessory structure have been indicated as part of the conversion to a Secondary Dwelling Unit – Detached. Please note that as per Section 18(30)(vi)(k), an existing building may encroach or further encroach for the purpose only of refacing the building into a required yard to a distance not exceeding 0.15 metres. Additional variances may be required if alterations to the exterior of the existing accessory structure are proposed and compliance with Zoning By-law regulations is not possible.

Development Engineering:

Development Engineering Approvals have no comments regarding the proposed Minor Variance Application. However, the Owner / Applicant is advised that the proposed sewer and water servicing design is subject to, however not limited to; all applicable **all applicable By-Laws, standards, permits, associated fees, review and approval process, etc.** under the future building application.

See attached for additional comments.

From: [Richard Mancini](#)
To: [Committee of adjustment](#)
Cc: [Jackson, Tom](#)
Subject: 38 Rendell Blvd. Hamilton
Date: November 19, 2021 10:36:09 AM

I am a resident of 47 Everton Place and was made aware by neighbours of the applicaton HM/A-21:366 .
My wife and I are against allowing a garage to be turned into a secondary dwelling unit. There are currently five rental units on the street that we know of.
Parking is a issue already from Everton Place to Queensdale.
Regards,

Richard and Deborah Mancini

From: [Paul Kurpe](#)
To: [Committee of adjustment](#); [Paul Kurpe](#)
Subject: 38 RENDELL BLVD. PERMIT No- 21-139653
Date: November 17, 2021 10:37:30 AM

TO holm it concerns

I am extremely upset to see that the city is even considering the owners of this property to change a glorified garage into a rental unit . We have purchased in this area several years ago as it is a single family middle class area NOT a low class multi rental unit area .

The owners of this property do not even live in this area and the sole purpose of this proposed shed conversion is to generate addition rental monies without consideration of the neighbours . I feel that allowing these people to proceed with this proposed shed renovation will change the dynamics of the area . It will also open the gates to to other investors to do the same without consideration of the people in the area who have purchased here. . I have spoken to several other neighbours in the area and they feel the same . I don't feel that anyone who has purchased a home in the area would appreciate the city allowing shed or garage conversions for the sole purpose to generate income .

I am sure that you yourself would not appreciate this being allowed in your neighbourhood . Most people have purchased in this are because the lots are a good size and single family homes .

I also feel that by allowing this it will devalue our homes

I have lived in the area most of my life and I am very strongly opposed to this conversion .I will also be contacting my alderman in the area Tom Jackson to also voice my opinion .

Please don't allow this conversion .

Please consider my plea.

Paul Kurpe

November 23, 2021

Minor Variance Application HM/2-21:366

I am objecting to the requested variance as I do not feel it meets the 4 prong test for granting a variance as prescribed by the Planning Act

1. I do not believe it is desirable for the appropriate development or use of the land.

The reduction in on-site parking although allowing for residential intensification, is not appropriate as it represents a departure from other properties in the area where all required parking is provided on-site. As such, it is not in keeping with development in the neighborhood and represents overdevelopment of the subject property.

Furthermore the granting of the variance will set a precedent for similar requests as more intensification is pursued in the neighborhood.

2. The variance does not meet the general intent and purpose of the Zoning By-law.

The intent of the zoning by-law is to provide for a minimum number of parking spaces to be provided on-site to reduce the impact on neighboring properties from the use. If the required parking cannot be provided onsite then it will have to be provided on the street. The zoning by-law parking requirements are *minimum* requirements and do not reflect the actual parking needs of the use. Each dwelling unit can often represent two or even three car owning households. Furthermore, the zoning by-law parking requirements do not acknowledge the need to accommodate visitor parking. The requested reduction in parking will increase the need for on-street parking in the area and impact the neighborhood parking supply.

3. The requested variance does not maintain the general intent and purpose of the Official Plan.

The requested variance for a reduction in parking does **NOT** comply with Official Plan Regarding secondary dwelling units.

The City of Hamilton Official Plan Policy contains specific policy regarding secondary dwelling units as follows:

3.2.4.4 A secondary dwelling unit shall be permitted on a single, semi-detached or townhouse lot in all Institutional, Neighbourhoods, Commercial and Mixed Use designations, as shown on Schedule E-1 Urban Land Use Designations, provided it complies with all applicable policies and Zoning By-law regulations. (OPA 142)

The key words in the policy are ***the secondary dwelling unit shall be permitted provided it complies with all applicable policies and Zoning By-law regulations.***

The proposed development here, the secondary dwelling unit that is the subject of the application cannot comply with the zoning-by-law regulations unless a variance is granted for a reduction in parking.

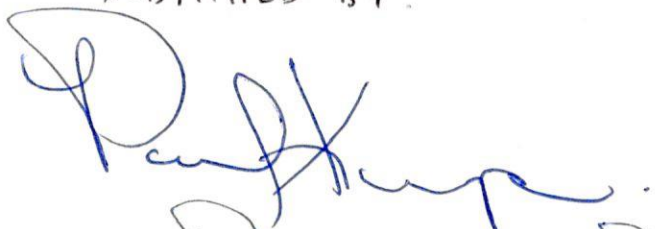
This Official Plan policy is interesting because it states the obvious. Every development in the City must comply with the Zoning by-law regulations. When a development cannot comply with the Zoning By-law regulations then it typically seeks a variance to comply. Then why was it necessary for this particular Official Plan Policy to state specifically that a secondary dwelling unit shall be permitted provided it complies with the Zoning By-law regulations? Why state the obvious unless the policy intended strict compliance to the zoning regulations possibly without the need for a variance so as to ensure this type of residential intensification is undertaken in the most sensitive manner. Sensitive intensification requires adherence to the specific zoning regulations created for this particular use which includes parking. Failure to adhere to the development regulations for this use will only undermine public acceptance of this form of intensification.

4.0 The application is minor in nature

The requested reduction in parking for the second dwelling is not minor in nature. The request is **not partial relief** of the parking required for the second dwelling but **full relief** of the responsibility for providing parking for the second dwelling. That relief is not minor. Parking is a significant consideration in the evaluating the appropriateness of intensification in a low density residential neighborhood. As stated earlier, the parking required by the Zoning By-law is only a minimum standard and does not represent all the parking needs anticipated by this use. Any on-site deficiency will impact the immediate neighborhood.

Finally, as I do not believe the other three criteria for granting a variance have been met this request cannot be considered minor.

SUBMITTED BY:



27 RENDALL BLVD.



36 NANCY ST

From: [Brent Fyfe](#)
To: [Committee of adjustment](#)
Subject: Minor Variance Application No. HM/A-21:366
Date: November 22, 2021 2:31:55 PM

November 22, 2021

Committee of Adjustment
City Hall
71 Main St W
Hamilton L8P 4Y5

RE: Application No. HM/A-21:366

Members of Committee,

I would like to object to this application for variance and to have it NOT approved.

This ward 6 area has been built with owner occupied single family homes since its inception.

Many parents use Rendell Blvd to drop off as well as pick-up their children for classes at Highview School, which is less than a block away in the morning and afternoon. Added street parking will just add congestion to this process and maybe even safety concerns with the parents using the existing driveaways for turning around as well as 3 point U turns on the street.

If this is approved, there will be many more applications in the future from other home owners to do the same on their residential lots, opening the flood gates to further densification and street parking. Added street parking changes the character of the area in a negative way.

The reduction in parking does not meet the intent of zoning which is that adequate parking be provided on-site for the second dwelling.

Providing required parking on-street does not meet intent and purpose of zoning. Approval will set a precedent for more on-street parking in the neighbourhood as more intensification is pursued.

More importantly, the reduction in parking that would allow a secondary dwelling unit does NOT comply with the Official plan.

The second unit cannot comply with the zoning bylaw regulations and needs a variance for parking, which is this application. There are setbacks of building from property lines that do not meet the minimum allowed in the bylaw.

It's important that the zoning regulations be respected for this type of intensification to ensure compatibility with the neighbourhood and acceptance by the general public, especially the local residents.

Inadequate parking will undermine public acceptance of intensification.

Zoning by-law parking requirements are **minimum** requirements and do not reflect real parking needs as units can often be two or even three car households. Furthermore, the zoning by-law parking requirements do not acknowledge the need to accommodate visitor parking. The reduction in parking will increase the need for on-street parking on Rendell Blvd. and in the area, as well as detract from the neighbourhood character.

Hamilton Official Plan Policy says

3.2.4.4 A secondary dwelling unit shall be permitted on a single, semi-detached or townhouse lot in all Institutional, Neighbourhoods, Commercial and Mixed Use designations, as shown on Schedule E-1 – Urban Land Use Designations, provided it complies with all applicable policies and Zoning By-law regulations. (OPA 142)

"provided it complies with all applicable policies and Zoning By-law regulations. (OPA 142)"

Application for a 3rd residential dwelling on this lot should not be approved with the variance to have this dwelling resident parking on the local street. All other houses in the area have driveways where all occupants can park on their own property. Approval of this variance would change the character of the area for the worse with the increase in population density on such a small lot, .

Also, the bylaw(residential conversion requirements (92-281) page 19-1 ...19(5)i (f) (4) for property line setbacks on residential houses in the area is 1.2m minimum , so the city should not allow the garage to become a residential dwelling with property line setbacks of only 2'2'(0.65m) as shown on the application drawings.

Nobody who lives in the area in an owner occupied house is in favour of this intensification. Especially when the applicant wants to convert a former garage into a separate residential dwelling. This will definitely devalue the properties in the immediate area.

Hardscaping decreases the visual character of the area.

This will no doubt increase the water runoff and rainwater that needs to be treated.

This area of Ward 6 has been a single family home neighbourhood since it was constructed, this intensification will only decrease the quality of living in the neighbourhood.

The city should not compromise the quality of the living standards and character in this neighbourhood.

Please do not approve this parking variance for converting the existing garage into a 3rd dwelling unit .

From: [Patti Cadeau](#)
To: [Committee of adjustment](#)
Subject: MVA HM/A-21:336
Date: November 22, 2021 8:52:16 PM

Committee members

I object to this application as there will not be enough parking to supplement what appears to be the modification of the current primary dwelling into 2 units and the construction of a separate dwelling where the current garage is situated for a total of 3 units. This neighbourhood consists of 50'x 100' lots with single dwellings and adequate driveway parking. This neighborhood is also located within a school zone with Highview school located at the south end of the block, creating more street parking will cause more congestion especially during drop off and pickup of school children. Approval may also set a precedent for similar applications to be made.

Patti Cadeau
Resident 24 Everton Place

From: [steve mck](#)
To: [Committee of adjustment](#)
Subject: re Minor Variance HM/A-21:366
Date: November 18, 2021 8:02:12 AM

Dear Committee of adjustment

My wife and I do not agree with allowing a detached building (Garage) to be converted into a secondary dwelling.

It would set a precedent in our neighborhood, allowing other home owners to convert a garage also.

Our properties are meant to be single dwelling residences.

Linda And Stephen McKinnell
23 Rendell Blv.

[Sent from Yahoo Mail on Android](#)

From: [Barry Cadeau](#)
To: [Committee of adjustment](#)
Subject: Public hearing application no: HM/A-21:366
Date: November 21, 2021 5:03:36 PM

Committee of adjustment

As a home owner in this area I "oppose" this application to convert a garage into a secondary dwelling unit at 38 Rendell Blvd. These lots were meant for single dwelling home and should remain as such. According to this application to convert said structures into 3 rental units is unacceptable.

Regards

Barry Cadeau 24 Everton Place 905-385-9216

From: [steve mck](#)
To: [Committee of adjustment](#)
Subject: re Minor Variance HM/A-21:366
Date: November 18, 2021 8:02:12 AM

Dear Committee of adjustment

My wife and I do not agree with allowing a detached building (Garage) to be converted into a secondary dwelling.

It would set a precedent in our neighborhood, allowing other home owners to convert a garage also.

Our properties are meant to be single dwelling residences.

Linda And Stephen McKinnell
23 Rendell Blv.

[Sent from Yahoo Mail on Android](#)

From: [REDACTED]
To: [Committee of adjustment](#)
Subject: Re: Application HM/A-21:366
Date: November 17, 2021 8:40:14 PM

To the Committee of Adjustment regarding application number: HM/A-21:366,

As an owner and resident of a home on Everton Place, for nearly 7 years, within 60 metres of 38 Rendell Boulevard, Hamilton, I have received the Notice of Public Hearing for a proposed garage conversion. I object to the proposed conversion of 38 Rendell's detached garage into a rental unit. It is my understanding that no additional alterations to the exterior of the existing garage are intended to be made. The property lines alone do not lend themselves well to multi-family, multi-residences on a single residential property, and with that I have a number of concerns.

Rendell Boulevard is a difficult street to navigate; a number of parked cars crowd the road way daily. The intersection of Rendell and Everton Place commonly sees collisions, one of which I was witness to and caused bodily injury to the involved parties, and is something I will never forget.

Converting a single family property into a multi-family rental conversion between two dwellings is untenable. I fully support the need for affordable rental options in our city, and support the importance of multi-family dwellings, but allowing a situation like this to change the landscape of the area, use an older existing garage as a home, impact neighbouring residents, and set a precedent is not at all favourable. Single family homes that do not have the utility infrastructure to support multi-family housing is obviously not ideal, puts strain on the area, and creates tension amongst neighbours who choose this area with purpose.

Knowing that no exterior changes are intended for the garage structure, and no movement to ensure the structure is appropriately within property lines, it is evident that the intention is not to create a dwelling that considers the landscape or the property's intended purpose, and shows disregard for the neighbouring properties and residents.

Allowing this conversion establishes that it is acceptable to alter the landscape of the neighbourhood, overcrowd properties, and puts more strain on an already taxed utility system, particularly the aged water and sewer system, and roads. I frequently receive notifications from the city that I should invest in insurance for the aged water infrastructure. From the blueprints provided, there is intent to convert the property with disregard for the neighbouring properties and the neighbourhood landscape. The intention in this situation doesn't look to be to promote and offer opportunity for affordable housing, but rather to capitalize on the city's growing need for rental properties and to generate personal income on a property and in an area that doesn't lend itself to this kind of development.

It should not be contested that single family homes that were predominantly built in the 1950s are not ideal properties to convert into multi-unit, multi-dwelling rentals unless the entire property is for single rental use. Converting an aged garage structure that too closely borders neighbouring properties will negatively impact the area, neighbour relationships, and is unwelcome from the conversations I have had with all of my neighbours.

I sincerely urge you put a stop to this proposal, and encourage proper use of what the properties in this area were built for, one house on one property.

Sincerely,
Erin Thomas

From: [Lorraine Mandula](#)
To: [Committee of adjustment](#)
Subject: Re: Municipal address 38 Rendell Boulevard, Hamilton
Date: November 22, 2021 11:55:26 AM

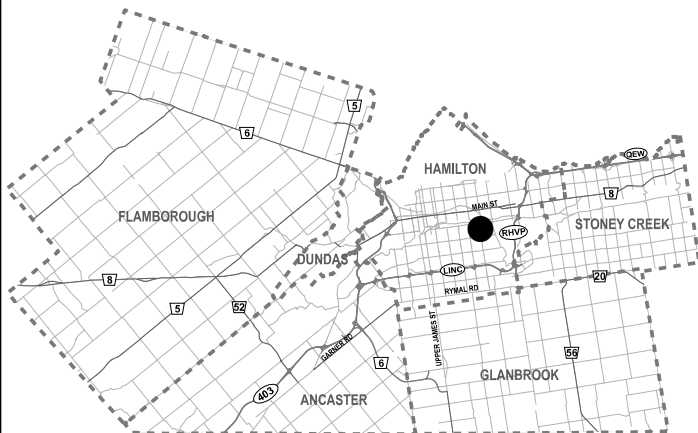
Our written submissions regarding an existing accessory structure to a secondary dwelling - detached in the rear yard on a residential parcel of land are as follows.....

1. This opens the door for more backyard housing in this single family community.
2. This puts neighbour's yards in contact with a cramped scenario.
3. An "ambitious density" in a one home area.
4. An initial variance had to be allowed to construct this garage to be used as such, not as a living space.
5. Five fences will be erected to provide privacy.
6. The proposed two-unit dwelling shows one entrance/exit for two sets of occupants with the secondary dwelling (garage) showing one entrance/exit .

We, John and Lorraine Mandula, residing at 31 Everton Place, Hamilton, Ontario L8T 1G4 object to this detached secondary dwelling made from a garage.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



38 Rendell Boulevard, Hamilton
(Ward 6)

File Name/Number:

HM/A-21:366

Date:

November 15, 2021

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

AN/A-21:370 – 12 Oldoakes Place, 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 approve the application, an approval should be subject to the following condition(s):

AN/A-21:370 – 12 Oldoakes Place, Ancaster

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to permit the conversion of an attached garage of existing detached dwelling to contain habitable space, notwithstanding that:

1. A minimum 1.87 metre easterly side yard setback shall be permitted, instead of the requirement that on an interior lot, where no attached garage is provided, the minimum side yard on one side shall be 4.8 metres.

Urban Hamilton Official Plan

The subject lands are designated as “Neighbourhoods” in Schedule E – Urban Structure and designated as “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations in Volume 1 of the Urban Hamilton Official Plan (UHOP). Single family dwellings are permitted within this designation (Volume 1 – E.3.4.3).

Former Town of Ancaster Zoning By-law No. 87-57

The subject lands are zoned Residential “R2” District which permits the use of single detached dwellings and structures accessory thereto, in accordance with the applicable provisions.

Variance 1

Zoning By-law No. 87-57 requires a minimum side yard setback of 4.8 metres. The intent of this provision is to minimize possible visual impact on adjacent properties and to allow for adequate space for walkway, access, maintenance, and drainage. Staff defers to Development Engineering for all drainage concerns.

The applicant is proposing to reduce the required minimum easterly side yard setback from 4.8 metres to 1.87 metres to permit the conversion of an existing attached garage of the detached dwelling so as to provide additional habitable space. The setback of the existing one storey dwelling is 1.87 metres and as the applicant is proposing to add another storey at this setback it is staff’s opinion that the 2.93 metre reduction will have no adverse effect on the adjacent lands. The side yard is adequately landscaped and contains tall trees. When combined with the existing fence, these will provide significant visual buffer from the adjacent property. In addition, the single family dwelling on the adjacent lands has an existing driveway and landscaped area which also has significant visual relief from the proposed habitable space above the attached garage. Altogether, there is enough space between the abutting properties to minimize any negative impacts

and the proposed addition to the existing garage will have negligible impact on the streetscape.

Recommendation:

Having regard for the matters under subsections 45(1) of the *Planning Act*, staff is satisfied that the proposed reduction of the minimum required easterly side yard 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 is 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. A building permit is required for the proposed development. Be advised that Ontario Building Code regulations may require specific setback and construction types.
2. Due to the proximity of this property to the right-of-way limits of Highway 403, a development permit from the Ontario Ministry of Transportation may be necessary. Additionally, the Ministry of Transportation may also have development regulations which may affect the subject lands.

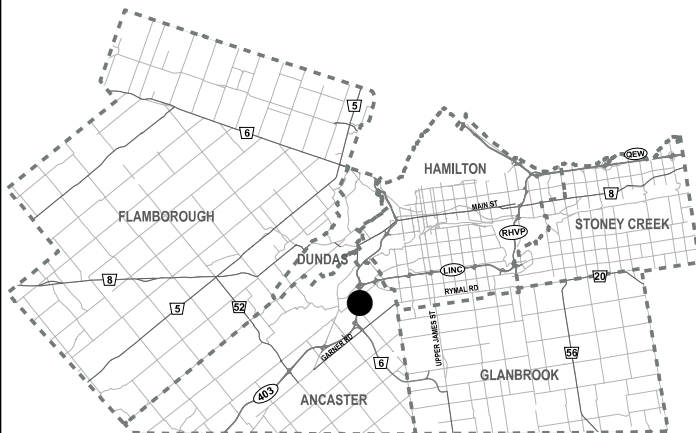
Development Engineering:

Provided the existing drainage patterns are maintained, Development Approvals has no comments.

See attached for additional comments.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



12 Oldoakes Place, Ancaster
(Ward 12)

File Name/Number:

AN/A-12:370

Date:

November 15, 2021

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

AN/A-21:374 – 130 Fiddlers Green Rd., Ancaster

Consolidation Report

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

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

1. That the proponent shall carry out an archaeological assessment of that portion of the property subject to soil disturbance arising from this application, including new structures, foundation, driveways, any associated landscape alterations or soil disturbance through staging, stockpiling and temporary access, in addition to any areas impacted by the installation of services, such as water and wastewater, electricity, pipelines, easements and ground-source heat pumps. The proponent shall 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.”

AN/A-21:374 – 130 Fiddlers Green Rd., Ancaster

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of application **AN/A-21:374** is to facilitate the conditionally approved consent which was considered through application **AN/B-21:74** by the Committee at the October 7, 2021 Hearing, notwithstanding the following variances:

1. To permit a minimum lot area for 610 m², whereas Zoning By-law No. 87-57 permits a minimum lot area of 695.0 m²;
2. To permit a maximum lot coverage of 36%, whereas Zoning By-law No. 87-57 permits a maximum lot coverage of 35%; and
3. To allow for a reduction of the required minimum front yard setback to 7.59 metres, whereas Zoning By-law No. 87-57 permits a minimum front yard setback of 11.50 metres.

Background

Prior to the consideration of this current application, **AN/A-21:734**, and previous application, **AN/B-21:74**, (which was conditional approved based on the approval of the subject application at the October 7, 2021 Hearing), Consent application **AN/B-07:67** was approved for the subject lands; however, the approved severances lapsed and needed reconsideration.

Staff also note that the subject lands went through an extensive rezoning process (**Zoning By-law Amendment 07-209**) which was required to facilitate the current proposal. In 2018, **Zoning By-law Amendment 18-105**, deleted special provision 564 for the retained lands containing the existing single detached dwelling and as a result these lands (if severed) do not conform with the minimum lot area requirement of the Existing Residential “ER” Zone. Further, as the applicant is required to provide the City with a 5.94-metre-wide road widening, as a condition of the previous consents, the existing dwelling on the retained lands (the subject of the current application) does not comply with the front yard setback and lot coverage requirements of Zoning By-law No. 87-57 due to the taking of the road-widening.

Finally, the proposed dwellings on the previously approved severed lands are subject to Site Plan Control which will further assist in the reduction of impact from this infill development.

Urban Hamilton Official Plan

The subject lands are designated as “Neighbourhoods” in Schedule E – Urban Structure, and designated as “Neighbourhoods” 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 3' in the Ancaster Wilson Street Secondary Plan (Map B.2.8-1). Policy B.2.8.7.3(b) applies and permits single detached dwellings.

Cultural Heritage

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

- 1) In an area of sandy soil in areas of clay or stone;
- 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 severance is granted, Staff require that the Committee of Adjustment attach the condition below (following Recommendation) to the application

Former Town of Ancaster Zoning By-law No. 87-57

The subject lands are zoned Existing Residential "ER", which permits single detached dwellings and structures accessory thereto, in accordance with the applicable provisions.

Variance 1

Zoning By-law No. 87-57 requires a minimum lot area of 695.0 m² for lands classified as Existing Residential "ER" Zone. The intent of this provision is to ensure that lot areas and parcel fabrics are consistent with the surrounding neighbourhood, while providing for an adequate building envelope, appropriate setbacks, and for stormwater to be contained and gradually released from the subject lands.

As a condition of the previously approved consent the applicant is required to provide the City with a 127.89 m² road widening. This condition reduces the overall area of the subject lands to 620.28 m²; the applicant is requesting a reduction to 610.0 m² for added flexibility. Staff are satisfied that the proposed lot area is sufficient to accommodate an appropriate building footprint, setbacks, and meet drainage requirements. Staff support the requested variance to facilitate the previously approved consent as an in-depth analysis and consideration of policies E.3.0 and F.1.14.3.1 (UHOP Volume 1) were completed as part of the previously approved Zoning By-law Amendment to meet the intent of the by-law as it was specifically written to permit this parcel fabric configuration.

Variance 2

Zoning By-law No. 87-57 requires a maximum total lot coverage of 35% for lands classified as Existing Residential "ER" Zone, where the lot area is less than 1,650 m². The intent of this provision is to ensure that residential development does not completely

overwhelm a lot, thereby allowing the lot to provide appropriate drainage, amenity space, and landscaping.

The applicant is proposing to increase the permitted maximum lot coverage to 36%. Staff are of the opinion that this variance is minor in nature. The marginal increase in lot coverage necessitated by the loss of lot area for the required road widening will not result in a built form that overwhelms the lot. Staff support the variance as requested.

Variance 3

Zoning By-law 87-57 establishes the front yard of the 'Existing Residential Zone' by taking the average front yards of the adjacent dwellings, multiplying this average by 20%, and then adds/subtracts that number from the average to give the minimum and maximum front yard. The intent of the provision is to aid in maintaining a consistent streetscape, and to ensure that there is adequate space for landscaping, parking, and drainage requirements.

As noted, due to the taking of a 5.94-metre-wide road widening the existing dwelling no longer complies with the required minimum 11.5 metre front yard setback. Staff note that from a street perspective, the existing house will appear to meet this setback as the house will continue to be ± 13.53 metres from the travelled portion of the right-of-way (sidewalk). Staff also note that road-widenings will eventually be required from every property along Fiddlers Green from Wilson Street to Garner Road West in order to obtain the ultimate right-of-way width of 32.004 metres as per Schedule C-2 Future Right-of-Way Dedications (UHOP Volume 1).

For the ultimate right-of-way width for Fiddlers Green to be achieved, the property to the north of the subject lands would also be required to provide the City with a road-widening similar to that of the subject lands were they to submit a *Planning Act* application, or should the City wish to expropriate the land in order to widen the road. Should this eventually happen the subject lands would comply with the average front yard setback, similar to other dwellings in the neighbourhood. Staff support the variance as requested.

Recommendation:

Having regard for the matters under subsection 45(1) of *the Planning Act*, staff is satisfied that the requested variances 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 are minor in nature. Staff recommend that the requested variances, as outlined in the Notice of Hearing, be **Approved**.

AN/A-21:374 CONDITION(S): (If Approved)

1. That the proponent shall carry out an archaeological assessment of that portion of the property subject to soil disturbance arising from this application, including new structures, foundation, driveways, any associated landscape alterations or soil disturbance through staging, stockpiling and temporary access, in addition to any areas impacted by the installation of services, such as water and wastewater,

electricity, pipelines, easements and ground-source heat pumps. The proponent shall 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.”

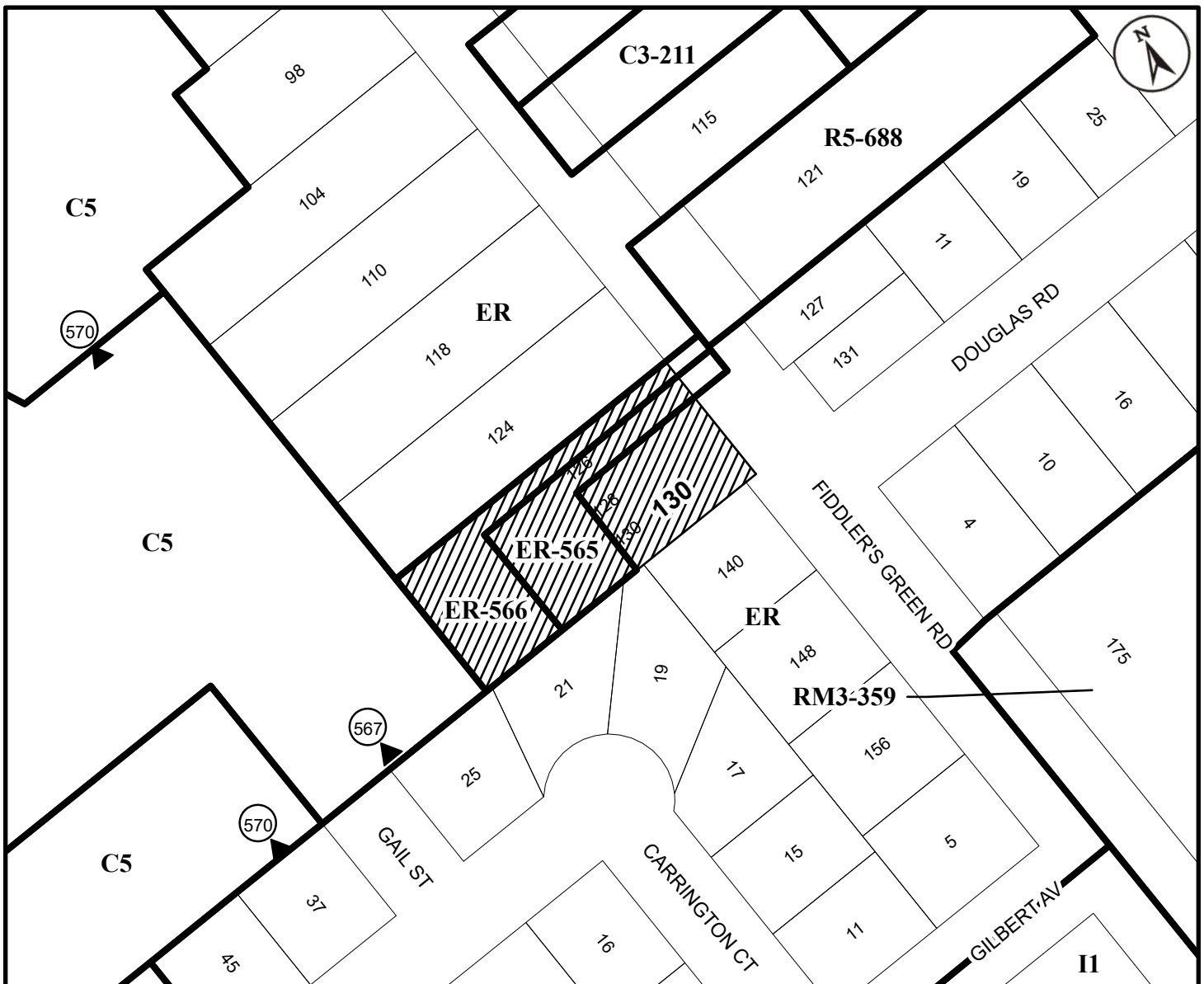
Building Division:

1. The front lot line is considered the easterly lot line.
2. Pursuant to the submitted drawings, it appears as though a lot area of 620.28 m² is provided, however, the variance is written as requested by the Applicant within the submission. Please be advised, the maximum permitted lot coverage is dependent on the lot area.
3. These variances are necessary to facilitate consent AN/B-21:74 granted by the Committee at a previous hearing.
4. Elevation drawings and floor plans were not included in the submission. Additional variance(s) may be required if external modifications or internal modifications are proposed.
5. It is assumed that the existing two parking spaces within the attached garage within the rear yard will be maintained. Additional variances may be required if the existing parking spaces, within the garage are not maintained.
6. An addition variance will be required if mechanical equipment inclusive of an air conditioner unit are located in a required yard space in contravention of Section 9.3 of Zoning By-law 87-57.
7. Details with respect to any existing encroachments within the front yard or northerly side yard have not been provided. As such an additional variance(s) may be required.
8. It is not clear if a minimum of 1.0 metres within the rear yard and northerly side yard will be unobstructed with no structures, walkways, hard surfaced materials, and landscaping other than sod. Details were not provided on submitted site plan, as such an additional variance(s) may be required.
9. A building permit is required for any modifications to the existing single detached dwelling on the subject lands.

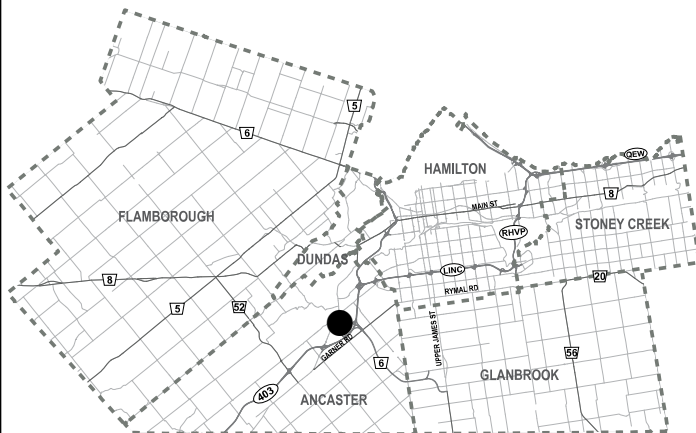
Development Engineering:

No Comment

See attached for additional comments.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



130 Fiddlers Green Road, Hamilton
(Ward 12)

File Name/Number:

HM/A-21:374

Date:

November 15, 2021

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/A-21:375 – 294 East 28th St., Hamilton

Consolidation Report

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

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

HM/A-21:375 – 294 East 28th St., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to permit the construction of a roofover an unenclosed porch at the first storey level at the front of an existing single family dwelling, notwithstanding,

1. A roofed-over or screened but otherwise unenclosed porch at the first storey level, including eaves and gutters and associated stairs, shall be permitted to project into the existing front yard by 2.87 metres and provide a minimum setback of 0.35 metres from the front lot line, instead of the 1.5 metre setback required from the front lot line.

Cultural Heritage

The subject property is located within the Eastmount Established Historical Neighbourhood and adjacent to 663 Fennell Avenue East, a building included in the City's Places of Worship Inventory.

Accordingly, the following sections of the Urban Hamilton Official Plan, Volume 1, apply: B.3.4.1.3 "Ensure that all new development, site alterations, building alterations, and additions are contextually appropriate and maintain the integrity of all on-site or adjacent cultural heritage resources." and,

B.3.4.2.1(g) "Ensure the conservation and protection of cultural heritage resources in planning and development matters subject to the Planning Act either through appropriate planning and design measures or as conditions of development approvals."

B.3.4.2.1(h) "Conserve the character of areas of cultural heritage significance, including designated heritage conservation districts and cultural heritage landscapes, by encouraging those land uses, development and site alteration activities that protect, maintain and enhance these areas within the City."

The proponent proposes to construct a roofed-over unenclosed porch at the first storey level at the front of the existing single-family dwelling.

Notwithstanding that the property is located within the Eastmount Established Historical Neighbourhood, and adjacent to a property on the City's Places of Worship Inventory, Staff have reviewed the application and are of the opinion that the cultural heritage value or interest of the property will be conserved. Staff have no further comments on the application as circulated.

Urban Hamilton Official Plan

The subject lands are designated as “Neighbourhoods” in Schedule E – Urban Structure and designated as “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations in Volume 1 of the Urban Hamilton Official Plan (UHOP). Single family dwellings are permitted within this designation (Volume 1 – E.3.4.3).

Zoning By-law No. 6593

The subject lands are zoned Urban Protected Residential “C” District which permits the use of single detached dwellings, in accordance with the applicable provisions.

Variance 1

Zoning By-law No. 6593 requires a minimum front yard setback of 1.5 metres. The intent of the provision is to maintain consistent streetscape and ensure that there is adequate space to meet landscaping, parking, amenity and drainage requirements. Staff defers to Development Engineering for all drainage concerns.

The applicant is proposing to reduce the required minimum front yard setback from 1.5 metres to provide a minimum setback of 0.35 metres in order to permit the construction of a roof over the existing unenclosed porch at the first storey level. The unenclosed porch is already existing at the front of the existing single family dwellings, there will be no visible change to the building façade and streetscape as a result of the proposed roof over the enclosed porch. And there will be no adverse impact on the landscaped area and parking space. Staff is satisfied that the proposed and will not negatively impact the functionality of the site.

Recommendation:

Having regard for the matters under subsections *45(1) of the Planning Act*, staff is satisfied that the proposed construction of a roof over the existing unenclosed porch in the front yard 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 is 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. A building permit is required for the proposed development. Be advised that Ontario Building Code regulations may require specific setback and construction types.
2. Building Permit No. 19-118862, for the change of use to convert an existing single family dwelling to a two family dwelling, and to construct a 1.27 square metre

uncovered porch in the front yard, issued on September 18th, 2021, remains not finalized.

3. Please note that this variance is subsequent to Minor Variance Application No. HM/A-18:392 that was granted by the Committee, to facilitate the conversion of the existing single family dwelling to a two family dwelling, and which included a variance to permit an uncovered porch, including steps, to be located 0.0 metres from the front lot line.

Development Engineering:

Provided that the existing drainage pattern is maintained, Development Approvals has no comments.

See attached for additional comments.



Adjacent City Owned Property: PIN 170590211 – City Alleyway

Real Estate Recommendations: Real Estate has no comments from a Corporate Real Estate perspective.

APPLICATION NO.: HM/A-21:375

APPLICANTS: Owner Maxelle Properties Inc. c/o Harry Madjarian

SUBJECT PROPERTY: Municipal address 294 East 28th St., Hamilton

ZONING BY-LAW: Zoning By-law 6593, as Amended

ZONING: C district (Urban Protected Residential and etc.)

PROPOSAL: To permit the construction of a roofed-over unenclosed porch at the first storey level at the front of the existing single family dwelling, notwithstanding,

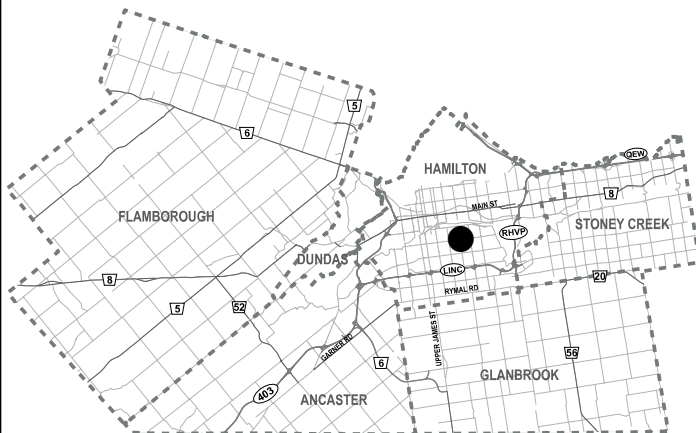
1. A roofed-over or screened but otherwise unenclosed porch at the first storey level, including eaves and gutters and associated stairs, shall be permitted to project into the existing front yard by 2.87 metres and provide a minimum setback of 0.35 metres from the front lot line, instead of the 1.5 metre setback required from the front lot line.

NOTES:

1. Please note that this variance is subsequent to Minor Variance Application No. HM/A-18:392 that was granted by the Committee, to facilitate the conversion of the existing single family dwelling to a two family dwelling, and which included a variance to permit an uncovered porch, including steps, to be located 0.0 metres from the front lot line.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



294 East 28th Street, Hamilton
(Ward 7)

File Name/Number:

HM/A-21:375

Date:

November 15, 2021

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

AN/B-21:92 – 657 Mohawk Rd., Ancaster

Consolidation Report

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

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

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system. (Committee of Adjustment Section)
2. A minor variance shall be sought by the applicant/owner and approved by the Committee of Adjustment for all zoning deficiencies for both the retained and severed lands, as indicated by Zoning staff; and
3. That the proponent shall carry out an archaeological assessment of that portion of the property subject to soil disturbance arising from this application, including new structures, foundation, driveways, any associated landscape alterations or soil disturbance through staging, stockpiling and temporary access, in addition to any areas impacted by the installation of services, such as water and wastewater, electricity, pipelines, easements and ground-source heat pumps. The proponent shall 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.
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 existing right-of-way at the subject property is approximately 23.0 metres. Approximately 5.5 metres are to be dedicated to the right-of-way on Mohawk Road, as per the Council Approved Rural Official Plan: Schedule C-2 - Future Right-of-Way Dedications. Mohawk Road is to be 30.480 metres from Highway 403 to McNiven Road.

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

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, urbanization, 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. (Development Engineering)
7. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)
8. The owner submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)

Note: Based on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be conveyed will remain as **657 Mohawk Road (Ancaster)**, and the lands to be retained will be assigned the address of **653 Mohawk Road (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-21:92 – 657 Mohawk Rd., Ancaster

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to facilitate the creation of one new residential lot fronting onto Mohawk Road, while the retained lot will continue to be used for the existing single detached dwelling. The severed lot will have a frontage of ± 15.240 metres, a depth of ± 60.876 metres, and an area of $\pm 954.9 \text{ m}^2$ with the retained lands having a frontage $\pm 15.240 \text{ m}^2$, a depth of ± 50.462 metres, and an area of $\pm 772.8 \text{ m}^2$.

Urban Hamilton Official Plan

The subject lands are designated as “Neighbourhoods” in Schedule E – Urban Structure, and designated as “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations in Volume 1 of the Urban Hamilton Official Plan (UHOP). Single detached dwellings and accessory structures are permitted within this designation (UHOP Volume 1 – E.3.4.3).

The proposal is a form of ‘Residential Intensification and must be evaluated based on the policies of Sections B.2.4.1.4 and B.2.4.2.2 (UHOP Volume 1). The proposed lots take into consideration the scale, built form, and character of the Mohawk Road Neighbourhood. The lot is currently underutilized and represents an opportunity for intensification. In order to further mitigate potential impacts to the adjacent residential lands, the new lot, if approved, will be required to go through a Site Plan Control process to address technical issues including drainage, landscaping, and building orientation.

New lots for residential uses in the “Neighbourhoods” designation are permitted when they meet the criteria stipulated in F.1.14.3.1 (UHOP Volume 1). Staff is of the opinion that the proposed severances consider the design and compatibility within the Mohawk Road neighbourhood. The proposed lots reflect the general scale of the established development pattern in the surrounding area, and the consent will allow for further residential intensification in keeping with the objectives of the UHOP.

Notwithstanding, staff notes that F.1.14.3.1 c) (UHOP Volume 1) requires both the retained and severed parcels to conform with the Zoning By-law, otherwise, a minor variance will be required. The proposed retained and severed lands do not meet the minimum lot frontage requirement and will need a variance to comply with the Zoning By-law.

Schedule C-2 Future Right-of-Way Dedications indicates that a road-widening dedication will be required in order to achieve the ultimate road width of 30.480 metres for Mohawk Road between Highway 403 and McNiven Road (UHOP Volume 1). The applicant has not indicated the required road-widening on the submitted sketch, this dedication may require additional variances for the retained and severed lands.

Cultural Heritage
Archaeology

The subject property meets three 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) In areas of pioneer EuroCanadian settlement; and
- 3) Along historic transportation routes.

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

Former Town of Ancaster Zoning By-law No. 87-57

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

Table 1

Application: AN/B-21:92	Zoning By-law No. 87-57 Required Minimum Lot Area	Proposed Lot Area	Zoning By- law No. 87- 57 Required Minimum Frontage	Proposed Frontage
Retained Lands	695 m ²	772.8 ±m ² <u>May not comply after road-widening is taken</u>	18 metres	±15.24 metres <u>Does not Comply.</u>
Severed Lands	695 m ²	±954.9 m ² <u>Should comply after the road-widening is taken</u>	18 metres	±15.24 metres <u>Does not comply.</u>

Staff also note that the existing single detached dwelling may not comply with the front yard setback requirements of the Existing Residential “ER” Zone due to the taking of the

road widening. The applicant has not supplied sufficient information to verify if this is the case.

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**, subject to the following conditions:

AN/B-21:92 CONDITION(S): (If Approved)

1. A minor variance shall be sought by the applicant/owner and approved by the Committee of Adjustment for all zoning deficiencies for both the retained and severed lands, as indicated by Zoning staff; and
2. That the proponent shall carry out an archaeological assessment of that portion of the property subject to soil disturbance arising from this application, including new structures, foundation, driveways, any associated landscape alterations or soil disturbance through staging, stockpiling and temporary access, in addition to any areas impacted by the installation of services, such as water and wastewater, electricity, pipelines, easements and ground-source heat pumps. The proponent shall 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.

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. 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.
3. These lands are subject to site plan control.
4. All future development on the lands to be conveyed and retained shall conform to the requirements of the current 'ER' (Existing Residential) zone within Ancaster

Zoning By-law 87-57.

5. Committee of Adjustment Decision AN/A-20:131 previously approved a minimum lot frontage of 15.24m instead of the minimum required lot frontage of 18.0m for both lots.

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.

Growth Management:

Note: Based on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be conveyed will remain as **657 Mohawk Road (Ancaster)**, and the lands to be retained will be assigned the address of **653 Mohawk Road (Ancaster)**.

Development Engineering:

For the information of the Committee, the owner has entered and registered on the title of the lands a Consent Agreement under the previous severance application, City file AN/B-20:037, to address grading and drainage issues for severed and retained portion of the lands.

Previously severance application is considered to be lapsed as all conditions for severance were not met within the 1-year timeline. Therefore, the owner will be required to amend the existing Consent Agreement to reflect the current severance application for the property. The existing Consent Agreement may be required to be discharged by the owner and the amended agreement to be registered on the title of the lands,

Recommendations to the Committee (reiterated from previous application AN/B-20:37)

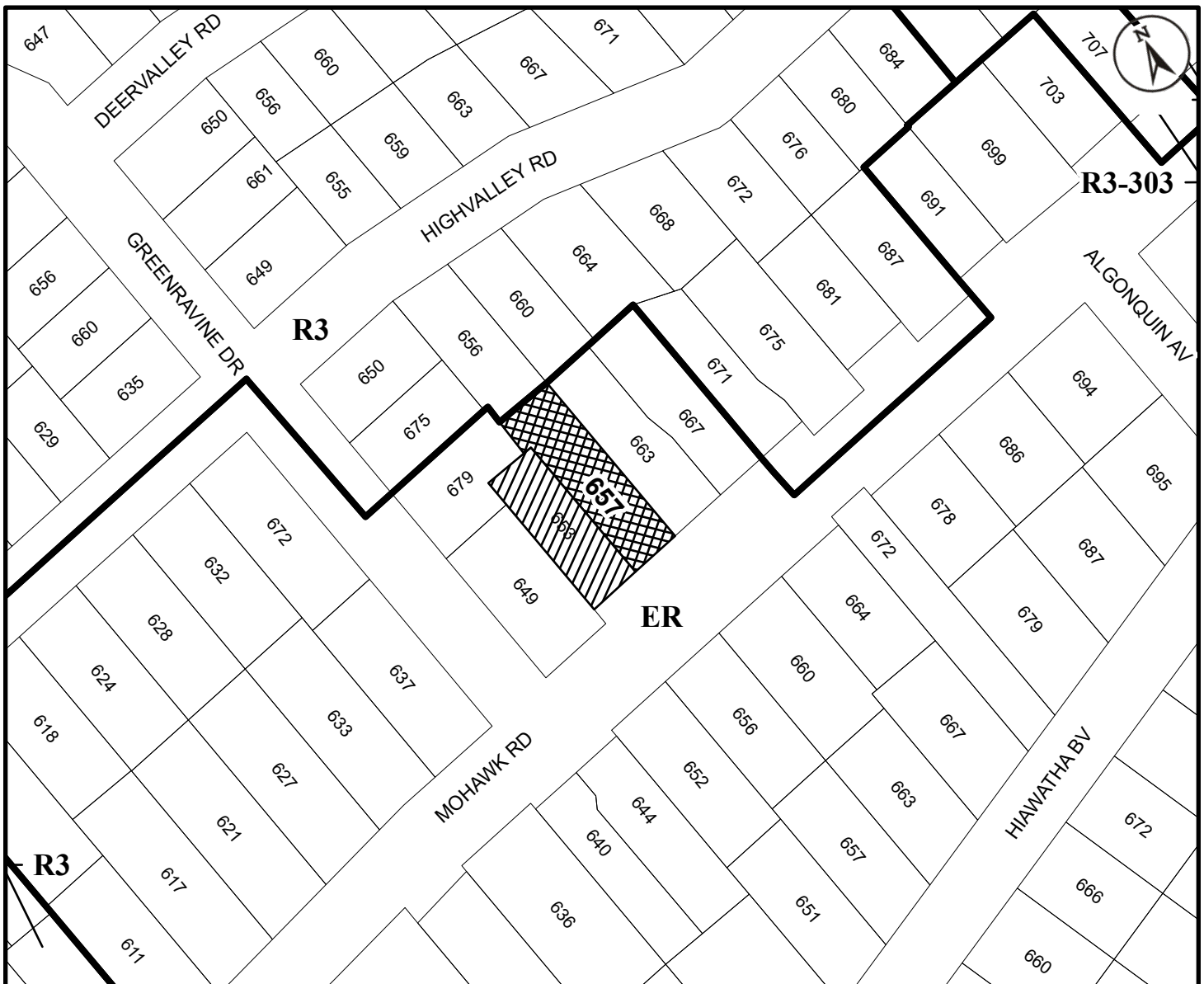
That the Owner enter into with the City of Hamilton and register on title of the lands, a Consent Agreement, having an administrative fee of \$4,310.00 (2020 fee) to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed 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, urbanization, and securities for items that may include: lot grading (\$10,000.00 grading security), water and sewer service inspections, driveway approaches, relocation of any existing infrastructure (such as hydrants) and any damage during construction (unknown costs at this time). Cash payments mentioned above are subject to change.

Transportation Planning:

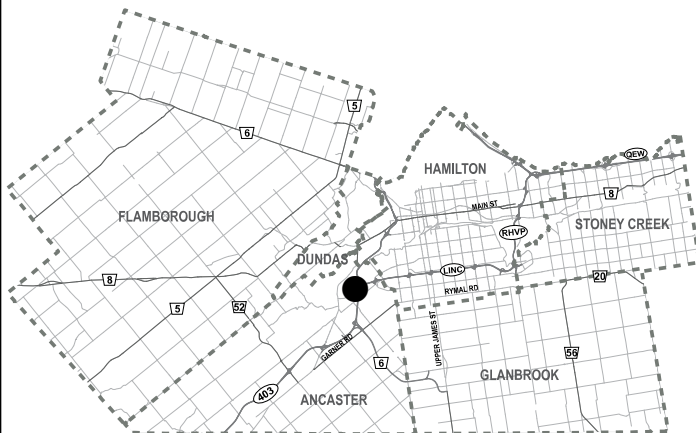
1. Transportation Planning has no objection to the land severance application, provided the following conditions are met:
 - a. The existing right-of-way at the subject property is approximately 23.0 metres. Approximately 5.5 metres are to be dedicated to the right-of-way on Mohawk Road, as per the Council Approved Rural Official Plan: Schedule C-2 - Future Right-of-Way Dedications. Mohawk Road is to be 30.480 metres from Highway 403 to McNiven Road.

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

See attached for additional comments.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

657 Mohawk Road, Ancaster (Ward 12)



Lands to be Retained



Lands to be Severed

File Name/Number:

AN/B-21:92

Date:

November 15, 2021

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/A-21:376 – 49 Eleanor Ave., Hamilton

Consolidation Report

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

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

HM/A-21:376 – 49 Eleanor Ave., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of current application, **HM/A-21:376**, is to facilitate the conditionally approved a lot boundary adjustment, **HM/B-21:59**, which was considered at the August 12th Committee of Adjustment Meeting. The applicant intends to merge a ±543.0 m² (Part 2 Survey Sketch E-18696) portion of the subject lands, known municipally as 49 Eleanor Avenue with lands known municipally as 224 Eaglewood Drive, notwithstanding the following variance:

1. That a minimum required lot width of 3.6 metres be permitted, whereas Zoning By-law No. 6593 requires a minimum lot width of 12 metres for lands zoned Urban Protected Residential “C” District

Urban Hamilton Official Plan

The subject lands are designated as “Neighbourhoods” in Schedule E – Urban Structure and designated as “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations in Volume 1 of the Urban Hamilton Official Plan (UHOP). Further, the lands are identified as ‘Single and Double’ on the Eleanor Neighbourhood Plan (Map 7505).

Hamilton Zoning By-law No. 6593

The subject lands are zoned Urban Protected Residential “C” District which permits the use of single detached dwellings and structures accessory thereto, in accordance with the applicable provisions.

Variance 1

Zoning By-law No. 6593 requires a minimum lot width of 12.0 metres. The lot width provision is intended to ensure a lot has enough width to properly accommodate a building footprint, outdoor amenity space, parking space(s), landscaping area, while also conforming to other setback requirements.

The applicant is proposing to reduce the required minimum lot width to 3.6 metres in order to facilitate the conditionally approved lot boundary adjustment. Staff are satisfied that the land consolidation takes into consideration the scale, built form, and character of the Eleanor Neighbourhood. The lot is currently underutilized and vacant, the proposed addition to 224 Eaglewood Drive represents an orderly development which will be subject to a future draft plan of subdivision application, where holistic review of the intensification policies of the UHOP will be applied by staff. As such, staff are of the opinion that the

proposed reduction of the lot width is minor in nature and recommend approval of the variance as requested.

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 minor in nature and desirable for the appropriate development of the land. Staff recommend that the variance, as outlined in the Notice of Hearing, be **Approved**.

Building Division:

1. As was noted for Consent Application HM/B-21:59, a concurrent Formal Consultation is being considered for the enlarged parcel at 224 Eaglewood Drive to which the conveyed lands are being merged for the consideration of a future draft plan of subdivision and rezoning application to facilitate the westward extension of Eaglewood Drive to Eleanor Avenue. Accordingly, the subject lands will have adequate lot frontage along upon the registration of this future plan of subdivision.
2. The variance is written as requested by the applicant to address Condition #2 of Consent Application HM/B-21:59.
3. The Zoning By-law (6593) does not include a definition for lot frontage. The C District contains a provision for "lot width." The Zoning By-law contains the following definition for "width", applicable to interior lots.

"Width" with reference to a lot, except a lot referred to in subclause (xxva), shall mean the horizontal distance between the side lot lines measured at a depth of 9.0 metres (29.53 feet) from and parallel to, the front lot line or from the chord of the front lot line.

4. As the application has not included detailed plans, no further variances have been identified at this time.

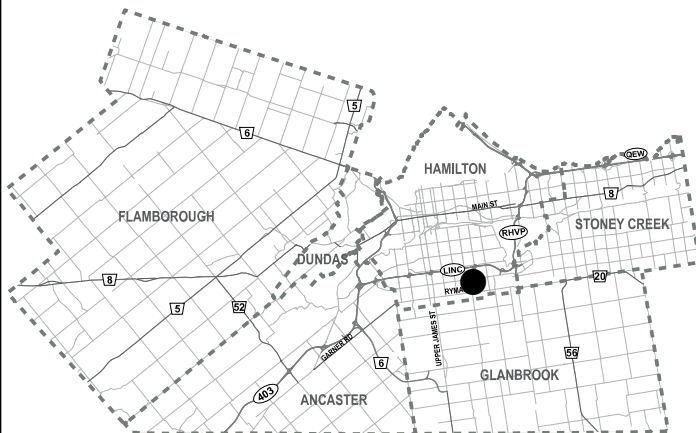
Development Engineering:

No Comment

See attached for additional comments.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



49 Eleanor Avenue, Hamilton
(Ward 6)

File Name/Number:

HM/A-21:376

Date:

November 16, 2021

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/B-21:93 – 60 Arbour 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 pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system. (Committee of Adjustment Section)
2. That the proponent shall carry out an archaeological assessment of that portion of the property subject to soil disturbance arising from this application, including new structures, foundation, driveways, any associated landscape alterations or soil disturbance through staging, stockpiling and temporary access, in addition to any areas impacted by the installation of services, such as water and wastewater, electricity, pipelines, easements and ground-source heat pumps. The proponent shall 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."
3. The owner shall demolish the existing building, shown on the lands to be severed 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.
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, 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 any required building permits in the normal manner to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section).

6. The existing right-of-way at the subject property ranges from approximately 20.0 – 30.0 metres. Approximately 5.0 metres are to be dedicated to the right-of-way on Stone Church Road from part of the subject property, as per the Council Approved Urban Official Plan: Chapter C - City Wide Systems and Designations, 4.5 Road Network Functional Classification, 4.5.2. Stone Church Road is to be 30.480 metres from Golf Links Road to Upper Mount Albion. A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way. (Transportation Planning)
7. The Applicant is required to provide a right-of-way dedication along Arbour Road to ensure that the Western Limit of the existing Multi Use Trail along Arbour Road will be within the municipal right-of-way. This requires a right-of-way dedication of approximately 2.0 metres to 22.0 metres along Arbour Road. As shown on the provided Sketch for Land Division drawing these lands contain an existing Multi-Use Trail which is required to be located within the municipal right-of-way along Arbour Road if the subject property is intended to be developed as future commercial site. (Transportation Planning)
8. It should be noted that any proposed future development at 60 Arbour Road request a driveway access onto Arbour Road, the Applicant will be required to protect the existing Multi-Use Trail and provide enhanced safety features in accordance to the Ontario Traffic Manual – Book 18 Cycling Facilities. (Transportation Planning)
9. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)
10. The owner submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)

HM/B-21:93 – 60 Arbour Rd., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to permit the conveyance of a parcel of land for commercial use and to retain a parcel of land for conservation land use. The severed lot will have a frontage of $\pm 66.59\text{m}$, lot depth of $\pm 148.20\text{m}$, and an area of $\pm 10136.31\text{ sq. m.}$ The retained lot will have a frontage of $\pm 377.62\text{m}$, lot depth of $\pm 148.20\text{m}$, and an area of $\pm 66221.12\text{ sq. m.}$ Existing buildings on severed lands are to be demolished.

Background

The subject property is currently being assessed under By-law 21-189, which has been amended by By-law 05-200. The By-law was passed October 13th, 2021 and has been final and binding as of November 8th, 2021. This By-law allows the property to have two zoning classifications.

Urban Hamilton Official Plan

The subject lands are designated as “Employment Area” in Schedule E – Urban Structure, and designated as “Business Park” in Schedule E-1 – Urban Land Use Designations in Volume 1 of the Urban Hamilton Official Plan (UHOP). A small wedding chapel is recognized as an additional use which is permitted through Site Specific Policy UHE-9 in Volume 3.

The following policy is applicable to land division within Employment Designations:

“F.1.14.3.5 Consents for new lot creation for both the severed and retained lands for employment uses in the Employment 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.

Staff are of the opinion that the proposal to create these lots comply with the policies of the Urban Hamilton Official Plan. The lots will also be in conformity with the Zoning By-

law once By-law 21-189 becomes final and binding. The lots are able to be serviced as they front onto the municipal water main and waste water network and the lands have frontage on a public road.

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) Within 250 metres of known archaeological sites;
- 2) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody;
- 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 severance is granted, Staff require that the Committee of Adjustment attach the following condition to the application:**

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

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

Cultural Heritage

The subject property is adjacent to 1545 Stone Church Road East, known as Hamilton Mosque, a property included in the City’s Inventory of Heritage Buildings.

The City recognizes there may be cultural heritage properties that are not yet identified or included in the Inventory of Heritage Buildings nor designated under the Ontario

Heritage Act, but still may be of cultural heritage interest. These may be properties that have yet to be surveyed, or otherwise identified, or their significance and cultural heritage value has not been comprehensively evaluated but are still worthy of conservation.

Notwithstanding that the property is adjacent to a property included in the City's Inventory of Heritage Buildings, Staff have reviewed the application and are of the opinion that the cultural heritage value or interest of the property will be conserved through this application. Staff have no further comments on the application as circulated.

Hamilton Zoning By-law No. 05-200

The subject lands contain two zoning classifications. The proposed severance must be analyzed against the performance standards of both zones and how the requirements of each will affect the future proposed development of subject lands. The west side of the property is classified as Conservation/Hazard Land (P5) zone, which permits uses such as conservation, flood and erosion control facilities, and recreation. The east side of the property is classified as Prestige Business Park (M3) zone stated in By-Law No. 21-189 (Appendix "L1" – Schedule "C" – Special Exceptions – New), which is an amendment to By-law 05-200 and has been final and binding on November 8th, 2021. The Prestige Business Park (M3) zone allows the commercial use that is being proposed by the applicant.

There is no minimum lot requirement stated in the Zoning By-law 05-200 for Conservation/Hazard Land (P5) zone. For the Prestige Business Park (M3), the minimum lot area is 4000.0 sq. m. The proposed lot area for the severed lands is ± 10136.31 sq. m., which complies with the M3 zoning provisions. For future development, the applicant will be required to go through the Site Plan Approval process to review building design, urban and landscape design, site functionality, etc.

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**, subject to the following condition:

1. That the proponent shall carry out an archaeological assessment of that portion of the property subject to soil disturbance arising from this application, including new structures, foundation, driveways, any associated landscape alterations or soil disturbance through staging, stockpiling and temporary access, in addition to any areas impacted by the installation of services, such as water and wastewater, electricity, pipelines, easements and ground-source heat pumps. The proponent shall 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.”

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. Please be advised that a portion of this property is within an area regulated by the Hamilton Conservation Authority. Please contact the Hamilton Conservation Authority at (905) 525 - 2181 prior to any development.
3. Be advised that once a lot is severed any legal established non-conforming entitlements previously afforded with regards to the use of the lands or zone regulations will be lost. The new created lots would have to comply entirely to the current zoning regulations of the By-Law.
4. Demolition of the existing residential building shown on the proposed lot to be severed shall be a condition of consent. Such demolition is subject to a demolition permit issued in the normal manner.
5. No dimensions for the existing building have been shown on the submitted survey; therefore, this Division cannot confirm zoning compliance.
6. In order to clear conditions, the applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.
7. The zoning district permits only limited commercial uses. The applicant may wish to ensure that the proposed uses for the lands to be conveyed/retained are permitted.

CONDITIONAL UPON:

1. The owner shall demolish the existing building, shown on the lands to be severed 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 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).

3. The owner shall apply for and receive any required building permits in the normal manner to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section).

Development Engineering:

INFORMATION

- 1) The proposed Consent Application indicates that the lands to be severed have an existing building that shall be demolished, and the lands be redeveloped for **commercial use**. It is our understanding that proposed commercial use developments are subject to Planning Development Application(s). We have **no comments** regarding the Consent Application as the detailed engineering review and conditions of approval will be handled under the future Planning application(s).

For the information of the Owner / Applicant, the proposed grading and servicing design will be subject to, however not limited to; **all applicable By-Laws, municipal sewer extensions, ECA applications, engineering guidelines, permits, associated fees, review and approval process, etc.** under the respective future development application(s).

- 2) The municipal services which surround the subject property are described below:

Arbour Road

- 300mmø Ductile Watermain
- 525mmø Storm Sewer at 0.5% (does not cover full frontage of property)
- 375mmø Sanitary Sewer @ 0.50% (does not cover full frontage of property)

Stone Church Road East

- 400mmø & 1,200mmø Concrete Watermain(s)
- 1200mmø Storm Sewer at 3.1%
- 375mmø Sanitary Sewer @ 0.7%

- 3) Required land dedication for road improvements such as daylighting triangles or municipal right-of-way widenings all in accordance with the Official Plan are to be confirmed with Transportation Planning.

Transportation Planning:

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 ranges from approximately 20.0 – 30.0 metres. Approximately 5.0 metres are to be dedicated to the right-of-way on Stone Church Road from part of the subject property, as per the Council Approved Urban Official Plan: Chapter C - City Wide Systems and Designations, 4.5 Road

Network Functional Classification, 4.5.2. Stone Church Road is to be 30.480 metres from Golf Links Road to Upper Mount Albion. A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way.

b. The Applicant is required to provide a right-of-way dedication along Arbour Road to ensure that the Western Limit of the existing Multi Use Trail along Arbour Road will be within the municipal right-of-way. This requires a right-of-way dedication of approximately 2.0 metres to 22.0 metres along Arbour Road. As shown on the provided Sketch for Land Division drawing these lands contain an existing Multi-Use Trail which is required to be located within the municipal right-of-way along Arbour Road if the subject property is intended to be developed as future commercial site.

c. It should be noted that any proposed future development at 60 Arbour Road request a driveway access onto Arbour Road, the Applicant will be required to protect the existing Multi-Use Trail and provide enhanced safety features in accordance to the Ontario Traffic Manual – Book 18 Cycling Facilities.

See attached for additional comments.



Stephen Clark, 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 – Stephen.Clark@hamilton.ca

Hamilton

Forestry & Horticulture Section
Environmental Services Division
Public Works Department

Date: November 15, 2021

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

From: Stephen Clark, Urban Forest Health Technician

Subject: 60 Arbour Road, Hamilton
File: HM/B-21:93

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, November 25th, 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 publicly owned trees or trees that may become city assets through right of way widening. 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 was generated on October 28, 2021 and has been approved by the City of Hamilton Forestry section. A permit is being applied to this property under the disconnection of services.

Forestry's conditions and concerns are satisfied under the disconnection of services for this application.

LANDSCAPE PLAN

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

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

Regards,

Stephen Clark



Adjacent City Owned Property: City Sewer Easement bisects Applicants property

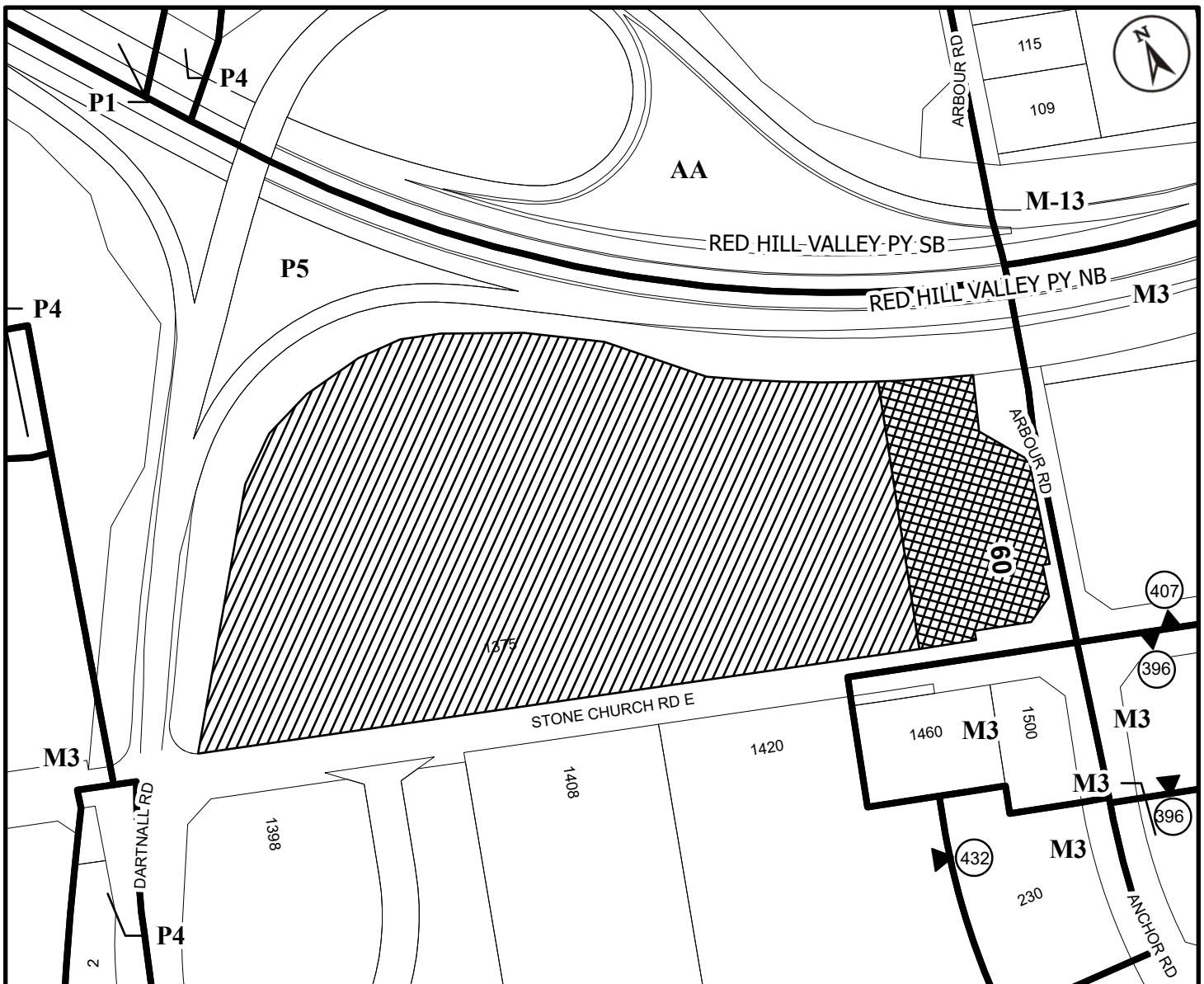
Real Estate Recommendations: Real Estate has no comments from a Corporate Real Estate perspective.

APPLICANT(S): Owner Hamilton Region Conservations Authority
c/o Scott Peck

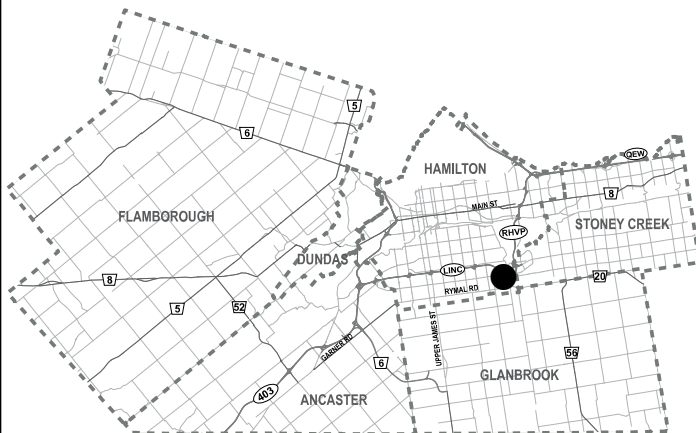
PURPOSE OF APPLICATION: To permit the conveyance of a parcel of land for proposed commercial use and to retain a parcel of land for conservation land use. Existing buildings on severed lands are to be demolished.

Severed lands:
66.59m² x 148.20m² and an area of 10136.31m²±

Retained lands:
377.62m² x 148.20m² and an area of 66221.12m²±



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

60 Arbour Road, Hamilton, (Ward 6)



Lands to be Retained



Lands to be Severed

File Name/Number:

HM/B-21:93

Date:

November 16, 2021

Technician:

NB

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/A-21:381 – 216 West 16th St., Hamilton

Consolidation Report


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

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

HM/A-21:381 – 216 West 16th St., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to allow for a reduction of parking to the existing single family dwelling  containing a secondary dwelling unit, notwithstanding:

1. One (1) parking space will be provided onsite, whereas the Zoning By-law requires two (2) parking spaces to be provided onsite.

Urban Hamilton Official Plan

The subject lands are designated as “Neighbourhoods” in Schedule E – Urban Structure and designated as “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations in Volume 1 of the Urban Hamilton Official Plan (UHOP). Single family dwellings are permitted within this designation (Volume 1 – E.3.4.3).

The subject lands are in close proximity to both Primary and Secondary Corridors along Upper James Street and Mohawk Road respectively as identified on Schedule “E” – Urban Structure – which transit services linking residents of these neighbourhoods to employment areas (Volume 1 – E.2.4.8, E.2.4.6, and E.2.4.5).

Further, as stated in UHOP policy Volume - E.2.4.16 that reductions in parking requirements shall be considered in order to encourage a broader range of uses and densities to support existing and planned transit routes”.

Zoning By-law No. 6593

The subject lands are zoned Urban Protected Residential “C” District which permits the use of single detached dwellings, secondary dwelling units and structures accessory thereto, in accordance with the applicable provisions.

Variance 1

Zoning By-law No. 6593 requires two (2) parking spaces to be provided on site. The intent of the provision is to ensure that there is sufficient parking for residential dwellings in order to minimize on-street parking.

As stated previously, the subject lands are in close proximity to both Primary and Secondary Corridors along Upper James Street and Mohawk Road respectively as identified on Schedule “E” – Urban Structure. The purpose of these ‘Urban Corridors’ is to provide not only a variety of commercial retail/personal services for the daily needs of the surrounding neighbourhoods but, also shall be serviced by higher order transit

services linking residents of these neighbourhoods to employment areas (Volume 1 – E.2.4.8, E.2.4.6, and E.2.4.5). The subject property is located in close proximity to HSR Transit Terminals on Mohawk Road, Garth Street and Sanatorium Road. Occupants have the option to use transit thereby reducing the need for vehicle ownership and for parking on the site.

Further, pertaining to the requested reduction in parking, policy E.2.4.16 states that, “reductions in parking requirements shall be considered in order to encourage a broader range of uses and densities to support existing and planned transit routes”. Staff is of the opinion that the requested reduction in parking meets the intent of these policies as the subject lands are within close proximity to grocery stores, personal services, retail, and active transit routes. The existing driveway allows for tandem parking for two (vehicles). Staff also notes that the applicant has applied for a Residential Boulevard Parking Space through Hamilton Municipal Parking System. If this is approved, the residents of the home will have access to on-street parking. Based on the foregoing, Staff is satisfied that the reduction in parking will have no adverse impact on the surrounding lands and **supports** the variance.

Recommendation:

Having regard for the matters under subsections *45(1) of the Planning Act*, staff is satisfied that the purpose and intent of the Urban Hamilton Official Plan and Zoning By-law is 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. The front lot line is the easterly lot line abutting West 16th Street.
2. A Residential Boulevard Parking Agreement with the Hamilton Municipal Parking Authority may be required for the parking space shown to encroach on the West 16th Street road allowance. As the parking space is shown to be partially located on the road allowance requirements a Residential Boulevard Park Agreement, the parking space intended to be provided partially on the boulevard does not count as required parking.
3. A further variance will be required is a minimum of 50% of the front yard is not maintained as landscaping.
4. Floor plans and elevation plans were not provided with the submission. Additional variances may be required if the scope of the proposal is amended to include modifications to the interior and exterior of the two family dwelling.

5. The driveway surface material is not indicated on the submitted site plan. An additional variance may be required if the driveway surface is not gravel or a similar surface or other suitable paving material.
6. Building Permit # 21 118383 R9, issued on May 18, 2021, (Change of use to convert the single family dwelling to a two family dwelling) remains not finalized.

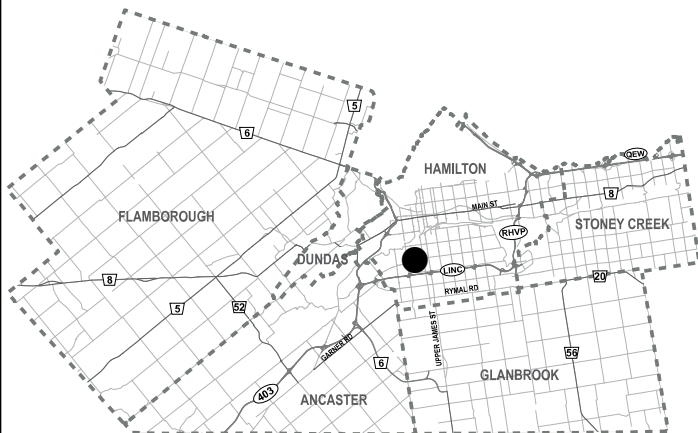
Development Engineering:

No Comment

See attached for additional comments.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



216 West 16th Street, Hamilton
(Ward 8)

File Name/Number:

HM/A-21:381

Date:

November 16, 2021

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

SC/A-21:358 – 57 Lincoln 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 approve the application, an approval should be subject to the following condition(s):

SC/A-21:358 – 57 Lincoln Rd., Stoney Creek

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to request an extension of a legal non-conforming use, recognize the location of the existing single detached dwelling, permit the re-construction of the westerly half of the roof including construction of an unenclosed rear porch and canopy, construction of a northerly unenclosed porch and canopy, construction of a roof on the existing front porch, recognize yard encroachments, permit a hot tub at the north side of the existing single detached dwelling, and to recognize the location of an existing 3.2m (10'6") x 6.096m (20'0") detached garage, notwithstanding the following variances:

1. A minimum front yard of 4.5m shall be provided instead of the minimum required front yard of 6.0m.
2. The unenclosed front porch shall be permitted to project 1.7m into the required 4.5m front yard so that the unenclosed front porch shall be a minimum of 2.8m from the front lot line instead of the requirement that balconies, canopies, unenclosed porches and decks, including a cold cellar underneath same, may project into any required front yard of 1.5 metres.
3. A minimum northerly side yard of 0.2m shall be provided to the northerly unenclosed porch (wood deck) and canopy and the rear unenclosed porch (wood deck) and canopy instead of the minimum required side yard of 1.25m.
4. A minimum southerly side yard of 2.5m shall be provided instead of the minimum required side yard of 3.0m on one side where there is no attached garage or attached carport.
5. A hot tub shall be a minimum of 0.2m from the northerly side lot line instead of the requirement that a minimum yard setback of 1.25m shall be provided from the outside edge of the pool wall (hot tub) or deck to a lot line.
6. A minimum westerly side yard of 0.3m shall be recognized for the existing detached garage instead of the requirement that accessory buildings shall be a minimum of 0.5m from a side lot line.

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 designated as “Neighbourhoods” in Schedule E – Urban Structure, and designated as “Neighbourhoods” 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 2b in the Western Development Area Secondary Plan (Map B.7.1-1).

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

The subject lands are zoned Residential “R6”. The zoning permits the use of single detached dwellings and structures accessory thereto, in accordance with the applicable provisions.

Variance 1, 2, 4 & 6

Zoning By-law No. 3692-92 requires a minimum front yard setback of 6.0 metres, a minimum required side yard of 3.0m on one side where there is no attached garage or attached carport and a minimum of 0.5m from a side lot line for accessory buildings. The intent of these provisions is for maintaining the streetscape and provide adequate space for access, walkways, landscaped area and amenity space. An adequate front yard and side yard are also necessary for drainage. Staff defers to Development Engineering Approvals with regards to all drainage concerns.

The applicant is requesting to recognize the location of the existing single detached dwelling and the location of an existing 3.2m (10'6") x 6.096m (20'0") detached garage. The following variances 1, 4, and 6 recognize the location of the existing single detached dwelling and the detached garage:

1. A minimum front yard of 4.5m shall be provided instead of the minimum required front yard of 6.0m.
1. A minimum southerly side yard of 2.5m shall be provided instead of the minimum required side yard of 3.0m on one side where there is no attached garage or attached carport.
6. A minimum westerly side yard of 0.3m shall be recognized for the existing detached garage instead of the requirement that accessory buildings shall be a minimum of 0.5m from a side lot line.

Staff are in support of the requested reduction as the structures are currently situated at these setbacks. The existing setback will have no visible change to the building façade and streetscape. Staff is **satisfied** that the proposed will not negatively impact the functionality of the site.

Variance 2 relates to the unenclosed porch in the front yard which according to the By-law shall be permitted to project 1.7m into the required 4.5m front yard so that the unenclosed front porch shall be a minimum of 2.8m from the front lot line instead of the requirement that balconies, canopies, unenclosed porches and decks, including a cold cellar underneath same, may project into any required front yard of 1.5 metres. The unenclosed-porch is already existing at the front of the existing single family dwellings, there will be no visible changes to the building façade and streetscape as a result of the proposed roof over the enclosed porch. The roof will help emphasize the front entrance of the home making it look more desirable. The variance is minor in nature, and there will be no adverse impact on the streetscape. Staff is **satisfied** that the proposed and will not negatively impact the functionality of the site.

Variance 3 & 5

Zoning By-law No. 3692-92 requires a minimum side yard setback of 1.25 metres and that this setback shall remain free of obstructions including structures, walkways, sidewalks, hard surfaced materials, and landscaping other than sod. The intent of the provision is to ensure that sufficient buffer is maintained between structures on adjacent properties, to support on-site drainage, access to rear yards, and mitigate any privacy/overlook impacts on adjacent lands. Staff defer to Development Engineering for any drainage concerns.

The applicant wishes to reduce the required northerly side yard setback to 0.2 metres to construct an unenclosed porch (wood deck) and canopy and the rear unenclosed porch (wood deck) and canopy. The applicant also proposes to add a hot tub in the northerly side lot line which will require a reduction of the northerly side yard from the required 1.25m to 0.2m. The location of the hot tub at this location will reduce the access around the hot tub for any future servicing needs. Moreover, the close proximity of the proposed hot tub to the adjacent property will cause privacy and noise concerns as there are no landscape buffer and fence that could block visibility or noise. This proposal is not desirable for the streetscape and overall character of the neighbourhood. As such, staff **does not support** the requested variance 3 & 5. The requested variances do not maintain the intent of the Official Plan and Zoning By-law, are not desirable, and are not minor in nature.

Recommendation:

Having regard for the matters under subsections 45(1) of the *Planning Act*, staff supports Variances 1,2,4 & 6. These requested variances are desirable for the appropriate development of the land, follow the intent of the Urban Hamilton Official Plan and Zoning By-law and are minor in nature. Staff recommends that the requested variance 1,2, 4 & 6, as outlined in the Notice of Hearing, be **Approved**.

However, the requested variances 3 & 5 do not maintain the intent of the Official Plan and Zoning By-law, are not desirable, and not minor in nature. Staff recommends that the requested variance 3 & 5, as outlined in the Notice of Hearing, be **Denied**.

Building Division:

1. The preamble shall be revised so that the words *“to recognize yard encroachments for”* in the 5th line after the words “existing front porch” are removed so that the preamble shall now read:

“So as to recognize the location of the existing single detached dwelling and to permit the re-construction of the westerly half of the roof including construction of an unenclosed rear porch and canopy, construction of a northerly unenclosed porch and canopy, construction of a roof on the existing front porch, to permit a hot tub at the north side of the existing single detached dwelling and to recognize the location of an existing 3.2m (10’6”) x 6.096m (20’0”) detached garage notwithstanding that:”

2. Pursuant to Variance No. 2, Section 4.19.1 (d) of Stoney Creek Zoning By-law No. 3692-92 does not permit canopies or unenclosed porches to encroach into a required side yard; therefore, the principal building setbacks of the “R6” zone are applicable.
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. Building Permit # 18-117643, issued on June 19, 2018, (Interior alterations to the Single Family Dwelling to replace the foundation, finish the basement and alter the main floor) remains not finalized.
5. Building Permit # 20-196563, issued on January 15, 2021 (Alterations to the interior of the existing single family dwelling to include main floor renovation, change stair direction, new covered porch in the rear yard, and new side patio door with stairs) remains not finalized.
6. A building permit is required for the construction of the westerly roof, canopies and porches.

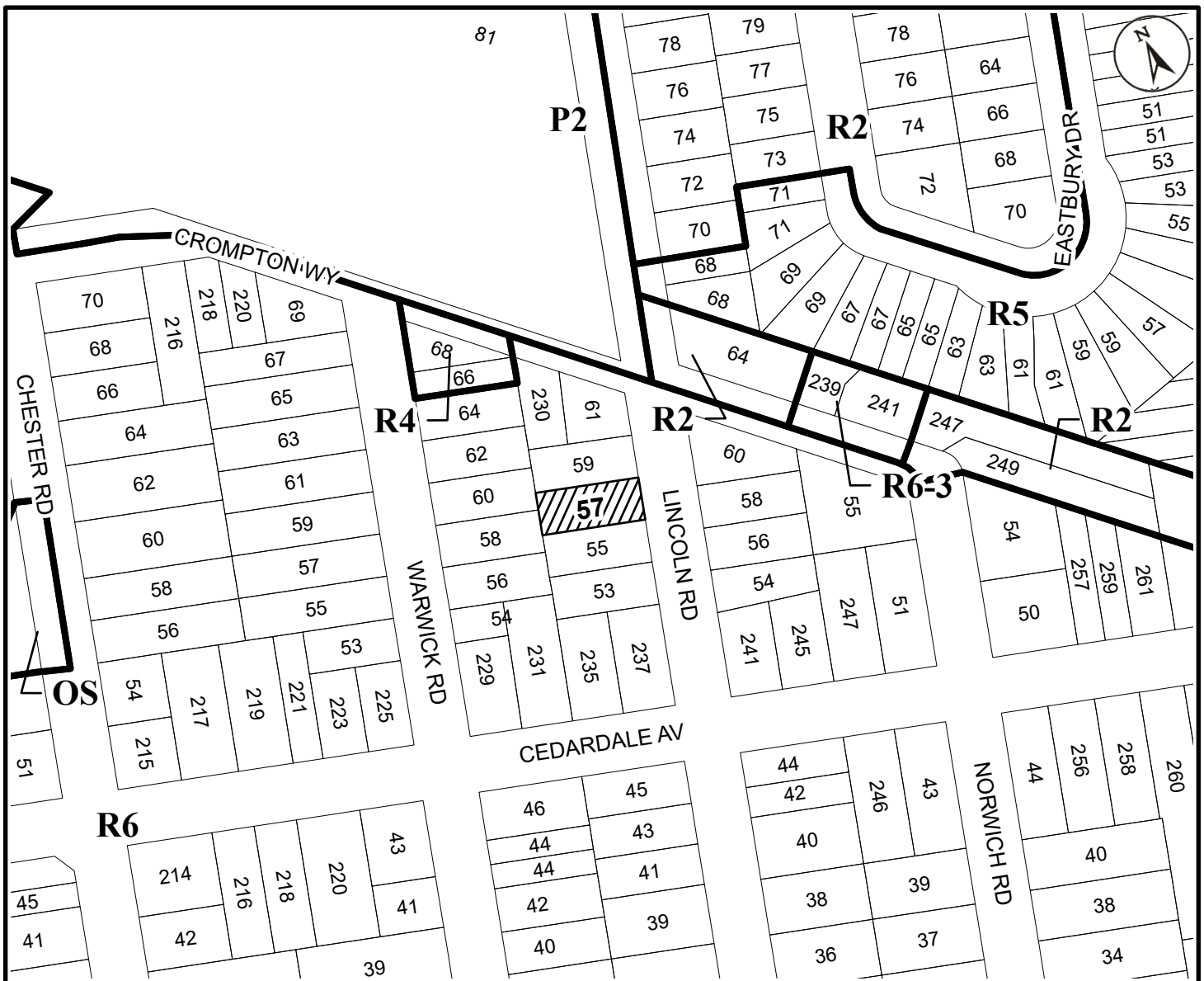
Development Engineering:

Development Engineering Approvals recommends **denial** of Minor Variance #3 and #5 regarding the proposed 0.2m northerly side yard for the future hot tub and proposed wood deck. As per the City Lot Grading Policy, a minimum of 0.9m shall be provided alongside yards to accommodate a typical side yard swale. We note that the adjacent property to the north (59 Lincoln Road) is at a lower elevation and an existing timber retaining wall is on the property line. The stormwater run-off from the subject lands must be self-contained

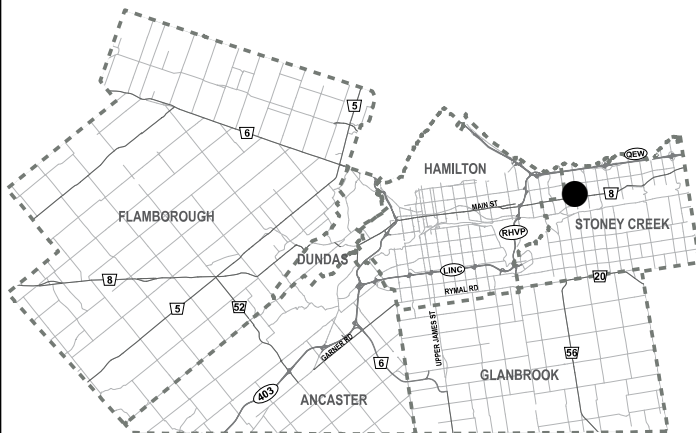
November 25th, 2021

and there shall be no adverse impacts to the neighbouring lands. The existing retaining wall should be further investigated if it could support the proposed development.

See attached for additional comments.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



57 Lincoln Road, Stoney Creek
(Ward 10)

File Name/Number:

SC/A-21:358

Date:

November 16, 2021

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

**Validation of Title
SC/B-21:99 – 53 Pisa Dr., Stoney Creek**

Consolidation Report

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

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

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system. (Committee of Adjustment Section)
2. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)

Validation of Title

SC/B-21:99 – 53 Pisa Dr., Stoney Creek

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to validate the title of a parcel of land under the provisions of Section 57(1) of the *Planning Act*. The subsection relates to correcting a *Planning Act* Violation that occurred during a past real estate transaction on the subject property.

Urban Hamilton Official Plan

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

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

The subject lands are classified as Multiple Residential “RM2” zone, which permits Street townhouse dwellings.

Recommendation:

This validation of title is necessary to correct a violation that occurred during a real estate transaction. Staff recommends that the proposed validation of title be **approved**, as the use of the lands meets the general intent and purpose of the UHOP, and Zoning By-law.

Building Division:

1. The survey of the property (PIN 17347-0877) prepared by A.T. McLaren dated May 17, 2021 was not attached to the Notice.
2. The Building Division provided comments on October 12, 2021 on an Applicable Law (Zoning Compliance) review for Validation of Title based on a survey of the property (PIN 17347-0877) prepared by A.T. McLaren dated May 17, 2021. Full zoning compliance was not achieved as this review identified regulations which did not conform or where zoning compliance could not be determined to regulations under Stoney Creek Zoning By-law No. 3692-92.

Development Engineering:

The proposed Consent Application is to validate the title of the subject land and to correct a Planning Act Validation that occurred during a past real estate transaction on the subject property. Development Engineering Approvals have **no comments** provided there are no changes to the existing grading, servicing, foundations or additional structures proposed.

Transportation Planning:

Transportation Planning has no objection to the land severance application.

See attached for additional comments.



Stephen Clark, 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 – Stephen.Clark@hamilton.ca

Hamilton

Forestry & Horticulture Section
Environmental Services Division
Public Works Department

Date: November 16, 2021

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

From: Stephen Clark, Urban Forest Health Technician

Subject: 53 Pisa Drive, Stoney Creek
File: SC/B-21:99

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, November 25, 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.

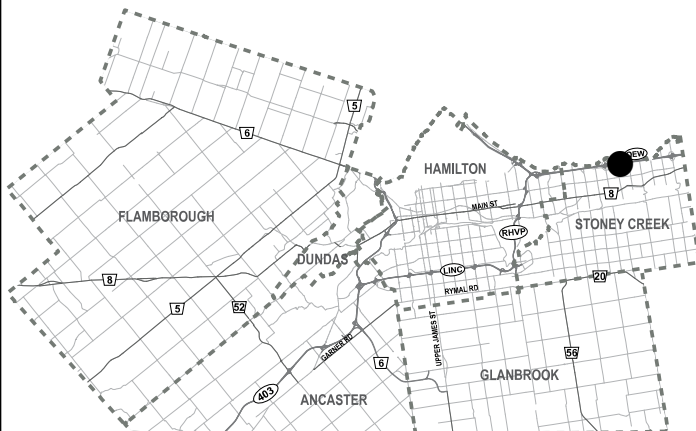
Regards,

A handwritten signature in blue ink that reads "Stephen Clark". The signature is written in a cursive style with a large initial 'S' and a stylized 'C'.

Stephen Clark
Urban Forest Health Technician



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



53 Pisa Drive, Stoney Creek
(Ward 10)

File Name/Number:

SC/B-21:99

Date:

November 16, 2021

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/A-21:379 – 642 Concession St., Hamilton

Consolidation Report

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

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

HM/A-21:379 – 642 Concession St., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to facilitate the conditionally approved of Site Plan **DA-19-176**. The minor variance, if approved, will permit the construction of a three-storey mixed use building consisting of three dwelling units, each with a gross floor area of less than 50 m², and two office suites with a combined gross floor area of 449.96 m², notwithstanding the following variance:

1. That no parking spaces shall be required, whereas the current zoning regulations require 14 spaces including one barrier free space. (Amending by-law 17-240 is currently under appeal, the proposed number of parking spaces will comply with the proposed regulations once they are in force and effect)

Background

Prior to the consideration of the current application, **HM/A-21:379**, Site Plan, **DA-19-176**, received conditional approval on April 28th, 2020. Special Condition #1 of the approved site plan required the owner to apply and receive approval from the Committee of Adjustment to reduce the required number of parking spaces from 14 spaces (which includes one barrier free space) to zero spaces.

Urban Hamilton Official Plan

The subject lands are designated as “Neighbourhoods” 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). Specifically, policies E.4.2.4, and E.4.6.5, amongst others, are applicable and permit street townhouse dwellings.

Hamilton Zoning By-law No. 05-200

The subject lands are classified as Mixed Use Medium Density – Pedestrian Focus (C5a) Zone, which permits a range of commercial and residential uses in connection with commercial uses, subject to the applicable provisions.

Variance 1

A variance is requested to permit the minimum number of required parking spaces to be based on the “Commercial and Multiple Dwelling” parking regulations of Zoning By-law Amendment 17-240. These regulations are currently under appeal. The applicant is required to provide one space per 30 m² of office space, whereas the proposed

regulations (under appeal) would require zero spaces for Office uses that are less than 450 m². The applicant is proposing 449.96 m² of office space.

As the proposed number of parking spaces will conform with the Council adopted parking space regulations of the CMU Zoning once it becomes final and binding, staff are of the opinion that the variance meets the intent of the Zoning By-law and recommend approval of the variance as requested.

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 is minor in nature. Staff recommend that the requested variance, as outlined in the Notice of Hearing, be **Approved**.

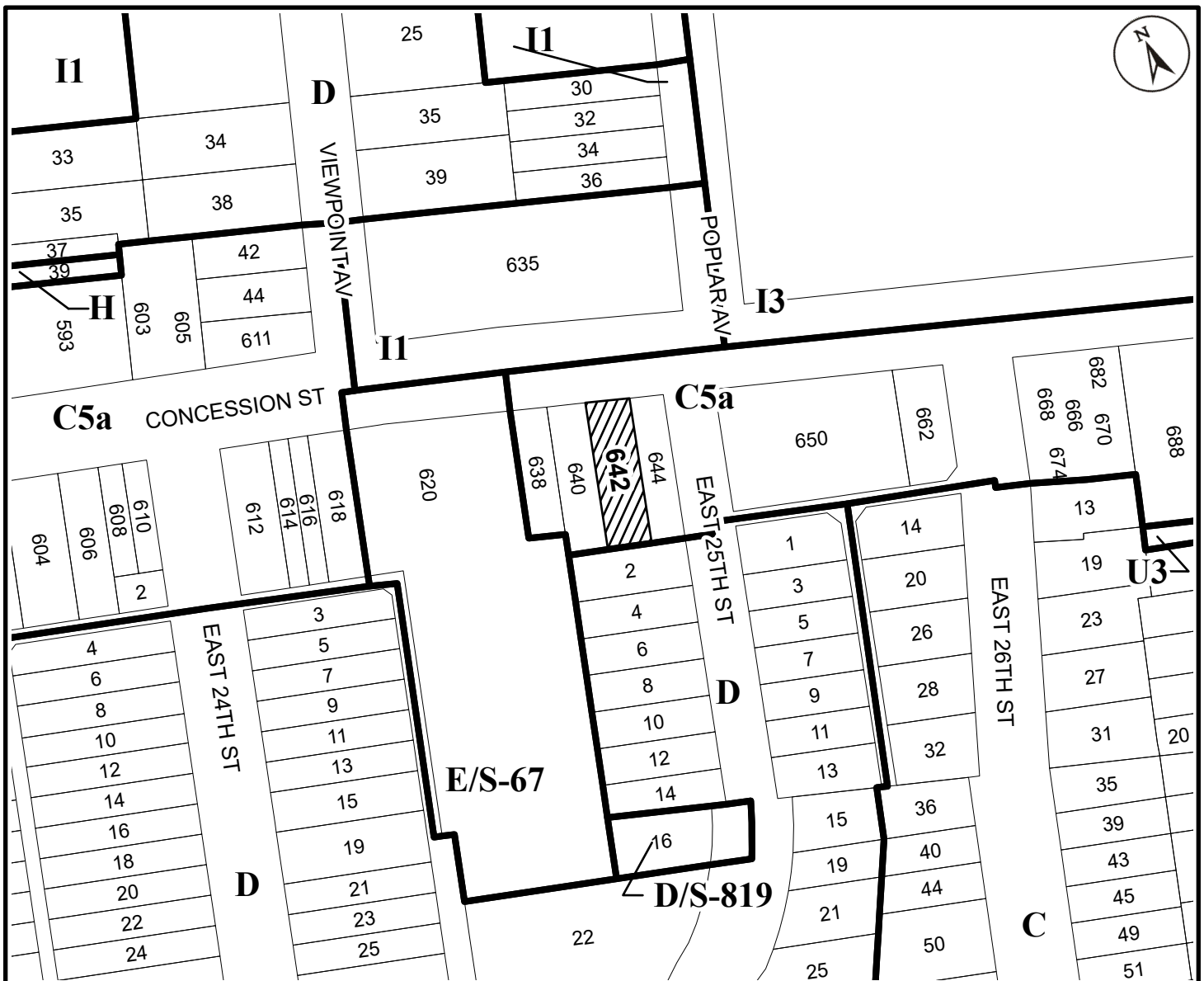
Building Division:

1. The variance is written as requested by the applicant.
2. The variance is required to facilitate Site Plan Approval application DA-19-176 which was granted Conditional Approval for Concurrent Site Plan and Building Permit Review on June 14, 2021.
3. The requested variance applies because the parking requirements for the C5a Zone and other Commercial Mixed Use Zones approved under amending by-law 17-240 remain under appeal and are not in full force and effect.
4. In particular, the proposal conforms to the requirements of the Zoning By-law, as amended by By-law 17-240 as 0 parking spaces are required for the proposed offices and dwelling units. However, as these regulations are under appeal, the provisions for parking for Zoning By-law 05-200 which were in effect prior to By-law 17-240 being passed (November 8, 2017) are in effect and apply. As per the variance stated, this requirement is based on 14 parking spaces for the proposed offices and 0 parking spaces for the proposed dwelling units applicable to areas outside of the Downtown.
5. A building permit is required for the construction of the proposed mixed use building.
6. Demolition Permit #20-182171 to remove the existing building (restaurant) was submitted September 4, 2020 and remains not finalized.
7. Be advised that Ontario Building Code regulations may require specific setback and construction types.
8. Municipal Law Enforcement Action Request #21-112793 for yard maintenance issued March 15, 2021 remains under review and is not finalized.

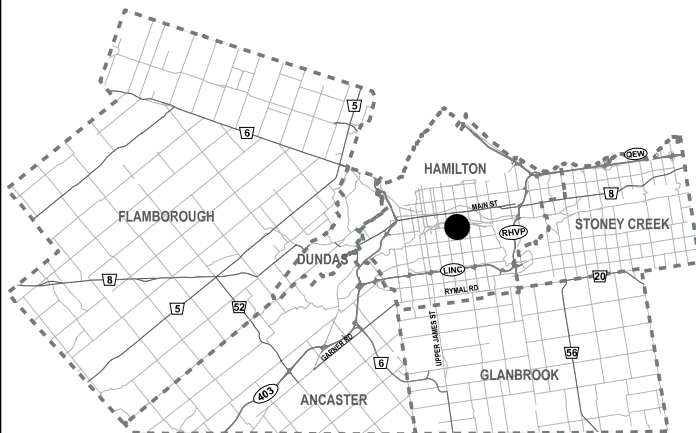
Development Engineering:

No Comment

See attached for additional comments.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



642 Concession Street, Hamilton
(Ward 7)

File Name/Number:

HM/A-21:379

Date:

November 16, 2021

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

GL/A-21:254 – 185 Springside Dr., Glanbrook

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):

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

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

GL/A-21:254 – 185 Springside Dr., Glanbrook

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to permit the construction of an accessory structure within a rear yard notwithstanding the following variances:

- 1) An accessory building over 12 m² in gross floor area shall be permitted to be located within the required side yard at a distance of 1.0 metres from the side lot line, whereas the Zoning By-law No. 464 does not permit an accessory building over 12 m² to be located within the 1.8 metre required side yard;
- 2) An accessory building over 12 m² in gross floor area shall be permitted to be located within the required rear yard, whereas Zoning By-law No. 464 does not permit an accessory building over 12 m² to be located within the 10.7 metre required rear yard; and
- 3) The maximum permitted gross floor area of an accessory building shall be 83 m² of gross floor area instead of the required 40 m².

Background

The current application **GL/A-21:254** was tabled at August 12th, 2021 Committee of Adjustment Meeting in order for the applicant to redesign the proposed accessory structure to meet the four tests of a minor variance under the *Planning Act*. The previous request sought relief from the by-law to construct a 112 m² accessory structure with a setback of 1.8 metres from the rear lot line. The applicant has revised the submission by reducing the size of the proposed structure and providing an increased setback for the rear yard to 4.27 metres. As a result, the additional criteria under subsection 7.13 (b)(iii) are no longer applicable. Specifically,

- (C) the lands abutting the subject rear lot line form part of a lot that has a lot area greater than 0.8 hectares (2 acres), and
- (D) the lands abutting the subject rear lot line are designated in the Township Official Plan in a land use designation other than “Residential”.

Cultural Heritage
Archaeology

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

- 1) Within 250 metres of known archaeological sites; and
- 2) In the vicinity of distinctive or unusual landforms.

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

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 Volume 1). Single detached dwellings and accessory structures are permitted within this designation (Volume 1 – E.3.4.3).

Former Township of Glanbrook Zoning By-law No. 464

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

Variance 1

Zoning By-law No. 464 requires accessory structures in an “ER” Zone with a gross floor area (GFA) in excess of 12 m² may not be permitted within the required 1.8 metre interior side yard. The intent of this provision is to ensure that an interior side yard has adequate space to provide access for maintenance purposes, allow for storm water to be contained on the lot before it is gradually released, and ensure compatibility with abutting land uses.

The applicant is proposing to construct the accessory structure (garage) at a setback of 1.0 metres from the southern interior side lot line. Staff are of the opinion that this minor reduction in the setback will not negatively impact the adjacent property as the proposed garage will be constructed in line with the existing ±63.0 m² garage on the neighbouring lands. Staff is satisfied that the proposed setback will provide enough room for the maintenance of the structure and access to the rear yard. Staff recommend approval of the variance as requested.

Variance 2

Zoning By-law No. 464 requires a minimum rear yard setback of 10.7 metres for accessory structures in an “ER” Zone with a GFA in excess of 12 m² to discourage the construction of very large accessory buildings which may negatively impact the enjoyment of abutting rear yards and drainage.

The applicant has reduced the size of the proposed accessory structure from 112 m² to 83 m² and increased the rear yard setback to 4.27 metres from 1.8 metres. It is staff's opinion that this increased setback and decrease in overall size of the structure, combined with the existing fencing and mature trees on the rear adjacent lands will mitigate any potential negative impacts from the proposed structure on the adjacent property. Staff recommend that the variance be approved as requested.

Variance 3

Zoning By-law No. 464 permits a maximum gross floor area of 40 m² for accessory structures. The intent of this provision is to ensure that accessory structures do not overwhelm a lot, guaranteeing that accessory uses remain subordinate to the primary use both functionally and visually on residential lots.

Staff is satisfied that the proposed increase of GFA to 83 m² will not overwhelm the lot. Since the primary residence has a significantly larger footprint than the proposed garage, staff are of the opinion that the garage will remain subordinate. Further, there numerous examples of accessory structures of similar scale and setbacks within the neighbourhood, as such the proposed garage maintains the character of the neighbourhood and streetscape.

Recommendation:

Having regard for the matters under subsection 45(1) of the *Planning Act*, staff are satisfied that the requested variances 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 are minor in nature. Staff recommend that the requested variances, as outlined in the Notice of Hearing, be **Approved**.

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

Should deeply buried archaeological materials be found on the property during any of the above development activities the MHSTCI should be notified immediately (416-212-

8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499).”

Building Division:

1. The Zoning By-law contains criteria that are applied to allow for an accessory building that is greater than 12 square metres to have a 1.8 metre rear yard. As the applicant has modified the application and is proposing a 4.2 metre rear yard, the criteria would not be applied. However, Variances 1 and 2 are required to permit an accessory building greater than 12 square metres in gross floor area to be within the required rear yard and the required side yard because the same setbacks for the dwelling apply to the accessory building.
2. The variances are written as requested by the applicant except that additional variances have been included based on the review of the application.
3. As the application has identified the proposed accessory building to also be a “workshop, it is noted that the Zoning By-law does not permit a home occupation to be carried out within an attached or detached garage, shed or other accessory building on the subject lot. The use of the building as a workshop would be required to be for purposes of a hobby instead of as a home business, or further variances will be required.
4. The Zoning By-law requires the floor area of a building used for a garage to be a minimum of 0.3m (30 cm) above the centreline of the adjacent street. As no information pertaining to this requirement was provided, further variances may be required if the floor height does not comply.
5. Building Permit # 21-125214, submitted May 27, 2021, for the construction of the proposed accessory building remains under review and is not finalized.
6. Be advised that Ontario Building Code regulations may require specific setback and construction types.

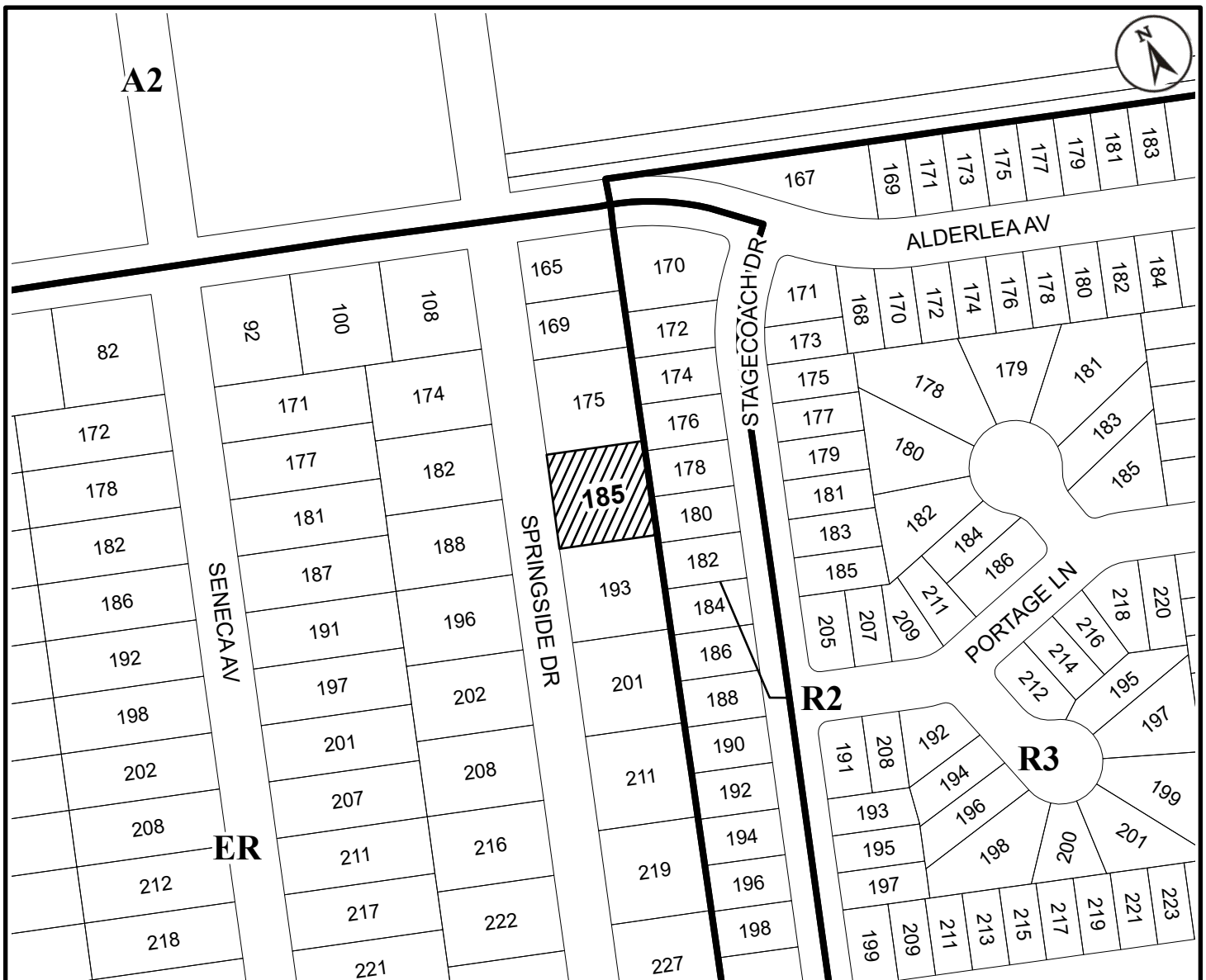
Development Engineering:

Information

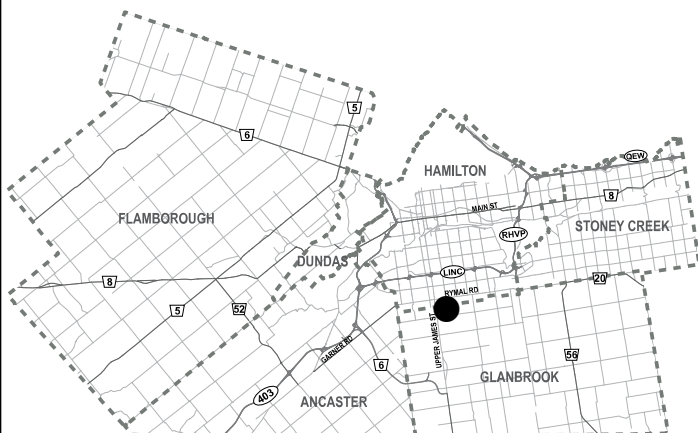
This is a resubmission of a previous Minor Variance application that was tabled in the August 12th Committee Hearing. The applicant has revised the proposed plans by reducing the size of the proposed rear accessory building from 12.2m x 9.11m to 9.11m x 9.11m to bring the structure more forward from the rear property line. The revision provides a 4.27m rear yard setback vs the previous plan which provided a 1.8m rear yard setback.

We have no comments.

See attached for additional comments.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



185 Springside Drive, Glanbrook
(Ward 11)

File Name/Number:

GL/A-21:254

Date:

November 16, 2021

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/A-21:372 – 9 Chatham St., Hamilton

Consolidation Report

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

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

HM/A-21:372 – 9 Chatham St., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the construction of a new two storey addition in the rear yard of the existing single detached dwelling, along with a new 33.0 metre square accessory building in the rear yard and a new roofed over unenclosed front porch, notwithstanding the variances below.

Urban Hamilton Official Plan

The Urban Hamilton Official Plan designates the property as “Neighbourhoods” in Schedule “E-1” – Urban Land Use Designations. Policies E.3.2.3 and E.3.2.4 amongst others, are applicable and permits a single detached dwelling.

Cultural Heritage

The subject property is located within the Kirkendall North Established Historical Neighbourhood, and adjacent to properties included in the City’s Inventory of Heritage Buildings.

The applicant proposes to construct a new two storey addition in the rear yard of the existing single-family dwelling, along with a new accessory building in the rear yard and a new roofed-over unenclosed front porch.

Notwithstanding that the property is included in the Kirkendall North Established Historical Neighbourhood, Staff have reviewed the application and are of the opinion that the cultural heritage value or interest of the property will be conserved. Staff have no further comments on the application as circulated.

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 and 2

The applicant is requesting a variance that an easterly side yard width of 0.5 metres and a westerly side yard width of 0.8 metres be provided, notwithstanding the minimum required 1.0 metre side yard. The intent of this provision is to ensure that a consistent streetscape is being provided and adequate space for access and stormwater management. Staff defers any drainage concerns to Development Engineering.

Staff are of the opinion that the variance maintains the general intent of the By-law as a consistent residential streetscape is being maintain and adequate space for access is being provided. Staff are of the opinion that the variance is desirable for the development and minor in nature as no negative impacts are anticipated.

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 requesting a variance to allow eaves and gutters to be permitted to project a maximum of 0.45 metres into a required side yard, notwithstanding the maximum permitted projection being one-half the required side yard. The intent of this provision is to ensure stormwater management remains on the subject lands.

Staff are of the opinion that the variance reflects an existing condition. Staff are of the opinion that the variance is desirable for the development and minor in nature as no negative impacts are anticipated.

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 4

The applicant is requesting a variance to allow an accessory building to be 0.0 metres from the easterly side lot line, notwithstanding the By-law requiring an accessory building to be at leads 0.45 metres from any lot line. The intent of this provision is to ensure adequate space for access, drainage, and proper massing. Staff defers any drainage concerns to Development Engineering Approvals.

Staff note that the garage has been re-built on the pre-existing foundation. Staff are of the opinion that the variance maintains the general intent of the By-law as the massing is appropriate for an accessory structure. Staff are of the opinion that the variance is desirable for the development and minor in nature as no negative impacts are anticipated. 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 5

The applicant is requesting a variance to allow the roofed over unenclosed porch to be permitted to project a maximum of 6.0 metres into the required front yard and provide a minimum setback of 0.0 metres from the front lot line, notwithstanding the maximum 3.0

metre projection permitted and minimum 1.5 metre setback required from the front lot line. The intent of this provision is to ensure a consistent low density residential streetscape, Staff note that the variance is to recognize an existing condition. Staff are of the opinion that the variance is desirable for the development and minor in nature as no negative impacts are anticipated.

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.**

Recommendation:

Based on the preceding information, the 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**.

Building Division:

1. A building permit is required in the normal manner for the proposed construction. Please be advised that Ontario Building Code may require specific setbacks and construction types.
2. Order to Comply #21-143816, dated August 12, 2021 remains outstanding.
3. Order to Comply #21-152608, dated September 29, 2021 remains outstanding.
4. Order to Comply #21-152609, dated September 29, 2021 remains outstanding.

Development Engineering:

The proposed addition appears to follow the projection of the walls of the existing dwelling. Therefore, provided the existing drainage pattern is maintained, Development Approvals has no comments. However, the accessory building at the rear may act as an obstruction to drainage moving toward the rear alleyway. We recommend that this application **be tabled** until further topographic information is provided to confirm the existing drainage pattern in the area.

See attached for additional comments.



Adjacent City Owned Property: PIN 171380284 - Alleyway

Real Estate Recommendations: Real Estate has no comments from a Corporate Real Estate perspective.

APPLICATION NO.: HM/A-21:372

APPLICANTS: Owners J. Smith & M. Li

SUBJECT PROPERTY: Municipal address 9 Chatham St., Hamilton

ZONING BY-LAW: Zoning By-law 6593, as Amended

ZONING: "D" (Urban Protected Residential) district

PROPOSAL: To permit the construction of a new two storey addition in the rear yard of the existing single family dwelling, along with a new 33.0m² accessory building in the rear yard and a new roofed-over unenclosed front porch notwithstanding that:

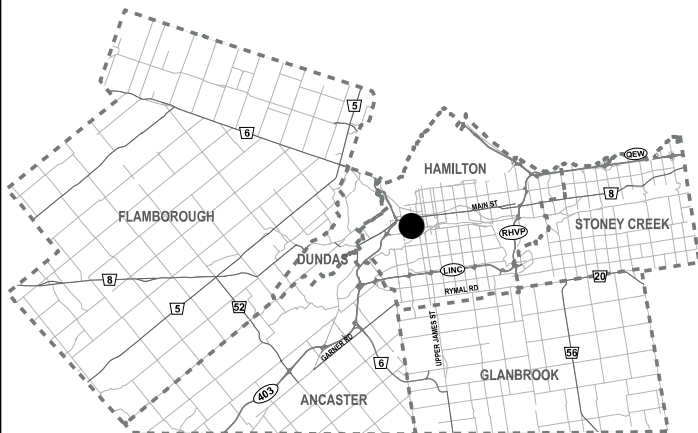
1. An easterly side yard width of 0.5m shall be provided instead of the minimum required 1.0m side yard width.
2. A westerly side yard width of 0.8m shall be provided instead of the minimum required 1.0m side yard width.
3. Eaves and gutters shall be permitted to project a maximum of 0.45m into a required side yard and instead of the maximum permitted projection being one-half the required side yard width.
4. An accessory building shall be 0.0m from the Easterly side lot line whereas the By-law requires an accessory building to be at least 0.45m from any lot line.
5. The roofed-over unenclosed porch shall be permitted to project a maximum of 6.0m into the required front yard and provide a minimum setback of 0.0m from the front lot line instead of the maximum 3.0m projection permitted and minimum 1.5m setback required from the front lot line.

NOTES:

- i. Please be advised that Committee of Adjustment Decision No. HM/A-20:149 previously approved a reduced required side yard width (on both sides) from 1.2m to 1.0m.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



9 Chatham Street, Hamilton (Ward 1)

File Name/Number:

HM/A-21:372

Date:

November 16, 2021

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/A-21:378 – 123 Dufferin St., Hamilton

Consolidation Report

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

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

HM/A-21:378 - 123 Dufferin St., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the construction of a new two storey addition in the rear yard of the existing single detached dwelling, notwithstanding the variances below.

Urban Hamilton Official Plan

The Urban Hamilton Official Plan designates the property as “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations. Policies E.3.2.3 and E.3.2.4 amongst others, are applicable and permit a single detached dwelling.

Ainslie Wood Westdale Secondary Plan

The subject lands are designated “Low Density Residential 2” on Map B.6.2-1 within the Ainslie Wood Westdale Secondary Plan. Policy 6.2.5.4.a) i), among others, are applicable and permit single detached dwellings.

Former City of Hamilton Zoning By-law No. 6593

The subject lands are zoned “C/S-1364” (Urban Protected Residential, etc.) District, Modified which permits a single family dwelling.

Variance 1

The applicant is requesting a variance to allow a maximum gross floor area of 80% being 297.3 square metres to be permitted, notwithstanding maximum gross floor area multiplied by the floor area ratio factor of 0.45 of the area. The intent of this provision is to ensure an appropriately sized dwelling is provided on the subject site which allows for amenity space, parking, proper stormwater management and a consistent building size and streetscape. Staff defers any drainage concerns to Development Engineering Approvals.

Staff are of the opinion that the variance maintains the general intent of the By-law as the proposed single detached dwelling is consistent with the surrounding area and will still provide sufficient amenity space and parking. Staff are of the opinion that the variance is desirable for the development and minor in nature as no negative impacts are anticipated.

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 requesting a variance to allow one parking space to be permitted, notwithstanding the required three parking spaces for the single detached dwelling. The intent of this provision is to ensure that adequate parking is provided on site.

Staff are of the opinion that the intended use of the property is for one family and sufficient parking is being provided on site for the single detached dwelling. Staff are of the opinion that the variance is desirable for the development and minor in nature as no negative impacts are anticipated.

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.**

Recommendation:

Based on the preceding information, the 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.**

Building Division:

1. A building permit is required for the construction of the proposed addition.
2. The applicant shall ensure that the gross floor area calculation for the requested variance has been determined in accordance with the zoning By-law as defined including certain exemptions indicated in policy ZON-006.
3. The existing gross floor area is 55.0% of the area within the district of the lot on which it is situated.

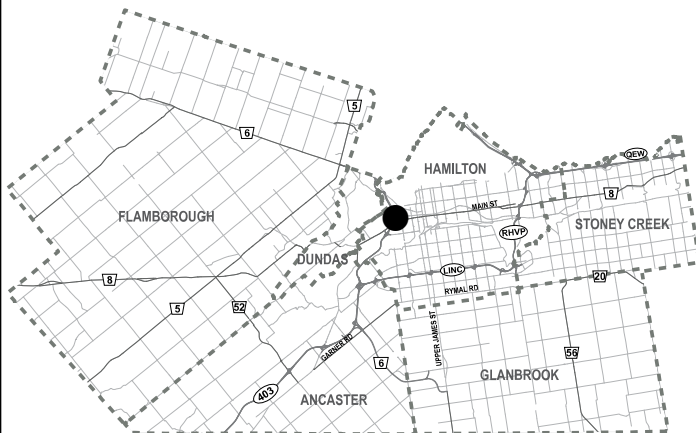
Development Engineering:

Provided that the existing drainage pattern is maintained, Development Approvals has no comments.

See attached for additional comments.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



123 Dufferin, Hamilton (Ward 1)

File Name/Number:

HM/A-21:378

Date:

November 16, 2021

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/B-21:81 – 83 Melbourne St., Hamilton

Consolidation Report

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

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

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system. (Committee of Adjustment Section)
2. That the applicant submits and implement a Cultural Heritage Impact Assessment to the satisfaction and approval of the Manager of Development Planning, Heritage and Design prior to any minor variance or consent to sever approval.
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 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 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).
6. The owner shall apply for and receive any required building permits in the normal manner to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section).
7. The Owner must enter into with the City of Hamilton and register on title, a Consent Agreement, having an administrative fee of \$4,310.00 (2021 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 any outstanding servicing cost for the existing

municipal services adjacent to the property, 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 services inspections, driveway approaches, relocation of any existing infrastructure (such as hydrants) and any damage during construction (unknown costs at this time), to the satisfaction of the City's Manager of Development Approvals. Cash payments mentioned above are subject to change.

8. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)
9. The owner submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)

NOTE:

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

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

HM/B-21:81 – 83 Melbourne St., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of these applications is to permit the conveyance of a parcel of land and to retain a parcel of land and to permit the construction of a new two family dwelling on each lot, notwithstanding the variances below.

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 a duplex dwelling.

Staff are of the opinion that the consent application maintains the general intent of the Official Plan and the proposed lots continue a similar lot fabric that exists within the neighbourhood. The proposed retained and severed lands are both fully serviced by municipal services and have frontage onto a public street. Staff are of the opinion the consent application shall be approved subject to the approval of Minor Variance application HM/A-21:335.

Archaeology

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

- 1) 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 areas of pioneer EuroCanadian settlement.

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

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 granted, the City does not require an archaeological assessment, but the proponent must be advised in writing by the Committee of Adjustment as follows:

“Acknowledgement Note: The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances. If archaeological resources are encountered, the proponent may be required to conduct an archaeological assessment prior to further impact in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI). All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the MHSTCI. Should deeply buried archaeological materials be found on the property during any of the above development activities the MHSTCI should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499).”

Cultural Heritage

The subject property is a circa 1879 dwelling located within the Kirkendall North Established Historic Neighbourhood and is included in the City’s Inventory of Heritage Buildings. Additionally, it is adjacent to 78, 86, 88, and 94 Melbourne Street, and 64, 66, 82, and 86 Chatham Street, properties included in the City’s Inventory of Heritage Buildings.

The applicant proposes to sever the existing lot, demolish the existing building, and construct a new two-family dwelling on each lot.

Accordingly, Section B.3.4.3.6 of the Urban Hamilton Official Plan, Volume 1, applies. Where new construction is proposed in an Established Historic Neighbourhood, key considerations are the visual and physical impacts on landscape features, typically public views of the building fabric, building set-back, the streetscape and significant vistas.

Additionally, the following sections of the Urban Hamilton Official Plan, Volume 1, apply:

B.3.4.1.3 “Ensure that all new *development, site alterations*, building alterations, and additions are contextually appropriate and maintain the integrity of all on-site or *adjacent cultural heritage resources*.” and,

B.3.4.2.1(g) “Ensure the conservation and protection of *cultural heritage resources* in planning and development matters subject to the *Planning Act* either through appropriate planning and design measures or as conditions of development approvals.”

B.3.4.2.1(h) “Conserve the character of areas of cultural heritage significance, including designated heritage conservation districts and *cultural heritage landscapes*, by

encouraging those land uses, *development* and *site alteration* activities that protect, maintain and enhance these areas within the City.”

Section B.3.4.2.12(b) of the Urban Hamilton Official Plan, Volume 1, states that a *Cultural Heritage Impact Assessment* may be required by the City and submitted prior to or at the time of any application submission pursuant to the *Planning Act*, where the proposed development, site alteration, or redevelopment of lands (both public and private) has the potential to adversely affect cultural heritage resources included in the City’s Inventory of Buildings of Architectural or Historical Interest through displacement or disruption.

Cultural Heritage Impact Assessments (CHIA) are used to evaluate potential development and site alteration of cultural heritage resources and demonstrate how the heritage attributes of the on-site and adjacent heritage resources will be conserved through mitigative measures and/or alternative development approaches as required.

CHIA reports shall be prepared in conformity with the City’s Heritage Impact Assessment guidelines and shall be submitted for review by Planning staff and the Hamilton Municipal Heritage Committee prior to acceptance of the report as being complete or the clearance of any conditions on any development approvals.

Staff are of the opinion that a Cultural Heritage Impact Assessment may be required in order to assess the subject property for any Cultural Heritage Value or Interest. The applicant has agreed to provide photo documentation of the building to determine if a CHIA is required.

Additionally, Staff strongly encourage the use of compatible materials in the new construction to ensure the new dwellings will have minimal visual impact on the streetscape.

If these applications are approved, staff request the following condition:

- 1) That the applicant submit and implement a Cultural Heritage Impact Assessment to the satisfaction and approval of the Manager of Development Planning, Heritage and Design, if required.

Any recommendations for alternatives or mitigative measures coming out of the Cultural Heritage Impact Assessment shall be included as conditions of future development applications.

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 two family dwelling.

Variances for both parcels of land:

Variance 1

The applicant is requesting a variance to allow for a minimum lot width of 7.3 metres to be provided, notwithstanding the minimum required lot width of 18.0 metres. The intent

of this provision is to provide a consistent streetscape and to provide sufficient space for a residential dwelling building envelope.

Staff are of the opinion that the variance maintains the general intent of the By-law as the lot width is in keeping with the existing streetscape and will be sufficient to accommodate the appropriate building envelope. The variance is desirable for the development and minor in nature as no negative impact is anticipated for the subject or surrounding area.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan and Zoning By-law No. 6593 is being maintained, the variance is 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 lot area of 335.0 square metres to be provided, notwithstanding the minimum required lot size of 450 metres squared. The intent of this provision is to ensure sufficient space is provided for amenity space, parking, and a proper building envelope.

Staff are of the opinion that the variance maintains the general intent of the By-law as the lot area is in keeping with the existing lot pattern and will provide sufficient for an appropriate building envelope, amenity space and parking. The variance is desirable for the development and minor in nature as no negative impact is anticipated for the subject or surrounding area.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan and Zoning By-law No. 6593 is being maintained, the variance is desirable for the development and minor in nature; therefore, **staff support the variance.**

Variance 3

The applicant is requesting a variance to allow a minimum front yard of 2.25 metres notwithstanding the minimum 6.0 metre front yard depth requirement. The intent of this provision is to allow adequate space for landscaped area and parking, to provide a consistent streetscape, and to allow for a proper building envelope for the site.

Staff are of the opinion that the general intent of the By-law is being met as the front yard is providing a consistent residential streetscape. As such, adequate space will still be provided in the front yard to accommodate adequate landscaped area. The variance is desirable for the development and minor in nature as the reduced front yard will maintain a consistent setback in comparison to the surrounding dwellings along Melbourne Street.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan and Zoning By-law No. 6593 is being maintained, the variance is desirable for the development and minor in nature; **therefore, staff support the variance.**

Variance 4

The applicant is requesting a variance to allow a minimum easterly side yard width of 0.4 metres to be provided to the lot identified as Lot 1 and a variance to allow a minimum

westerly side width of 0.45 metres to be provided to the lot identified as Part 2, notwithstanding the minimum required side yard width of 1.2 metres. The intent of this provision is to provide adequate space for access, drainage, and to provide a proper building envelope for the subject lands. Staff defers any drainage concerns to Development Engineering Approvals.

Staff are of the opinion that the variance maintains the general intent of the By-law as the proposed side yard setback is consistent with the surrounding area and will provide space for access. The variance is desirable for the development and minor in nature as no negative impact is anticipated for the subject lands or surrounding area from the reduced side yard setback.

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 5

The applicant is requesting a variance to allow a minimum of 30% of the gross area of the front yard to be used for a landscaped area, notwithstanding the requirement that not less than 50% of the gross area of the front yard be used for a landscaped area, excluding concrete, asphalt, gravel, pavers or other similar materials. The intent of this provision is to provide a consistent residential streetscape and to allow for adequate area to provide the necessary landscaped area for the subject lands.

Staff are of the that the variance maintains the general intent of the Zoning By-law as sufficient landscaped area is being provided that is consistent with the surrounding streetscape and in keeping with the residential characteristic and will not be interrupted by parking as it is provided in the rear. The variance is desirable for the development and minor in nature as no negative impact is anticipated for the development 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 6

The applicant is requesting a variance to allow no on-site manoeuvring space to be provided, notwithstanding the requirement that the maneuvering space be provided and maintained only on the lot which the principal use, building, or structure is located. The intent of this provision is to ensure adequate space for the vehicle to manoeuvre to and from the parking space.

Staff are of the opinion that the variance maintains the general intent of the By-law as the 3.66 metre wide alleyway to the rear will provide space for the vehicle to maneuver in and out of the subject lands. The variance is desirable for the development and minor in nature as no negative impact is anticipated for the development 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 7

The applicant is seeking variances to allow for the eaves and gutters to project 0.4 metres into the required 0.4 metre side yard so that the eaves and gutters can be as close as 0.0 metres to the easterly side lot line, whereas the Zoning By-law requires that an eave or gutter may project into the required side yard not more than one half of its required width, being 0.225 metres. The general intent and purpose of the Zoning By-law requirements are to maintain the existing character and streetscape of the neighbourhood, to ensure the front yard provides sufficient landscape, amenity, and parking areas, and to for maintenance purposes.

Staff are of the opinion that the variance maintains the general intent of the By-law as the eaves and gutters will remain on the subject site. The variance is desirable for the development and minor in nature as no negative impact is anticipated for the development 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 8

The applicant is requesting a variance to allow uncovered front porch with a minimum 1.2 metre setback from the front lot line, notwithstanding the minimum required 1.5 metre setback from the front lot line. The intent of the By-law is to provide a distance separation from the porch and street, and to provide a consistent residential streetscape.

The variance is maintaining the general intent of the Zoning By-law as the porch is consistent with the surrounding lots and is in keeping with the residential streetscape. Staff acknowledge there is approximately 4.5 metres of boulevard right of way from the edge of the property line to the sidewalk that aides into the distance separation from the porch to the street. 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.**

Recommendation:

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

In conclusion, Staff recommends that the application be **approved, on condition.**

CONDITIONS: (If Approved)

1. That the applicant submits and implement a Cultural Heritage Impact Assessment to the satisfaction and approval of the Manager of Development Planning, Heritage and Design prior to any minor variance or consent to sever approval.

NOTE:

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

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

Building Division:

1. 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. 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.
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 lot width, lot area, yard widths and depths, minimum landscaped area, parking spaces and encroachments provided will be required for zoning compliance of the lands to be conveyed/retained.

CONDITIONAL UPON:

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 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.
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, 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 any required building permits in the normal manner to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section).

Development Engineering:

Information:

The municipal services which front the subject property are as described:
Melbourne Street:

- 300mmø Sanitary Sewer
- 200mmø Watermain
- 900mmø Storm Sewer
- Right-of-Way improvements with respect to any applicable widenings are deferred to Transportation Planning.

Recommendations:

1. The Owner must enter into with the City of Hamilton and register on title, a Consent Agreement, having an administrative fee of \$4,310.00 (2021 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 any outstanding servicing cost for the existing municipal services adjacent to the property, 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 services inspections, driveway approaches, relocation of any existing infrastructure (such as hydrants) and any damage during construction (unknown costs at this time), to the satisfaction of the City's Manager of Development Approvals. Cash payments mentioned above are subject to change.

Transportation Planning:

Transportation Planning has no objection to the land severance application

See attached for additional comments.



Sam Brush, Urban Forest Health Technician
City Centre, 77 James Street North, Suite 400
Hamilton, ON L8R 2K3
Phone (905) 546-2424 Ext. 7375, Fax (905) 546-4473
Email – Sam.Brush@hamilton.ca

Hamilton

Forestry & Horticulture Section
Environmental Services Division
Public Works Department

Date: November 17, 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: 83 Melbourne Street, Hamilton.
File: HM/B-21:81

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, November 25, 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 "Sam Brush". The signature is stylized with a large, looped "S" and a cursive "B".

Sam Brush
Urban Forest Health Technician

From: [Christina Kampmann](#)
To: [Committee of adjustment](#)
Subject: 83 Melbourne Street
Date: November 23, 2021 11:18:56 AM

Peter and Tina Kampmann
80 Chatham Street
Hamilton, ON L8P 2B4

We would like to have our comments recognised by the committee regarding the property 83 Melbourne Street.

First of all our property is directly behind 83 Melbourne. We have concern for our old double garages and our carriage house which was built in 1875. Our house was built in 1905. The heavy equipment, cement trucks and other construction vehicles needed to deliver building supplies will cause a lot of vibrations to our buildings. The narrow alley will be a challenge for these vehicles to maneuver and will be a challenge for even the best operators of the large equipment.

We are afraid there will be collateral damage to our buildings, and the reason we are worried is because of the damage that was done to us and our neighbours when 77 and 79 Melbourne were constructed. Compensation for damage was promised but never realised

The applicant cut 90% of the mature trees both at the front and back of the property. We expect when the construction starts the remainder of the mature trees will also be cut down. So much for the environment.

We are not impressed to see that the applicant is going to build not 1 but 2 2 family homes on this property. Also provisions for 4 cars is a joke. The back of this property will be a parking lot just like it is at 77-79 Melbourne.

We would have much preferred to see a single family home built on this property.

The City of Hamilton has a responsibility to us, the tax payers, to keep an eye on developers and how they impact our neighbourhood and the environment.

Sincerely
Tina and Peter Kampmann

HM/B-21:81 - 83 Melbourne St., Hamilton (Ward 1)



Adjacent City Owned Property: PIN 171380027

Real Estate Recommendations: Real Estate has no comments from a Corporate Real Estate perspective.

APPLICANT(S): Agent A.J. Clarke & Associates c/o F. Kloibhofer
Owner Joseph Marchese

PURPOSE OF APPLICATION: To permit the conveyance of a parcel of land and to retain a parcel of land for residential purposes.

Severed lands:
7.39m² x 46.21m² and an area of 341.49m²

Retained lands:
7.39m² x 46.21m² and an area of 341.49m²

**This application will be heard in conjunction with
Minor Variance Application HM/A-21:335**

HM/A-21:335 – 83 Melbourne 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:

“Acknowledgement Note: The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances. If archeological resources are encountered, the proponent may be required to conduct an archaeological assessment prior to further impact in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI). All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the MHSTCI. Should deeply buried archaeological materials be found on the property during any of the above development activities the MHSTCI should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499).”

HM/A-21:335 – 83 Melbourne St., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of these applications is to permit the conveyance of a parcel of land and to retain a parcel of land and to permit the construction of a new two family dwelling on each lot, notwithstanding the variances below.

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 a duplex dwelling.

Staff are of the opinion that the consent application maintains the general intent of the Official Plan and the proposed lots continue a similar lot fabric that exists within the neighbourhood. The proposed retained and severed lands are both fully serviced by municipal services and have frontage onto a public street. Staff are of the opinion the consent application shall be approved subject to the approval of Minor Variance application HM/A-21:335.

Archaeology

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

- 1) 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 areas of pioneer EuroCanadian settlement.

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

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 granted, the City does not require an archaeological assessment, but the proponent must be advised in writing by the Committee of Adjustment as follows:

“Acknowledgement Note: The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances. If archaeological resources are encountered, the proponent may be required to conduct an archaeological assessment prior to further impact in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI). All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the MHSTCI. Should deeply buried archaeological materials be found on the property during any of the above development activities the MHSTCI should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499).”

Cultural Heritage

The subject property is a circa 1879 dwelling located within the Kirkendall North Established Historic Neighbourhood and is included in the City’s Inventory of Heritage Buildings. Additionally, it is adjacent to 78, 86, 88, and 94 Melbourne Street, and 64, 66, 82, and 86 Chatham Street, properties included in the City’s Inventory of Heritage Buildings.

The applicant proposes to sever the existing lot, demolish the existing building, and construct a new two-family dwelling on each lot.

Accordingly, Section B.3.4.3.6 of the Urban Hamilton Official Plan, Volume 1, applies. Where new construction is proposed in an Established Historic Neighbourhood, key considerations are the visual and physical impacts on landscape features, typically public views of the building fabric, building set-back, the streetscape and significant vistas.

Additionally, the following sections of the Urban Hamilton Official Plan, Volume 1, apply:

B.3.4.1.3 “Ensure that all new *development, site alterations*, building alterations, and additions are contextually appropriate and maintain the integrity of all on-site or *adjacent cultural heritage resources*.” and,

B.3.4.2.1(g) “Ensure the conservation and protection of *cultural heritage resources* in planning and development matters subject to the *Planning Act* either through appropriate planning and design measures or as conditions of development approvals.”

B.3.4.2.1(h) “Conserve the character of areas of cultural heritage significance, including designated heritage conservation districts and *cultural heritage landscapes*, by

encouraging those land uses, *development* and *site alteration* activities that protect, maintain and enhance these areas within the City.”

Section B.3.4.2.12(b) of the Urban Hamilton Official Plan, Volume 1, states that a *Cultural Heritage Impact Assessment* may be required by the City and submitted prior to or at the time of any application submission pursuant to the *Planning Act*, where the proposed development, site alteration, or redevelopment of lands (both public and private) has the potential to adversely affect cultural heritage resources included in the City’s Inventory of Buildings of Architectural or Historical Interest through displacement or disruption.

Cultural Heritage Impact Assessments (CHIA) are used to evaluate potential development and site alteration of cultural heritage resources and demonstrate how the heritage attributes of the on-site and adjacent heritage resources will be conserved through mitigative measures and/or alternative development approaches as required.

CHIA reports shall be prepared in conformity with the City’s Heritage Impact Assessment guidelines and shall be submitted for review by Planning staff and the Hamilton Municipal Heritage Committee prior to acceptance of the report as being complete or the clearance of any conditions on any development approvals.

Staff are of the opinion that a Cultural Heritage Impact Assessment may be required in order to assess the subject property for any Cultural Heritage Value or Interest. The applicant has agreed to provide photo documentation of the building to determine if a CHIA is required.

Additionally, Staff strongly encourage the use of compatible materials in the new construction to ensure the new dwellings will have minimal visual impact on the streetscape.

If these applications are approved, staff request the following condition:

- 1) That the applicant submit and implement a Cultural Heritage Impact Assessment to the satisfaction and approval of the Manager of Development Planning, Heritage and Design, if required.

Any recommendations for alternatives or mitigative measures coming out of the Cultural Heritage Impact Assessment shall be included as conditions of future development applications.

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 two family dwelling.

Variances for both parcels of land:

Variance 1

The applicant is requesting a variance to allow for a minimum lot width of 7.3 metres to be provided, notwithstanding the minimum required lot width of 18.0 metres. The intent

of this provision is to provide a consistent streetscape and to provide sufficient space for a residential dwelling building envelope.

Staff are of the opinion that the variance maintains the general intent of the By-law as the lot width is in keeping with the existing streetscape and will be sufficient to accommodate the appropriate building envelope. The variance is desirable for the development and minor in nature as no negative impact is anticipated for the subject or surrounding area.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan and Zoning By-law No. 6593 is being maintained, the variance is 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 lot area of 335.0 square metres to be provided, notwithstanding the minimum required lot size of 450 metres squared. The intent of this provision is to ensure sufficient space is provided for amenity space, parking, and a proper building envelope.

Staff are of the opinion that the variance maintains the general intent of the By-law as the lot area is in keeping with the existing lot pattern and will provide sufficient for an appropriate building envelope, amenity space and parking. The variance is desirable for the development and minor in nature as no negative impact is anticipated for the subject or surrounding area.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan and Zoning By-law No. 6593 is being maintained, the variance is desirable for the development and minor in nature; therefore, **staff support the variance.**

Variance 3

The applicant is requesting a variance to allow a minimum front yard of 2.25 metres notwithstanding the minimum 6.0 metre front yard depth requirement. The intent of this provision is to allow adequate space for landscaped area and parking, to provide a consistent streetscape, and to allow for a proper building envelope for the site.

Staff are of the opinion that the general intent of the By-law is being met as the front yard is providing a consistent residential streetscape. As such, adequate space will still be provided in the front yard to accommodate adequate landscaped area. The variance is desirable for the development and minor in nature as the reduced front yard will maintain a consistent setback in comparison to the surrounding dwellings along Melbourne Street.

Based on the foregoing, the general intent of the Urban Hamilton Official Plan and Zoning By-law No. 6593 is being maintained, the variance is desirable for the development and minor in nature; **therefore, staff support the variance.**

Variance 4

The applicant is requesting a variance to allow a minimum easterly side yard width of 0.4 metres to be provided to the lot identified as Lot 1 and a variance to allow a minimum

westerly side width of 0.45 metres to be provided to the lot identified as Part 2, notwithstanding the minimum required side yard width of 1.2 metres. The intent of this provision is to provide adequate space for access, drainage, and to provide a proper building envelope for the subject lands. Staff defers any drainage concerns to Development Engineering Approvals.

Staff are of the opinion that the variance maintains the general intent of the By-law as the proposed side yard setback is consistent with the surrounding area and will provide space for access. The variance is desirable for the development and minor in nature as no negative impact is anticipated for the subject lands or surrounding area from the reduced side yard setback.

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 5

The applicant is requesting a variance to allow a minimum of 30% of the gross area of the front yard to be used for a landscaped area, notwithstanding the requirement that not less than 50% of the gross area of the front yard be used for a landscaped area, excluding concrete, asphalt, gravel, pavers or other similar materials. The intent of this provision is to provide a consistent residential streetscape and to allow for adequate area to provide the necessary landscaped area for the subject lands.

Staff are of the that the variance maintains the general intent of the Zoning By-law as sufficient landscaped area is being provided that is consistent with the surrounding streetscape and in keeping with the residential characteristic and will not be interrupted by parking as it is provided in the rear. The variance is desirable for the development and minor in nature as no negative impact is anticipated for the development 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 6

The applicant is requesting a variance to allow no on-site manoeuvring space to be provided, notwithstanding the requirement that the maneuvering space be provided and maintained only on the lot which the principal use, building, or structure is located. The intent of this provision is to ensure adequate space for the vehicle to manoeuvre to and from the parking space.

Staff are of the opinion that the variance maintains the general intent of the By-law as the 3.66 metre wide alleyway to the rear will provide space for the vehicle to maneuver in and out of the subject lands. The variance is desirable for the development and minor in nature as no negative impact is anticipated for the development 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 7

The applicant is seeking variances to allow for the eaves and gutters to project 0.4 metres into the required 0.4 metre side yard so that the eaves and gutters can be as close as 0.0 metres to the easterly side lot line, whereas the Zoning By-law requires that an eave or gutter may project into the required side yard not more than one half of its required width, being 0.225 metres. The general intent and purpose of the Zoning By-law requirements are to maintain the existing character and streetscape of the neighbourhood, to ensure the front yard provides sufficient landscape, amenity, and parking areas, and to for maintenance purposes.

Staff are of the opinion that the variance maintains the general intent of the By-law as the eaves and gutters will remain on the subject site. The variance is desirable for the development and minor in nature as no negative impact is anticipated for the development 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 8

The applicant is requesting a variance to allow uncovered front porch with a minimum 1.2 metre setback from the front lot line, notwithstanding the minimum required 1.5 metre setback from the front lot line. The intent of the By-law is to provide a distance separation from the porch and street, and to provide a consistent residential streetscape.

The variance is maintaining the general intent of the Zoning By-law as the porch is consistent with the surrounding lots and is in keeping with the residential streetscape. Staff acknowledge there is approximately 4.5 metres of boulevard right of way from the edge of the property line to the sidewalk that aides into the distance separation from the porch to the street. 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.**

Recommendation:

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

In conclusion, Staff recommends that the application be **approved, on condition.**

CONDITIONS: (If Approved)

1. That the applicant submits and implement a Cultural Heritage Impact Assessment to the satisfaction and approval of the Manager of Development Planning, Heritage and Design prior to any minor variance or consent to sever approval.

NOTE:

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

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

Building Division:

Lands Identified as Part 1:
(Westerly Lot)

1. The notice should be altered to delete variance # 3 entirely and replace it with the following:

A minimum front yard depth of 2.2 m shall be provided instead of the minimum required front yard depth of 6.0 m; and

Lands Identified as Part 2:
(Easterly Lot)

2. The notice should be altered to delete variance # 3 entirely and replace it with the following:

A minimum front yard depth of 2.2 m shall be provided instead of the minimum required front yard depth of 6.0 m; and

3. Any development or redevelopment is subject to the issuance of a building permit in the normal manner.
4. These variances are necessary to facilitate Land Severance Application HM/B-21: 81

Development Engineering:

The proposed 0.4m sideyard widths combine for a total side yard width of 0.80m which does not allow for the minimum width of 0.90m required to construct a drainage swale. Therefore, we recommend that the Minor Variance **be denied**. The submitted drawing appears to show a 0.45m setback in each side yard however the wording of the Public Notice Minor Variance asks for a 0.40m setback in each side yard.

See attached for additional comments.

From: [Denis Crankshaw](#)
To: [Committee of adjustment](#)
Subject: Application number: HM/A-21:335
Date: November 22, 2021 1:05:07 PM

Comments to the Committee of Adjustment

2021.11.22

Application number: HM/A-21:335

Subject Property: Municipal address 83 Melbourne St., Hamilton

There has been no significant change to this application since we first objected to the requested variances in October of this year. Comments on that application are appended below.

We object to the following variances and urge that they be not allowed:

- 1 Reduction in minimum lot width.
- 2 Reduction in minimum lot area.
- 3 Reduction in front yard depth.
- 4 Reduction in minimum side yard width.
- 5 Reduction in front yard landscaped area.
- 6 Lack of on-site manoeuvring space.
- 7 Projection of eaves and gutters beyond the specified requirements.
- 8 Increased encroachment of the uncovered porch onto the nearest street line.

The reasons for these objections were given in our original comments and will not be repeated in detail here, but are based on their impact on health, safety and accessibility.

We wish to be clear that we have no objection to the application for land severance (HM/B-21:81), nor to the construction of a new **two (2)** family dwelling on each lot. However, these objectives should be achieved without recourse to the requested variances.

Denis & Jean Crankshaw
76 Chatham St
Hamilton
ON

+1.905.527.0762

Comments to the Committee of Adjustment from October 2021

Application number: HM/A-21:335

Subject Property: Municipal address 83 Melbourne St., Hamilton

It is our opinion that none of the variances requested in this application should be allowed.

According to the Ontario Building Officials Association building codes “set minimum standards for construction to minimize the risk to the health and safety of the occupants of a building and to provide for the barrier-free accessibility into a building ...”. We note, in particular, the word minimum.

The gradual erosion of minimum standards by the allowance of a centimetre here and a percentage point there is referred to as the normalization of deviance; requirements are eased, the arbitrarily lowered standards become acceptable, until some catastrophic event – such as the rapid, uncontrollable spread of fire because buildings are set too close – forces a rethink. Better to think first.

Below we elaborate our objections to the numbered points; since the requested variances are identical for Part 1: (Westerly Lot) and Part 2: (Easterly Lot) comments are combined:

1. An almost 60% reduction in the minimum lot width has negative implications for the safety

of occupants and those providing services to the buildings by restricting the operational space. The covid-19 pandemic has emphasised peoples' requirements for space, thus such a change would have a negative impact on health. It should not be allowed.

2. We object to the reduction in minimum lot area for the same reasons given in 1 above.
3. Reduction in the front yard depth also poses safety issues; as well, it interferes with accessibility. It should not be allowed.
4. Reduction in the minimum side yard width breaks the requirements for safety, health and accessibility that we have already outlined. It should not be allowed.
5. Reduction of the front yard landscaped area has negative impacts on health, safety and accessibility. We believe that the impact on the health of occupants by the mechanism that we outlined in 1 above is the most serious. It should not be allowed.
6. The lack of onsite manoeuvring presents serious safety concerns not only for occupants, but also for others operating in the area of these lands. In addition, it impedes accessibility and should not be permitted.
7. The projection of eaves and gutters into a side yard that is already reduced below the minimum makes no sense from the standpoint of safety. It takes little imagination to predict the consequences of snow build-up when gutters are almost touching. This request should not be allowed.
8. The projection of a porch further into the street line than the requirements presents another challenge to safety, but in this case it is most likely to affect passers-by who, under certain circumstances, may be forced to walk in the road. It should not be permitted.

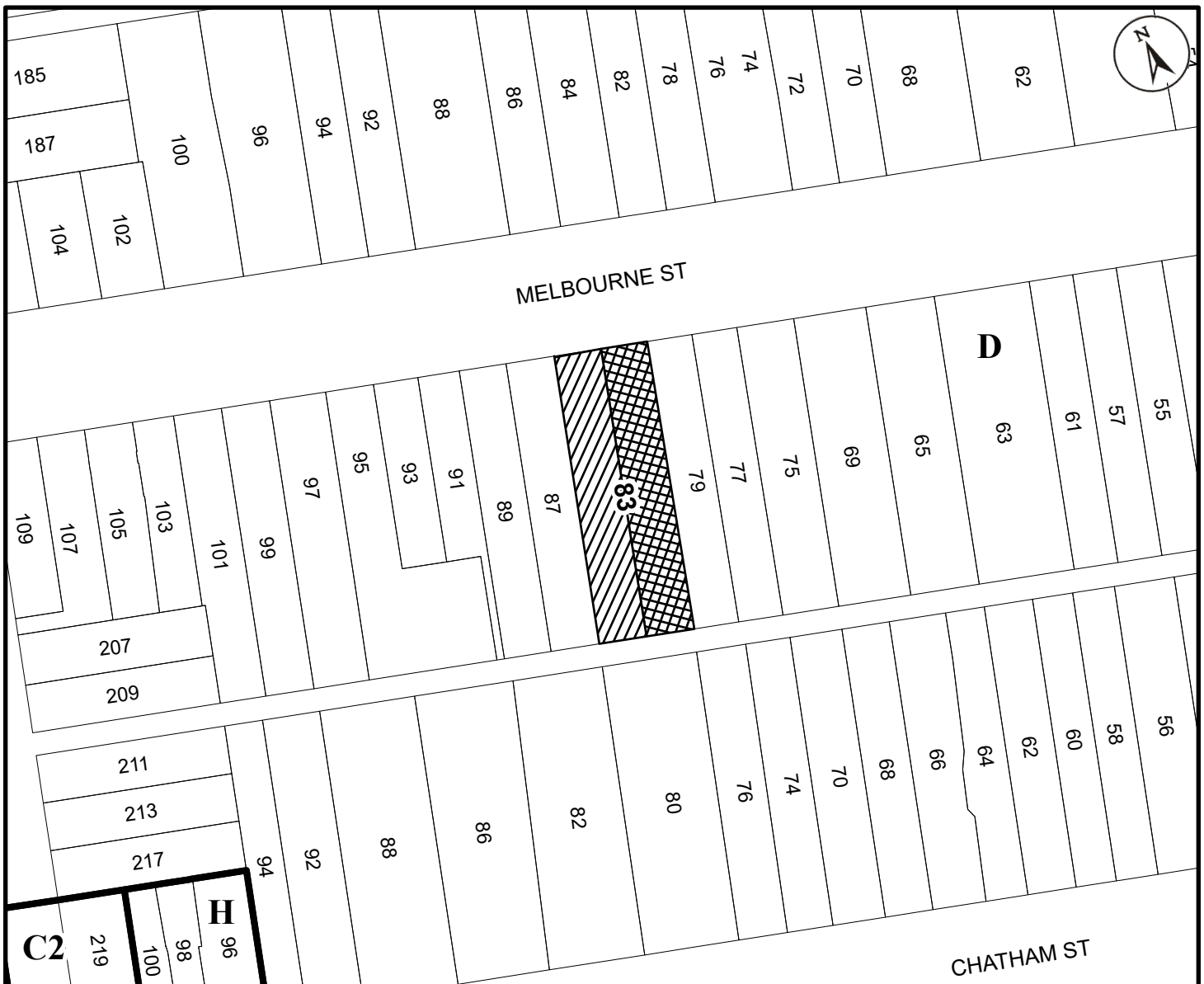
We also note from the Concept sketch of Lot 66 Block "F" that each of the proposed dwellings has a walkout basement. Will these basements suddenly become separate apartments if and when construction is complete? Should the application not be for construction of a new three (3) family dwelling on each lot?

HM/A-21:335 - 83 Melbourne St., Hamilton (Ward 1)

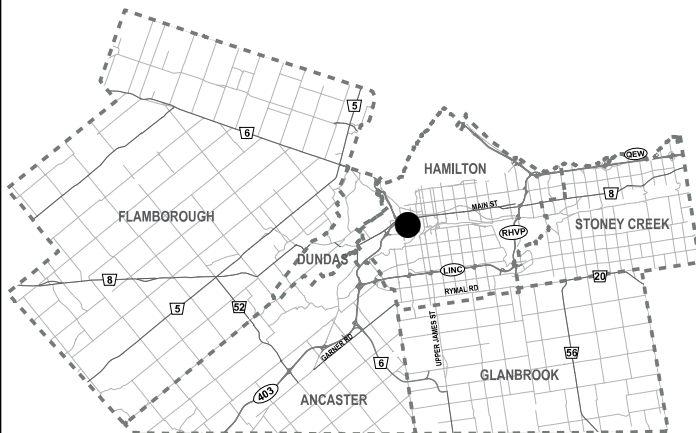


Adjacent City Owned Property: PIN 171380027

Real Estate Recommendations: Real Estate has no comments from a Corporate Real Estate perspective.



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

83 Melbourne Street, Hamilton (Ward 1)



Lands to be Retained



Lands to be Severed

File Name/Number:

HM/A-21:335

Date:

September 29, 2021

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/B-21:46 – 276 Dunsmure 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 pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system. (Committee of Adjustment Section)
2. The applicant shall ensure compliance with Ontario Building Code requirements regarding spatial separation distances of any structures to the satisfaction of the Planning and Economic Development Department (Building Division – Plan Examination Section).
3. The 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 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 "D" and "DE" Districts or alternatively apply for and receive final approval of a Zoning By-law Amendment as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
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).
6. The owner shall apply for and receive any required demolition permits in the normal manner to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section).
7. Gage Avenue South is an Arterial Road and Dunsmure Road is a Local Road. Without setting a precedent Transportation Planning will accept a reduced daylight triangle, the Applicant is to dedicate a 4.57 metres x 4.57 metres Daylighting Triangle to the right-of-way, as per the Council Approved Urban Official Plan:

Chapter C - City Wide Systems and Designations 4.5 Road Network Functional Classification; Daylighting Triangles 4.5.7.

8. The applicant / Owner shall dedicate sufficient lands at the corner of **Dunsmure Road** and **Gage Avenue South** to establish an adequately sized **Daylighting Triangle**. 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.
9. 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.
10. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)
11. The owner submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)

“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 Tourism, Culture and Sport (MTCS) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MTCS and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392).”

HM/B-21:46 – 276 Dunsmure Rd., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of these applications is to permit the conveyance of a parcel of land and to retain a parcel of land for residential purposes. The severed parcel of land is to be 13.4 metres by 29.59 metres with an area of 398 metres squared. The retained lands are to have a frontage of 83.7 metres and have an area of 7,052 metres square. The retained lands are subject to Site Plan Control application DA-19-107 and was conditionally approved on July 10, 2020.

The current severance application was tabled at the July 8, 2021 Committee of Adjustment hearing due to outstanding concerns that were to be addressed in a Cultural Heritage Impact Assessment that was not yet reviewed. Since then, Staff note that the Cultural Heritage concerns have been addressed.

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.3.5.1 and F.1.14.3.1 amongst others, are applicable and permit local commercial uses. Staff note that the proposed future use of the subject site is a semi-detached dwelling as noted by the applicant. The proposed severed parcel of land will be consistent with the surrounding lot fabric of the neighbourhood and will be fully serviced by municipal services. The lands will also have frontage onto a public street. Staff are of the opinion that the proposal meets the intent of the Official Plan and **support** the application.

Archaeology

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

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

These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the *Provincial Policy Statement* apply to the subject application. If this site plan is approved, Staff require that an acknowledgement be added to the site plan as per the following:

“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 Tourism, Culture and Sport (MTCS) should be notified immediately

(416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MTCS and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392)."

Former City of Hamilton Zoning By-law No. 6593

The subject lands are zoned "D" (Urban Protected Residential – One and Two Family Dwellings, etc.).

Recommendation:

In conclusion, **Staff recommends that the application be approved.**

Building Division:

1. Please note this application is subsequent to Minor Variance Application No. HM/A-21:212, which was granted by the Committee and which became final and binding on July 29th, 2021.
2. Please note this application is required to facilitate Site Plan Application No. DA-19-107.
3. Please note that Consent Application No. HM/B-21:404 has been submitted for the creation of two (2) lots, each containing one (1) half of a semi-detached two (2) family dwelling, for the portion of the lands to be severed as part of this application, and which is to be heard in conjunction with Minor Variance Application No. HM/A-21:404, for the lands known municipally as 260 Dunsmure Avenue, which includes variances for lot width and lot area.
4. No dimensions for the existing building located on the portion of the lands to be severed have been shown on the submitted survey; therefore, this Division cannot confirm zoning compliance. It is noted that the intention is to demolish the existing building located on the lot in order to facilitate Consent Application No. HM/B-21:404 and Minor Variance Application No. HM/A-21:404. Demolition of the existing building is subject to the issuance of a demolition permit in the normal manner.
5. No dimensions for the existing buildings located on the portion of the lands to be retained have been shown on the submitted survey; therefore, this Division cannot confirm zoning compliance. It is noted that the intention is to demolish the existing building(s) located on the lot in order to facilitate Site Plan Application No. DA-19-107. Demolition of the existing building(s) are subject to the issuance of a demolition permit in the normal manner.

CONDITIONAL UPON:

If the application is approved, we request the following condition(s):

1. The applicant shall ensure compliance with Ontario Building Code requirements regarding spatial separation distances of any structures to the satisfaction of the Planning and Economic Development Department (Building Division – Plan Examination Section).
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 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 “D” and “DE” Districts or alternatively apply for and receive final approval of a Zoning By-law Amendment 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 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 any required demolition permits in the normal manner to the satisfaction of 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:

Dunsmure Road

- 300mmø & 450mmø Combined Sanitary and Storm Sewers @ 0.7% & 0.8%
- 150mmø Watermain

Gage Avenue South

- 1200mmø Combined Sanitary and Storm Sewer @ 1.09%
- 300mmø Watermain

- 2) The proponent will be required to provide separate independent sewer and water services to the **severed and retained** parcels.
- 3) Low Impact Development (LID) strategies must be provided to address Stormwater Management, in accordance with City Standards.

- 4) Backwater valves shall be provided for the proposed sanitary services as the property is situated within the combined sewer area.
- 5) **Daylighting Triangle Requirements (Currently being dealt with under Site Plan DA-19-107):**
- 6)
 - A Right-of-Way Impact Assessment was submitted by the Owner / Applicant with respect to the originally required 12.19m x 12.19m daylighting triangle at the intersection of Dunsmure Road and Gage Avenue South. Transportation Planning has approved the **reduced 4.57m x 4.57m** daylighting triangle at the intersection of Dunsmure Road and Gage Avenue South.
 - 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 at the Site Plan Control application stage. Please note that final road widening and daylighting triangle dimensions to be determined by **Transportation Planning**.
- 7) If existing stubs are to be re-used, then we require a CCTV video inspection and associated fee to determine the condition of the stubs and whether they require replacement. If there are proposed service laterals within the municipal right-of-way, then the approximate road cut boundaries shall be displayed on the plans and an excavation permit and associated fee shall be applied for with our department.
- 8) All unused entrances shall be closed and reinstated in accordance with City standards and at the Owners / Applicants expense.
- 9) Existing utilities (hydro poles, fire hydrant, bell boxes, etc.) shall be set back a minimum 1.2m from any proposed / existing site entrance, all at the Owners expense.

Recommendations:

1. The applicant / Owner shall dedicate sufficient lands at the corner of **Dunsmure Road** and **Gage Avenue South** to establish an adequately sized **Daylighting Triangle**. 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.
2. 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:

1. Transportation Planning has no objection to the land severance application, provided the following conditions are met:
 - a. Gage Avenue South is an Arterial Road and Dunsmure Road is a Local Road. Without setting a precedent Transportation Planning will accept a reduced daylight triangle, the Applicant is to dedicate a 4.57 metres x 4.57 metres Daylighting Triangle to the right-of-way, as per the Council Approved Urban Official Plan: Chapter C - City Wide Systems and Designations 4.5 Road Network Functional Classification; Daylighting Triangles 4.5.7.

See attached for additional comments.



Stephen Clark, 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 – Stephen.Clark@hamilton.ca

Hamilton

Forestry & Horticulture Section
Environmental Services Division
Public Works Department

Date: November 16, 2021

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

From: Stephen Clark, Urban Forest Health Technician

Subject: 276 Dunsmure Road, Hamilton
File # HM/B-21:46

PREAMBLE

In response to your Agenda listing for the upcoming meeting on November 25th, 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

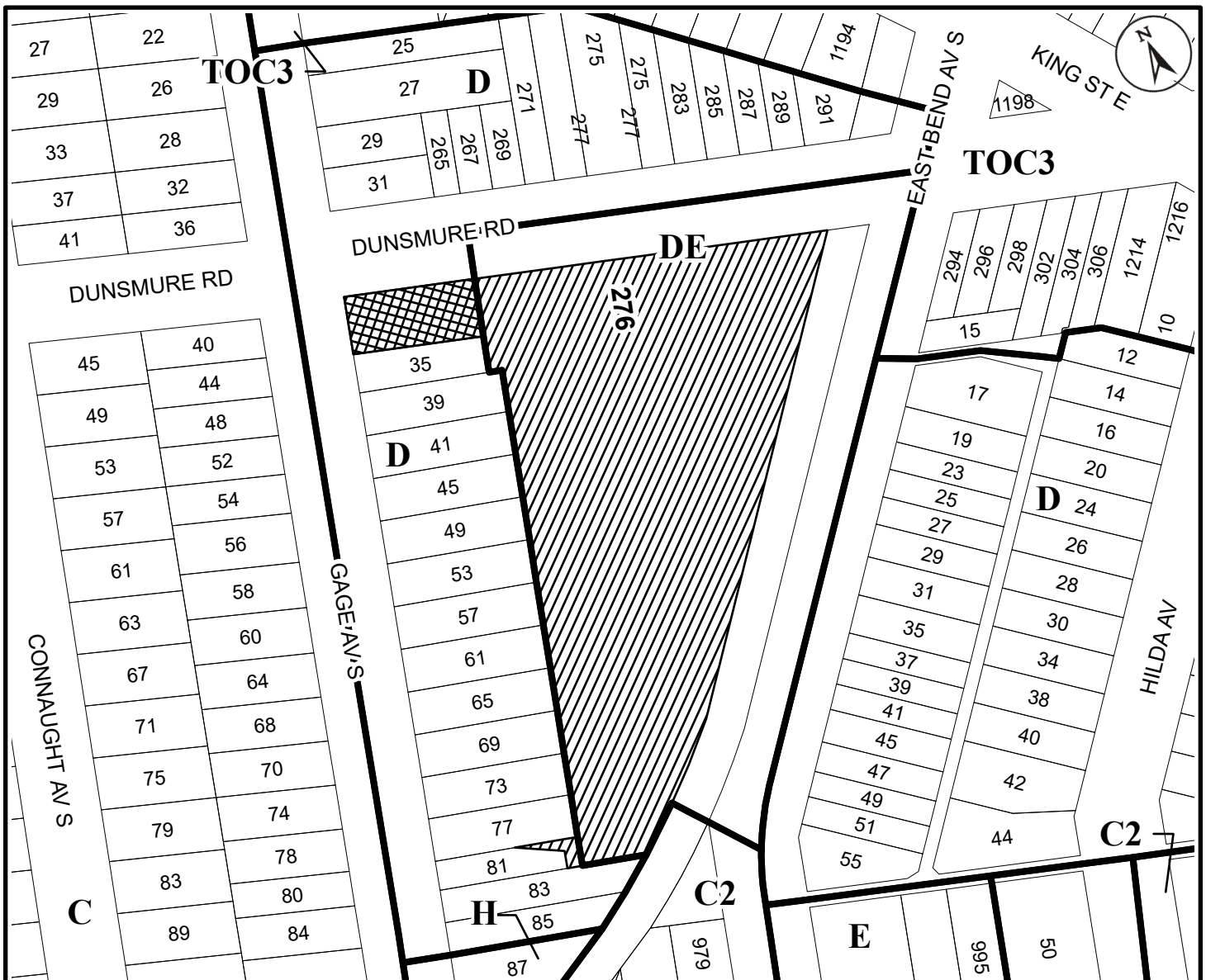
- There are no Municipal Tree Assets on site; therefore, a Tree Management Plan will not be required.
- No Landscape plan required.
- Forestry has no concerns or conditions regarding this application.

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.

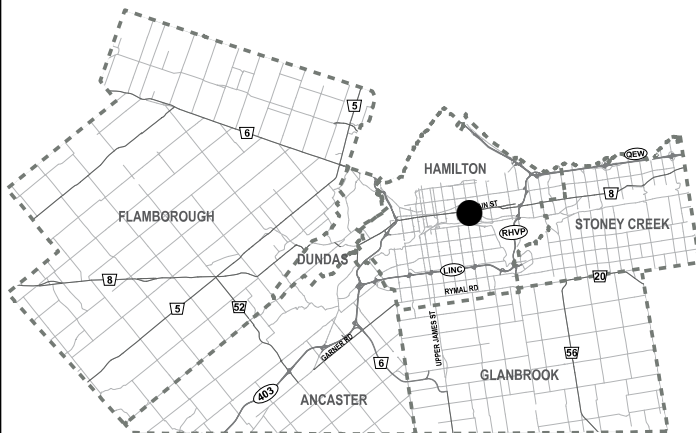
Regards,

A handwritten signature in blue ink that reads "Stephen Clark". The signature is written in a cursive, flowing style.

Stephen Clark
Urban Forest Health Technician



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

276 Dunsmure Road, Hamilton (Ward 3)



Lands to be Retained



Lands to be Severed

File Name/Number:

HM/B-21:46

Date:

June 30, 2021

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/A-21:383 – 234 MacNab St. 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 approve the application, an approval should be subject to the following condition(s):

1. That the Owner/Agent apply for and receive an encroachment agreement for the front porch subject to the approval of the Manager of Planning, Heritage and Urban Design.

HM/A-21:383 – 234 MacNab St. N., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of this application is to permit the construction of a new third storey dormer addition, a new roofed-over unenclosed porch in the front and rear yards and to convert the semi-detached dwelling to contain a Secondary Dwelling Unit, notwithstanding the variances below.

Urban Hamilton Official Plan

The subject property is located within the West Harbour (Setting Sail) Secondary Plan Area which is subject to Ontario Land 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.

West Harbour (Setting Sail) Secondary Plan

The subject site is designated “Low Density Residential” on Schedule M-2 General Land Use within the West Harbour (Setting Sail) Secondary Plan. The subject site is also identified within a “Stable Area” within Schedule M-1 Planning Area and Sub Areas within the Secondary Plan. Policies A.6.3.3.1.12.ii), and A.6.3.7 amongst others, are applicable and permit a semi-detached dwelling and Secondary Dwelling Units.

Cultural Heritage

The subject property includes a circa 1900 semi-detached dwelling and is included in the City’s Inventory of Heritage Buildings. The subject property is also located within the Central Established Historical Neighbourhood and adjacent to the properties included in the City’s Inventory of Heritage Buildings and Register of Property of Cultural Heritage Value or Interest.

The applicant proposes to construct a new third storey dormer addition, a new roofed-over unenclosed porch in the front and rear yards, and to convert the semi-detached dwelling to contain a Secondary Dwelling Unit.

Notwithstanding that the subject property is included in the City’s Inventory of Heritage Buildings and located within the Central Established Historical Neighbourhood, staff are

of the opinion that the heritage attributes of the heritage property will be conserved. Staff have no further comments on the application as circulated.

City of Hamilton Zoning By-law No. 6593

The subject lands are zoned “D” (Urban Protected Residential - One and Two Family Dwellings) District, which permits semi-detached dwellings and Secondary Dwelling Units, as per Section 19.

Variance 1

The applicant is requesting a variance to allow for a northerly side yard width of 0.8 metres to be provided, notwithstanding the minimum required 2.7 metres. The intent of this provision is to ensure adequate access and drainage and to provide a proper building envelope and consistent streetscape. Staff defer any drainage concerns to Development Engineering Approvals.

Staff note that the variance is to recognize an existing condition. Staff are of the opinion that the variance is desirable for the development of the site and is minor in nature as no negative impact is anticipated to the subject lands or surrounding area.

Based on the foregoing, the general intent of the Official Plan 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 requesting a variance to allow for a southerly side yard width of 0.0 metres to be provided, notwithstanding the minimum required 2.7 metres. The intent of this provision is to ensure adequate access and drainage and to provide a proper building envelope and consistent streetscape. Staff defer any drainage concerns to Development Engineering Approvals.

Staff note that the variance is to recognize an existing condition that is being replaced in the rear yard. Staff are of the opinion that the variance is desirable for the development of the site and is minor in nature as no negative impact is anticipated to the subject lands or surrounding area.

Based on the foregoing, the general intent of the Official Plan 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 requesting a variance to allow the roofed-over unenclosed porch to be permitted to project a maximum of 6.0 metres into the required front yard and provide a

minimum setback of 0.0 metres from the front lot line, notwithstanding the maximum 3.0 metre projection permitted and minimum 1.5 metre setback required from the front lot line. The intent of this provision is to ensure adequate spatial distance is provided from the street line to the porch and to provide a consistent low density residential streetscape. Staff note as per the submitted site plan that the existing porch is being removed and replaced. Staff are of the opinion that the variance will be recognizing an existing condition that has existed prior and is being renovated, still in line with the adjacent semi-detached porch. Staff note that the existing porch and new porch encroach onto the public boulevard. As a condition of approval, staff request that the applicant apply for and receive an encroachment agreement to permit the porch.

Staff are of the opinion that the variance is desirable for the development of the site and is minor in nature as no negative impact is anticipated to the subject lands or surrounding area.

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

Variance 4

The applicant is requesting a variance to allow 0% of the gross area of the front yard to be used for a landscaped area, notwithstanding the requirement that not less than 50% of the gross area of the front yard be used for a landscaped area, excluding concrete, asphalt, gravel, pavers or other similar materials. The intent of this provision is to provide a consistent residential streetscape and to allow for adequate area to provide the necessary landscaped area for the subject lands.

The variance is to recognize an existing condition. The variance is desirable for the development and minor in nature as no negative impact is anticipated for the development or surrounding area from the existing landscaped area remaining.

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 5

The applicant is requesting a variance to allow no parking spaces to be provided on-site, notwithstanding the minimum required two parking spaces. The intent of the provision is to ensure adequate parking is being provided on-site.

The variance is to recognize an existing condition. The variance is desirable for the development and minor in nature as no negative impact is anticipated for the development or surrounding area from the existing landscaped area remaining.

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.**

Recommendation:

Based on the preceding information, the requested variances maintain the general intent and purpose of the Regional Official Plan, City of Hamilton 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.**

CONDITIONS: (If Approved)

1. That the Owner/Agent apply for and receive an encroachment agreement for the front porch subject to the approval of the Manager of Planning, Heritage and Urban Design.

Building Division:

1. A building permit is required in the normal manner for the proposed construction and to legally establish the new Secondary Dwelling Unit.
2. A Residential Boulevard Parking Agreement with the Hamilton Municipal Parking Authority may be required for the parking space shown on the MacNab Street North road allowance.

Development Engineering:

The proposed northerly side yard setback of 0.80m and southerly side yard setback of 0.0m appears to be to recognize the location of the existing dwelling. Therefore, provided that the existing drainage pattern is maintained, Development Approvals has no comments.

See attached for additional comments.

From: [sarah Kovacs](#)
To: [Committee of adjustment](#)
Subject: RE: minor variance application no.HM/A-21:383
Date: November 22, 2021 12:42:48 PM

Hello,

I am submitting my written comments in response to the notice I received re: HM/A-21:383 in order to preserve my appeal rights and express my concerns about the proposal.

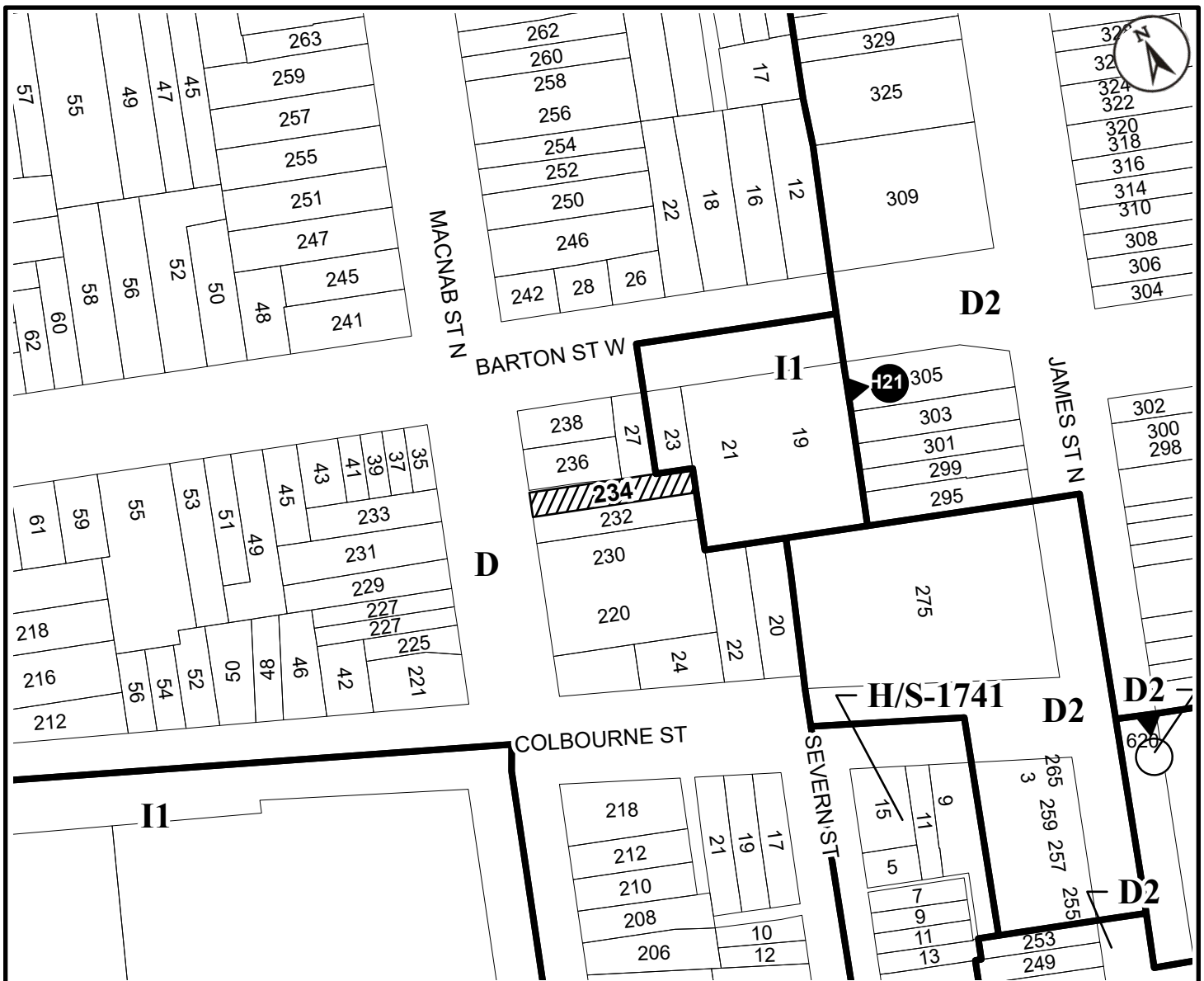
In converting the current single family dwelling to a duplex, the proponent should not be exempt from the reasonable property standard considerations to which other Hamilton residences are subject. This application, which looks to add significant market value to the property through this variance should also result in the property meeting the equivalent standards for other properties in the area.

Specifically permitting no landscaped area in the front yard will prevent natural water absorption and create significant storm water runoff from the property. As you know, storm water run off is a significant problem in the lower city and no dwellings should be permitted to allow significant water runoff into the street basins.

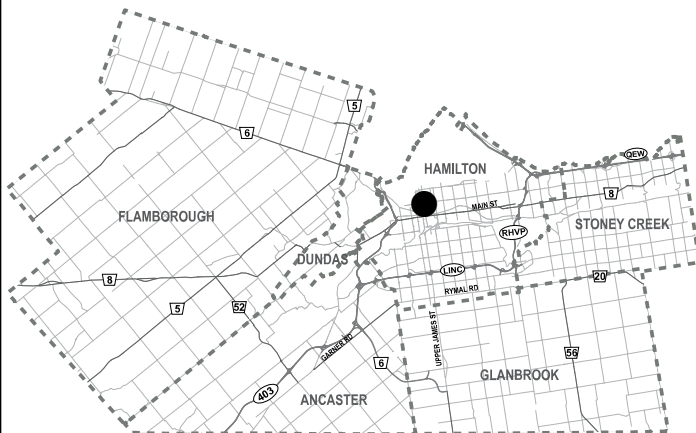
Further, the request to exempt parking spaces on site from the required two down to zero is not normally an issue for me. However the plans that are attached to the notice show that a parking pad will be included in the front area in lieu of the landscaped area at the front of the property. It is my understanding that the committee of adjustment is not concerned with parking pads and I ask to be directed to the correct city of Hamilton office to discuss my concerns about privatised parking. The curb cut will remove one on-street parking space for any street resident with a permit, this is not reasonable or equitable.

Thank you.

Sarah Kovacs (she/her)
233 MacNab St. North



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



234 MacNab Street North, Hamilton
(Ward 2)

File Name/Number:

HM/A-21:383

Date:

November 16, 2021

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

HM/B-21:97 – 386 Wilcox St., Hamilton

Consolidation Report

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

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

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system. (Committee of Adjustment Section)
2. That the Owner/Agent apply for and receive final approval of a Zoning By-law Amendment application to add a Holding Provision on the retained portion of lands to the satisfaction of the Director of Planning and Chief Planner. The Holding Provision should be applied for as follows:
 - a. Notwithstanding Section 11.5 of this By-law, on those lands zoned General Industrial (M5, 433) Zone as shown on maps 749, 750, 751, 789, 790, 791, 792, 830, 831, 832, 872, 873 of Schedule "A" – Zoning Maps development shall be restricted in accordance with the following:
 - i. For such time as the Holding Provision is in place, these lands shall only be used for permitted uses, buildings and structures listed in the M5, 433 Zone. Additions and alterations to existing buildings may be increased by a maximum of 5%.
 - ii. Regulation
 1. That the Owner/Agent apply for and receive approval of a Zoning By-law Amendment application to add a Holding Provision to the retained portion of lands, to the satisfaction of the Manager, Development Planning, Heritage and Design to restrict development until such time as the following are satisfied:
 2. The owner submitting and implement a Concept Plan for the retained lands to the satisfaction of the Director of Planning. The Concept Plan shall include guidance on:
 - a. Precincts and the distribution of land uses and buildings within each precinct;

- b. Road and rail network; and
 - c. Phasing.
 - 3. The owner provide a Master Servicing Plan, including Transportation Master Plan, for the retained and severed portion of the lands to the satisfaction of the Senior Director of Growth Management. Further, the owner shall develop a terms of reference to complete the Master Servicing Plan & Transportation Master Plan to the satisfaction of the Director of Growth Management.
 - 4. The owner providing an Implementation Strategy to illustrate how the Concept Plan and Master Servicing Plan, including a Transportation Master Plan, may be implemented through additional Planning Act approvals such as Draft Plan of Subdivision, Draft Plan of Condominium and/or applications for Site Plan Approval
 - 5. The owner enter into and register on title a Joint use agreement and/or development agreement (if required) to implement the above requirements, to the satisfaction of the Manager of Engineering Approvals Section.
 - 6. The owner submitting, receiving approval of an Implementation Strategy to illustrate how the Concept Plan and Master Servicing Plan may be implemented through additional *Planning Act* approvals such as Draft Plan of Subdivision, Draft Plan of Condominium and/or applications for Site Plan Approval to the satisfaction of the Director of Planning and Chief Planner and Director of Growth Management.
-
- 3. That the owner provides adequate reciprocal access and servicing easements between the severed and retained lands to the satisfaction of the Manager of Engineering Approvals Section, if required.
 - 4. That the owner register on the title of the lands an adequate storm drainage easement in the City of Hamilton's favour centred over the existing 2850mm x 2100mm storm outfall to the satisfaction of, and if required by, the Manager of Engineering Approvals.
 - 5. That the owner enter into and register on title a Development Agreement and/or Joint Use Agreement, if necessary, to the satisfaction of the Manager of Engineering Approvals Section.
 - 6. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)

7. The owner submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)

“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-21:97 – 386 Wilcox St., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of the application is to create to establish a long-term lease in excess of 21 years to allow Stelco to continue to operate its cold steel rolling plant. The retained lands (287 hectares) will be available for future redevelopment purposes.

The applicants have also submitted Severance application HM/B-21:98 to sever the lands from the larger parcel and should that application become finalized the application for the long term lease will no longer be required.

The purpose of these application is to create a new parcel of land for a long-term lease purposes in excess of 21 years where the severed lands will be used for steel manufacturing. Application HM/B-21:98 is to permit the conveyance of a parcel of land for manufacturing industrial use and to retain a parcel of land for industrial and employment uses. The existing buildings on retained lands are to be demolished and redeveloped at a later time.

The intent of the long term lease, as described in the applicant cover letter, is to allow for Stelco to continue to operate its cold steel rolling plant, which would leave approximately 287 hectares of the retained lands to be available for future redevelopment. Should application HM/B-21:98 become finalized the application for the long term lease will no longer be required.

Urban Hamilton Official Plan

The subject property is identified as “Employment Areas” within Schedule “E” and is designated “Industrial Land” within Schedule “E-1” in the Urban Hamilton Official Plan. Policy F.1.14.3.5 and F1.14.3.7, among others, apply to the subject lands. Staff note that the consent application for the severed lands is to create a new parcel of land for long term lease purposes in excess of 21 years. Staff note that this will not alter the character of the neighbourhood or change the existing streetscape. Staff are of the opinion that the severed and retained lands will comply with the policy of the Official Plan and are in conformity with the existing Zoning By-law. Both the severed and retained parcels of land will have frontage onto a public road and will be fully serviced by municipal services.

Archaeology

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

- 1) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody;
- 2) In areas of pioneer EuroCanadian settlement; and
- 3) Along historic transportation routes.

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

“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).”

Cultural Heritage

The subject property consists of the Stelco production yards and are included in the City’s Inventory of Heritage Buildings. The subject property is also adjacent to the Procter and Gamble Company building at 1141 Burlington Street East and the Oliver Chilled Plow Works Office at 208 Hillyard Street, also included in the City’s Inventory.

The applicant proposes to create a new parcel for long-term lease purposes. The severed lands will be used for steel manufacturing operations.

Staff request that the applicant continue the existing practice of contacting Cultural Heritage Planning staff in advance of the demolition of any buildings on site to provide documentation of the structures prior to demolition.

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

The subject lands are zoned General Industrial (M5, 433) Zone, which permits a range of industrial uses. No changes to the land use or built form is being proposed.

Recommendation:

In conclusion, Staff recommends that the application be **approved**.

CONDITIONS: (If Approved)

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 in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.

Building Division:

1. The proposed Consent is to create a new parcel for long-term lease purposes, in excess of 21 years.
2. Please note this application is to be heard in conjunction with Consent Application No. HM/B-21:98.
3. The M5, E433 zoning district permits a variety of employment uses as per Section 9.5.1 of Hamilton Zoning By-law No. 05-200. It is noted that the portion of the lands to be severed are to be used for the purpose of continuing to operate a Stelco cold steel rolling plant. Manufacturing is permitted in the current "M5, E433" Zone, and is defined in Hamilton Zoning By-law No. 05-200 as follows:

"Shall mean the production, fabrication, compounding, processing, packaging, crafting, bottling, packing, recycling or assembling of raw or semi-processed or fully-processed goods or materials, and shall include but not be limited to a Biotechnological Establishment, Computer, Dry Cleaning Plant, Electronic and Data Processing Establishment, Pharmaceutical and Medical Establishment, Printing Establishment and/or a Science and Technology Establishment. Manufacturing may also include a Private Power Generation Facility as an accessory use, but shall not include a Waste Management Facility or Alcohol Production Facility

The applicant may wish to ensure that the proposed uses for the portion of the lands to be retained, and which are indicated as being redeveloped for employment purposes, are permitted in accordance with Section 9.5.1.

4. This Division has no concerns with the proposed application.

Development Engineering:

Information:

There are sanitary capacity constraints in the downstream conveyance system and WWTP. This has prompted the request for a master servicing plan to be included with an "H" holding provision in order to provide the City with sufficient details and strategies for future redevelopment of lands.

We have reviewed the draft conditions provided by the proponent and require some revisions. See recommendations.

Recommendations:

1. That the Owner/Agent apply for and receive final approval of a Zoning By-law Amendment application to add a Holding Provision on the retained portion of lands to the satisfaction of the Director of Planning and Chief Planner. The Holding Provision should be applied for as follows:
 - b. Notwithstanding Section 11.5 of this By-law, on those lands zoned General Industrial (M5, 433) Zone as shown on maps 749, 750, 751, 789, 790, 791, 792, 830, 831, 832, 872, 873 of Schedule "A" – Zoning Maps development shall be restricted in accordance with the following:
 - i. For such time as the Holding Provision is in place, these lands shall only be used for permitted uses, buildings and structures listed in the M5, 433 Zone. Additions and alterations to existing buildings may be increased by a maximum of 5%.
 - ii. Regulation
 1. That the Owner/Agent apply for and receive approval of a Zoning By-law Amendment application to add a Holding Provision to the retained portion of lands, to the satisfaction of the Manager, Development Planning, Heritage and Design to restrict development until such time as the following are satisfied:
 2. The owner submitting and implement a Concept Plan for the retained lands to the satisfaction of the Director of Planning. The Concept Plan shall include guidance on:
 - a. Precincts and the distribution of land uses and buildings within each precinct;
 - b. Road and rail network; and
 - c. Phasing.
 3. The owner provide a Master Servicing Plan, including Transportation Master Plan, for the retained and severed portion of the lands to the satisfaction of the Senior Director of Growth Management. Further, the owner shall develop a terms of reference to complete the Master Servicing Plan & Transportation Master Plan to the satisfaction of the Director of Growth Management.
 4. The owner providing an Implementation Strategy to illustrate how the Concept Plan and Master Servicing Plan, including

- a Transportation Master Plan, may be implemented through additional Planning Act approvals such as Draft Plan of Subdivision, Draft Plan of Condominium and/or applications for Site Plan Approval
5. The owner enter into and register on title a Joint use agreement and/or development agreement (if required) to implement the above requirements, to the satisfaction of the Manager of Engineering Approvals Section.
 6. The owner submitting, receiving approval of an Implementation Strategy to illustrate how the Concept Plan and Master Servicing Plan may be implemented through additional *Planning Act* approvals such as Draft Plan of Subdivision, Draft Plan of Condominium and/or applications for Site Plan Approval to the satisfaction of the Director of Planning and Chief Planner and Director of Growth Management.
2. That the owner provides adequate reciprocal access and servicing easements between the severed and retained lands to the satisfaction of the Manager of Engineering Approvals Section, if required.
 3. That the owner register on the title of the lands an adequate storm drainage easement in the City of Hamilton's favour centred over the existing 2850mm x 2100mm storm outfall to the satisfaction of, and if required by, the Manager of Engineering Approvals.
 4. That the owner enter into **and register on title** a Development Agreement and/or Joint Use Agreement, if necessary, to the satisfaction of the Manager of Engineering Approvals Section.

Transportation Planning:

Transportation Planning has no objection to the land severance application.

See attached for additional comments.



Stephen Clark, Urban Forest Health Technician
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Hamilton

Forestry & Horticulture Section
Environmental Services Division
Public Works Department

Date: November 11, 2021

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

From: Stephen Clark, Urban Forest Health Technician

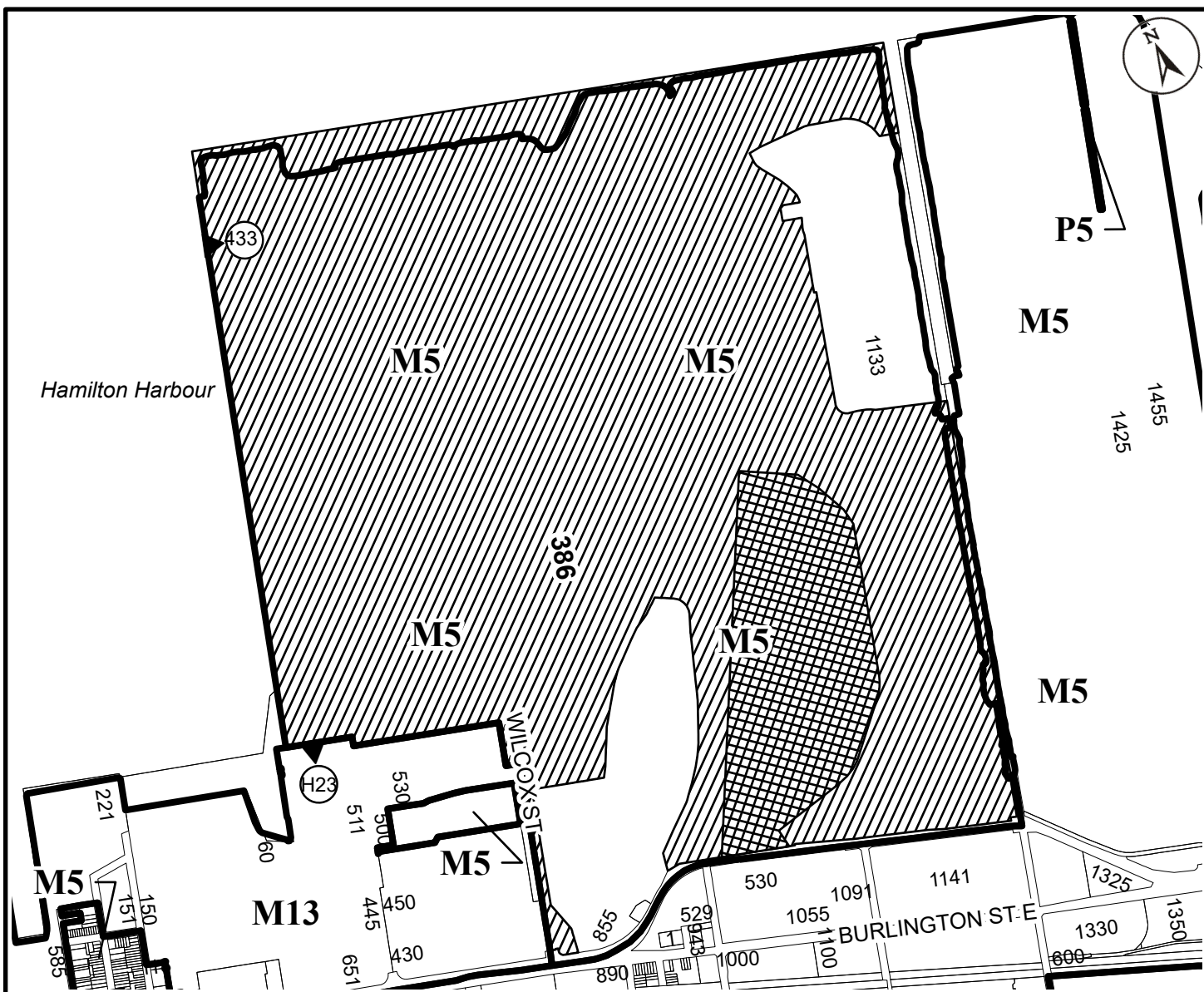
Subject: 386 Wilcox Street, Hamilton
File: HM/B-21:97

Forestry has no concerns with this application.

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

Regards,

Stephen Clark
Urban Forest Health Technician



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

386 Wilcox Street, Hamilton (Ward 3)



Lands to be Retained



Lands to be Severed

File Name/Number:

HM/B-21:97

Date:

November 16, 2021

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/B-21:98 – 386 Wilcox St., Hamilton

Consolidation Report

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

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

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system. (Committee of Adjustment Section)
2. That the Owner/Agent apply for and receive final approval of a Zoning By-law Amendment application to add a Holding Provision on the retained portion of lands to the satisfaction of the Director of Planning and Chief Planner. The Holding Provision should be applied for as follows:
 - a. Notwithstanding Section 11.5 of this By-law, on those lands zoned General Industrial (M5, 433) Zone as shown on maps 749, 750, 751, 789, 790, 791, 792, 830, 831, 832, 872, 873 of Schedule "A" – Zoning Maps development shall be restricted in accordance with the following:
 - i. For such time as the Holding Provision is in place, these lands shall only be used for permitted uses, buildings and structures listed in the M5, 433 Zone. Additions and alterations to existing buildings may be increased by a maximum of 5%.
 - ii. Regulation
 1. That the Owner/Agent apply for and receive approval of a Zoning By-law Amendment application to add a Holding Provision to the retained portion of lands, to the satisfaction of the Manager, Development Planning, Heritage and Design to restrict development until such time as the following are satisfied:
 2. The owner submitting and implement a Concept Plan for the retained lands to the satisfaction of the Director of Planning. The Concept Plan shall include guidance on:
 - a. Precincts and the distribution of land uses and buildings within each precinct;

- b. Road and rail network; and
 - c. Phasing.
 - 3. The owner provide a Master Servicing Plan, including Transportation Master Plan, for the retained and severed portion of the lands to the satisfaction of the Senior Director of Growth Management. Further, the owner shall develop a terms of reference to complete the Master Servicing Plan & Transportation Master Plan to the satisfaction of the Director of Growth Management.
 - 4. The owner providing an Implementation Strategy to illustrate how the Concept Plan and Master Servicing Plan, including a Transportation Master Plan, may be implemented through additional Planning Act approvals such as Draft Plan of Subdivision, Draft Plan of Condominium and/or applications for Site Plan Approval
 - 5. The owner enter into and register on title a Joint use agreement and/or development agreement (if required) to implement the above requirements, to the satisfaction of the Manager of Engineering Approvals Section.
 - 6. The owner submitting, receiving approval of an Implementation Strategy to illustrate how the Concept Plan and Master Servicing Plan may be implemented through additional *Planning Act* approvals such as Draft Plan of Subdivision, Draft Plan of Condominium and/or applications for Site Plan Approval to the satisfaction of the Director of Planning and Chief Planner and Director of Growth Management.
- 3. The applicant shall ensure compliance with Ontario Building Code requirements regarding spatial separation distances of any structures to the satisfaction of the Planning and Economic Development Department (Building Division – Plan Examination Section).
 - 4. The applicant shall provide confirmation of the existing uses on the lands to be retained in order to determine compliance with the permitted uses of the “M5, E433” Zone or alternatively apply for and receive final approval of a Zoning By-law Amendment as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
 - 5. 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.
 - 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 apply for and receive any required building permits in the normal manner to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section).
8. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)
9. That the owner register on the title of the lands an adequate storm drainage easement in the City of Hamilton's favour centred over the existing 2850mm x 2100mm storm outfall to the satisfaction of, and if required by, the Manager of Engineering Approvals.
10. That the owner provides adequate reciprocal access and servicing easements between the severed and retained lands to the satisfaction of the Manager of Engineering Approvals Section, if required.
11. That the owner enters into and register on title a Development Agreement and/or Joint Use Agreement, if necessary, to the satisfaction of the Manager of Engineering Approvals Section.
12. The owner submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)

Notes:

1. Based on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be retained will remain as **386 Wilcox Street, Hamilton**, and the lands to be conveyed will be assigned the address of **1055 Industrial Drive, Hamilton**.

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.

2. "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-21:98 – 386 Wilcox St., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Urban

The purpose of the application is to sever a 31.78 hectare portion of the subject lands and to retain 287.12 hectares of land for industrial purposes.

Urban Hamilton Official Plan

The subject property is identified as “Employment Areas” within Schedule “E” and is designated “Industrial Land” within Schedule “E-1” in the Urban Hamilton Official Plan. Policy F.1.14.3.5 and F1.14.3.7, among others, apply to the subject lands.

The proposed severance will not alter the character of the neighbourhood or change the existing streetscape. Staff are of the opinion that the severed and retained lands will comply with the policy of the Official Plan and are in conformity with the existing Zoning By-law. Both the severed and retained parcels of land will have frontage onto a public road and will be fully serviced by municipal services.

The proposed land severance will allow for the continued operation of Stelco’s cold steel rolling plant and the long term redevelopment of the retained lands subject to the completion of a Master Plan concept.

As a condition of approval to Consent application HM/B-21:98, the Owner will be required to apply for and receive approval of a Zoning By-law Amendment application to add a Holding Provision to the retained portion of the lands requiring the completion of a Master Planning process including the development of a concept plan, site servicing strategy and implementation strategy.

Archaeology

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

- 1) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody;
- 2) In areas of pioneer EuroCanadian settlement; and
- 3) Along historic transportation routes.

These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the Planning Act and Section 2.6.2 of the Provincial Policy Statement apply to the

subject application. If this consent is approved, the proponent must be advised by the Committee of Adjustment as follows:

“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).”

Cultural Heritage

The subject property consists of the Stelco production yards and are included in the City's Inventory of Heritage Buildings. The subject property is also adjacent to the Procter and Gamble Company building at 1141 Burlington Street East and the Oliver Chilled Plow Works Office at 208 Hillyard Street, also included in the City's Inventory.

The applicant proposes to permit the conveyance of a parcel of land for a manufacturing industrial use and to retain a parcel of land for industrial and employment uses. Existing buildings on retained lands to be demolished and redeveloped.

Staff request that the applicant continue the existing practice of contacting Cultural Heritage Planning staff in advance of the demolition of any buildings on site to provide documentation of the structures prior to demolition.

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

The subject lands are zoned General Industrial (M5, 433) Zone, which permits a range of industrial uses. No changes to the land use or built form is being proposed.

Recommendation:

In conclusion, Staff recommends that the application be **approved with conditions**.

CONDITIONS: (If Approved)

1. That the Owner/Agent apply for and receive final approval of a Zoning By-law Amendment application to add a Holding Provision on the retained portion of lands to the satisfaction of the Director of Planning and Chief Planner. The Holding Provision should be applied for as follows:
 - a. Notwithstanding Section 11.5 of this By-law, on those lands zoned General Industrial (M5, 433) Zone as shown on maps 749, 750, 751, 789, 790, 791, 792, 830, 831, 832, 872, 873 of Schedule “A” – Zoning Maps development shall be restricted in accordance with the following:

- i. For such time as the Holding Provision is in place, these lands shall only be used for permitted uses, buildings and structures listed in the M5, 433 Zone. Additions and alterations to existing buildings may be increased by a maximum of 5%.
- ii. Regulations
 1. That the Owner/Agent apply for and receive approval of a Zoning By-law Amendment application to add a Holding Provision to the retained portion of lands, to the satisfaction of the Manager, Development Planning, Heritage and Design to restrict development until such time as the following are satisfied:
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 - a. Precincts and the distribution of land uses and buildings within each precinct;
 - b. Road and rail network; and
 - c. Phasing.
 3. The owner submitting, receiving approval and implementation of a Site Servicing Strategy for the retained lands to the satisfaction of the Senior Director of Growth Management.
 4. The owner submitting, receiving approval and implementation of an Implementation Strategy to illustrate how the Concept Plan and Site Servicing Strategy may be implemented through additional *Planning Act* approvals such as Draft Plan of Subdivision, Draft Plan of Condominium and/or applications for Site Plan Approval to the satisfaction of the Director of Planning and Chief Planner and Senior Director of Growth Management.

Building Division:

1. Please note this application is to be heard in conjunction with Consent Application No. HM/B-21:97.
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 dimensions for the existing building located on the portion of the lands to be severed/retained have been shown on the submitted survey; therefore, this Division cannot confirm zoning compliance.
4. From the materials provided, it is unclear if all or a portion of an existing building on the lot straddles the proposed property line. Demolition of all or an appropriate portion of the building straddling the proposed property line will be required as a condition of consent. Such demolition is subject to a demolition permit issued in the normal manner.
5. The submitted application indicates the easements on the severed and retained land will be required to maintain existing access to the properties. Please note that legally established rights of ways shall be properly registered on title should access between properties (lands to be conveyed and retained) and sharing of the parking areas be provided.
6. The M5, E433 zoning district permits a variety of employment uses as per Section 9.5.1 of Hamilton Zoning By-law No. 05-200. It is noted that the portion of the lands to be severed are to be used for the purpose of continuing to operate a Stelco cold steel rolling plant. Manufacturing is permitted in the current "M5, E433" Zone, and is defined in Hamilton Zoning By-law No. 05-200 as follows:

"Shall mean the production, fabrication, compounding, processing, packaging, crafting, bottling, packing, recycling or assembling of raw or semi-processed or fully-processed goods or materials, and shall include but not be limited to a Biotechnological Establishment, Computer, Dry Cleaning Plant, Electronic and Data Processing Establishment, Pharmaceutical and Medical Establishment, Printing Establishment and/or a Science and Technology Establishment. Manufacturing may also include a Private Power Generation Facility as an accessory use, but shall not include a Waste Management Facility or Alcohol Production Facility"

The applicant may wish to ensure that the proposed uses for the portion of the lands to be retained are permitted in accordance with Section 9.5.1.

CONDITIONAL UPON:

If the application is approved, we request the following condition(s):

1. The applicant shall ensure compliance with Ontario Building Code requirements regarding spatial separation distances of any structures to the satisfaction of the Planning and Economic Development Department (Building Division – Plan Examination Section).
2. The applicant shall provide confirmation of the existing uses on the lands to be retained in order to determine compliance with the permitted uses of the "M5, E433" Zone or alternatively apply for and receive final approval of a Zoning By-law

Amendment as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).

3. 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.
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 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 any required building permits in the normal manner to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section).

Growth Management:

Note: Based on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be retained will remain as **386 Wilcox Street, Hamilton**, and the lands to be conveyed will be assigned the address of **1055 Industrial Drive, Hamilton**.

Development Engineering:

Information:

There are sanitary capacity constraints in the downstream conveyance system and WWTP. This has prompted the request for a master servicing plan to be included with an “H” holding provision in order to provide the City with sufficient details and strategies for future redevelopment of lands.

We have reviewed the draft conditions provided by the proponent and require some revisions. See recommendations.

Recommendations:

1. That the Owner/Agent apply for and receive final approval of a Zoning By-law Amendment application to add a Holding Provision on the retained portion of lands to the satisfaction of the Director of Planning and Chief Planner. The Holding Provision should be applied for as follows:

- b. Notwithstanding Section 11.5 of this By-law, on those lands zoned General Industrial (M5, 433) Zone as shown on maps 749, 750, 751, 789, 790, 791, 792, 830, 831, 832, 872, 873 of Schedule "A" – Zoning Maps development shall be restricted in accordance with the following:
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 - c. Phasing.
 - 3. The owner provide a Master Servicing Plan, including Transportation Master Plan, for the retained and severed portion of the lands to the satisfaction of the Senior Director of Growth Management. Further, the owner shall develop a terms of reference to complete the Master Servicing Plan & Transportation Master Plan to the satisfaction of the Director of Growth Management.
 - 4. The owner providing an Implementation Strategy to illustrate how the Concept Plan and Master Servicing Plan, including a Transportation Master Plan, may be implemented through additional Planning Act approvals such as Draft Plan of Subdivision, Draft Plan of Condominium and/or applications for Site Plan Approval
 - 5. The owner enter into and register on title a Joint use agreement and/or development agreement (if required) to implement the above requirements, to the satisfaction of the Manager of Engineering Approvals Section.
 - 6. The owner submitting, receiving approval of an Implementation Strategy to illustrate how the Concept Plan

and Master Servicing Plan may be implemented through additional *Planning Act* approvals such as Draft Plan of Subdivision, Draft Plan of Condominium and/or applications for Site Plan Approval to the satisfaction of the Director of Planning and Chief Planner and Director of Growth Management.

2. That the owner provides adequate reciprocal access and servicing easements between the severed and retained lands to the satisfaction of the Manager of Engineering Approvals Section, if required.
3. That the owner register on the title of the lands an adequate storm drainage easement in the City of Hamilton's favour centred over the existing 2850mm x 2100mm storm outfall to the satisfaction of, and if required by, the Manager of Engineering Approvals.
5. That the owner enter into **and register on title** a Development Agreement and/or Joint Use Agreement, if necessary, to the satisfaction of the Manager of Engineering Approvals Section.

Transportation Planning:

Transportation Planning has no objection to the land severance application.

See attached for additional comments.



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Hamilton

Forestry & Horticulture Section
Environmental Services Division
Public Works Department

Date: November 11, 2021

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

From: Stephen Clark, Urban Forest Health Technician

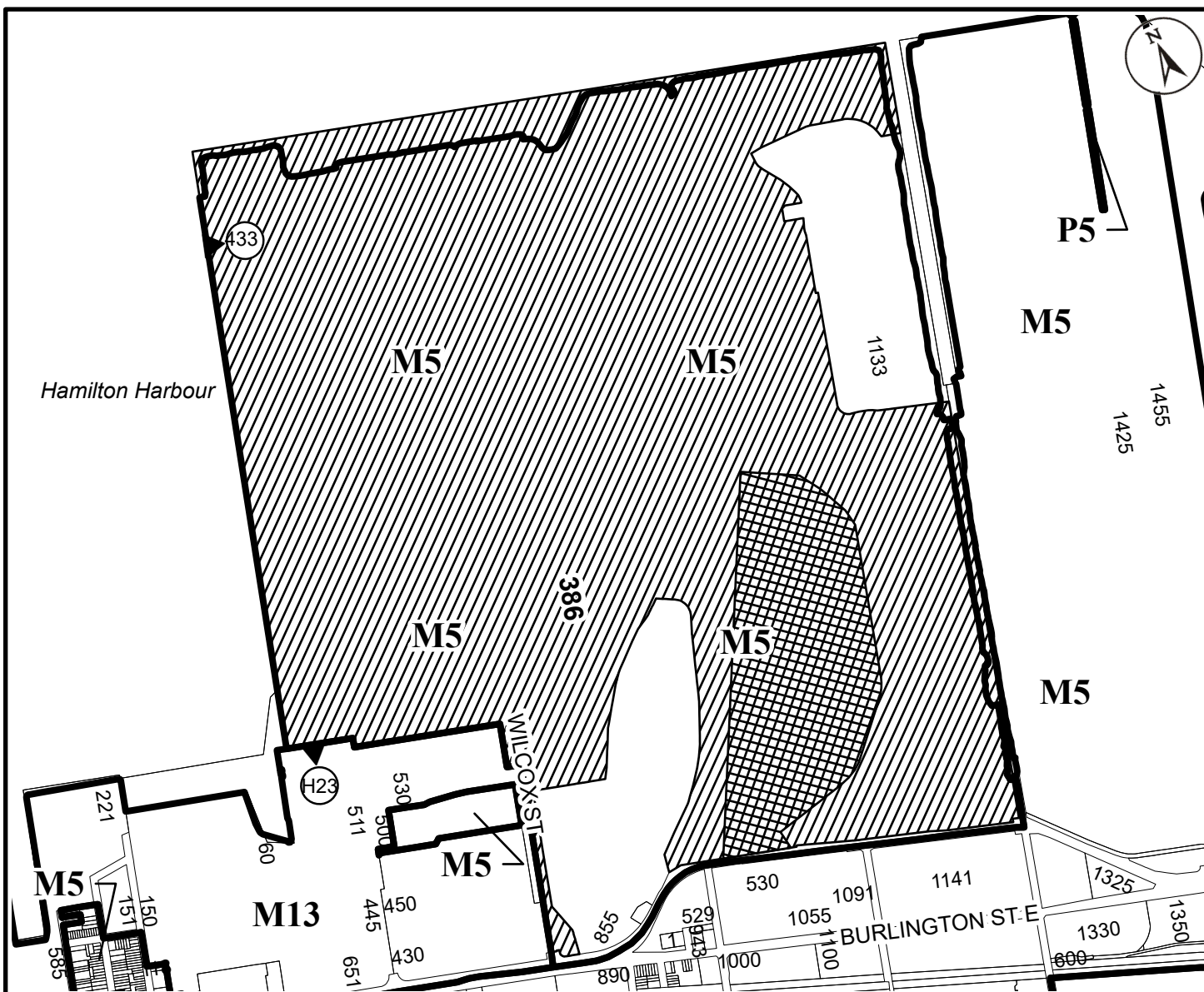
Subject: 386 Wilcox Street, Hamilton
File: HM/B-21:98

Forestry has no concerns with this application.

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

Regards,

Stephen Clark
Urban Forest Health Technician



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

386 Wilcox Street, Hamilton (Ward 3)



Lands to be Retained



Lands to be Severed

File Name/Number:

HM/B-21:98

Date:

November 16, 2021

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT