



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	August 11, 2015
SUBJECT/REPORT NO:	Committee of Adjustment Minor Variance Application - HM/A-15:41 (111 Winston Avenue) - Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment (PED15118) (Ward 1)
WARD(S) AFFECTED:	Ward 1
PREPARED BY:	Steve Boich Planning Technician (905) 546-2424 Ext.1293
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That Report PED15118, respecting Committee of Adjustment Minor Variance Application - HM/A-15:41, attached as Appendix "E" to Report PED15118, for the property known as 111 Winston Avenue, Hamilton, as shown on Appendix "A" to Report PED15118, supported by the Planning and Economic Development Department, but denied by the Committee of Adjustment, be received for information.

EXECUTIVE SUMMARY

The applicant submitted Variance Application HM/A-15:41 to permit a total of 15 habitable rooms within the existing single detached dwelling. The application required variances to recognize the existing building's Gross Floor Area (GFA), the size, number and location of the parking spaces provided on site and their subsequent maneuvering areas.

Application HM/A-15:41 was considered before the Committee of Adjustment on April 2, 2015. Comments from staff to the Committee of Adjustment supported the application (see Appendix "B" to this Report).

The Committee members discussed the merits of the application (see Appendix "D" of this Report for the meeting minutes) and denied the application for the reasons provided in attached Appendix "C" to this Report. The decision was appealed to the Ontario

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Municipal Board (OMB) by the applicant on April 22, 2015. The OMB has since confirmed that the matter will be reviewed at a hearing on November 25, 2015.

Alternatives for Consideration – See Page 3

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Planning and Economic Development Department staff supported the subject application. However, if Council wishes to support the Committee of Adjustment's decision to deny the application, the City must retain an outside planning consultant, and any other experts who can professionally support the denial. If an outside planning consultant is retained, the costs would be approximately \$3,000 to \$5,000 for each day of a Hearing. In keeping with the funding source for other appeals where Council authorizes the retainer of outside consultants, the amount required to retain such experts to support the City's position before the OMB be funded from the Tax Stabilization Reserve - 110046.

Staffing: One representative from Legal Services would be required for preparation and attendance at the OMB Hearing. One member of Planning staff would attend as an expert witness at the Hearing, should Council support Option 2 (support the appeal).

Legal: No legal implications are expected.

HISTORICAL BACKGROUND

Roles and Responsibilities of the Committee of Adjustment (PD02116(a))

In December 2002, City Council endorsed a staff report related to the roles and responsibilities of the Committee of Adjustment. The recommendations included the following:

“That the Planning and Development Department be authorized and directed to prepare an Information Report to the Committee of the Whole when an appeal is made to the Ontario Municipal Board, of a decision made by the Committee of Adjustment to deny an application(s) that was supported by staff. In response to such a report, Council may determine its position on the Committee of Adjustment decision, and may instruct Legal Services to attend the Ontario Municipal Board Hearing, in support of the Committee's decision, and to retain outside professional(s) accordingly.”

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Proposal

The subject property is located at 111 Winston Avenue (see Appendix “A”). The variance application (HM/A-15:41) was to permit 15 habitable rooms within the existing dwelling. In order to accommodate this, the applicant required variances to allow for an increase in the maximum permitted Gross Floor Area from 45% to 51.48%; reduction from six to three parking spaces; reduction in width of the parking spaces from 2.7 m to 2.5 m; reduction in aisle width maneuvering space from 6.0 m to 0.0 m; to permit off site maneuvering; and, to permit two parking spaces within a required front yard as opposed to a maximum of one parking space.

ALTERNATIVES FOR CONSIDERATION

Option 1

Council may instruct Legal Services to attend the Ontario Municipal Board Hearing, in support of the Committee of Adjustment decision, and to retain outside professional(s) to attend as an expert witness. If an outside planning consultant is retained, the costs would be approximately \$3,000 to \$5,000 for each day of a Hearing. In keeping with the funding source for other appeals where Council authorizes the retainer of outside consultants, the amount required to retain such experts to support the City’s position before the OMB be funded from the Tax Stabilization Reserve - 110046.

Option 2

Council may decide to support the appeal against the Committee of Adjustment’s decision to deny, and direct Legal Services to attend the Ontario Municipal Board Hearing in support of the appeal to the application, and to use City Planning staff as its professional witness.

Option 3

Council may decide to not send Legal Services to the Ontario Municipal Board, either in support of the Committee’s decision, or against the decision.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #1

A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Objective

- 1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.
- 1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

APPENDICES AND SCHEDULES ATTACHED

- Appendix "A": Location Map
- Appendix "B": Staff Comments for HM/A-15:41
- Appendix "C": HM/A-15:41 Committee of Adjustment Decision
- Appendix "D": Minutes of Public Meeting
- Appendix "E": HM/A-15:41 Minor Variance Application
- Appendix "F": Letters of Objection

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