



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	September 20, 2016
SUBJECT/REPORT NO:	Committee of Adjustment Consent to Sever Application - HM/B-16:43 and Committee of Adjustment Minor Variance Application - HM/A-16:169, 21 Warrington Street - Conditionally Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment (PED16187) (Ward 5)
WARD(S) AFFECTED:	Ward 5
PREPARED BY:	Steve Boich Planning Technician (905) 546-2424 Ext. 1293 Steve Robichaud Director of Planning and Chief Planner
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That Council takes no action with respect to the Ontario Municipal Board, either in support of the Committee's decision or against the decision, for the following applications:

- (a) Committee of Adjustment Consent to Sever Application – HM/B-16:43 (See Appendix “F” to Report PED16187), for the property known as 21 Warrington Street, Hamilton, as shown on Appendix “A” to Report PED16187, conditionally supported by the Planning and Economic Development Department but denied by the Committee of Adjustment;
- (b) Committee of Adjustment Minor Variance Application – HM/A 16:169 (See Appendix “G” to Report PED16187), for the property known as 21 Warrington Street, Hamilton, as shown on Appendix “A” to Report PED16187, supported in part for the retained lands only by the Planning and Economic Development Department, but denied by the Committee of Adjustment.

SUBJECT: Committee of Adjustment Consent to Sever Application - HM/B-16:43 and Committee of Adjustment Minor Variance Application - HM/A-16:169, 21 Warrington Street - Conditionally Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment (PED16187) (Ward 5) - Page 2 of 5

EXECUTIVE SUMMARY

The applicant submitted Consent Application HM/B-16:43 to permit the conveyance of a vacant parcel of land having an area of 1.32 ha and to retain a 1.23 ha parcel of land containing an existing building for industrial purposes and to create an access easement. A concurrent Minor Variance Application HM/A-16:169 was submitted to facilitate the Consent Application. The application required variances to permit no landscaped area or planting strip abutting a street, to permit an accessory outdoor storage area within a front yard, to permit no screening abutting a street for the outdoor storage area and to provide no barrier free parking space.

Application HM/B-16:43 was considered before the Committee of Adjustment on June 23, 2016. Comments from staff to the Committee of Adjustment conditionally supported the application (See Appendix “B” to Report PED16187), as the application was considered to be consistent with the Provincial Policy Statement, in conformity with the Urban Hamilton Official Plan (UHOP), and maintained the intent and purpose of Hamilton Zoning By-law No. 05-200. Staff support was conditional upon the applicant receiving an Access Permit for the conveyed portion of the lands.

Application HM/A-16:169 was considered before the Committee of Adjustment on June 23, 2016. Comments from staff to the Committee of Adjustment supported the application in part (See Appendix “C” to Report PED16187), as only Variances 1 and 2 of the requested Minor Variances for the retained lands were considered to be consistent with the Provincial Policy Statement, in conformity with the Urban Hamilton Official Plan, and maintained the intent and purpose of Hamilton Zoning By-law No. 05-200.

The Committee members discussed the merits of the applications (See Appendix “H” to Report PED16187) and denied the applications for the reasons provided in attached Appendices “D” and “E” to Report PED16187. The decision was appealed to the Ontario Municipal Board (OMB) by the applicant on July 13, 2016. A hearing date has not yet been set.

Alternatives for Consideration – See Page 4

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Planning and Economic Development Department staff conditionally supported the subject applications. 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

SUBJECT: Committee of Adjustment Consent to Sever Application - HM/B-16:43 and Committee of Adjustment Minor Variance Application - HM/A-16:169, 21 Warrington Street - Conditionally Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment (PED16187) (Ward 5) - Page 3 of 5

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 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.”

Proposal

The subject property is located at 21 Warrington Street (see Appendix “A” to Report PED16187). The severance application (HM/B-16:43) was to create two parcels of land to be used for industrial purposes as well as to create an access easement over the retained lands in favour of the conveyed lands. The conveyed lands have frontage on the South Service Road, therefore staff support was conditional upon the applicant receiving an Access Permit for the conveyed lands.

In order to facilitate the severance, the applicant required variances to permit:

- No landscaped area or planting strip abutting a street instead of a minimum 6.0 m wide landscaped area, including a 3.0 m wide planting strip, where a parking space, aisle or driveway is located in a yard abutting a street;

SUBJECT: Committee of Adjustment Consent to Sever Application - HM/B-16:43 and Committee of Adjustment Minor Variance Application - HM/A-16:169, 21 Warrington Street - Conditionally Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment (PED16187) (Ward 5) - Page 4 of 5

- An accessory outdoor storage area to be located within a front yard;
- No screening (visual barrier) from the abutting street for the outdoor storage; and,
- No barrier free parking spaces on site as opposed to the minimum required one barrier free parking space.

Both applications were reviewed against all applicable Provincial and Local planning policy documents.

Planning staff recommended conditional approval of the severance application, as the proposal was considered to be desirable for the use of the lands, in conformity with the Urban Hamilton Official Plan, and maintained the intent and purpose of Hamilton Zoning By-law No. 05-200 upon the applicant receiving an Access Permit for the conveyed lands.

Planning staff recommended partial approval of the variance application, as Variances 1 and 2 for the retained lands were considered to be desirable for the use of the lands, in conformity with the Urban Hamilton Official Plan, and maintained the intent and purpose of Hamilton Zoning By-law No. 05-200.

Comments provided by the Traffic Department to the Committee of Adjustment for the Consent Application (see Appendix “I” to Report PED16187) indicated that an approach ramp onto the Service Road would not be supported. Given this, Planning staff are in agreement with the Committee’s decision to deny application HM/B-16:43 and recommend Option 3 as the preferred alternative.

The associated variance application was required in order to facilitate the severance application. As the severance application was denied, the variances are not applicable and relief from the By-law will not be applied to the subject lands. Accordingly, Planning staff are in agreement with the Committee’s decision to deny application HM/A-16:169 and recommend Option 3 as the preferred alternative.

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. Funding to retain outside professionals would come from the Tax Stabilization Reserve – 110046.

SUBJECT: Committee of Adjustment Consent to Sever Application - HM/B-16:43 and Committee of Adjustment Minor Variance Application - HM/A-16:169, 21 Warrington Street - Conditionally Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment (PED16187) (Ward 5) - Page 5 of 5

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/B-16:43
- Appendix "C": Staff Comments for HM/A-16:169
- Appendix "D": HM/B-16:43 Committee of Adjustment Decision
- Appendix "E": HM/A-16:169 Committee of Adjustment Decision
- Appendix "F": HM/B-16:43 Committee of Adjustment Application
- Appendix "G": HM/A-16:169 Committee of Adjustment Application
- Appendix "H": Minutes of Public Meeting
- Appendix "I": Traffic Department comments

SB:mo