



Committee of Adjustment
Hamilton City Hall
71 Main Street West, 5th floor
Hamilton, ON L8P 4Y5
Telephone (905) 546-2424, ext. 4221
Fax (905) 546-4202

COMMITTEE OF ADJUSTMENT

NOTICE OF DECISION

APPLICATION FOR CONSENT\LAND SEVERANCE

APPLICATION NO. GL/B-16:35
SUBMISSION NO. B-35/16

IN THE MATTER OF The Planning Act, R.S.O. 1990, Chapter P13, Section 53(1);

AND IN THE MATTER OF the Premises known as Municipal number 120 Binbrook Road, formerly in the Township of Glanbrook, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Michael P. Sabelli on behalf of the owners John & Eva Vuckovic, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a parcel of land measuring 68.36m± x 275.46m± and having an area of 1.68 ha± containing an existing single family dwelling & accessory structures (to remain) for residential purposes and to retain a vacant parcel of land measuring 550.7m± x 943.62m± and having an area of 57.8ha± for agricultural purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application, as set out in paragraph three above, **IS APPROVED**, for the following reasons:

1. The Committee is of the opinion that the proposal does not offend the intent of the Rural Hamilton Official Plan.
2. The Committee considers the proposal to be in keeping with development in the area.
3. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.

Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following conditions:

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in hard copy and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. That the applicant/ owner apply for and receive final approval of a Zoning By-law Amendment application to prohibit the development of a dwelling on the lands to be retained, to the satisfaction of the Manager of Development Planning, Heritage and Design.
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 owner shall submit survey evidence that the lands to be conveyed, including the location of any existing structures, 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 conveyed, to the satisfaction of the Planning and Economic Development Department (Building Division – Plan Examination Section).

CERTIFIED TRUE COPY

SECRETARY - TREASURER

...../2

GL/B-16:35
Decision
Page 2

6. The proponent shall submit a scoped hydrogeological study to demonstrate the site capability for sustainable private services, to the satisfaction of the Public Works Department, Source Protection Planning Division.
7. The owner shall submit to the Committee of Adjustment Office an administration fee of \$17.00, payable to the City of Hamilton, to cover the cost of setting up a new tax account for the newly created lot.
8. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

DATED AT HAMILTON this 2nd day of June, 2016.

M. Dudzic (Chairman)

D. Serwatuk

L. Gaddy

N. Mieczko

W. Pearce

V. Abraham

P. Mallard

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS June 9th, 2016.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (June 9th, 2017) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS June 29th, 2016.

THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

NOTES:

1. Prior to any further approvals under the *Planning Act* issued by the City of Hamilton, the property owner may be required carry out an archaeological assessment of the entire development property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning and the Ministry of Tourism, Culture and Sport confirming that all archaeological resource concerns have met licensing and conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Tourism, Culture and Sport.

The subject lands are considered to be of archeological potential, and should deeply buried archaeological remains be found on the property during any of the above development activities the Ontario Ministry of Tourism, Culture and Sport (MTCS) should be notified immediately (519.675.7742). In the event that human remains are encountered during construction, the applicant/landowner should immediately contact both MTCS and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government Services (416.326.8392).

2. Based on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be conveyed (Parcel 1) will remain as 120 Binbrook Road, and the lands to be retained (Parcel 2) will be assigned the municipal address of 186 Binbrook Road.

IMPORTANT NOTICE**THIS DECISION IS NOT FINAL AND MUST NOT BE ACTED UPON UNTIL THE PERIOD OF APPEAL HAS EXPIRED**

Please note below in the extract of Subsections (19), (21) and (44) of Section 53 of The Planning Act, R.S.O., 1990, Chapter 13,

- (a) That a right of appeal is given by Subsection 19 and 27; and
- (b) That if no appeal is filed within the **TWENTY** days of the notice of decision, the Committee's decision is then final and binding; and
- (c) That under Subsection 21, the decision of the Committee to give or refuse a provisional consent is final.

Also, note the following:

You will be entitled to receive notice of any changes to the conditions of a provisional consent if you have made a written request to be notified of changes to the conditions of the provisional consent.

EXTRACT FROM SECTION 53 OF THE PLANNING ACT AND COMMENTS

APPEAL (19) Any person or public body may, not later than 20 days after the giving of notice under subsection (17) is completed, appeal the decision or any condition imposed by the Council or the Minister or appeal both the decision and any condition to the Municipal Board by filing with the clerk of the municipality or the Minister a notice of appeal setting out the reasons for the appeal accompanied by the fee prescribed under the Ontario Municipal Board Act.

(44) If a land division committee or a committee of adjustment has had delegated to it the authority for the giving of consents, any reference in this section to the clerk of the municipality shall be deemed to be reference to the secretary-treasurer of the land division committee or committee of adjustment.

IMPORTANT NOTE: Only individuals, corporations and public bodies may appeal decisions in respect of applications for consent to the Ontario Municipal Board. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group on its behalf.

NO APPEAL (21) If no appeal is filed under subsection (19) or (27), subject to subsection (23), the decision of the council or the Minister, as the case may be, to give or refuse to give a provisional consent is final.

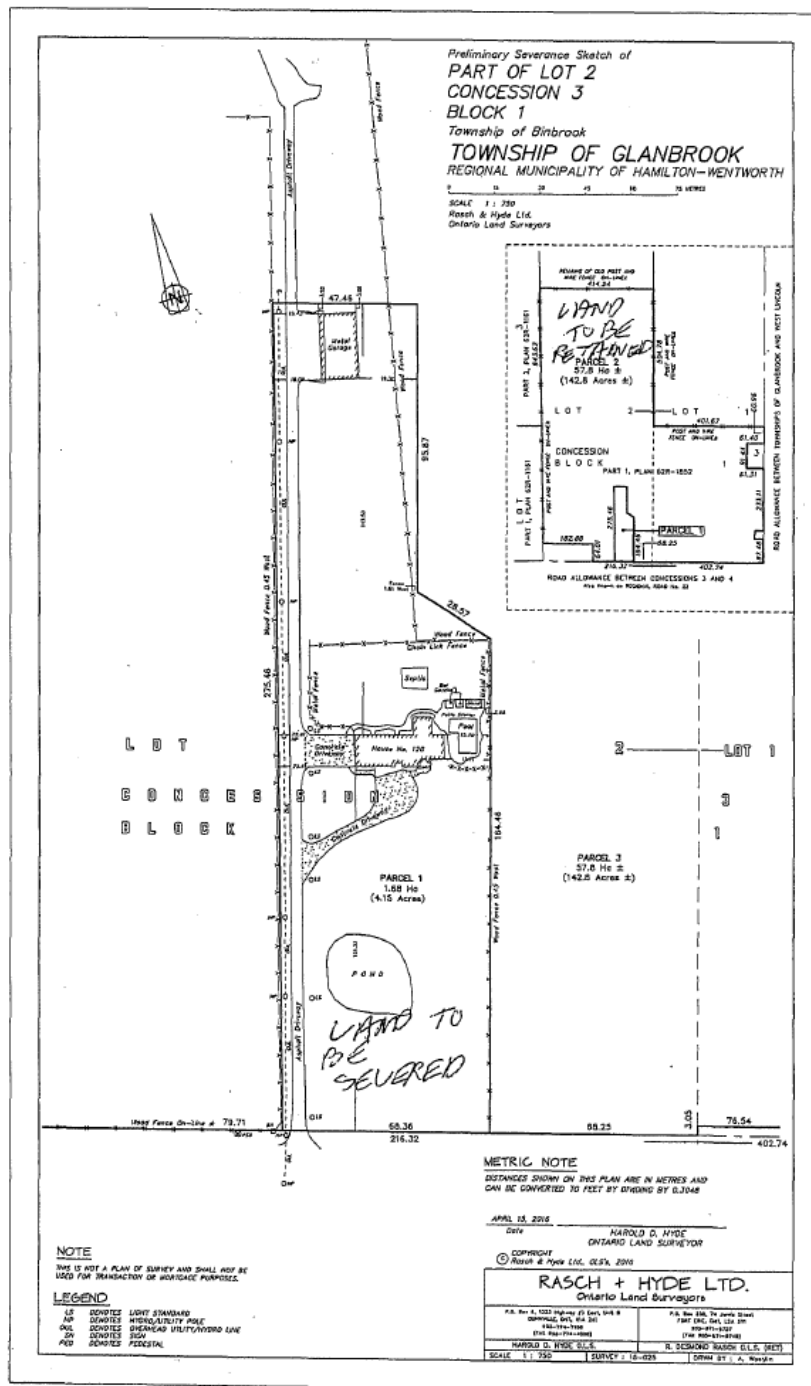
IMPORTANT NOTE: APPEALS MUST BE FILED AT THE OFFICE OF THE COMMITTEE OF ADJUSTMENT (Hamilton City Hall, 5th Floor, 71 Main Street West, Hamilton). ENVELOPES SHALL BE MARKED "APPEAL OF COMMITTEE OF ADJUSTMENT DECISION". DO NOT DELIVER APPEALS TO ANY OTHER DEPARTMENTS OR LOCATIONS. APPEALS RECEIVED BY THE OFFICE OF THE COMMITTEE OF ADJUSTMENT AFTER THE LAST DATE OF APPEAL AS A RESULT OF SECOND HAND MAILING WILL BE TIME BARRED AND OF NO EFFECT. THE FEE MENTIONED IN (19) ABOVE IS \$125.00 TO BE PAID BY CERTIFIED CHEQUE OR MONEY ORDER MADE OUT TO THE "MINISTER OF FINANCE".

IDEM (28) If the clerk, or the Minister, as the case may be, receives a notice of appeal under subsection (19) or (27), the clerk or the Minister shall ensure that,

- (a) a record is compiled which includes the information and material prescribed; and
- (b) the record, the notice of appeal and the fee are forwarded to the Municipal Board within 15 days after the last day for filing a notice of appeal under subsection (19) or (27).

IN ACCORDANCE with the above-noted provisions of The Planning Act, the last day of appeal from this decision is:

June 29th, 2016



GLB-16:35
 Sketch(1)

RASCH & HYDE LTD
ONTARIO LAND SURVEYORS