



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT**  
Planning Division

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	April 3, 2018
<b>SUBJECT/REPORT NO:</b>	Committee of Adjustment Minor Variance Application – GL/A-17:368, 2301 Kirk Road, Glanbrook – Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment (Ward 11) (PED18070)
<b>WARD(S) AFFECTED:</b>	Ward 11
<b>PREPARED BY:</b>	Ryan Ferrari (905) 546-2424 Ext. 5865
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That Council take no action with respect to the Ontario Municipal Board, either in support of the Committee’s decision or against the decision for Committee of Adjustment Minor Variance Application – GL/A-17:368 (see Appendix “C” to Report PED18070), for the property known as 2301 Kirk Road, Glanbrook, as shown on Appendix “A” to Report PED18070, supported by the Planning and Economic Development Department but denied by the Committee of Adjustment.

**EXECUTIVE SUMMARY**

The applicant submitted Minor Variance Application GL/A-17:368 to permit the construction of a 223 sq m accessory structure at 2301 Kirk Road. An existing single detached dwelling is located on the subject lands. The application would facilitate the demolition of an existing 100 sq m accessory structure on the subject property in order to construct a new accessory structure and retain an existing accessory structure. Variances were required due to the aggregate size of the accessory structures (259.0 sq m proposed for all accessory structures whereas a maximum size of 120.0 sq m is permitted).

Application GL/A-17:368 was considered at the Committee of Adjustment on November 2, 2017. Comments from Planning staff to the Committee of Adjustment supported the

---

*OUR Vision: To be the best place to raise a child and age successfully.*

*OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.*

*OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.*

**SUBJECT: Committee of Adjustment Minor Variance Application – GL/A-17:368, 2301 Kirk Road, Glanbrook – Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment (Ward 11) (PED18070) - Page 2 of 5**

---

Application (see Appendix “B” to Report PED18070), and the merits of the application were discussed at the meeting (see Appendix “E” to Report PED18070). The proposal was considered to be consistent with the Provincial Policy Statement and met the four tests of a Minor Variance in accordance with Section 45 (1) of the *Planning Act*.

The Committee of Adjustment denied the Application for the reasons provided in attached Appendices “C” and “E” to Report PED18070. The decision was appealed to the Ontario Municipal Board (OMB) by the applicant on November 15, 2017. A hearing date has been set for June 14, 2018.

***Alternatives for Consideration – See Page 4***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: Planning and Economic Development Department staff (Building, Growth Management and Planning) 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 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:

**SUBJECT: Committee of Adjustment Minor Variance Application – GL/A-17:368, 2301 Kirk Road, Glanbrook – Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment (Ward 11) (PED18070) - Page 3 of 5**

---

“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 decision, and to retain outside professional(s) accordingly.”

**Proposal**

The subject property is located at 2103 Kirk Road, Glanbrook (see Appendix “A” to Report PED18070).

The purpose of Minor Variance Application GL/A-17:368 for 2301 Kirk Road is to facilitate the demolition of an existing 100 sq m accessory structure on the subject property and to construct a 223 sq m structure accessory to a single detached dwelling. The variance also was intended to recognize an existing 36 sq m accessory shed on the property which resulted in a total requested gross floor area of 259.0 sq m for all accessory structures on the property. The purpose of the new accessory structure is to provide adequate space for the personal storage of the property owner. The following variance as shown on Appendix “D” to Report PED18070 is required in order to implement the proposal:

- “1. That a maximum gross floor area of 259.0 sq m be provided for all buildings accessory to the single detached dwelling instead of the requirement in the By-law which states that all buildings accessory to a single detached dwelling shall not exceed a gross floor area of 120 sq m.”

The application for a Minor Variance was denied by the Committee of Adjustment.

**Staff Assessment of the Application**

An analysis of the proposed variance was undertaken and comments were prepared by staff and provided to the Committee of Adjustment, which are included as Appendix “B” of Report PED18070. A summary of staff comments is as follows:

The application was reviewed against all the applicable Provincial and Local planning policy documents including the Provincial Policy Statement (2014) and Greenbelt Plan (2017). Staff noted that the application was consistent with provincial policy.

The subject lands are designated “Rural” in Schedule D of the Rural Hamilton Official Plan. Staff determined that the requested variance complied with the policies within the

**SUBJECT: Committee of Adjustment Minor Variance Application – GL/A-17:368, 2301 Kirk Road, Glanbrook – Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment (Ward 11) (PED18070) - Page 4 of 5**

---

RHOP which include maintaining the general rural character of the surrounding neighbourhood.

The purpose of the proposed variance was to increase the maximum gross floor area for all accessory structures on the property from 120 sq m to 259 sq m in order to accommodate the existing 36 sq m accessory structure as well as the proposed 223 sq m accessory structure. Staff evaluated the proposed variance against the general rural character of the immediate area as well as the perceived impact of the structure on the surrounding properties. Staff did not perceive a negative impact on the surrounding properties given that many of the neighbouring properties are either vacant agricultural land, or agricultural properties containing large farm buildings. In addition, staff were also satisfied that the proposed accessory structure would be for the personal storage use of the applicant and would not facilitate an illegal business on the property.

No correspondence was received from members of the public as a result of the circulation of the application nor did any property owners appear at the Committee of Adjustment hearing to speak to this matter.

Planning staff recommended approval of the Minor Variance Application as the proposal maintained the general intent and purpose of the RHOP and Zoning By-law No. 05-200, and was determined to be minor in nature and appropriate for the development of the subject property.

**Niagara Peninsula Conservation Authority**

In addition to internal staff comments, the application was circulated to the Niagara Peninsula Conservation Authority for comment. The NPCA noted that they had no objection to the application.

**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.

**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.

**SUBJECT: Committee of Adjustment Minor Variance Application – GL/A-17:368, 2301 Kirk Road, Glanbrook – Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment (Ward 11) (PED18070) - Page 5 of 5**

---

**Option 3**

As per the staff recommendation, Council may decide to take no action by deciding 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 2016 – 2025 STRATEGIC PLAN**

**Community Engagement & Participation**

*Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.*

**Economic Prosperity and Growth**

*Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.*

**Our People and Performance**

*Hamiltonians have a high level of trust and confidence in their City government.*

**APPENDICES AND SCHEDULES ATTACHED**

- Appendix "A": Location Map for 2301 Kirk Road
- Appendix "B": Staff Comments for GL/A-17:368
- Appendix "C": GL/A-17:368 Committee of Adjustment Decision
- Appendix "D": GL/A-17:368 Committee of Adjustment Application
- Appendix "E": Minutes of Public Meeting

RF:mo