



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	September 18, 2018
<b>SUBJECT/REPORT NO:</b>	Committee of Adjustment Consent Application – AN/B-18:27, 28 Maureen Drive, Ancaster - Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment (PED18202) (Ward 12)
<b>WARD AFFECTED:</b>	Ward 12
<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 Local Planning Appeal Tribunal (LPAT), either in support of the Committee's decision or against the decision for Committee of Adjustment Consent Application – AN/B-18:27, 28 Maureen Drive, Ancaster, supported by the Planning and Economic Development Department but denied by the Committee of Adjustment.

### **EXECUTIVE SUMMARY**

The applicant submitted Consent Application AN/B-18:27 to permit the conveyance of a parcel of land having a frontage of 20.6 m and an area of ±814.5 sq m for residential purposes and to retain a parcel of land containing an existing single detached dwelling having a lot frontage of 33.6 m and an area of 1,334 sq m.

Application AN/B-18:27 was considered at the Committee of Adjustment on May 10, 2018. Comments from Planning staff to the Committee of Adjustment supported the Application (see Appendix "B" to Report PED18202), and the merits of the application were discussed at the meeting (see Appendix "E" to Report PED18202). The proposal is considered to be consistent with the Provincial Policy Statement, complies with the relevant policies in the Urban Hamilton Official Plan (UHOP) and is complimentary to

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the existing and planned development in the neighbourhood, in accordance with Section 53 of the *Planning Act*.

The Committee of Adjustment denied the Application for the reasons provided in attached Appendices “C” and “E” to Report PED18202. The decision was appealed to the Local Planning Appeal Tribunal (LPAT) by the applicant on May 30, 2018. A hearing date has been set for November 23, 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 LPAT be funded from the Tax Stabilization Reserve -110046.

Staffing: If Council wishes to support the Committee of Adjustment decision, then one representative from Legal Services would be required for preparation and attendance at the LPAT Hearing.

If Council wishes to support Option 2 in the Alternatives for Consideration Section (support the appeal), then in addition to Legal Services attendance, one member of Planning staff would attend as an expert witness at the LPAT Hearing.

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 (Now Local Planning Appeal Tribunal), 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 (Land Use Planning Appeal Tribunal), in support of the Committee decision, and to retain outside professional(s) accordingly.”

### **Proposal**

The subject property is located at 28 Maureen Drive, Ancaster (see Location Map attached as Appendix “A” to Report PED18202). The applicant is proposing to create a new building lot, having an area of ±814.5 sq m for residential purposes and to retain a 1,334 sq m parcel of land developed with an existing single detached dwelling at 28 Maureen Avenue. To accommodate this request, the applicant submitted a Consent Application. Staff are not aware of any minor variances required to implement the proposal upon review of the application.

The application for Consent to Sever Land 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 PED18202. A summary of staff comments is as follows.

The application has been reviewed against all the applicable Provincial and Local planning policy documents including the Provincial Policy Statement (2014). Staff noted that the application is consistent with provincial policy as the proposal represents appropriate infill development within an existing built up area.

The subject lands are designated “Neighbourhoods” on Schedule E – Urban Land Use Designations in the UHOP. Staff have determined that the proposal for creating an

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additional detached lot for the development of a single detached dwelling conforms with the UHOP, namely the policies that speak appropriate and compatible to Residential Intensification within the Neighbourhoods Designation (see Appendix “B” to Report PED18202). The surrounding properties are developed with single detached dwellings in keeping with this proposal.

Staff note that the subject lands are zoned “ER” Existing Residential Zone. Both the severed and retained lots comply with the Zoning By-law regulations that were in effect at the time with regards to lot frontage and lot size. Staff also notes that Council has since passed new “ER” Existing Residential Zones as part of City Initiative CI-18-A on April 25<sup>th</sup>, 2018 (now under appeal). On the date of the hearing the proposed changes to the By-law were not yet final and binding; however, staff noted that both the proposed and retained lots would comply with the new “ER” Existing Residential zoning regulations with regards to lot frontage and lot area.

In addition to the foregoing, Council passed a motion for a moratorium on severances for new lots within the “ER” Existing Residential Zone and rural service cross sections in Ancaster to address concerns relating to stormwater management, however, the dwellings that front onto Maureen Avenue are serviced by municipal storm sewers and Development Engineering Staff did not object to the approval of the application, subject to a consent agreement being registered on title (Appendix “B” to Report PED18202).

Approximately 44 residents attended the Committee of Adjustment Hearing. Amongst the attendees, six residents spoke out in opposition to the proposal, representing the attendees. The concerns raised include that the proposed lot was incompatible with the neighbourhood, that the proposal would facilitate an overbuilding of the subject lands and that the character of the neighbourhood would be adversely impacted.

Planning staff recommended approval of the Consent Application as the proposal is consistent with the Provincial Policy Statement, complies with the UHOP and the proposed lots conform to the Zoning By-law. The lots are consistent and compatible with the existing lot pattern in the surrounding neighbourhood and staff did not perceive a negative impact on the surrounding neighbourhood. Any future dwelling on the newly created lot would be subject to further review through the Site Plan Control process.

## **ALTERNATIVES FOR CONSIDERATION**

### **Option 1**

Council may instruct Legal Services to attend the LAPT, in support of the Committee of Adjustment decision, and to retain an outside professional(s) to attend as an expert witness. Funding to retain outside professionals would come from the Tax Stabilization Reserve – 110046.

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**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 LPAT Hearing in support of the appeal to the application, and further to use City Planning staff as its professional witness.

**Option 3**

As per the staff recommendation, Council may decide to take no action by deciding to not send Legal Services to the LPAT, 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.*

**Built Environment and Infrastructure**

*Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.*

**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

Appendix "B" – Staff Comments for AN/B-18:27

Appendix "C" – AN/B-18:27 Committee of Adjustment Decision

Appendix "D" – AN/B-18:27 Committee of Adjustment Application

Appendix "E" – Minutes of Public Meeting

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