



Hamilton

COMMITTEE OF ADJUSTMENT

City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5
Telephone (905) 546-2424, ext. 4221, 3935 Fax (905) 546-4202
E-mail: cofa@hamilton.ca

NOTICE OF PUBLIC HEARING **Minor Variance**

You are receiving this notice because you are either:

- Assessed owner of a property located within 60 metres of the subject property
 - Applicant/agent on file, or
 - Person likely to be interested in this application
-

APPLICATION NO.: HM/A-20:132

APPLICANTS: EcoVue Consulting Services Inc. c/o Frances Wilbur on behalf of the owner Demetry Tselepakis

SUBJECT PROPERTY: Municipal address **29 Magill St., Hamilton**

ZONING BY-LAW: Zoning By-law 6593, as Amended

ZONING: "D" (One and Two Family Dwellings, etc.) district

PROPOSAL: To permit the construction of a new single family dwelling on the proposed severed portion in order to facilitate the concurrent severance of the property (Consent Application HM/A-20:38), notwithstanding that:

Parcel to be Severed (Southerly Parcel for Proposed Dwelling)

1. The northerly side yard shall be 0.5m instead of the minimum required 1.2m for a dwelling that is under 2.5 storeys in height.
2. The northerly side yard shall be 0.4m instead of the minimum required 1.2m for a dwelling that is under 2.5 storeys in height.
3. The minimum lot width shall be 7.4m instead of the minimum required 12.0m lot width.
4. The minimum lot area shall be 235m² instead of the minimum required 360m² lot area.
5. The front yard landscaped area shall be a minimum of 43.0% of the gross area of the front yard instead of the minimum 50.0% required front yard landscaped area.
6. One parking space shall be provided instead of the minimum required two parking spaces for a single family dwelling having up to 8 habitable rooms.
7. No manoeuvring space shall be provided instead of the minimum required 6.0m manoeuvring aisle width for one of the required parking spaces for a single family dwelling and the requirement that a manoeuvring space shall be provided and maintained on the lot.
8. Eaves and gutters may project into the required northerly side yard for the entire yard width instead of a maximum projection of not more than ½ of its required width or 0.25 metres.

9. Eaves and gutters may project into the required southerly side yard for the entire yard width instead of a maximum projection of not more than $\frac{1}{2}$ of its required width or 0.20 metres.

Parcel to be Retained (Northerly Parcel with Existing Dwelling)

10. The southerly side yard shall be 0.6m instead of the minimum required 1.2m for a dwelling that is under 2.5 storeys in height.

11. The minimum lot width shall be 8.0m instead of the minimum required 12.0m lot width.

12. The minimum lot area shall be 277m² instead of the minimum required 360m² lot area.

13. The front yard landscaped area shall be a minimum of 46.0% of the gross area of the front yard instead of the minimum 50.0% required front yard landscaped area.

14. One parking space shall be provided instead of the minimum required two parking spaces for a single family dwelling having up to 8 habitable rooms.

15. No manoeuvring space shall be provided instead of the minimum required 6.0m manoeuvring aisle width for one of the required parking spaces for a single family dwelling and the requirement that a manoeuvring space shall be provided and maintained on the lot.

16. Eaves and gutters may project into the required southerly side yard for the entire yard width instead of a maximum projection of not more than $\frac{1}{2}$ of its required width or 0.3 metres.

NOTES:

1. A Single Family Dwelling requires parking that is based on 2 parking spaces for each Class A dwelling unit, for the first 8 habitable rooms in the dwelling unit plus 0.5 parking spaces for each additional habitable room. There is insufficient information to determine the intended number of habitable rooms for the existing and proposed single family dwellings. As such, the number of required parking spaces could not be determined and has been assumed to be eight (8) or less. Additional variances with respect to parking may therefore be required if there are more than eight (8) habitable rooms.

2. The Zoning By-law permits a roofed-over or screened but otherwise unenclosed one-storey porch at the first storey level, including eaves and gutters, to project not more than 3.0 metres into a required front yard or rear yard to a distance of not more than 3.0 metres and be setback at least 1.5 metres from the front lot line. The site plan did not identify the dimensions of the unenclosed porch for the proposed dwelling on the parcel to be severed. Therefore, additional variances may be required if the projection is not in compliance with these requirements

3. The front yard and northerly side yard of the existing dwelling on the parcel to be retained are recognized as legal non-complying.

4. With respect to the variances for front yard landscaped area, the Zoning By-law directs that the gross area of the front yard shall be calculated as the area between the front lot line and the front of the principle dwelling and the area extending from the side lot line to side lot line but subtracting the following:

unenclosed entrance porches; vestibules; ramps; front steps; chimneys; bay windows; ornamental projections; terraces; platforms; and, a walkway between the front entrance of the principle dwelling and the front lot line or driveway with a maximum width of 0.6m.

This application will be heard by the Committee as shown below:

DATE: Thursday, August 27th, 2020
TIME: 2:45 p.m.
PLACE: Via video link or call in (see attached sheet for details)
To be streamed at www.hamilton.ca/committeeofadjustment for viewing purposes only

PUBLIC INPUT

Written: If you would like to submit written comments to the Committee of Adjustment you may do so via email or hardcopy. Please see attached page for complete instructions, including deadlines for submitting to be seen by the Committee.


Orally: If you would like to speak to this item at the hearing you may do so via video link or by calling in. Please see attached page for complete instructions, including deadlines for registering to participate.

MORE INFORMATION

For more information on this matter, including access to drawings illustrating this request:

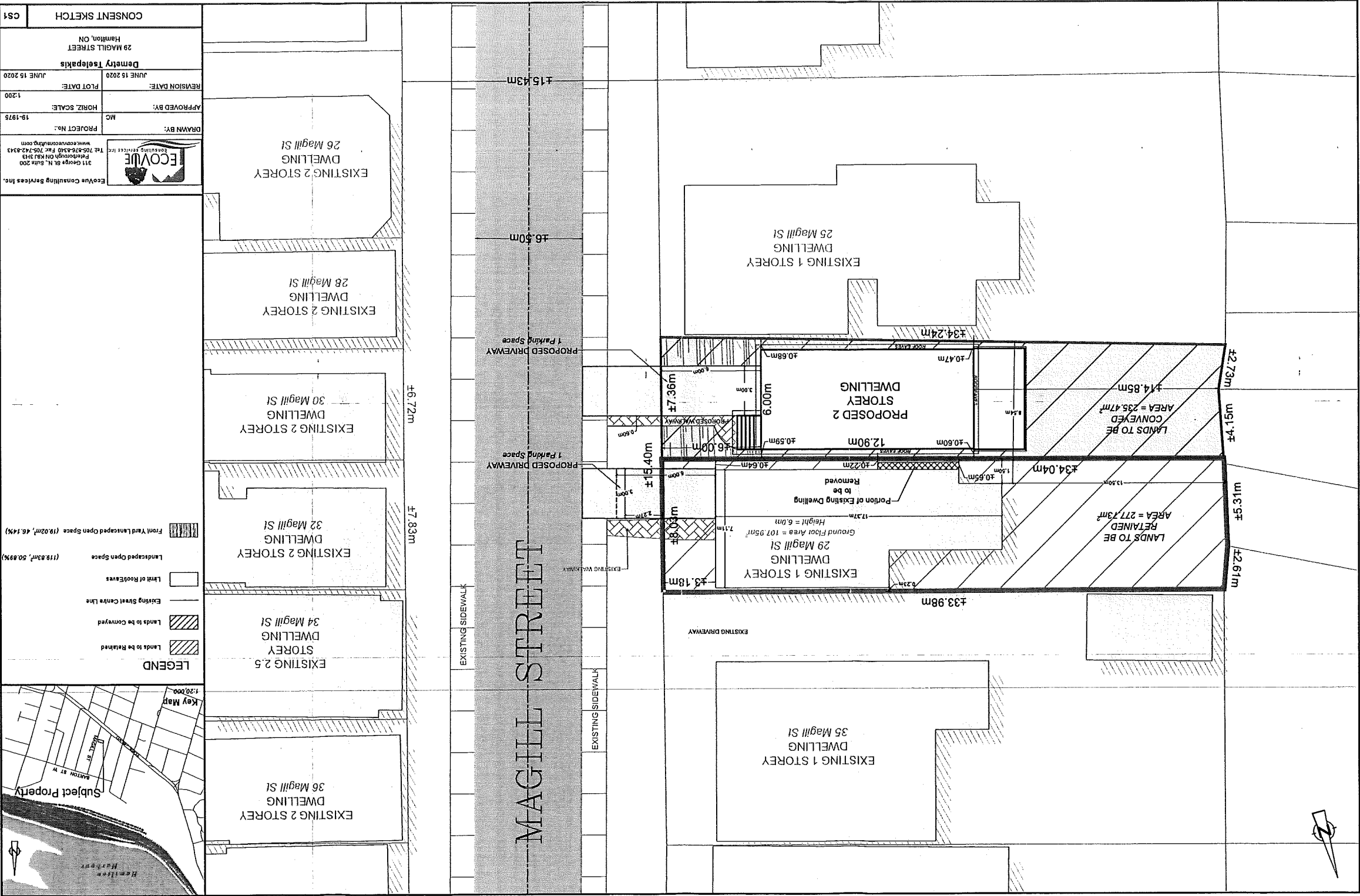
- Visit www.hamilton.ca/committeeofadjustment
- Call 905-546-CITY (2489) or 905-546-2424 extension 4221, 4130, or 3935
- Email Committee of Adjustment staff at cofa@hamilton.ca

DATED: August 11th, 2020.



Jamila Sheffield,
Secretary-Treasurer
Committee of Adjustment

Information respecting this application is being collected under the authority of the Planning Act, R.S.O., 1990, c. P. 13. All comments and opinions submitted to the City of Hamilton on this matter, including the name, address, and contact information of persons submitting comments and/or opinions, will become part of the public record and will be made available to the Applicant and the general public.





Planning and Economic Development Department
Planning Division

Committee of Adjustment
City Hall
5th floor 71 Main Street West
Hamilton, Ontario L8P 4Y5

Phone (905) 546-2424 ext.4221
Fax (905) 546-4202

APPLICATION FOR A MINOR VARIANCE

ALL MINOR VARIANCE APPLICATIONS MUST INCLUDE:

1. Application Form
2. Fee
3. One survey plan or sketch plan
4. Authorization from owner if applicant is not the owner

NOTE: The application cannot be processed until it is considered to be complete. An application is considered to be complete when all of the above have been provided and the requisite sign has been posted on the subject lands and that all signage requirements have been satisfied.

1.0 APPLICATION FEE:

1. **Routine** - \$615.00 (applies to pools, decks, sheds, accessory buildings, porches, eave projections and recognizing legal non-complying situations)
2. **Standard** - \$3,302.00
3. **After the Fact*** - \$4,119.00 (Applicable fee if construction has taken place.)
4. **Recirculation Fee** - \$275.00

Please make Cheque payable to the "**City of Hamilton**".

Please Note: The application fee is **non-refundable** whether the application is approved or denied. Prior to submitting an application, it is strongly recommended that you contact the planner responsible for your particular area in order to determine the feasibility of your proposal. Please call the Committee of Adjustment office for further information.

5. CONSERVATION AUTHORITY PLAN REVIEW FEES

Conservation Authority	Minor (a)	Minor (b)	Intermediate	Major
Hamilton Conservation Authority	\$495 ¹	n/a	n/a	\$990 ⁵
Conservation Halton	\$147 ²	\$260 ³	\$641 ⁴	\$1,865 ⁵
Niagara Peninsula Conservation Authority	\$410 ¹	n/a	n/a	TBD*
Grand River Conservation Authority	\$270 ⁶	n/a	n/a	\$600 ⁷

Once an application is submitted, City of Hamilton staff will advise the proponent if their application requires Conservation Authority review, and if so, which Conservation Authority their project falls within. The fee is to be made payable to the appropriate Conservation Authority and submitted to the City of Hamilton upon request. The fee will be forwarded to the Conservation Authority along with the application.

Note: For lands located within the watershed boundaries of the Conservation Authority, combined applications will only be processed at the highest rate.

- ¹ In the area of interest
 - ² No site visit or technical review
 - ³ Visual inspection
 - ⁴ Staking, visual assessment or one technical review
 - ⁵ More than one technical study is required for review
 - ⁶ Low risk of impact on natural hazard or natural features no technical reports required.
 - ⁷ A hazard risk and/or potential impact to natural hazards or natural features and requires the review of one or more technical reports/studies.
- * Addition fee for the review of a technical report, if required.

2.0 SIGNAGE REQUIREMENTS

1. A sign is required to be posted on the subject lands.
2. A sign will be mailed to the applicant 2 weeks prior to the scheduled hearing or the applicant will be contacted to pick up a sign for the subject property.
3. Once the application is processed a copy of the notice will be forwarded to the applicant/consultant.
4. The sign must be posted on the property so that it is visible to the public.
5. The sign must remain on the property until the appeal period has been completed.

3.0 APPLICATION FORM (ATTACHED)

1. Parts 1 to 27 and the Cost Acknowledgement Agreement to be completed. Please read the application form carefully and answer each item accurately and fully.
2. The signature on page 5 is to be validated by a Commissioner of Oaths. ie. City Clerk, Solicitor.
3. Two copies of the application are required by the Secretary for the Committee of Adjustment.
4. The application shall be signed by all owners registered on title of the land that is the subject of the application or a person authorized by the owner to make the application.
5. Where the application is signed by a person authorized by the owner, the owner's signed authorization in Part 24 of the application shall be completed.
6. Application to be submitted to: Secretary-Treasurer
Committee of Adjustment
Planning and Economic Development Department
5th floor, 71 Main Street West
Hamilton, ON L8P 4Y5

4.0 DETAILED INFORMATION REQUIRED FOR APPLICATIONS

1. Item 6 - This item is extremely important as this is the reason for the application. The Notice of Hearing for the application and the Decision are both formulated from this item. It is imperative that the applicant clearly indicate all of the variances being applied for in exact mathematical terms with proposed figures. If the applicant has any doubt as to why a variance application is necessary or as to the detail of the nature of the variances then the applicant should contact the Building Department or Secretary for the Committee of Adjustment for assistance.

The staff processing the minor variance application cannot look beyond the information provided in Item 6 and must process your application on the basis of information in Item 6. **This Is Your Application. Make Sure You Know The Details Of Exactly Why You Have To Apply To The Committee Of Adjustment.**

Any errors or omissions in Item 6 could result in discovery at the hearing that there is need for additional variances or a change requiring recirculation of your application resulting in further delay and in some cases the need for submission of an additional application with a further application fee.
2. Item 19 - Refers to the City's Official Plan land use designation of the subject property. This can be obtained from the Planning Department if the applicant does not know.
3. Item 20 - Is asking for the zoning of the subject property. This can be obtained from the Building Department if the applicant does not know.
4. Item 22 - An application for consent can also be referred to as a severance.

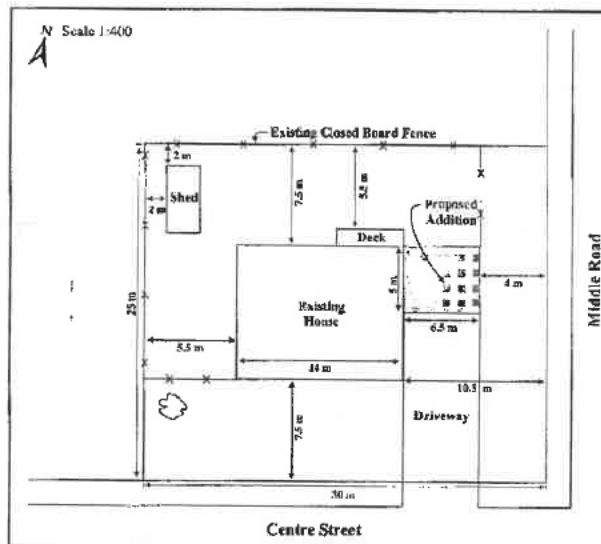
5.0 SKETCH MAP

If a survey plan of the subject property is not available, then a sketch plan may be submitted.

The sketch plan must be submitted with the minor variance application to provide clarification of the variance being applied for. The following details must be supplied:

1. the true dimensions of the property for which the application is being made;
2. the location and dimensions of all existing buildings, structures or uses on the subject property;
3. the setback measurements from the lot lines to the existing or proposed building on the subject property (ie. front yard, rear yard, side yard setbacks). If applicable, the distance of building on neighbouring lots;
4. clearly demonstrate the difference between the existing building and the proposed addition (if applicable);
5. the location and name of the street should be shown;
6. the location must be drawn to scale utilizing good drafting techniques;
7. a scale and north arrow should be shown on the sketch; and
8. the Committee reserves the right to reject sketches for insufficient or poorly presented information.
9. the size has to be a minimum of 8.5 " x 11" and a maximum of 11" x 17".

Example:



6.0 ADDITIONAL INFORMATION FOR THE APPLICANT

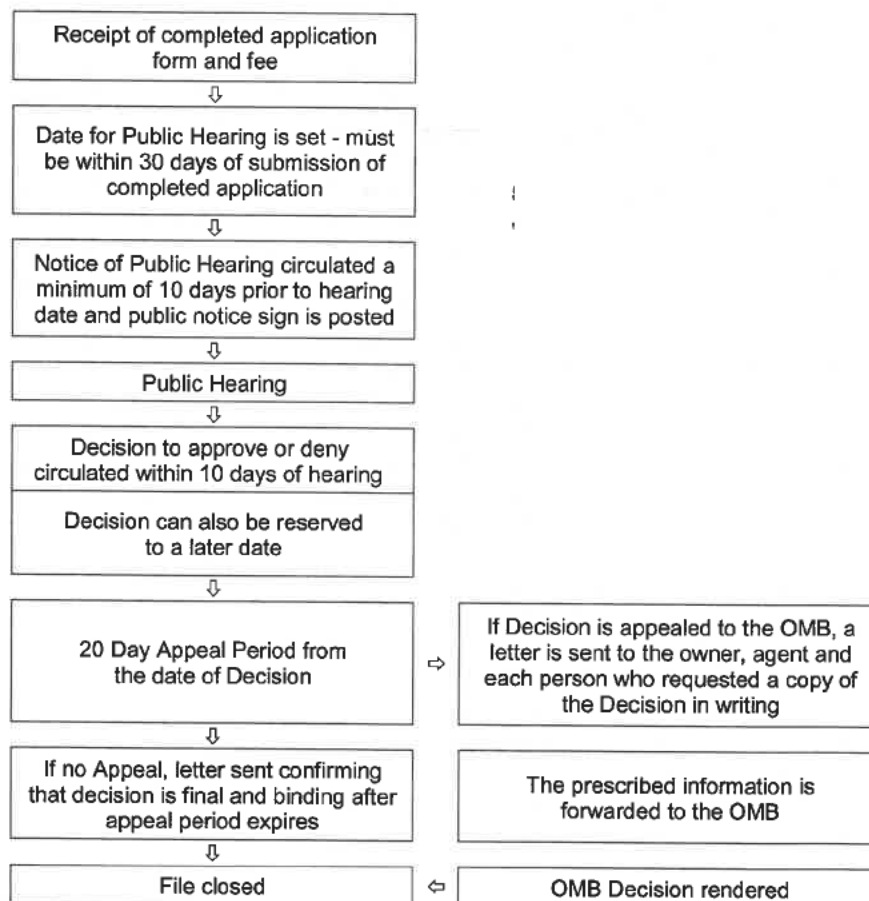
1. All information submitted in support of this application will be considered public information, including any reports, studies, drawings or other documentation submitted by applicant(s), agent(s), consultants(s) or solicitor(s). The City of Hamilton is permitted to make the application and any associated supporting information available to the general public, including posting electronic versions of the application form and associated studies and reports online. The City of Hamilton is also permitted to provide copies of the application and any supporting information to any member of the public or other third party that requests the information.
2. The Committee of Adjustment generally meets on Thursday afternoons. The Secretary schedules the applications and will advise the applicant of the actual hearing date by way of notice.

3. The applicant/agent will receive a public notice stating the time and place of their hearing.
4. The applicant/agent is required to attend the hearing on the date and time stated in the public notice to represent his application.
5. The applicant/agent should be prepared to present their application before the Committee if required, explaining the necessity for the variance. The applicant/agent should be prepared to answer any questions by the Committee or members of the public.
6. Once the application has been heard and the Committee members have made a decision the Secretary will send the applicant/agent a notice of decision.
7. There will be a 20 day appeal period after the decision has been made. No construction may occur until this appeal period has expired. A final letter will be received by the applicant at the time of expiration explaining whether or not an appeal to the Local Planning Appeal Tribunal has been lodged. If the applicant, the City or surrounding residents are dissatisfied with the decision of the Committee of Adjustment they may, within the 20 day appeal period, deliver personally to the secretary or send by registered mail a Notice of Appeal, with reason for appeal, together with a cheque in the amount of \$300.00 made payable to the "Minister of Finance". The appeal is then forwarded, with all necessary material, to the Local Planning Appeal Tribunal. The Office of the Local Planning Appeal Tribunal will notify you of a hearing date at which time you must attend.

Note: The approximate total processing time for an application without an appeal is about 7-9 weeks.

7.0 COMMITTEE OF ADJUSTMENT PROCESS

MINOR VARIANCE PROCEDURES





Committee of Adjustment
City Hall
5th floor 71 Main Street West
Hamilton, Ontario L8P 4Y5

**PLEASE FILL OUT THE FOLLOWING PAGES AND
RETURN TO THE CITY OF HAMILTON PLANNING
DEPARTMENT.**

**SECRETARY'S
SIGNATURE** _____

**CITY OF HAMILTON
COMMITTEE OF ADJUSTMENT
HAMILTON, ONTARIO**

6. Nature and extent of relief applied for:
 ___A minor variance to seek relief from the minimum lot frontage, minimum lot area, the interior side yard and parking requirements. _____
7. Why it is not possible to comply with the provisions of the By-law?_
 The lot does not allow for the current set backs and lot size.

8. Legal description of subject lands (registered plan number and lot number or other legal description and where applicable, street and street number): ___
 29 Magill Street, City of Hamilton,
 Roll Number 2518101050013000000 _____

9. PREVIOUS USE OF PROPERTY

Residential _____ Industrial _____ Commercial _____

Agricultural _____ Vacant ☒ _____

9.1 ~~If Industrial or Commercial, specify use~~
 Other _____

9.2 Has the grading of the subject land been changed by adding earth or other material, i.e. has filling occurred?

Yes _____ No ☒ _____ Unknown _____

9.3 Has a gas station been located on the subject land or adjacent lands at any time?

Yes _____ No ☒ _____ Unknown _____

9.4 Has there been petroleum or other fuel stored on the subject land or adjacent lands?

Yes _____ No ☒ _____ Unknown _____

9.5 Are there or have there ever been underground storage tanks or buried waste on the subject land or adjacent lands?

Yes _____ No ☒ _____ Unknown _____

9.6 Have the lands or adjacent lands ever been used as an agricultural operation where cyanide products may have been used as pesticides and/or sewage sludge was applied to the lands?

Yes _____ No ☒ _____ Unknown _____

9.7 Have the lands or adjacent lands ever been used as a weapon firing range?

Yes _____ No ☒ _____ Unknown _____

9.8 Is the nearest boundary line of the application within 500 metres (1,640 feet) of the fill area of an operational/non-operational landfill or dump?

Yes _____ No ☒ _____ Unknown _____

9.9 If there are existing or previously existing buildings, are there any building materials remaining on site which are potentially hazardous to public health (eg. asbestos, PCB's)?

Yes _____ No ☒ _____ Unknown _____

9.10 Is there any reason to believe the subject land may have been contaminated by former uses on the site or adjacent sites?

Yes _____ No ☒ Unknown _____

9.11 What information did you use to determine the answers to 9.1 to 9.10 above?

Information provided by applicant _____

9.12 If previous use of property is industrial or commercial or if YES to any of 9.2 to 9.10, a previous use inventory showing all former uses of the subject land, or if appropriate, the land adjacent to the subject land, is needed.

Is the previous use inventory attached? Yes _____ No ☒

ACKNOWLEDGEMENT CLAUSE

I acknowledge that the City of Hamilton is not responsible for the identification and remediation of contamination on the property which is the subject of this Application – by reason of its approval to this Application.

Date

Signature Property Owner

Print Name of Owner

10. Dimensions of lands affected:

Frontage 7.36 m (severed lot) 8.03 (retained lot) _____

Depth 34.24 m (severed lot) 33.98 (retained lot) _____

Area 235.47 m² (severed lot) 277.73 (retained lot) _____

Width of street 6.5m _____

11. Particulars of all buildings and structures on or proposed for the subject lands:

(Specify ground floor area, gross floor area, number of stories, width, length, height, etc.) Existing: _____ Existing dwelling: width - 7.1m, depth -17.4m.

Ground floor 107.95 m.sq. Height - 6.0m _____

Proposed: _____ Proposed 2 storey dwelling. 15m by 6m. 1,937 square feet over two stories, 11 m height _____

12. Location of all buildings and structures on or proposed for the subject lands;

(Specify distance from side, rear and front lot lines)

Existing: _____ Front: 3.18 m, side: 0.65m, 0.22m, 0.64m, rear 13.5m _____

Proposed: _____ Front: 6.00m, side: 0.59m, 0.60m, 0.47m, 0.68m rear 14.85m. _____

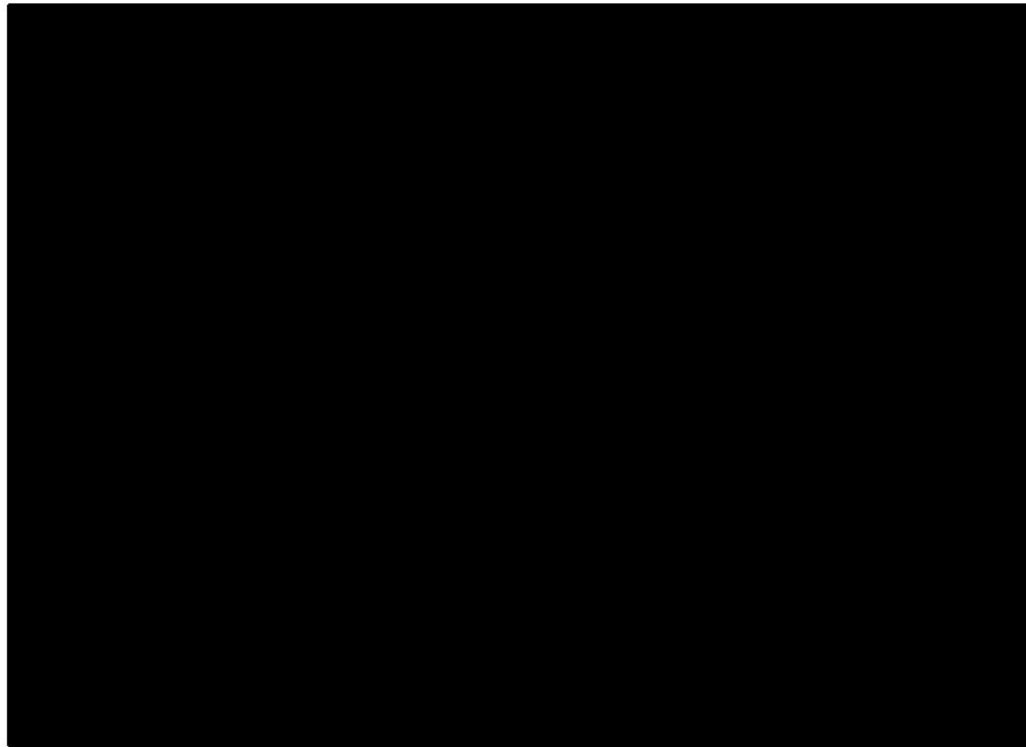
13. Date of acquisition of subject lands:
October 3rd, 2019
14. Date of construction of all buildings and structures on subject lands:
No structures currently on the site.
15. Existing uses of the subject property: residential
16. Existing uses of abutting properties: residential
17. Length of time the existing uses of the subject property have continued:
Unknown
18. Municipal services available: (check the appropriate space or spaces)
Water ☒ Connected ☐
Sanitary Sewer ☒ Connected ☐
Storm Sewers ☒
19. Present Official Plan/Secondary Plan provisions applying to the land:
West Harbour Secondary Plan
20. Present Restricted Area By-law (Zoning By-law) provisions applying to the land:
"D" District (Urban Protected Residential – One and Two Family Dwellings)
21. Has the owner previously applied for relief in respect of the subject property?
Yes No ☒
If the answer is yes, describe briefly.
22. Is the subject property the subject of a current application for consent under Section 53 of the *Planning Act*?
Yes ☒ No
23. The applicant shall attach to each copy of this application a plan showing the dimensions of the subject lands and of all abutting lands and showing the location, size and type of all buildings and structures on the subject and abutting lands, and where required by the Committee of Adjustment such plan shall be signed by an Ontario Land Surveyor.

NOTE: It is required that two copies of this application be filed with the secretary-treasurer of the Committee of Adjustment together with the maps referred to in Section 5 and be accompanied by the appropriate fee in cash or by cheque made payable to the City of Hamilton.

PART 24 AFFIDAVIT OR SWORN DECLARATION



believing it to be true and knowing that it is of the same force and effect as if made under oath.

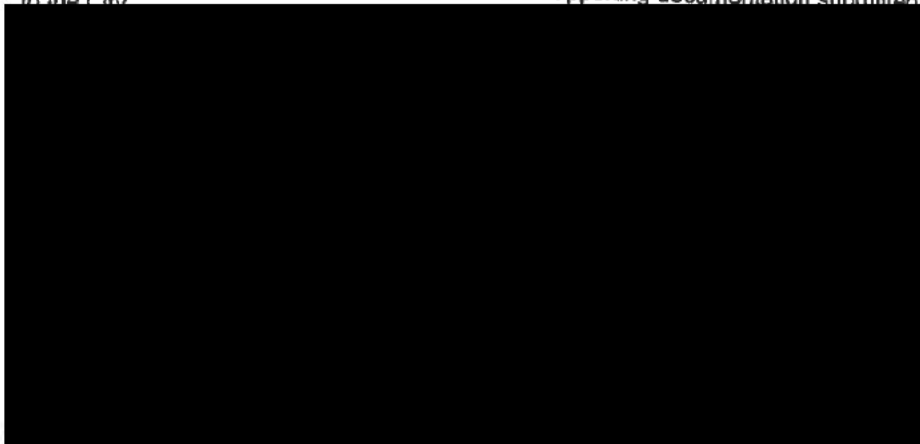


PART 26 CONSENT OF THE OWNER

Complete the consent of the owner concerning personal information set out below.

Consent of Owner to the Disclosure of Application Information and Supporting Documentation

Application information is collected under the authority of the *Planning Act*, R.S.O. 1990, c. P.13. In accordance with that Act, it is the policy of the City of Hamilton to provide public access to all *Planning Act* applications and supporting documentation submitted to the City.



PART 27 PERMISSION TO ENTER

Date: June 22 2020

Secretary/Treasurer
Committee of Adjustment
City of Hamilton,
City Hall

Dear Secretary/Treasurer,

Re: Application to Committee of Adjustment

Location of Land: 29 Magill St, Hamilton
(Municipal address)

I hereby authorize the members of the Committee of Adjustment and members of the
ted property for the limited

Note: The Committee of Adjustment requires that all properties be identified with the municipal address clearly visible from the street. Where there is no municipal address or the property is vacant then the property shall be identified in accordance with the Committee's policy included on the back of the Application Form. Failure to properly identify the subject property may result in the deferral of the application.

PART 28 COLLECTION OF INFORMATION

The personal information contained on this form is collected under the authority of the *Planning Act*, R.S.O. 1990, c. P.13, and will be used for the purpose of processing the application. This information will become part of the public record and will be made available to the general public. Questions about the collection of this information should be directed to the Coordinator of Business Facilitation, Planning and Economic Development Department, City of Hamilton, 1st floor, 71 Main Street West, City Hall, Hamilton, Ontario, Telephone: 905-546-2424, ext.1284.

CITY OF HAMILTON
COST ACKNOWLEDGEMENT AGREEMENT

This Agreement made this _____ day of _____, 20_____.

BETWEEN:



-and-

City of Hamilton

hereinafter referred to as the "City"

WHEREAS the Developer represents that he/she is the registered owner of the lands described in Schedule "A" attached hereto, and which lands are hereinafter referred to as the "lands";

AND WHEREAS the Developer has filed for an application for a (circle applicable) consent/rezoning/official plan amendment/subdivision approval/minor variance.

AND WHEREAS it is a policy of the City that any City costs associated with an appeal to the Local Planning Appeal Tribunal, by a party other than the Developer, of an approval of a consent, rezoning, official plan amendment, plan of subdivision, and/or minor variance, such as, but not limited to, legal counsel costs, professional consultant costs and City staff costs, shall be paid by the Developer.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of two dollars (\$2.00) now paid by the City to the Developer, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. In this Agreement:

- (a) "application" means the application(s) for a (circle applicable) consent/rezoning/official plan amendment/subdivision approval or minor variance dated _____ with respect to the lands described in Schedule "A" hereto.
- (b) "Expenses" means all expenses incurred by the City if the application is: (a) approved by the City; (b) appealed to the Local Planning Appeal Tribunal by a party other than the developer; and (c) the City appears before the Local Planning Appeal Tribunal or any other tribunal or Court in support of the application, including but not limited to: City staff time, City staff travel expenses and meals, City disbursements, legal counsel fees and disbursements and all consultant fees and disbursements including, without limiting the generality of the foregoing planning, engineering or other professional expenses

- 2. The City agrees to process the application and, where the application is approved by the City but appealed to the Local Planning Appeal Tribunal by a party other than the Developer, the Developer shall file an initial deposit, in the form of certified cheque or cash with the General Manager, Finance & Corporate Services within fifteen days of the date of the appeal of the application by a third party in the amount of 50% of the estimated expenses associated with the appeal as estimated by the City Solicitor in his sole discretion which shall be credited against the Expenses.
- 3. It is hereby acknowledged that if the deposit required pursuant to section 2 of this Agreement is not paid by the Developer the City shall have the option, at its sole discretion, of taking no further steps in supporting the Developer's application before the Local Planning Appeal Tribunal.

4. It is hereby acknowledged that all expenses shall be paid for by the Developer. The Developer shall reimburse the City for all expenses the City may be put to in respect of the application upon demand.
5. It is hereby acknowledged and agreed that all expenses shall be payable by the Developer whether or not the Developer is successful before the Local Planning Appeal Tribunal or any other tribunal or Court in obtaining approval for their application.
6. The City shall provide the Developer with copies of all invoices of external legal counsel or consultants included in the expenses claimed by the City.
7. The City shall provide the Developer with an accounting of all staff costs and City disbursements included in the expenses claimed by the City.
8. The City may, at any time, draw upon the funds deposited in accordance with sections 2 and 9 of this Agreement to satisfy expenses incurred pursuant to the appeal of the application.
9. In the event that the amount deposited pursuant to section 2 of this Agreement is reduced to less than 10% of the initial deposit, the City may halt all work in respect of the appeal of the application until the Developer deposits with the City a sum sufficient to increase the deposit to an amount which is equal to 100% of the expenses estimated pursuant to paragraph 2 of this Agreement and still to be incurred by the City.
10. Within 60 days of: (a) a decision being rendered in respect of the appeal or any legal proceedings resulting from the decision, whichever is later; or (b) the termination of all legal proceedings in respect of the application, the City shall prepare and submit a final account to the Developer. If there are any deposit funds remaining with the City they shall be applied against the account. Any amount owing in respect of the final account in excess of deposit funds shall be paid by the Developer within 30 days of the date of the final account. If any deposit funds are remaining after the final account has been paid they shall be returned to the developer within 30 days of the date of the final account.
11. This Agreement shall not be construed as acceptance of the application and nothing herein shall require or be deemed to require the City to approve the application.
12. This Agreement shall not stand in lieu of or prejudice the rights of the City to require such further and other agreements in respect of the application that the City may deem necessary.
13. Every term, covenant, obligation and condition in this Agreement ensures to the benefit of and is binding upon the parties hereto and their respective heirs, executors, administrators, successors, trustees and assigns.
14. When the context so requires or permits, the singular number is to be read as if the plural were expressed, and the masculine gender as if the feminine, as the case may be, were expressed; and,
15. This Agreement and the schedules hereto constitute the entire agreement between the parties in respect of the subject matter contained herein and is not subject to, or in addition to, any other agreements, warranties or understandings, whether written, oral or implied. This Agreement may not be modified or amended except by instrument in writing signed by the Developer and the City, and,
16. The waiver or acquiescence by the City of any default by the Developer under any obligation to comply with this Agreement shall not be deemed to be a waiver of that obligation or any subsequent or other default under this Agreement.
17. The Developer covenants and agrees to be bound by the terms and conditions of this Agreement and not to seek a release from the provisions thereof until such time as the Developer's obligations hereunder have been assumed by its successor,

assignee or transferee by way of written agreement in the form set out in Schedule "B" to this Agreement.

IN WITNESS WHEREOF the parties hereto have set their corporate seals under the hands of their duly authorized officers.



I have authority to bind the corporation.

WITNESS

Per:

I have authority to bind the corporation

DATED at Hamilton, Ontario this ____ day of _____, 20____.

City of Hamilton

Per:

Mayor

Per:

Clerk

Schedule "A"
Description of Lands

SCHEDULE "B"
FORM OF ASSUMPTION AGREEMENT

THIS AGREEMENT dated the _____ day of _____, 20____.

BETWEEN



OF THE FIRST PART

-and-

(hereinafter called the "Assignee")

-and-

OF THE SECOND PART

CITY OF HAMILTON
(hereinafter called the "Municipality")

OF THE THIRD PART

WHEREAS the owner and the Municipality entered into and executed a Cost Acknowledgement Agreement dated _____.

AND WHEREAS Assignee has indicated that it will assume all of the Owner's duties, liabilities and responsibilities as set out in the Cost Acknowledgement Agreement.

AND WHEREAS Council for the Municipality has consented to releasing the Owner from its duties, liabilities and responsibilities under said Cost Acknowledgement Agreement subject to the Assignee accepting and assuming the Owner's duties, liabilities and responsibilities and subject to the Assignee the Owner and the Municipality entering into and executing an Assumption Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the mutual covenants hereinafter expressed and other good and valuable consideration, the parties hereto agree as follows.

1. The Assignee covenants and agrees to accept, assume and to carry out the Owner's duties, liabilities and responsibilities under the Cost Acknowledgement Agreement and in all respects to be bound under said Cost Acknowledgement Agreement as if the Assignee had been the original party to the agreement in place of the Owner.
2. The Municipality hereby releases the Owner from all claims and demands of any nature whatsoever against the Owner in respect of the Cost Acknowledgement Agreement. The Municipality hereby accepts the Assignee as a party to the Cost Acknowledgement Agreement in substitution of the Owner, and agrees with the Assignee that the Assignee will be bound by all the terms and conditions of the Cost Acknowledgement Agreement as if the Assignee had been the original executing party in place of the Owner.
3. All of the terms, covenants, provisos and stipulations in the said Cost Acknowledgement Agreement are hereby confirmed in full force save and except for such modifications as are necessary to make said clauses applicable to the Assignee.

IN WITNESS WHEREOF the Parties have hereunto affixed their corporate seals duly attested to by their proper signing officers in that behalf.

SIGNED, SEALED AND DELIVERED



c/s

Title:

I have authority to bind the corporation

Assignee:

c/s

Title:

I have authority to bind the corporation

CITY OF HAMILTON

Mayor

Clerk



June 22, 2020

Committee of Adjustment
71 Main Street West, 5th Floor
Hamilton, Ontario, L8P 4Y5

Attn: Jamila Sheffield
Secretary-Treasurer

Re: Application for Minor Variance and Consent to Sever
29 Magill Street, City of Hamilton
EcoVue Project Number: 19-1975

The following is being submitted in support of applications for Minor Variance and Consent at the above-noted property. The purpose of the applications are as follows:

1. **Consent** to create one (1) new lot from the property that will accommodate a new single detached dwelling;
2. **Minor Variance** to seek relief from the following provisions of Section 10 ("D" District) of the City of Hamilton Zoning By-law related:
 - a. To the retained lot:
 - i. Minimum Lot Frontage – the retained lot will have 3.18 metres of frontage, where a minimum of 12 metres of frontage is required;
 - ii. Minimum Lot Area – the retained lot will have a lot area of 277.73 square metres where 360 square metres is required;
 - iii. Interior Side Yard – the dwelling on the retained lot will have an interior side yard setback between .22 metres and 0.64 metres where 1.2 metres is required;
 - iv. A reduction in number of parking spaces from two spaces to one off street parking with use of 2.27 metres of the city owned boulevard.
 - b. To the severed lot:

- i. Minimum Lot Frontage – the severed lot will have 7.36 metres of frontage, where a minimum of 12 metres of frontage is required;
- ii. Minimum Lot Area –the severed lot will have a lot area of 235.47 square metres where 360 square metres is required;
- iii. Interior Side Yard – the proposed dwelling on the severed lot will have an interior side yard setback of 0.6 metres where 1.2 metres is required;
- iv. Variances for the percentage of landscaped area in the front yard – 43.12% where 50% is required;
- v. A reduction in number of parking spaces from two spaces to one space.

This letter-report will review both applications in the context of applicable land use planning regulations and policies, including Section 45(1) of the Planning Act, as well as the Provincial Policy Statement, Place to Grow: Growth Plan for the Greater Golden Horseshoe, and the City of Hamilton Official Plan.

1.0 SUBJECT PROPERTY AND PROPOSAL

The subject property is located at 29 Magill Street in the City of Hamilton. The property is approximately 474 square metres with 15.5 metres of frontage on Magill Street. There is currently a one (1) storey single detached dwelling located on the northern portion of the property.

The property owner is proposing to sever the subject property into two lots of approximately equal size and frontage. A new single detached dwelling will be constructed on the severed lot. The existing dwelling unit will remain on the retained lot. Each lot will have one parking area in the front of the dwelling.

The property is located in a residential area with primarily single and semi-detached dwellings. The property is currently zoned “D” District (Urban Protected Residential – One and Two Family Dwellings).

2.0 APPLICATION FOR MINOR VARIANCE

The following provides a review of the variance in the context of the four tests under Section 45 (1) of the Planning Act. Section 45(1) of the *Planning Act* sets out ‘four tests’ to be considered when submitting a Minor Variance application. Those four tests are:

1. The application should meet the general intent of the Official Plan;
2. The application should meet the general intent of the Zoning By-law;
3. The requested variance is minor in nature; and,
4. The requested variance is desirable for the appropriate development or use of land, building or structure.

Below is a summary of the proposed Minor Variances in the context of the four tests listed above.

2.1 General Intent of the City of Hamilton Official Plan

The subject lands are designated Neighbourhood Designation according to Chapter E – Urban Designations of the City of Hamilton Official Plan. As outlined in Section E.3.2.4 of the Official Plan, this designation provides for *residential intensification* within the Neighbourhood Designation that will *enhance and be compatible with the scale and character of the existing residential neighbourhood*. Section B.2.4 – Residential Intensification further outlines the key component of Hamilton’s growth strategy and confirms that residential intensification is essential to meet growth and employment targets within the City of Hamilton. This proposed minor variance would provide for residential intensification and would be in keeping with the neighbourhood character. The dwelling units along Magill Street generally feature small side yards on lots that range between approximately 225 and 550 square metres. In particular, there are a number of existing single detached dwellings located on lots of a similar size to the proposed severed and retained lots adjacent to the subject lands on the eastern side of Magill Street. Therefore, it is our opinion that the proposed minor variances meet the general intent of the City of Hamilton Official Plan.

2.1.1 West Harbour Secondary Plan

The subject property is located within the West Harbour Secondary Plan (the Secondary Plan) and is designated Low Density Residential on Schedule M-2: General Land Use. General Policies for land uses are outlined in Section 6.3.3 of the Secondary Plan to ensure that “*all future planning and development in the area addresses issues and opportunity best viewed from an area-wide or city-wide perspective*”. Section A.6.3.3.1.12 outlines development in Low Density Residential areas:

- i) the scale, type and character of new development shall generally reflect existing low density development in the neighbourhood;*
- ii) single detached, semi-detached and street townhouses are permitted;*
- iii) the density of development shall range from 25 to 60 units per gross hectare;*
- iv) existing grid patterns of streets, blocks, and open space, and/or those proposed by this plan, shall be respected;*
- v) lot dimensions and building setbacks shall be generally consistent with other Low Density Residential properties in the neighbourhood;*
- vi) for streets where a road allowance widening is required, the setback under the zoning by-law must be taken from the widened road allowance; and*
- vii) garages shall be located generally at the rear of properties and accessed from rear laneways where feasible.*

Section A.6.3.3.1.16.3.1 further outlines:

Notwithstanding policy A.6.3.5.1.2.3 of this Plan, the following uses shall be permitted on lands designated Low-Density on Schedule M-2a:

- i) single detached, semi detached, street townhouses and stacked townhouses; and*
- ii) open space and parks.*

In addition, the Secondary Plan Section A.6.3.2.2 – Strengthen existing neighbourhoods, provides a planning principle in terms of development in the West Harbour area of Hamilton. Section A.6.3.2.2 i) states that *“it is important to i) ensure new development respects and enhances the character of the neighbourhoods”*.

The proposed minor variances will provide for a new single detached dwelling unit, which is a permitted use in the Low Density Residential designation. Furthermore, the scale of the proposed development will be in keeping with the neighbourhood character (see: **Appendix A**). As mentioned, the dwelling units on Magill Street are generally arranged on lots of a similar size and with similar side yard setbacks. With the additional dwelling unit, the total density of the subject lands equates to 36 units per hectare, which is in keeping with the density requirements in the Low Density Residential designation.

The overall intent of the Secondary Plan is to allow for intensification in the West Harbour neighbourhood. The proposed development would allow for an additional single detached dwelling on the street, through infilling, that is currently municipally serviced and where residents can access amenities in the neighbourhood. Therefore, it is our opinion that the minor variances meet the general intent of the Secondary Plan.

2.2 General Intent of the City of Hamilton Zoning By-law No. 6593

The property at 29 Magill Street is zoned “D” District (Urban Protected Residential – One and Two Family Dwellings, etc.) according to the interactive Zone Map of the City of Hamilton. The “D” District Zone permits a range of residential uses including, but not limited to, *“a single family dwelling, together with accommodation of lodgers to the number of not more than three.”*

In “D” District the following yard requirements are provided:

- (i) a front yard of a depth of at least 6.0 metres (19.69 feet);*
- (ii) for a building or structure not over two and a half storeys or 11.0 metres (36.09 feet) in height, a side yard along each side lot line, of a width of at least 1.2 metres (3.94 feet), and for any other building or structure, side yards of a width each of at least 2.7 metres (8.86 feet); and*
- (iii) a rear yard of a depth of at least 7.5 metres (24.61 feet).*

In “D” District the following intensity of use also apply:

- (i) for a single family dwelling, residential care facility or lodging house, a width of at least 12.0 metres (39.37 feet) and an area of at least 360.0 square metres (3875.13 square feet);*

The proposed redevelopment does not meet the required frontage, lot area or interior side yard setbacks of the “D” District. As such, the applicant is requesting a variance from the Minimum Lot Width (frontage), the Minimum Lot Area, and the Minimum Interior Side Yard Setback provisions. The purpose of these provisions in the Zoning By-law is as follows:

- **Minimum Lot Width and Area:** these provisions are intended to ensure that new lots within residential areas can appropriately accommodate new development that is in keeping with the character of the neighbourhood. As demonstrated herein, the proposed severed and retained lot can adequately accommodate both the existing and a new dwelling unit. The addition of the new dwelling unit will be in keeping with the neighbourhood character.
- **Minimum Interior Side Yard Setback:** this provision is intended to ensure that development on residential lots are adequately spaced. In our opinion, the proposed reduction in the interior side yard will still provide adequate space between the existing and proposed dwelling unit. Furthermore, the interior side yard is in keeping with existing interior side yards along Magill Street.
- **Parking**

The proposed development does not meet the requirements established as part of Table 1 - Minimum Required Parking for, Residential, Institutional, Public and Commercial Uses which requires 2 parking spaces for each Class A dwelling unit, for the first 8 habitable rooms in the dwelling unit...”. It is our opinion that the intent of requiring 2 spaces for each dwelling unit is to adequately accommodate the needs of families and those residents that require multiple vehicles. That said, it is understood that this provision may not accurately reflect the changing trends within urban centres.

Both the severed and retained lot will allow for one parking space for each dwelling. This general area of the City of Hamilton has been identified in the West Harbour (Setting Sail)

Secondary Plan as an area where public transit, cycling, walking should play a significant role in the City's transportation system. Both the proposed single detached dwelling on the severed lot and the existing single detached dwelling on the retained lot should can be adequately served by one parking space each as there are a number of options for transportation in the area. Furthermore, a number of commercial services are located within walking distance of the subject property. Therefore, allowing for a reduction in parking spaces can be considered minor in nature.

Overall, it is our opinion that the Minor Variances meet the general intent of the City of Hamilton Zoning By-law.

2.3 The Requested Variances are Minor in Nature

It is our opinion that this variance should be considered minor. It has been demonstrated herein that the reduction in lot area, frontage and the side yard setback will not result in any negative impacts to the adjacent properties or the surrounding neighbourhood. Both the severed and retained lots are equal or greater in size to several lots in the immediate area. Furthermore, the relief being sought for each provision is numerically minor:

1. Lot Area Conveyed: 234 sq. m where 360 sq. m is required = 35% reduction
2. Lot Area retained: 277.73 sq. m where 360 sq. m is required = 23% reduction
3. Lot Frontage (severed): 7.36 m where 12 m is required = 61% reduction
4. Lot Frontage (retained): 3.18 m where 12 m is required = 73% reduction
5. Interior Side Yard Setback: 0.59 to 0.65 m where 1.2 m is required = 49 to 54% reduction
6. Parking: 1 space per dwelling unit where 2 spaces are required.

Although the reduction in the side yards for both the severed and retained lots represents a larger percentage reduction (61% and 73% respectively), the distance is relatively small in the context of standard lot regulations (0.8 metres). Furthermore, the reduction in the side yards, as well as lot frontage for both the severed and retained lots, is comparable to a number of properties on Magill Street. Therefore, it is our opinion that the requested variances are minor in nature.

2.4 Desirable for the Appropriate Development

The subject property is part of the Built-up Area of the City of Hamilton which has been identified in both Provincial and local planning documents as an area of higher densities. The proposed severance and minor variance would provide for development that is consistent with the character of the street. As demonstrated herein, the neighbourhood is currently made up of a mix of medium to high density. The existing dwelling units, particularly those units and lots located immediately east of the subject lands, are of a similar size and massing as the proposed severed and retain lots. Furthermore, the minor variance would enable more housing in an area identified in the Official Plan as an area for intensification.

3.0 PROVINCIAL POLICY STATEMENT AND A PLACE TO GROW: GROWTH PLAN FOR THE GREATER GOLDEN HORSESHOE

As noted, the proposed Consent application must be evaluated under the applicable land use policies, including those applicable Provincial policies.

The Provincial Policy Statement (PPS) 2020 and Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan) provide a policy framework for land use planning within the Province of Ontario. It is the responsibility of the local planning authorities, in this case the City of Hamilton, to uphold the policies of the PPS pertaining to land use planning and development. In particular, the planning authorities must ensure that their decisions are consistent with key provincial interests including policies related to settlement areas in urban and rural communities, the wise use and management of resources and public health and safety.

Section 1.1.3 of the PPS outlines policies as they relate to Settlement Areas. Section 1.1.3.1 states *that settlement areas shall be the focus of growth and development*. The subject property is in an Urban Growth Centre and thus is considered to be located within a settlement area. It is the intention of the PPS to direct the vast majority of growth to settlement areas, in particular the ones with municipal services. The proposed development represents infilling and intensification within a settlement and is therefore consistent with the policies listed in Section 1.1.3 of the PPS.

The City of Hamilton is also included within the area subject to the policies of the Growth Plan. Section 2.2.1.2 a) of the Growth Plan states that *"the vast majority of growth will be directed to*

settlement areas that have a delineated built boundary, have existing or planned municipal water or wastewater systems and can support the achievement of complete communities". As mentioned, the subject property is located within a settlement area that is serviced with municipal sewer and water and supports the achievement of complete communities with options for active transportation, mixed uses and commercial areas within the neighbourhood.

The Growth Plan also sets out population and employment distribution by municipality over the horizon of the Plan. The City of Hamilton is expected to grow significantly over the next 30 years. At least 50% of this growth is expected to occur with the built boundary of the municipality. The proposed lot creation provides for intensification on fully serviced land within the built boundary. Therefore, the proposed severance is in line with the policies for growth as outlined in the Growth Plan.

As such, it is our opinion that the proposed severance is consistent with the policies of the PPS and the Growth.

3.1 City of Hamilton Official Plan – Division of Land – Lot Creation – Urban Area

Consents for new lot creation in the Neighbourhood Designation is outlined in Chapter F Section 1.14.3 of the City of Hamilton Official Plan. Lot creation in the Neighbourhood Designation shall be permitted provided the following conditions are met:

- a) The lots comply with the policies of this Plan, including secondary plans, where one exists;*
- b) The lots comply with existing Neighbourhood Plans;*
- c) The lots are in conformity with the Zoning By-law or a minor variance is approved;*
- d) The lots reflect the general scale and character of the established development pattern in the surrounding area by taking into consideration lot frontages and areas, building height, coverage, mass, setbacks, privacy and overview;*
- e) The lots are fully serviced by municipal water and wastewater systems; and,*
- f) The lots have frontage on a public road.*

The following discussions outlines the requirements for consents for new lot creations as it relates to this proposed development.

a) The lots comply with the policies of this Plan, including secondary plans, where one exists;

Compliance/consistency with the City of Hamilton Official Plan is outlined in Section 2.1 of this report. The proposed severance will be in line with the City of Hamilton Official Plan as it relates to intensification in an existing neighbourhood. The City's growth strategy, outlined in the Official Plan, confirms that residential intensification is essential to meet growth and employment targets within the municipality. This severance will also provide for residential intensification within an existing neighbourhood, which is outlined as desirable in the Official Plan.

b) The lots comply with existing Neighbourhood Plans;

West Harbour (Setting Sail) Secondary Plan (January 2020) outlines guidelines for development in the area of West Harbour in the City of Hamilton. Section A.6.3.3.1.12 outlines development for the subject property and is described in Section 2.1 of the plan.

c) The lots are in conformity with the Zoning By-law or a minor variance is approved;

Minor variances are being requested as part of the Consent application. These variances are related to relief from lot frontage, lot area, and interior side yard provisions.

d) The lots reflect the general scale and character of the established development pattern in the surrounding area by taking into consideration lot frontages and areas, building height, coverage, mass, setbacks, privacy and overview;

The proposed severed and retained lots will be in line with the character of the neighbourhood as outlined in Section 2 this report. **Appendix A** provides photographs of the street and shows the overall character of the area. As seen on the Consent Sketch, the proposed lot sizes and frontages will be in keeping with the sizes and frontages of lots on the street, particularly those lots in the immediate area.

e) The lots are fully serviced by municipal water and wastewater systems; and,

The new lot will be fully serviced by municipal water and wastewater.

f) The lots have frontage on a public road.

The new lot will have frontage on to a public road.

The proposed lot creation meets the requirements for a lot creation in a Neighbourhood Designation is outlined in Chapter F Section 1.14.3 of the City of Hamilton Official Plan.

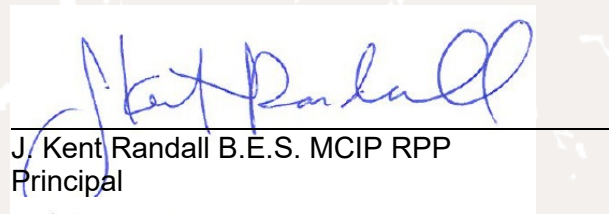
4.0 SUMMARY

As demonstrated, the proposal meets the four tests for a Minor Variance. The proposed variance meets the general intent of the City of Hamilton Official Plan, the City of Hamilton Zoning By-law, is considered minor in nature and is appropriate and desirable development for the neighbourhood. Based on the foregoing review of relevant *Planning Act* and policy considerations, it is our opinion that the Minor Variance constitutes good planning.

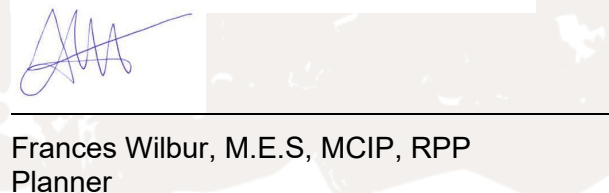
The proposal also meets the requirements for lot creation – urban areas as outlined in Chapter F Section 1.14.3 of the City of Hamilton Official Plan. The lot creation is in line with existing housing on the street and will create additional housing in a neighbourhood identified for intensification in the City of Hamilton Official Plan. It is our opinion that the lot creation constitutes good planning.

Respectfully Submitted,

ECOVUE CONSULTING SERVICES INC.

A blue ink signature of J. Kent Randall is written over a horizontal line. Below the line, the text "J. Kent Randall B.E.S. MCIP RPP" and "Principal" is printed.

J. Kent Randall B.E.S. MCIP RPP
Principal

A blue ink signature of Frances Wilbur is written over a horizontal line. Below the line, the text "Frances Wilbur, M.E.S, MCIP, RPP" and "Planner" is printed.

Frances Wilbur, M.E.S, MCIP, RPP
Planner

Appendix A

Photographs of current housing on Magill Road





Current dwelling at 29 Magill Street, retained lot.



Directly across the street, 28 and 26 Magill Street.



Images of other housing units on Magill Street, 30 and 32 Magill Street.



Images of other housing units on Magill Street. 51 and 53 Magill Street.



Looking North on Magill Street.



Images of other housing units on Magill Street. 37 Magill Street.

Appendix B

Sketch of proposed building

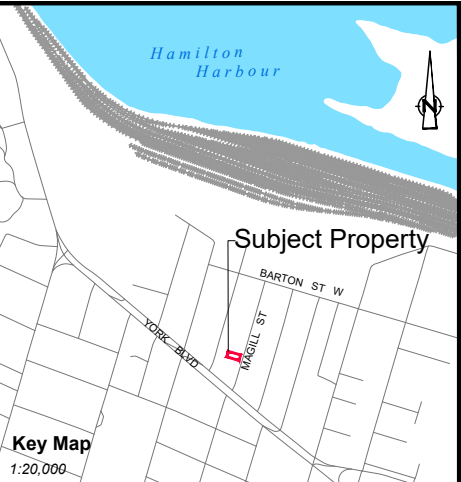
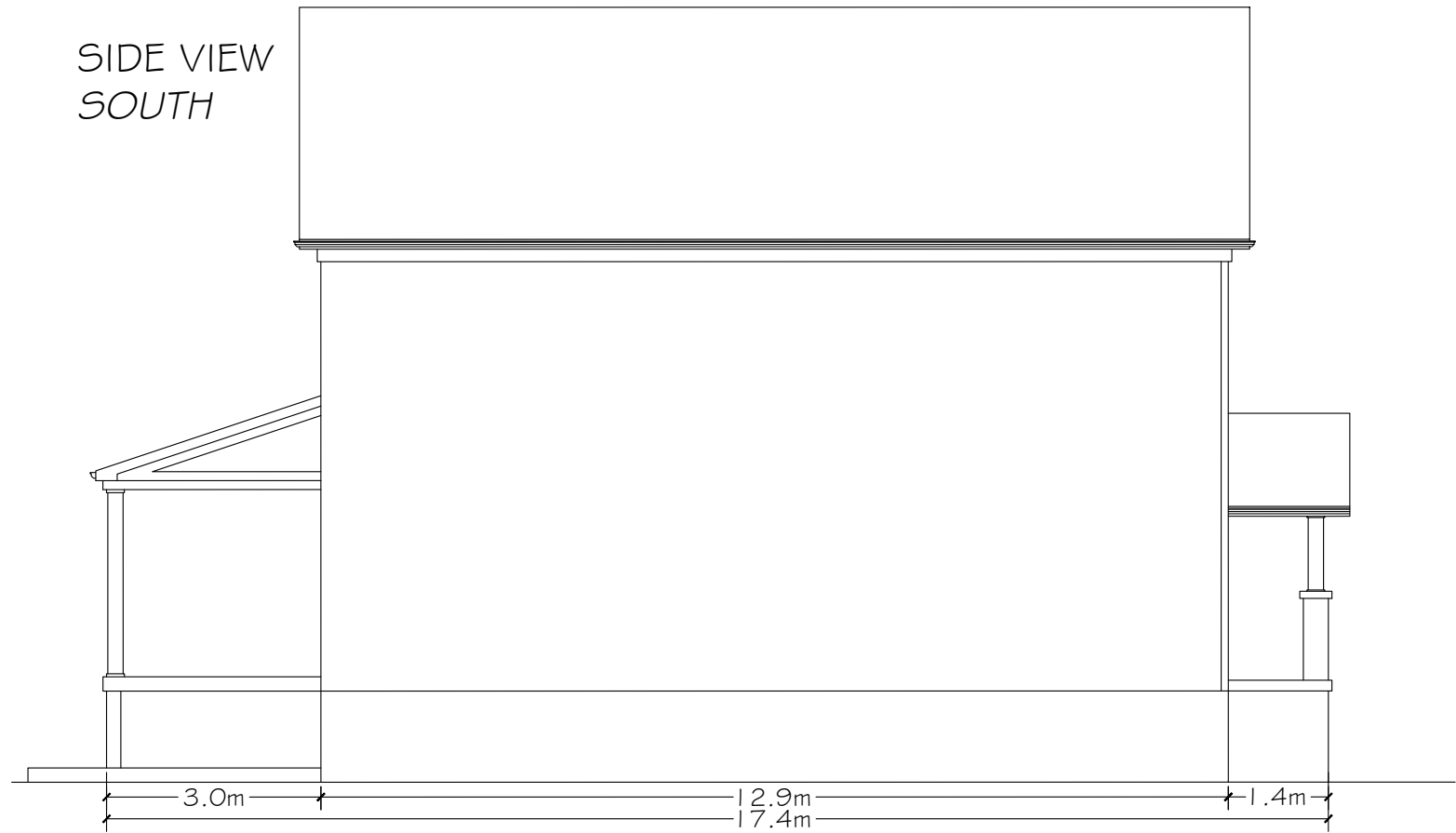





SIDE VIEW
NORTH



SIDE VIEW
SOUTH



		EcoVue Consulting Services Inc. 311 George St. N., Suite 200 Peterborough ON K9J 3H3 Tel: 705-876-8340 Fax: 705-742-8343 www.ecovueconsulting.com	
DRAWN BY:	MC	PROJECT No.:	19-1975
APPROVED BY:		HORIZ. SCALE:	1:100
REVISION DATE:	March 12 2020	PLOT DATE:	March 12 2020
Demetry Tselepakis 29 MAGILL STREET Hamilton, ON			
CONCEPTUAL BUILDING ELEVATIONS			CS2

