



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-19:464

APPLICANTS: Aaron Kiewe on behalf of the owner Howard Kiewe

SUBJECT PROPERTY: Municipal address **12 West Ave., N. City of Hamilton**

ZONING BY-LAW: Zoning By-law 05-200, as Amended by By-law 18-114

ZONING: "D5" H21 (Downtown Residential) district

PROPOSAL: To permit the construction of a combined deck and carport over the existing parking area at rear of the existing multiple family dwelling notwithstanding that;

1. A 0.0 m rear yard setback shall be provided for the proposed deck/carport instead of the minimum required 7.5 m rear yard setback.

Note:

Please note that the proposed deck/carport is a self-supporting structure attached to the existing building by way of a staircase, which is located in the easterly rear yard; therefore, it is considered to be part of the principle building, based on that variance # 1 has been written.

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

DATE: Thursday, September October 1st, 2020

TIME: 3:00 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 4144
- Email Committee of Adjustment staff at cofa@hamilton.ca

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.

This document responds to concerns raised by the City of Hamilton Planning Department staff and Committee of Adjustment at the initial application meeting held Feb 20th, 2019, and does the following:

- Illustrates design revisions inspired by Staff and Committee feedback
- Better expresses the original design intention
- Will be followed by statements of support from neighbouring residents.

Requested Variance

The property owner would like to build a combined carport and deck over the parking area at the rear of the existing three-unit multiple-dwelling building and seeks a variance for the requirement of a minimum rear yard of 7.5 metres. We'd like to build with zero or near zero setback from the property line (Zoning By-law No. 05-200, Section 6.5.3.4.f).



Fig 1. Proposed carport and deck with existing multi-unit building and fire escape, elevated view.

This document intends to show that the proposed carport and deck meet or exceed the traditional criteria for granting a minor variance, namely it:

- maintains the general intent of Hamilton's Official Plan and Zoning By-law
- is desirable for building residents, neighbours, and the city as a whole

The Existing Condition

The drawing below is the existing site plan, with the location of the proposed carport/deck added in red:

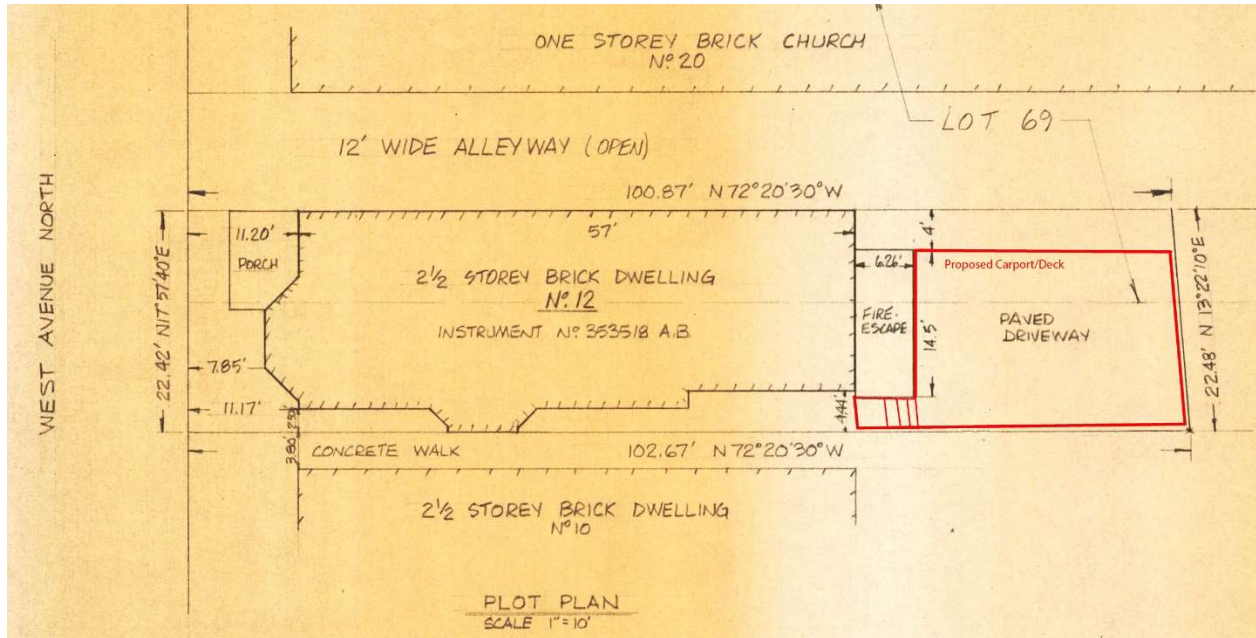


Fig 2. Existing site plan with proposed carport/deck location.

Currently, the entire rear yard is an asphalt parking area used by residents of the multi-unit building. A variance was granted by the Committee of Adjustment for this purpose on May 26th, 2016 (HM/A-16:104).

Problems a Variance Could Solve

The existing parking lot has no available space for greenery, landscaping, or resident amenities.



Fig 3. Rear yard between cleanings.

It is accessible from an alley which is used by many pedestrians, including some that litter, urinate, inject recreational drugs, and engage in petty theft in the alley and adjacent land. Cars parked in the lot have been broken into and litter accumulates faster than we are able to remove it.

It's not uncommon for us to have to remove used syringes and needles from the open parking area.



Fig 4. Example of the type of litter found in the rear yard parking area.

Solving Health, Safety, and Security Issues

“The future Downtown shall be a healthy, safe, comfortable, accessible, and prosperous community that promotes a high quality of life.”

Downtown Hamilton Secondary Plan, 6.1.1 (Vision)



Fig 5. Proposed carport and deck as viewed from the alley.

Enclosing the parking area will reduce litter, loitering, drug use, property damage to vehicles, and theft on the property.

The impact may extend beyond the property itself to the surrounding neighbourhood. Public health research^{1,2} has shown that simple trash cleanup and greening led to reductions in theft (8.10%), narcotics use (6.94%), and gun violence (9.2%) within a district, with no evidence that the interventions displaced these problems to other areas. They also measurably reduced stress and improved the health of neighbourhood residents.

¹ Moyer R & MacDonald JM et al (2019) [Effect of Remediating Blighted Vacant Land on Shootings: A Citywide Cluster Randomized Trial](#), American Journal of Public Health 109, 140-144

² Branas CC & Cheney RA et al (2011) [A Difference-in-Differences Analysis of Health, Safety, and Greening Vacant Urban Space](#), American Journal of Epidemiology 174, 11, 1296–1306

Providing Comfort for Residents

Requirement for a minimum rear yard of 7.5 m, which Planning Staff describes as intended “to accommodate the necessary amenity area for the needs of the tenants.”

Zoning By-law, No. 05-200, Sec. 6.5.3.4.f



Fig 6. Tenant’s view of the deck.

While the current rear-yard parking area provides no amenity or green space, the large deck permitted by this variance would allow ample outdoor amenities.

Also, linear planters around the deck will be used to plant a three-foot high yew hedge, and perhaps other plants or flowers, providing a green space within the deck and improving the adjacent alley’s streetscape (see the *Making it Greener* section that follows).

Protecting Neighbours' Privacy

Requirement for a minimum rear yard of 7.5 m, which Planning Staff also describes as intended "to avoid any impact on the enjoyment and privacy of the adjacent properties"

Zoning By-law, No. 05-200, Sec. 6.5.3.4.f

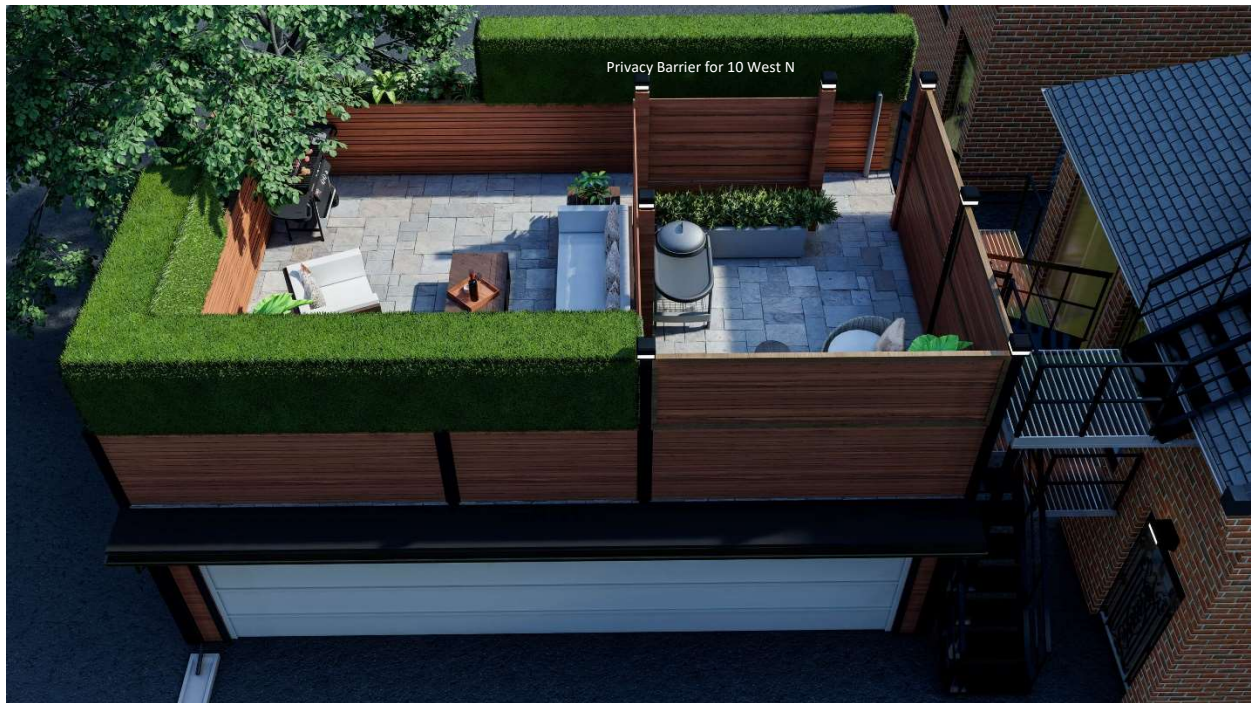


Fig 7. Elevated view of the deck noting privacy barrier for neighbors at 10 West N and alley.

We will create a visual barrier that is 6.5 ft high and will provide privacy for the neighbour at 10 West Av N, and any other future neighbours. The bottom of the barrier will function as a guard as required by Ontario Building Code (OBC) 9.8.8.(1) and will be the required 1,070 mm (3.5 ft) high.

It will double as a linear planter and provide sufficient soil to plant a 3 ft high yew hedge and keep it healthy. This combined guard/planter/hedge will provide a 6.5 ft high visual barrier that is permitted by the Hamilton Fence By-law (details in the next section).

The owner of 10 West Av has indicated that they are comfortable with this solution and fully support the carport deck build (an email of support will follow).

Respecting the Hamilton Fence By-law

Section 2 (a) of the Hamilton Fence By-law defines a fence as including a “line of posts, wire, gate, boards, pickets, latticework, or any combination hereof, or other similar erection used for the purposes of enclosing or dividing in whole or in part a lot, establishing a lot line or providing privacy,” but the Section 2 (c) specifically excludes “any vegetation, including a hedge or grouping of shrubs used for the purposes listed in subsection (a).” Since the upper part of the visual barrier is a hedge, it is explicitly excluded from the Fence By-law and therefore not subject to its height restrictions.

Additionally, the bottom of the visual barrier is not a fence but a guard, defined in OBC 1.4.1.2 as “a protective barrier, with or without openings through it, that is around openings in floors or at the open sides of stairs, landings, balconies . . . or other locations to prevent accidental falls from one level to another” and is therefore also exempt from the Fence By-law and in fact is required by OBC 9.8.8.

Finally, the only part of the visual barrier that can be defined as a fence by the standards of the Fence By-law (see picture below) is permitted by the by-law’s Section (3) “a fence may be . . . 2.0 m in height measured vertically from the deck or elevated platform to the highest point of the fence, provided that the fence is (a) located at 1.2 m from a side lot line; and (c) no more than 4.5 m in length.”

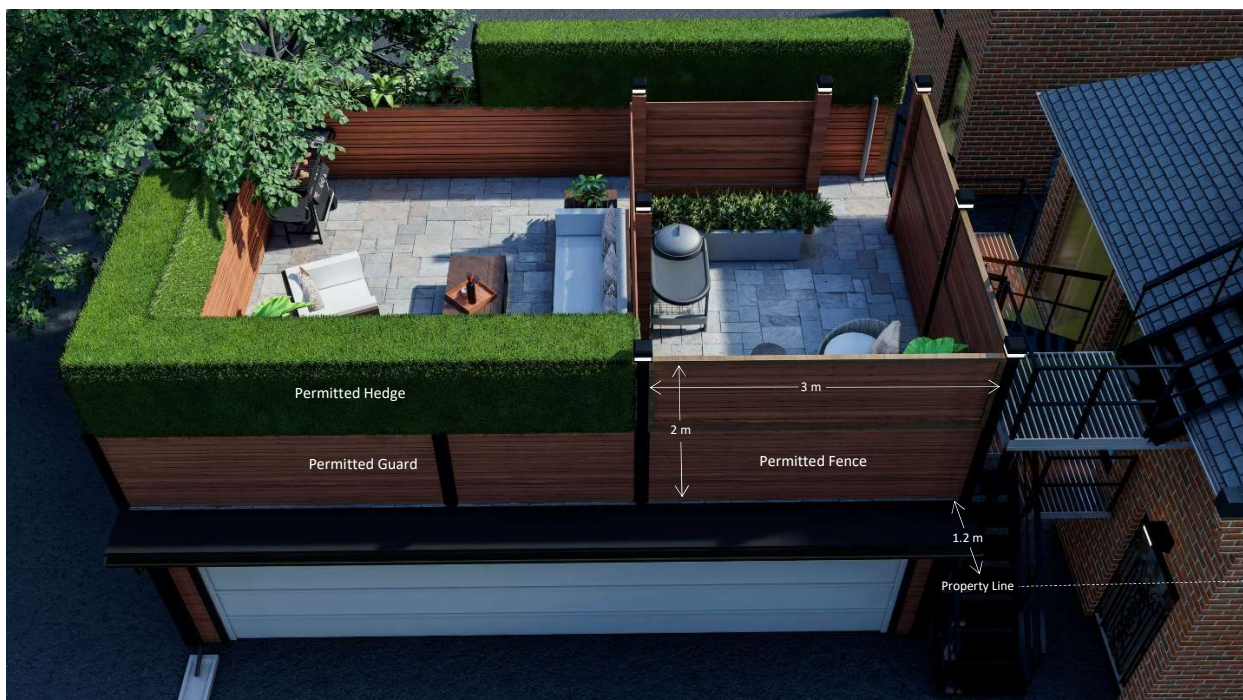


Fig 8. Elevated view of the deck noting Hamilton Fence By-law compliance.

Retaining Sun Coverage for 10 West Despite the Visual Barrier

Perhaps a concern about a high visual barrier is that it could reduce sun cover in neighbouring properties; however, this is not the case for the proposed deck.

The sun path diagrams *Figs 9 & 10* (produced with the Sun Position App) show that sun coverage in the backyard of neighbouring 10 West Ave N (43.3°N, 79.9°W), will not be disrupted by the addition of a high visual barrier, because the barrier and sun path are oriented along approximately the same plane.

Additionally, a large tree in the backyard of 10 West already produces morning shade greater than what would be achieved by the visual barrier.



Fig 9. Sun path as seen from the backyard at 10 West Av, on March 21, June 21, Sept 21



Fig 10. Sample sun path on March 21, satellite view.

Making it Greener

“Downtown will be a stronger, more resilient community by transitioning to a low carbon economy and by leveraging . . . green infrastructure opportunities to improve air quality, absorb stormwater, minimize urban heat island.”

Downtown Hamilton Secondary Plan, 6.1.2.i (Principles)

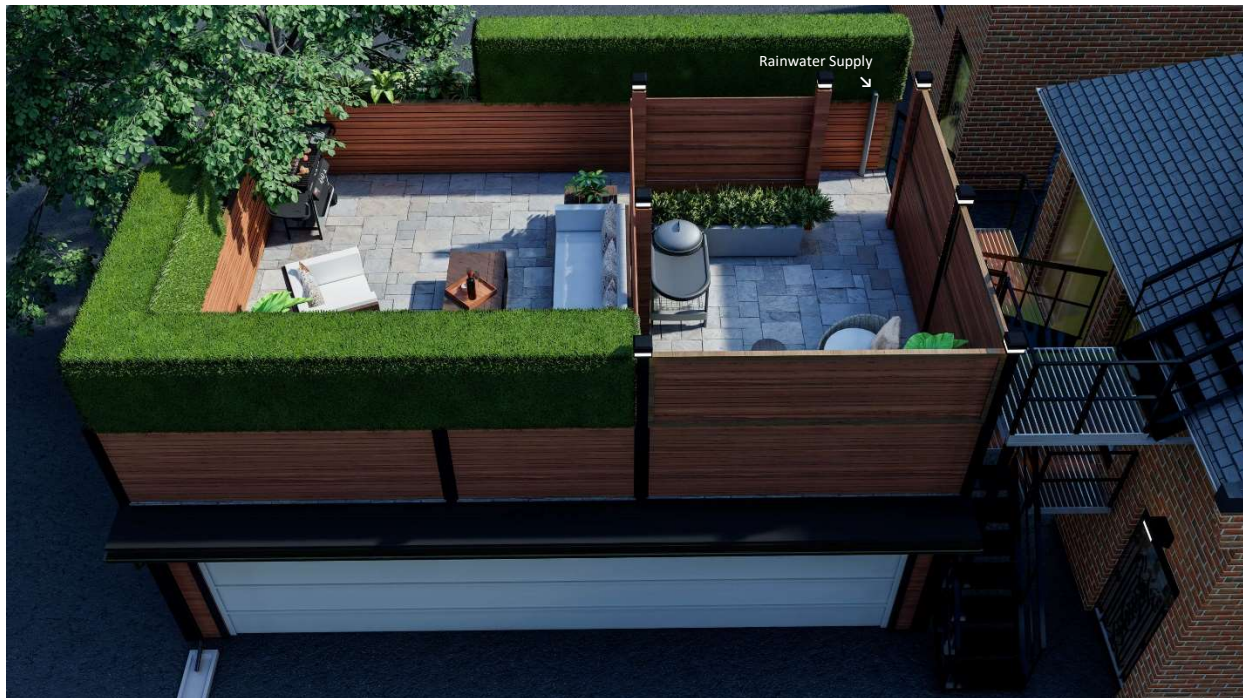


Fig 11. Proposed deck with surrounding greenery. Note the rainwater irrigation supply.

A continuous linear planter will wrap around most of the periphery of the deck, providing sufficient soil to grow a yew hedge, and perhaps other plants or flowers visible from both public and private sides. This live greenery will act to capture carbon and has been shown to improve the health of residents and neighbours.²

The planter will be irrigated by rainwater harvested from the roof of the multi-unit building, stored in a rain barrel at the side of the building (not shown), and delivered to the planter by a rainwater supply pipe (see *Fig 11*). This will reduce runoff and strain on the city water supply and storm drainage facilities.

Conclusion

“Recognize the value of modest improvements and changes . . . modest actions by individuals, small businesses and community organizations are also important and can have significant cumulative impacts.”

Downtown Hamilton Secondary Plan, 6.1.2.i (Principles)

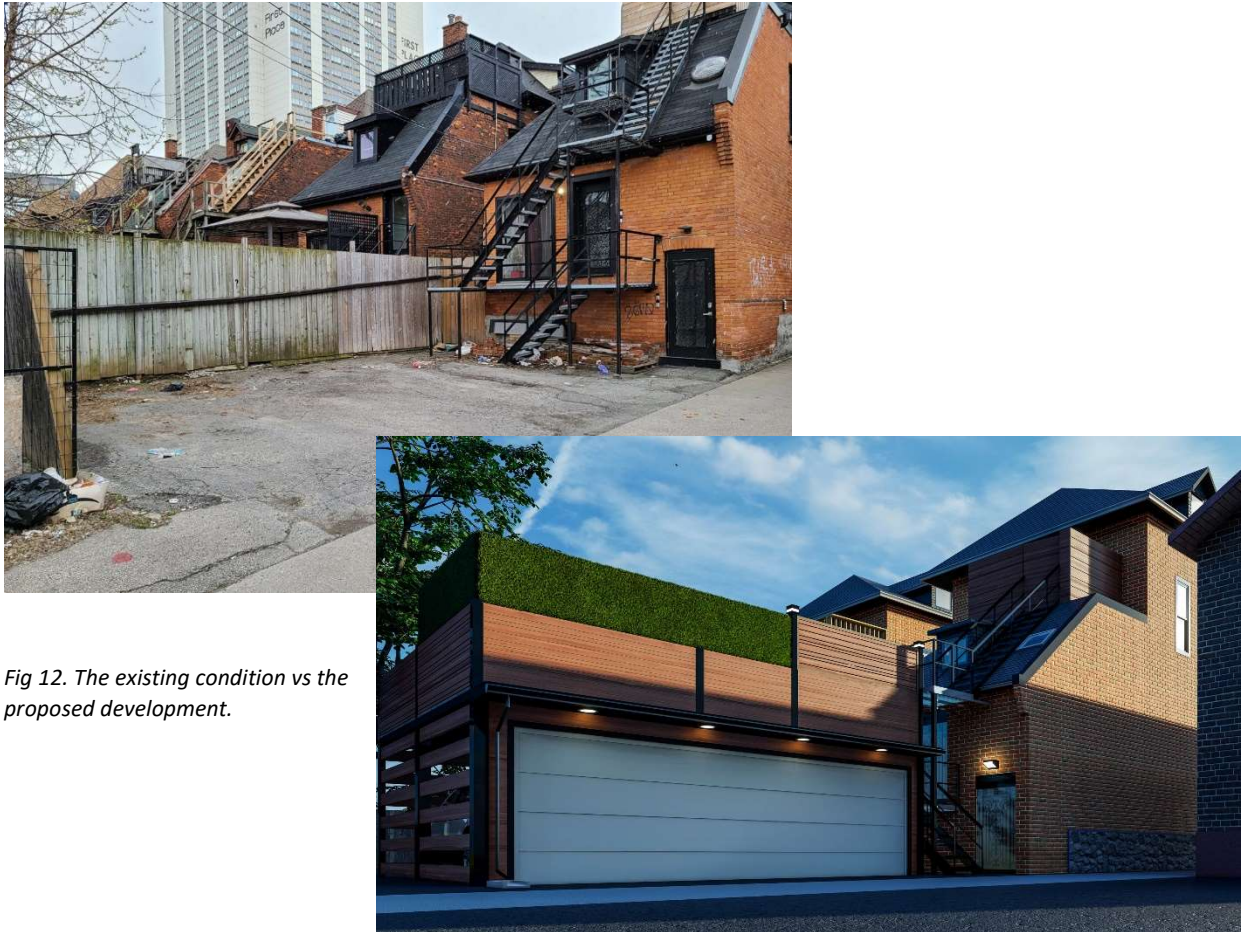


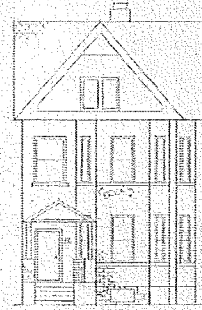
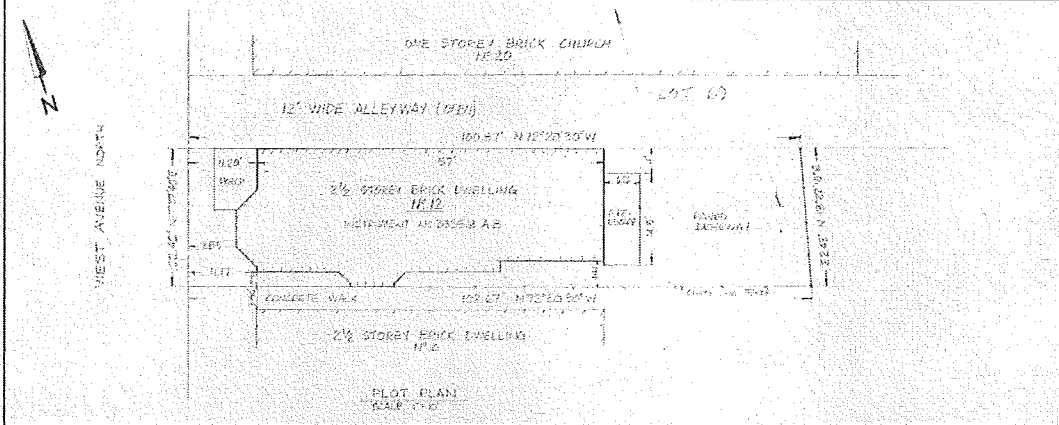
Fig 12. The existing condition vs the proposed development.

The proposed carport and deck will significantly improve tenant’s day-to-day lives. It will also make a modest contribution to the neighborhood and city at large. In summary, it will:

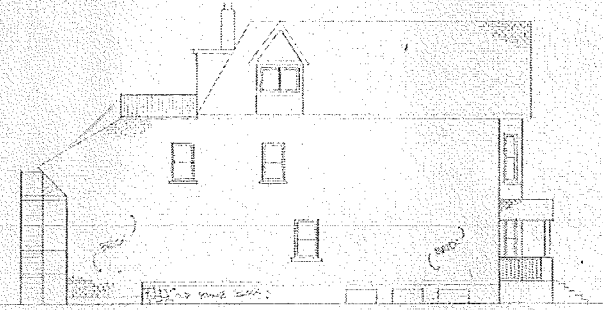
- Improve health, safety, and security for tenants and neighbours
- Provide comfort, green amenities for tenants
- Protect neighbour’s privacy
- Contribute to green infrastructure and associated health benefits
- Reduce strain on city water supply and storm drainage facilities

Since these outcomes maintain the general intent of Hamilton’s Official Plan and Zoning By-law, are desirable for building residents, neighbours, and the city as a whole, we hope the Planning Department Staff will recommend approval and the Committee of Adjustment will grant it.

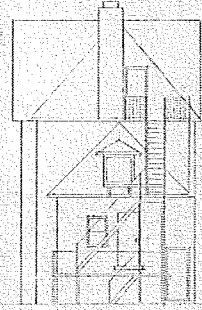
DATE	DESCRIPTION



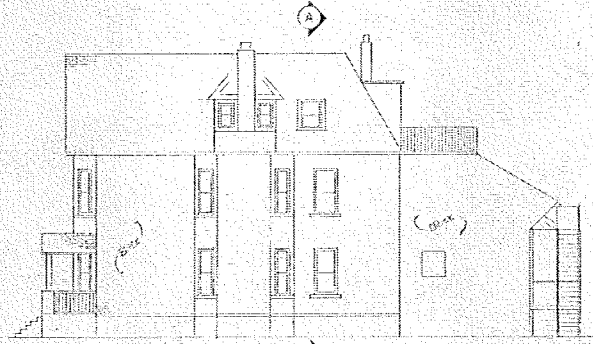
WEST ELEVATION
SCALE: 1/8" = 1'-0"



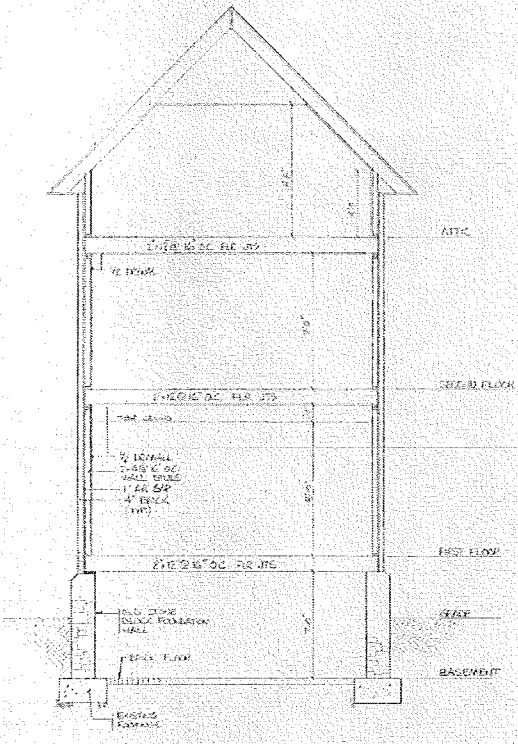
NORTH ELEVATION



EAST ELEVATION

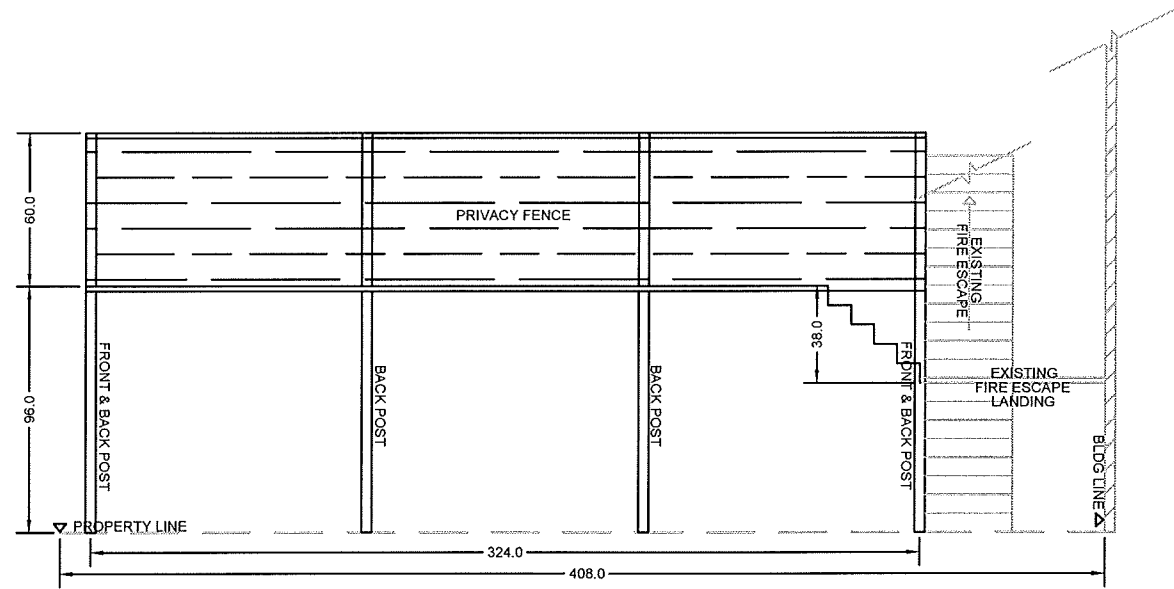
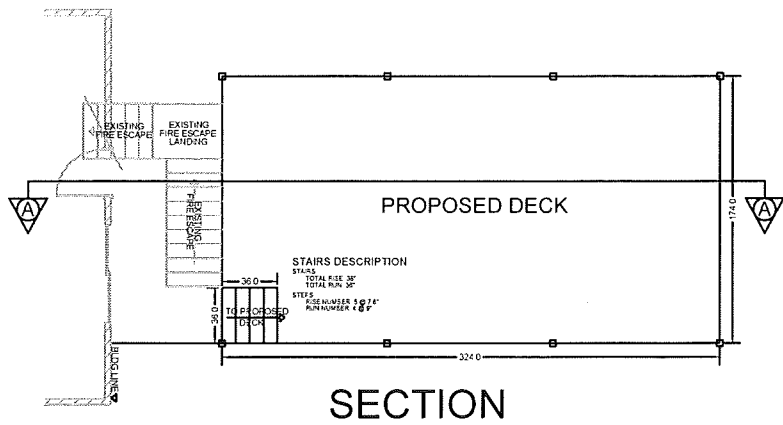


SOUTH ELEVATION



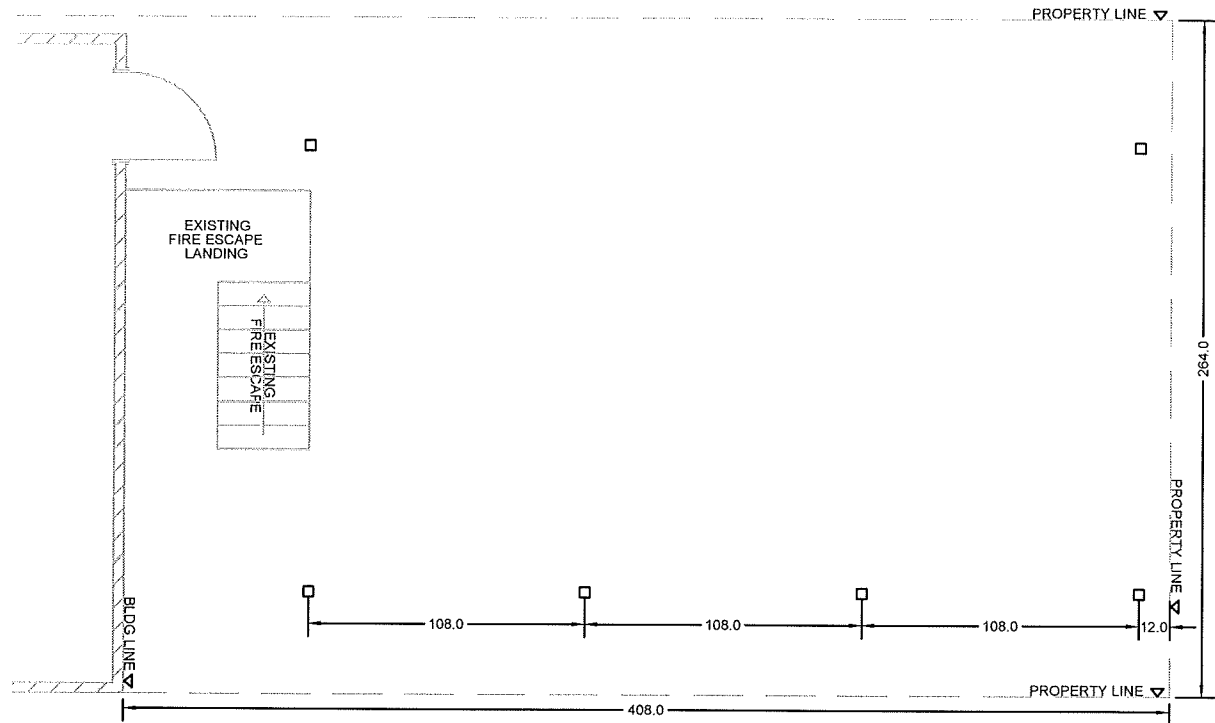
APPROVED	PERSEUS GROUP OF LARRY GARDNER 10 WEST AVE N, HAMILTON, ONT. L8S 2R1G1
DATE	14 SEP 2011
PROJECT	PLAT PLAN, ELEVATIONS & CROSS SECTION
DATE	JAN 10

A1

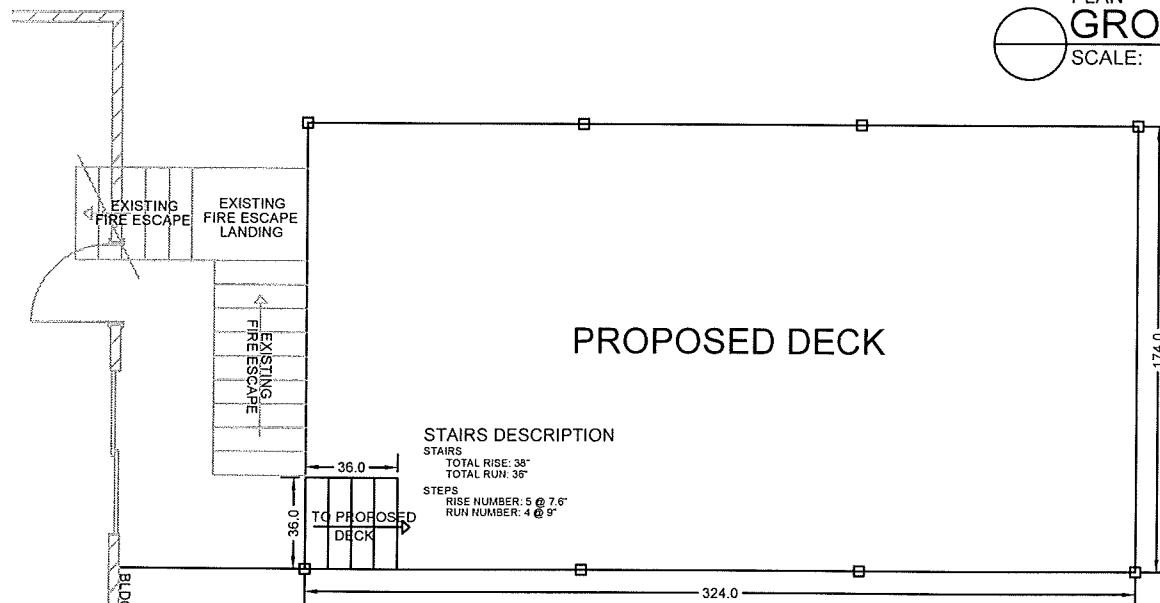


PLAN SECTION DETAIL
SCALE: 1:75"

PROJECT:	BACK DECK / CAR PORT CONSTRUCTION		
OWNER:	HOWARD KIEWE	DRAWN BY:	H.H.A.
LOCATION:	12 WEST AVENUE N, HAMILTON ON L8L 5B8, CANADA		2/2



PLAN
GROUND FLOOR
 SCALE: 1:75"



PLAN
SECOND FLOOR
 SCALE: 1:75"

PROJECT:	BACK DECK / CAR PORT CONSTRUCTION		
OWNER:	HOWARD KIEWE	DRAWN BY:	H.H.A.
LOCATION:	12 WEST AVENUE N, HAMILTON ON L8L 5B8, CANADA		

This document responds to concerns raised by the City of Hamilton Planning Department staff and Committee of Adjustment at the initial application meeting held Feb 20th, 2019, and does the following:

- Illustrates design revisions inspired by Staff and Committee feedback
- Better expresses the original design intention
- Will be followed by statements of support from neighbouring residents.

Requested Variance

The property owner would like to build a combined carport and deck over the parking area at the rear of the existing three-unit multiple-dwelling building and seeks a variance for the requirement of a minimum rear yard of 7.5 metres. We'd like to build with zero or near zero setback from the property line (Zoning By-law No. 05-200, Section 6.5.3.4.f).



Fig 1. Proposed carport and deck with existing multi-unit building and fire escape, elevated view.

This document intends to show that the proposed carport and deck meet or exceed the traditional criteria for granting a minor variance, namely it:

- maintains the general intent of Hamilton's Official Plan and Zoning By-law
- is desirable for building residents, neighbours, and the city as a whole

The Existing Condition

The drawing below is the existing site plan, with the location of the proposed carport/deck added in red:

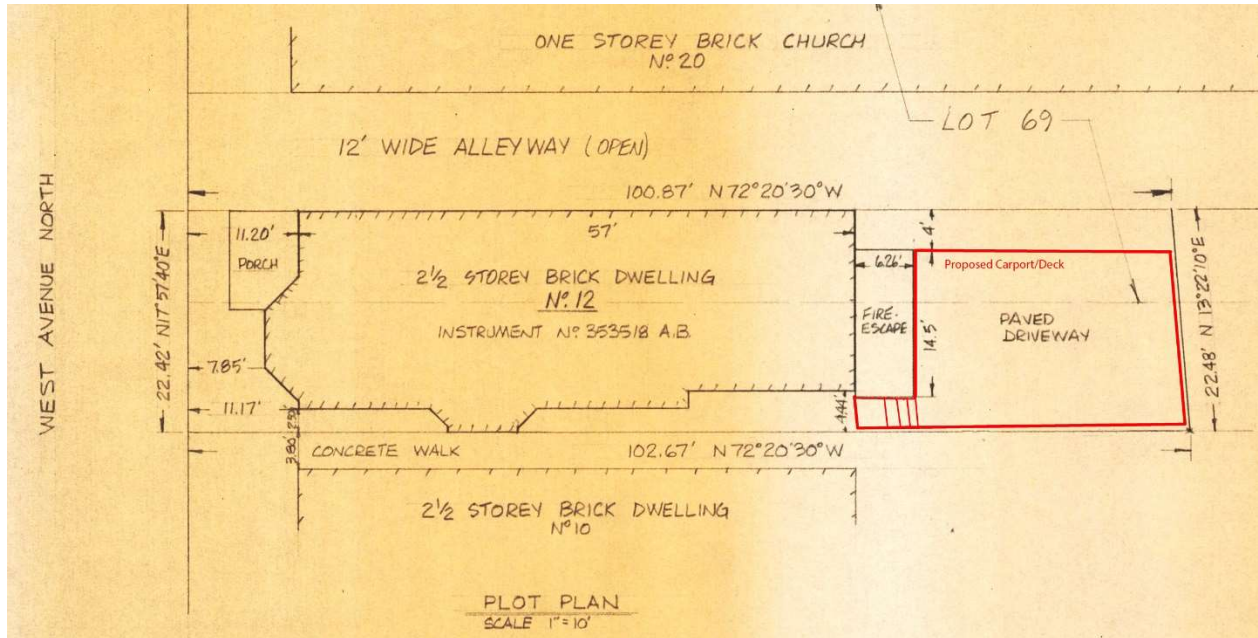


Fig 2. Existing site plan with proposed carport/deck location.

Currently, the entire rear yard is an asphalt parking area used by residents of the multi-unit building. A variance was granted by the Committee of Adjustment for this purpose on May 26th, 2016 (HM/A-16:104).

Problems a Variance Could Solve

The existing parking lot has no available space for greenery, landscaping, or resident amenities.



Fig 3. Rear yard between cleanings.

It is accessible from an alley which is used by many pedestrians, including some that litter, urinate, inject recreational drugs, and engage in petty theft in the alley and adjacent land. Cars parked in the lot have been broken into and litter accumulates faster than we are able to remove it.

It's not uncommon for us to have to remove used syringes and needles from the open parking area.



Fig 4. Example of the type of litter found in the rear yard parking area.

Solving Health, Safety, and Security Issues

“The future Downtown shall be a healthy, safe, comfortable, accessible, and prosperous community that promotes a high quality of life.”

Downtown Hamilton Secondary Plan, 6.1.1 (Vision)



Fig 5. Proposed carport and deck as viewed from the alley.

Enclosing the parking area will reduce litter, loitering, drug use, property damage to vehicles, and theft on the property.

The impact may extend beyond the property itself to the surrounding neighbourhood. Public health research^{1,2} has shown that simple trash cleanup and greening led to reductions in theft (8.10%), narcotics use (6.94%), and gun violence (9.2%) within a district, with no evidence that the interventions displaced these problems to other areas. They also measurably reduced stress and improved the health of neighbourhood residents.

¹ Moyer R & MacDonald JM et al (2019) [Effect of Remediating Blighted Vacant Land on Shootings: A Citywide Cluster Randomized Trial](#), American Journal of Public Health 109, 140-144

² Branas CC & Cheney RA et al (2011) [A Difference-in-Differences Analysis of Health, Safety, and Greening Vacant Urban Space](#), American Journal of Epidemiology 174, 11, 1296–1306

Providing Comfort for Residents

Requirement for a minimum rear yard of 7.5 m, which Planning Staff describes as intended “to accommodate the necessary amenity area for the needs of the tenants.”

Zoning By-law, No. 05-200, Sec. 6.5.3.4.f



Fig 6. Tenant’s view of the deck.

While the current rear-yard parking area provides no amenity or green space, the large deck permitted by this variance would allow ample outdoor amenities.

Also, linear planters around the deck will be used to plant a three-foot high yew hedge, and perhaps other plants or flowers, providing a green space within the deck and improving the adjacent alley’s streetscape (see the *Making it Greener* section that follows).

Protecting Neighbours' Privacy

Requirement for a minimum rear yard of 7.5 m, which Planning Staff also describes as intended "to avoid any impact on the enjoyment and privacy of the adjacent properties"

Zoning By-law, No. 05-200, Sec. 6.5.3.4.f

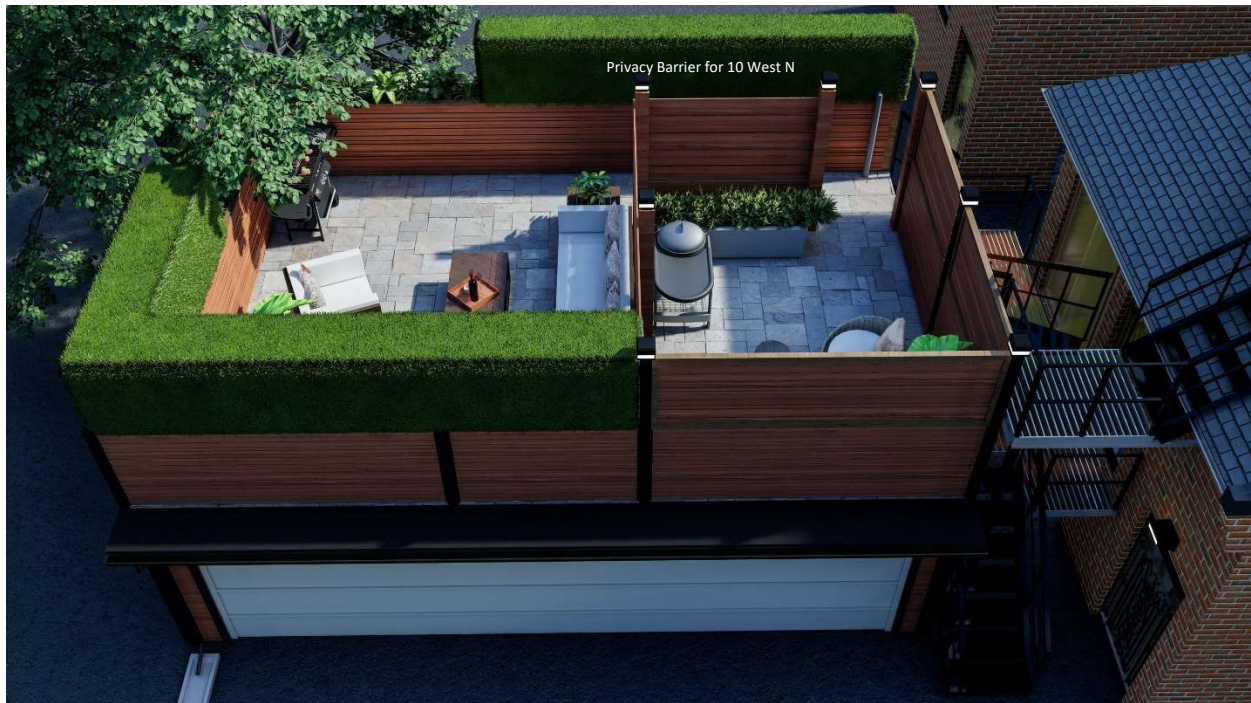


Fig 7. Elevated view of the deck noting privacy barrier for neighbors at 10 West N and alley.

We will create a visual barrier that is 6.5 ft high and will provide privacy for the neighbour at 10 West Av N, and any other future neighbours. The bottom of the barrier will function as a guard as required by Ontario Building Code (OBC) 9.8.8.(1) and will be the required 1,070 mm (3.5 ft) high.

It will double as a linear planter and provide sufficient soil to plant a 3 ft high yew hedge and keep it healthy. This combined guard/planter/hedge will provide a 6.5 ft high visual barrier that is permitted by the Hamilton Fence By-law (details in the next section).

The owner of 10 West Av has indicated that they are comfortable with this solution and fully support the carport deck build (an email of support will follow).

Respecting the Hamilton Fence By-law

Section 2 (a) of the Hamilton Fence By-law defines a fence as including a “line of posts, wire, gate, boards, pickets, latticework, or any combination hereof, or other similar erection used for the purposes of enclosing or dividing in whole or in part a lot, establishing a lot line or providing privacy,” but the Section 2 (c) specifically excludes “any vegetation, including a hedge or grouping of shrubs used for the purposes listed in subsection (a).” Since the upper part of the visual barrier is a hedge, it is explicitly excluded from the Fence By-law and therefore not subject to its height restrictions.

Additionally, the bottom of the visual barrier is not a fence but a guard, defined in OBC 1.4.1.2 as “a protective barrier, with or without openings through it, that is around openings in floors or at the open sides of stairs, landings, balconies . . . or other locations to prevent accidental falls from one level to another” and is therefore also exempt from the Fence By-law and in fact is required by OBC 9.8.8.

Finally, the only part of the visual barrier that can be defined as a fence by the standards of the Fence By-law (see picture below) is permitted by the by-law’s Section (3) “a fence may be . . . 2.0 m in height measured vertically from the deck or elevated platform to the highest point of the fence, provided that the fence is (a) located at 1.2 m from a side lot line; and (c) no more than 4.5 m in length.”

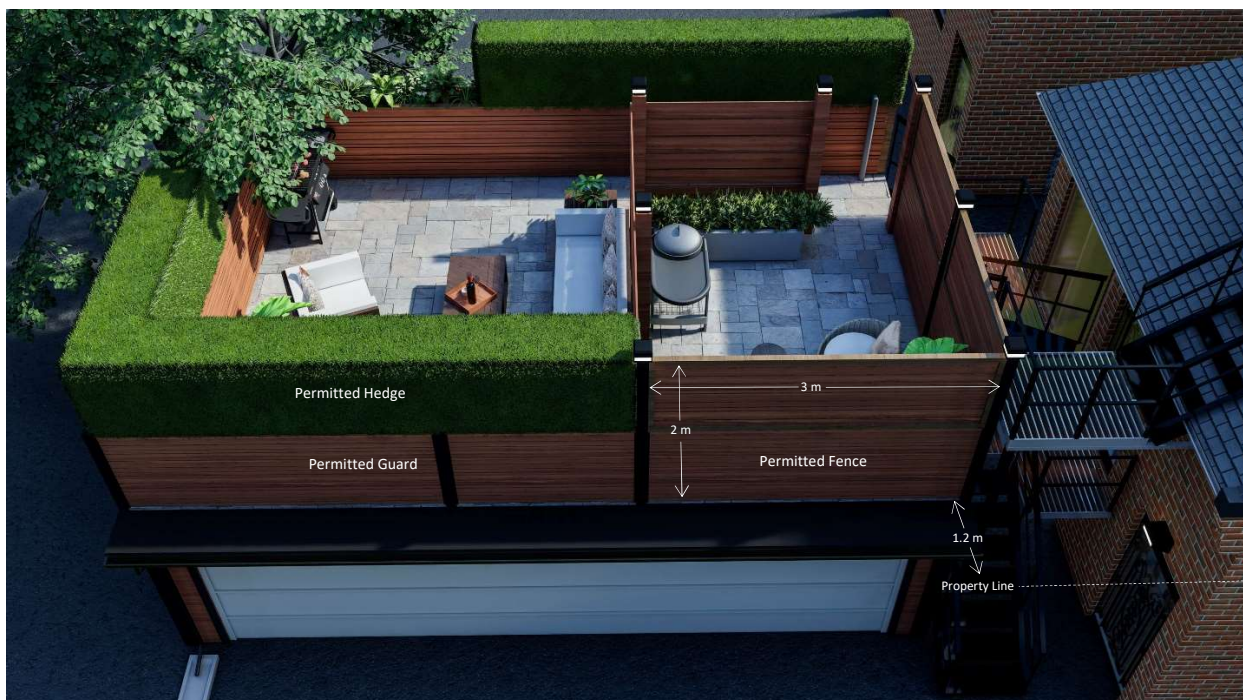


Fig 8. Elevated view of the deck noting Hamilton Fence By-law compliance.

Retaining Sun Coverage for 10 West Despite the Visual Barrier

Perhaps a concern about a high visual barrier is that it could reduce sun cover in neighbouring properties; however, this is not the case for the proposed deck.

The sun path diagrams *Figs 9 & 10* (produced with the Sun Position App) show that sun coverage in the backyard of neighbouring 10 West Ave N (43.3°N, 79.9°W), will not be disrupted by the addition of a high visual barrier, because the barrier and sun path are oriented along approximately the same plane.

Additionally, a large tree in the backyard of 10 West already produces morning shade greater than what would be achieved by the visual barrier.



Fig 9. Sun path as seen from the backyard at 10 West Av, on March 21, June 21, Sept 21



Fig 10. Sample sun path on March 21, satellite view.

Making it Greener

“Downtown will be a stronger, more resilient community by transitioning to a low carbon economy and by leveraging . . . green infrastructure opportunities to improve air quality, absorb stormwater, minimize urban heat island.”

Downtown Hamilton Secondary Plan, 6.1.2.i (Principles)

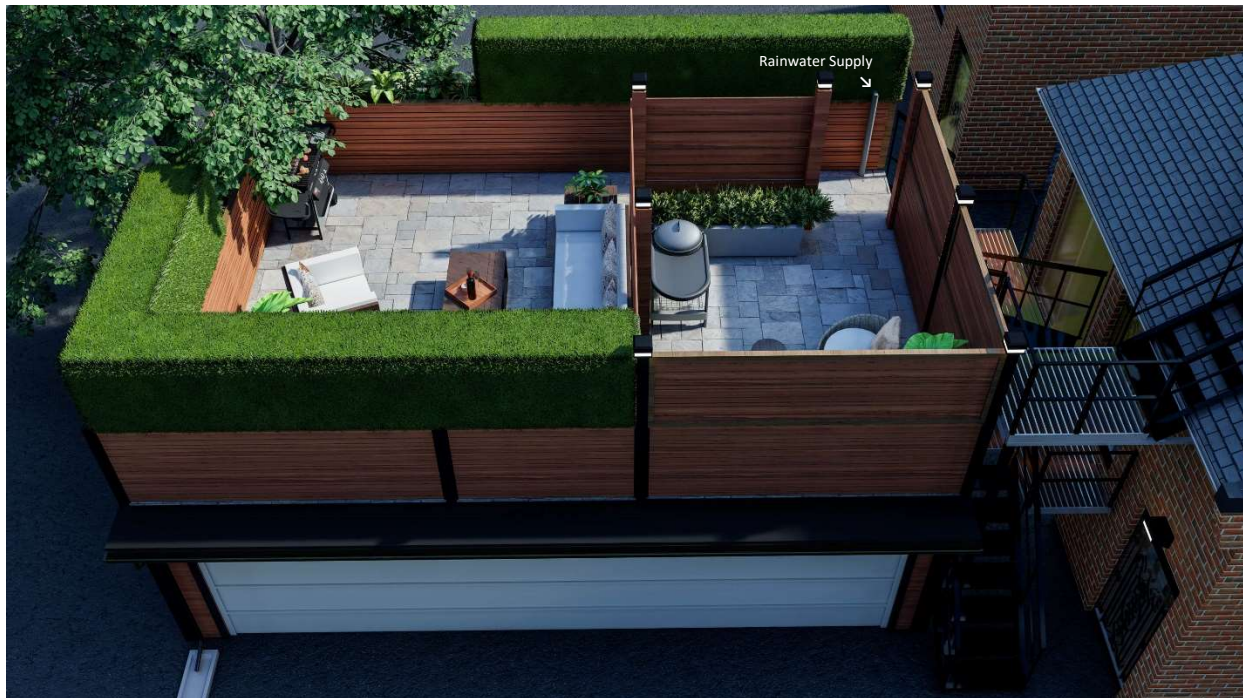


Fig 11. Proposed deck with surrounding greenery. Note the rainwater irrigation supply.

A continuous linear planter will wrap around most of the periphery of the deck, providing sufficient soil to grow a yew hedge, and perhaps other plants or flowers visible from both public and private sides. This live greenery will act to capture carbon and has been shown to improve the health of residents and neighbours.²

The planter will be irrigated by rainwater harvested from the roof of the multi-unit building, stored in a rain barrel at the side of the building (not shown), and delivered to the planter by a rainwater supply pipe (see *Fig 11*). This will reduce runoff and strain on the city water supply and storm drainage facilities.

Conclusion

“Recognize the value of modest improvements and changes . . . modest actions by individuals, small businesses and community organizations are also important and can have significant cumulative impacts.”

Downtown Hamilton Secondary Plan, 6.1.2.i (Principles)

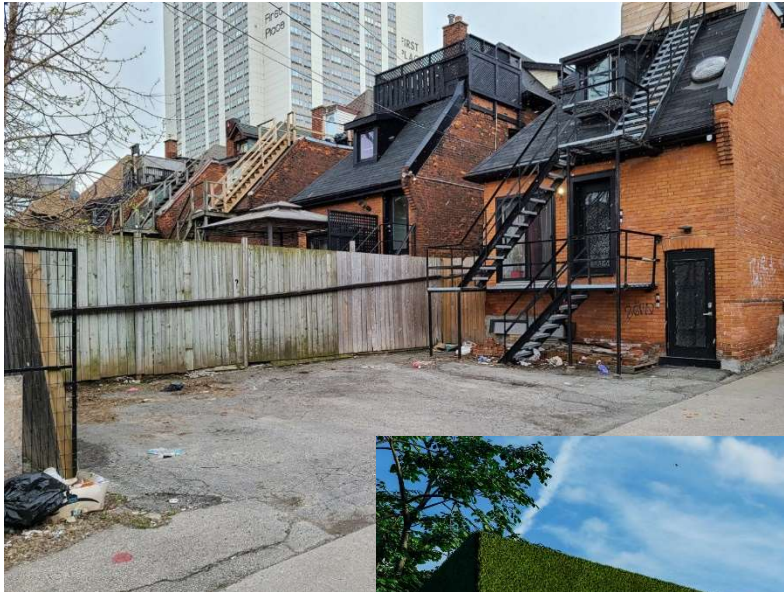


Fig 12. The existing condition vs the proposed development.

The proposed carport and deck will significantly improve tenant’s day-to-day lives. It will also make a modest contribution to the neighborhood and city at large. In summary, it will:

- Improve health, safety, and security for tenants and neighbours
- Provide comfort, green amenities for tenants
- Protect neighbour’s privacy
- Contribute to green infrastructure and associated health benefits
- Reduce strain on city water supply and storm drainage facilities

Since these outcomes maintain the general intent of Hamilton’s Official Plan and Zoning By-law, are desirable for building residents, neighbours, and the city as a whole, we hope the Planning Department Staff will recommend approval and the Committee of Adjustment will grant it.