

Notice of Decision: AN/B-18:12

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Committee of Adjustment
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COMMITTEE OF ADJUSTMENT

NOTICE OF DECISION

APPLICATION FOR CONSENT/LAND SEVERANCE

APPLICATION NO. AN/B-18:12
SUBMISSION NO. B-12/18

APPLICATION NUMBER: AN/B-18:12

SUBJECT PROPERTY: 1031 Highway No. 52 (Ancaster) City of Hamilton

APPLICANT(S): Agent S. Llewellyn & Associates Limited on behalf of the owner Neven Custom Homes Limited

PURPOSE OF APPLICATION: To permit the conveyance of a parcel of land for residential purposes and to retain two parcels of land for residential purposes.

Severed lands: Part 2
16.5m² and an area of 0.66ha[±]

Retained lands: Part 1
53.0m² and an area of 0.98ha[±]

Retained lands: Part 3
16.5m² and an area of 0.71ha[±]

THE DECISION OF THE COMMITTEE IS:

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

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

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

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in hard copy and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. That the applicant/owner apply for and receive final approval of a rezoning application to:
 - a. Limit the floor area for each proposed dwelling to a maximum of 306.5 square metres (3,300 square feet); and,
 - b. Require a Holding Provision to be applied to one lot (Part 3 on the Sketch for Land Severance) to prohibit development until a satisfactory

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demonstration that long-term water takings are sustainable and that there are no significant negative impacts to ground water resources to the satisfaction of the Director of Hamilton Water. Monitoring will be implemented through a Monitoring Agreement that the owner/applicant will enter into with the City of Hamilton and will specify that monitoring will begin from the first date of occupancy of the second lot to be developed and will continue for a minimum of one year.

3. The owner shall prepare and submit a Tree Protection Plan to the satisfaction of the Manager, Development Planning, Heritage & Design.
4. The owner shall receive final and binding approval of Minor Variance Application AN/A-18:68 to the satisfaction of the Manager, Development Planning, Heritage & Design.
5. That prior to any further approvals under the Planning Act, the property owner shall carry out an archaeological assessment of the entire development property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of planning and the Ministry of Tourism, Culture and Sport confirming that all archaeological resource concerns have met licensing and conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Tourism, Culture and Sport.

The subject lands are considered to be of archaeological potential and should deeply buried archaeological remains be found on the property during any of the above development activities the Ontario Ministry of Tourism, Culture and Sport (MTSC) should be notified immediately (519.675.7742). In the event that human remains are encountered during construction, the applicant/landowner should immediately contact both MTSC and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government Services (416.326.8392).
6. That the applicant prepares a Tree Protection Plan according to the City of Hamilton's Tree Protection Guidelines, to the satisfaction of the Manager of Development Planning, Heritage, and Design.
7. That the applicant installs a boundary fence between Lots 1 and 2 to permanently define the boundary of the protected areas. This fence could be a wooden post and rail horse fence, or other attractive open fence, to preserve the view of the natural features and permit wildlife movement.
8. That the applicant installs a permanent series of evenly-spaced marker posts within Lot 1 along the boundary of the Vegetation Protection Zone to mitigate encroachment into the VPZ and Core Area.
9. That, prior to preliminary grading, the owner is aware of the Migratory Birds Convention Act, 1994 and agrees that removal of any vegetation on the subject lands is to occur outside of the breeding bird season (April 1 to August 15). However, in the event that vegetation removal is proposed during the restricted breeding period, the owner/applicant shall have a qualified biologist conduct a nest search of the vegetated area, prior to any work commencing. Vegetation removal may occur if it is determined that active nests are not present in the removal area. If active nests are present, the landowner should contact the Canadian Wildlife Service.
10. Sediment and erosion controls.
11. Site Plan will be required for all three lots, since they are within 120 metres of Core Areas.

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12. The owner shall receive final and binding approval of minor variance application AN/A-18:68.
13. The owner/applicant shall satisfy the requirements of the Public Works Department Operations and Maintenance Division, Forestry & Horticulture Section.
14. The applicant must enter into and register on title of the lands, a Consent Agreement, to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure as required and securities for items that may include: lot grading (\$10,000.00 grading security), driveway approaches and culverts, relocation of any existing infrastructure (hydro poles, etc.) and any damage to municipal infrastructure during construction (unknown costs at this time).
15. That the Owner dedicate to the City of Hamilton by deed an adequately sized strip of land from the lands to be retained for road widening purposes on Highway No. 52.
16. Given a pumping test has already been completed for the initial well, six (6) hour pumping tests shall be completed on the two remaining water supply wells. The well that will service the 3-bedroom dwelling should be tested at a rate of 13.70 L/min. The well that will service the 4-bedroom dwelling should be tested at a rate of 18.75 L/min. If the newly installed supply wells cannot maintain the withdrawal rates described above then the withdrawal rate should be reduced and the length of the test extended, according to MECP Guideline D-5-5, so that the total pump test water withdrawal rate is achieved (the total daily withdrawal rates being 4,932 L/day for a 3-bedroom home and 6,750 L/day for a 4 bedroom home). Considering the low yielding wells observed in the area, and the average daily per person use as provided in Guideline D-5-5 or 450L/person/day, and the fact that it was previously established that Hamilton Water does not have a technical objection to the proposed storage for peak demand; a minimum volume of 1,800 L for a 3 bedroom dwelling and 2,250L for a four bedroom dwelling is satisfactory. The pump test must include recovery to 95% or 24 hours, with the intent of justifying the well can sustain this daily pumping rate while recovering within a 24 hour period. The remaining wells on the adjacent lots should be monitored during the pump test to assess their interference potential. Neighbouring well owners shall be given an opportunity to participate in the monitoring program. Projected cone of influences based on observed drawdown in adjacent wells shall be provided.
17. Given satisfactory groundwater quality data has been submitted on the initial well, water quality testing on the remaining wells to be drilled shall analyze for at minimum, general chemistry, bacteria, major ions, and metals. If any health-related exceedances of raw water quality are found, the applicant shall provide water treatment options to reduce or eliminate these potential exceedances.
18. A satisfactory groundwater monitoring agreement shall be signed and executed that monitors at minimum, daily water takings and local groundwater levels to confirm that local groundwater users are protected as a result of the development.
19. Floor plan drawings that demonstrate that homes will not be in excess of 3300 square feet.
20. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

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21. The owner submits to the Committee of Adjustment office an administration fee of \$72.00 payable to the City of Hamilton to cover the costs of setting up a new tax account for the newly created lot.

DATED AT HAMILTON this 28th day of November 2019.

D. Smith (Acting Chairman)

B. Charters

D. Serwatak

L. Gaddy

N. Mleczo

M. Switzer

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS December 5th, 2019.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (December 5th, 2020) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS **December 25th, 2019.**

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

Note: Based on these applications being approved and all conditions being met, the owner / applicant should be made aware that the lands to be retained to the north (Part 3) will remain as 1031 Highway No. 52 North, Hamilton (Ancaster), the lands to be conveyed (Part 2) will be assigned the address of 1019 Highway No. 52 North, Hamilton (Ancaster), and the lands to be retained to the south (Part 1) will be assigned the address of 1005 Highway No. 52 North, Hamilton (Ancaster).