



Committee of Adjustment
Hamilton City Hall
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Hamilton, ON L8P 4Y5
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COMMITTEE OF ADJUSTMENT

NOTICE OF DECISION

APPLICATION FOR CONSENT\LAND SEVERANCE

APPLICATION NO. HM/B-17:24
SUBMISSION NO. B-24/17

IN THE MATTER OF The Planning Act, R.S.O. 1990, Chapter P13, Section 53(1);

AND IN THE MATTER OF the Premises known as Municipal number 15 Stone Church Road East in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Lanhack Consultants c/o Steve Pongracz on behalf of the owners Nova Plaza c/o Steve Klemenic, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a parcel of land measuring 7.62m± x 85.33m± to be added to the adjoining parcel known municipally as 1341 Upper James Street for Future Development, and to retain a parcel of land measuring 24.38m± x 85.33m± for future development.

The existing single family dwelling is proposed to be demolished as a part of this application.

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 Urban 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 lands to be conveyed be merged on title with lands to the west municipally known as 1341 Upper James Street, to the satisfaction of the Manager of Development Planning, Heritage and Design.
3. That the lands to be retained be merged on title with the lands to the east municipally known as 17 Stone Church Road East, to the satisfaction of the Manager of Development Planning, Heritage and Design.
4. The owner shall demolish all or an appropriate portion of any buildings straddling the proposed property line, to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section). May be subject to a demolition permit in the normal manner.

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- 5. The applicant must enter into and the City of Hamilton register on title, a consent agreement, having an administrative fee of \$4,005.00 (2017 fee) to deal with and address issues including but not limited to: grading and drainage on the severed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on grading plan); cash payment requirements for items such as trees (1 street-tree @ \$601.80 + HST), inspection of grading and securities for items that may include: lot grading (\$10,000.00 grading security), driveway approaches, relocation of existing infrastructure and any damage during construction (unknown costs at this time), if required.
- 6. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

DATED AT HAMILTON this 4th day of May, 2017.

M. Dudzic (Chairman)

D. Serwatuk

L. Gaddy

D. Smith

W. Pearce

V. Abraham

P. Mallard

N. Mleczko

M. Smith

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS May 11th, 2017.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (May 11th, 2018) 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 May 31st, 2017.

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

NOTE:

"Acknowledgement: The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances and the proponent is advised to conduct an archaeological assessment prior to such impacts in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Tourism, Culture and Sport (MTCS). All archaeological reports shall be submitted to the City of Hamilton for review concurrent with their submission to MTCS.

Should deeply buried archaeological materials be found on the property during any of the above development activities the Ontario Ministry of Tourism, Culture and Sport (MTCS) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MTCS and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392)."

IMPORTANT NOTICE

THIS DECISION IS NOT FINAL AND MUST NOT BE ACTED UPON UNTIL THE PERIOD OF APPEAL HAS EXPIRED

Please note below in the extract of Subsections (19), (21) and (44) of Section 53 of The Planning Act, R.S.O., 1990, Chapter 13,

- (a) That a right of appeal is given by Subsection 19 and 27; and
- (b) That if no appeal is filed within the **TWENTY** days of the notice of decision, the Committee's decision is then final and binding; and
- (c) That under Subsection 21, the decision of the Committee to give or refuse a provisional consent is final.

Also, note the following:

You will be entitled to receive notice of any changes to the conditions of a provisional consent if you have made a written request to be notified of changes to the conditions of the provisional consent.

EXTRACT FROM SECTION 53 OF THE PLANNING ACT AND COMMENTS

APPEAL (19) Any person or public body may, not later than 20 days after the giving of notice under subsection (17) is completed, appeal the decision or any condition imposed by the Council or the Minister or appeal both the decision and any condition to the Municipal Board by filing with the clerk of the municipality or the Minister a notice of appeal setting out the reasons for the appeal accompanied by the fee prescribed under the Ontario Municipal Board Act.

(44) If a land division committee or a committee of adjustment has had delegated to it the authority for the giving of consents, any reference in this section to the clerk of the municipality shall be deemed to be reference to the secretary-treasurer of the land division committee or committee of adjustment.

IMPORTANT NOTE: Only individuals, corporations and public bodies may appeal decisions in respect of applications for consent to the Ontario Municipal Board. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group on its behalf.

NO APPEAL (21) If no appeal is filed under subsection (19) or (27), subject to subsection (23), the decision of the council or the Minister, as the case may be, to give or refuse to give a provisional consent is final.

IMPORTANT NOTE: APPEALS MUST BE FILED AT THE OFFICE OF THE COMMITTEE OF ADJUSTMENT (Hamilton City Hall, 5th Floor, 71 Main Street West, Hamilton). ENVELOPES SHALL BE MARKED "APPEAL OF COMMITTEE OF ADJUSTMENT DECISION". DO NOT DELIVER APPEALS TO ANY OTHER DEPARTMENTS OR LOCATIONS. APPEALS RECEIVED BY THE OFFICE OF THE COMMITTEE OF ADJUSTMENT AFTER THE LAST DATE OF APPEAL AS A RESULT OF SECOND HAND MAILING WILL BE TIME BARRED AND OF NO EFFECT. THE FEE MENTIONED IN (19) ABOVE IS \$300.00 TO BE PAID BY CERTIFIED CHEQUE OR MONEY ORDER MADE OUT TO THE "MINISTER OF FINANCE".

IDEM (28) If the clerk, or the Minister, as the case may be, receives a notice of appeal under subsection (19) or (27), the clerk or the Minister shall ensure that,

- (a) a record is compiled which includes the information and material prescribed; and
- (b) the record, the notice of appeal and the fee are forwarded to the Municipal Board within 15 days after the last day for filing a notice of appeal under subsection (19) or (27).

IN ACCORDANCE with the above-noted provisions of The Planning Act, the last day of appeal from this decision is:

May 31st, 2017