

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-21:335

APPLICANTS: Agent A.J. Clarke & Associates c/o F. Kloibhofer
Owner Joseph Marchese

SUBJECT PROPERTY: Municipal address **83 Melbourne St., Hamilton**

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

ZONING: "D" (Urban Protected Residential - One and Two Family Dwellings) district

PROPOSAL: To permit the creation of two (2) lots through land severance application HM/B-21: 81 and to permit the construction of a new two (2) family dwelling on each lot, notwithstanding that;

Lands Identified as Part 1: (Westerly Lot)

1. A minimum lot width of 7.3 m shall be provided instead of the minimum required 18.0 m; and
2. A minimum lot area of 335.0 m² shall be provided instead of the minimum required of 450.0 m²; and
3. A minimum front yard depth of 2.25 m shall be provided instead of the minimum required 6.0 m; and
4. A minimum easterly side yard width of 0.4 m shall be provided instead of the minimum required side yard width of 1.2 m; and
5. A minimum front yard landscaped area of 30% shall be provided instead of the requirement in the By-Law, which states that no less than 50 % of the gross area of the front yard shall be used for a landscaped area excluding concrete, asphalt, gravel, pavers or other similar material; and
6. No on-site manoeuvring space shall be provided instead of the requirement that the manoeuvring space shall be provided and maintained only on the lot on which the principal use, building or structure is located;
7. Eaves or gutters shall be permitted to project 0.40m into the required 0.40m side yard so that the eaves and gutters may be as close as 0.0m to the easterly side lot line, instead of the requirement that an eave or gutter may project into the required side yard not more than ½ of its required width (being 0.2m);

8. An uncovered porch (being the steps to the front porch) shall be at least 1.2m from the street line, instead of the requirement that an uncovered porch which does not extend more than 1.0m above the floor level of the first storey, may project into a required yard if distant at least 1.5m from the nearest street line;

Lands Identified as Part 2: (Easterly Lot)

1. A minimum lot width of 7.3 m shall be provided instead of the minimum required 18.0 m; and

2. A minimum lot area of 335.0 m² shall be provided instead of the minimum required lot area of 450.0 m²; and

3. A minimum front yard depth of 2.25 m shall be provided instead of the minimum required 6.0 m; and

4. A minimum westerly side yard width of 0.4 m shall be provided instead of the minimum required side yard width of 1.2 m; and

5. A minimum front yard landscaped area of 30% shall be provided instead of the requirement in the By-Law, which states that no less than 50 % of the gross area of the front yard shall be used for a landscaped area excluding concrete, asphalt, gravel, pavers or other similar material; and

6. No on-site manoeuvring space shall be provided instead of the requirement that the manoeuvring space shall be provided and maintained only on the lot on which the principal use, building or structure is located; and

7. Eaves or gutters shall be permitted to project 0.40m into the required 0.40m side yard so that the eaves and gutters may be as close as 0.0m to the westerly side lot line, instead of the requirement that an eave or gutter may project into the required side yard not more than ½ of its required width (being 0.2m); and

8. An uncovered porch (being the steps to the front porch) shall be at least 1.2m from the street line, instead of the requirement that an uncovered porch which does not extend more than 1.0m above the floor level of the first storey, may project into a required yard if distant at least 1.5m from the nearest street line;

NOTES:

Please note that reciprocal easements are also being proposed over Part 3 & 4 as shown on the submitted site plan for drainage, access and maintenance purposes.

Variances have been written as requested by the applicant.

These variances are necessary to facilitate Land Severance Application HM/B-21: 81.

Please note that the proposed height has not been provided for Part 1 & Part 2. If the proposed height exceeds the maximum permitted; further variances shall be required.

No parking details (i.e. location, size and required number of spaces) have been provided on the Concept Sketch under PART 1 & Part 2. Therefore, further variance shall be required.

Please note that no encroachments are permitted onto the side yard for the roofed over unenclosed porch and the minimum required side yard width for the principal building would apply; however, If the requested easterly and westerly side yard variances are approved, the proposed covered porch would not be encroaching into the new required easterly and westerly side yard and the roofed over unenclosed porches would be in compliance

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

DATE:	Thursday, November 25th , 2021
TIME:	3:30 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:

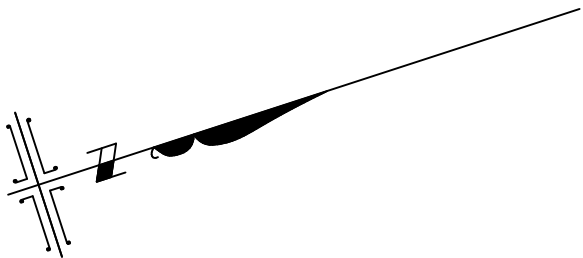
- Visit www.hamilton.ca/committeeofadjustment
- Call 905-546-CITY (2489) or 905-546-2424 extension 4221, 4130, or 3935
- Email Committee of Adjustment staff at cofa@hamilton.ca

DATED: November 9th, 2021.

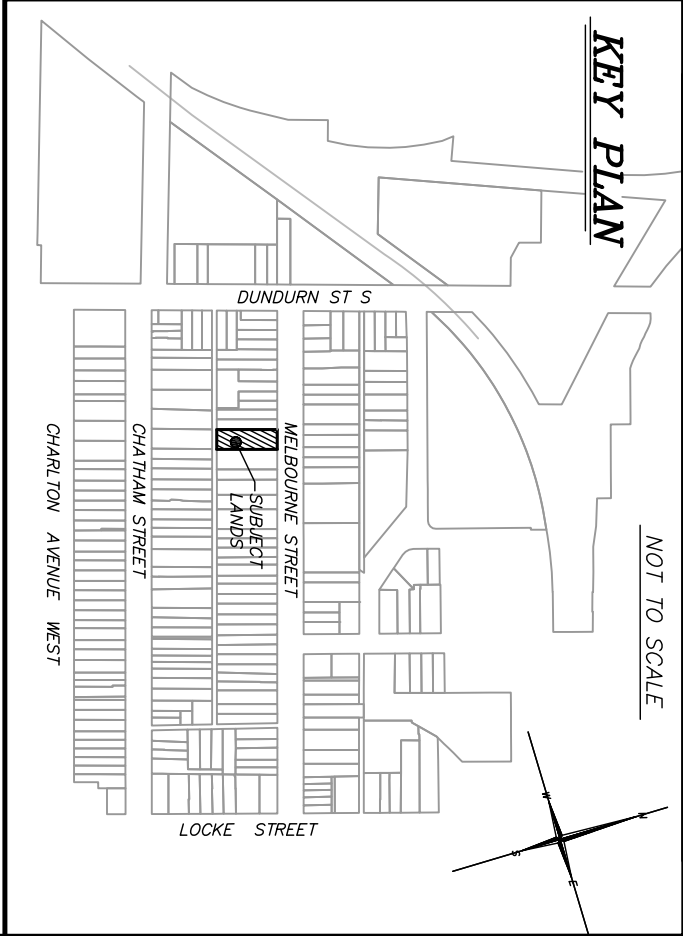
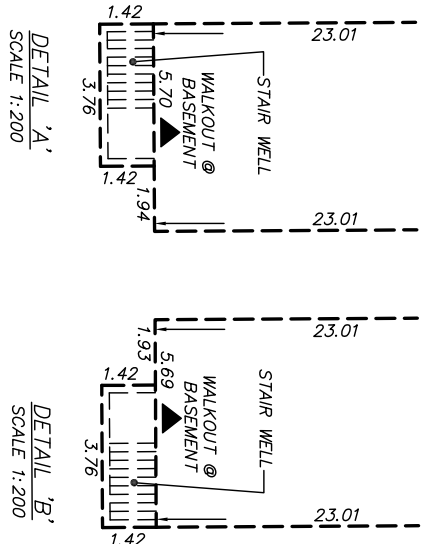
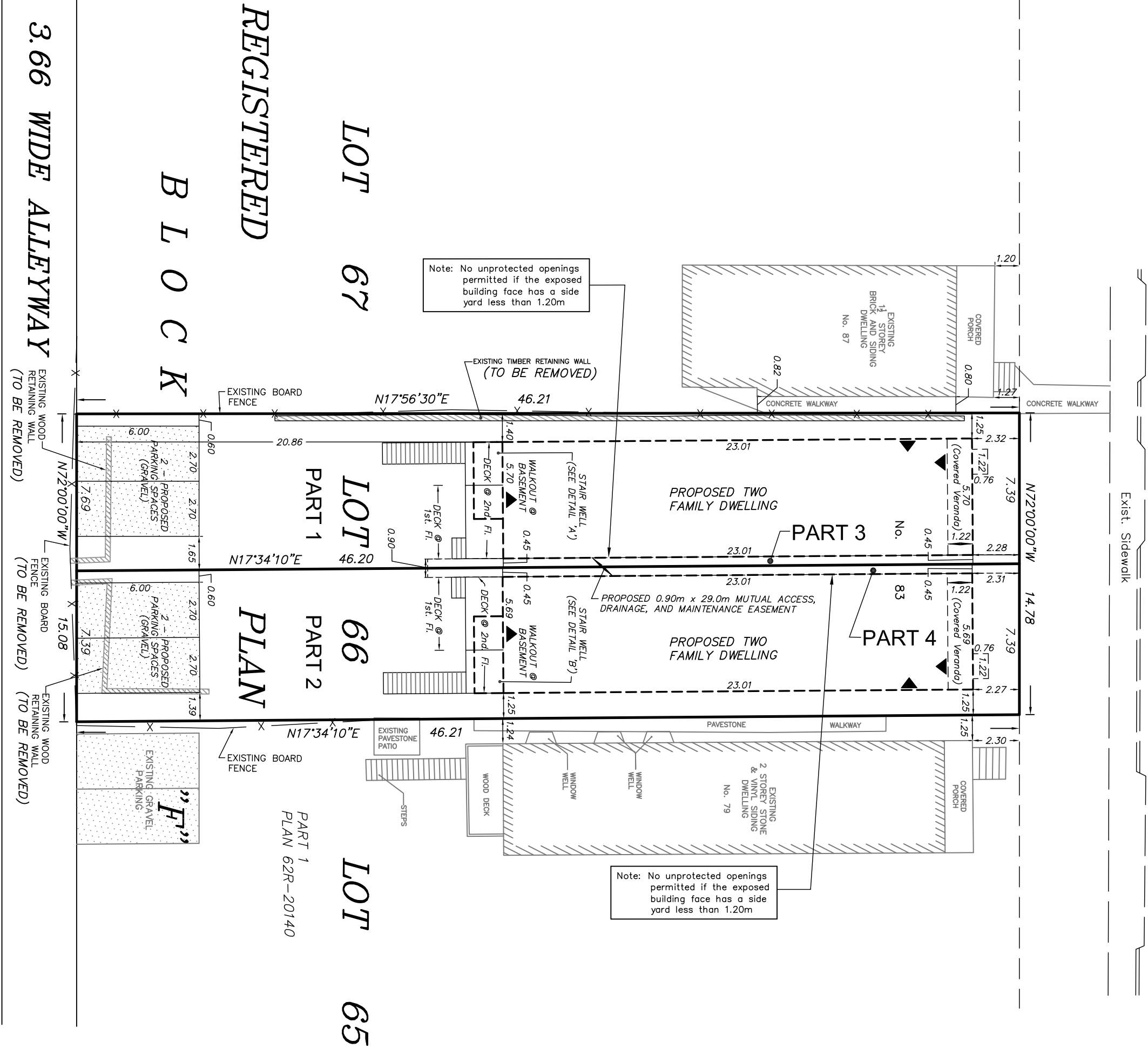
Jamila Sheffield,
Secretary-Treasurer
Committee of Adjustment

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.

CONCEPT SKETCH OF
LOT 66
BLOCK "F"
REGISTERED PLAN No. 253
IN THE
CITY OF HAMILTON
A. J. CLARKE O.L.S.



MELBOURNE STREET



H:\Jobs\2021 Projects\218185 (83 Melbourne St)\Planning\Concepts\CONCEPT SKETCH.dwg, Model
NOTE:
THE BOUNDARIES AND MEASUREMENTS SHOWN ON THIS SKETCH
ARE BASED ON A TOPOGRAPHIC SURVEY BY TARASICK MCILLAN KUBICKI LTD.
DATED JUNE 10, 2021

APPLICATION FOR A MINOR VARIANCE

FOR OFFICE USE ONLY.	
APPLICATION NO. _____	DATE APPLICATION RECEIVED _____
PAID _____	DATE APPLICATION DEEMED COMPLETE _____
SECRETARY'S SIGNATURE _____	

The Planning Act

Application for Minor Variance or for Permission

The undersigned hereby applies to the Committee of Adjustment for the City of Hamilton under Section 45 of the *Planning Act*, R.S.O. 1990, Chapter P.13 for relief, as described in this application, from the Zoning By-law.

1, 2	NAME	ADDRESS
Registered Owners(s)	Joseph Marchese	
Applicant(s)*		
Agent or Solicitor	A.J. Clarke & Associates Ltd c/o Franz Kloibhofer	

Note: Unless otherwise requested all communications will be sent to the agent, if any.

3. Names and addresses of any mortgagees, holders of charges or other encumbrances:
 N/A

Additional sheets can be submitted if there is not sufficient room to answer the following questions. Additional sheets must be clearly labelled

4. Nature and extent of relief applied for:
See attached cover letter for details.
5. Why it is not possible to comply with the provisions of the By-law?
See attached cover letter for details.
6. Legal description and Address of subject lands (registered plan number and lot number or other legal description and where applicable, **street and street number**):
83 Melbourne Street. Hamilton
Lot 66 Block F
Registered Plan 253
Assessment Roll Number: 251801009155560
Lot 18 Concession 3 - Former Township of Barton
7. PREVIOUS USE OF PROPERTY

Residential ☒ Industrial ☐ Commercial ☐

Agricultural ☐ Vacant ☐

Other _____
- 8.1 If Industrial or Commercial, specify use N/A
- 8.2 Has the grading of the subject land been changed by adding earth or other material, i.e. has filling occurred?
Yes ☐ No ☒ Unknown ☐
- 8.3 Has a gas station been located on the subject land or adjacent lands at any time?
Yes ☐ No ☒ Unknown ☐
- 8.4 Has there been petroleum or other fuel stored on the subject land or adjacent lands?
Yes ☐ No ☒ Unknown ☐
- 8.5 Are there or have there ever been underground storage tanks or buried waste on the subject land or adjacent lands?
Yes ☐ No ☒ Unknown ☐
- 8.6 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 ☐
- 8.7 Have the lands or adjacent lands ever been used as a weapon firing range?
Yes ☐ No ☒ Unknown ☐
- 8.8 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 ☐
- 8.9 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 ☐

8.10 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 ☐

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

Online mapping.


8.12 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 ☒

9. 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.

Sept. 01. 2021
Date


Signature Property Owner
Joseph Marchese
Print Name of Owner

10. Dimensions of lands affected:

Frontage	<u>+ 14.78 m</u>
Depth	<u>+ 46.21 m</u>
Area	<u>+ 682.98 sq m</u>
Width of street	<u>+ 11.68 m</u>

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: _

One single detached dwelling with associated parking (located north east on site).

Proposed

One single detached dwelling (per lot) (see concept plan).

12. Location of all buildings and structures on or proposed for the subject lands; (Specify distance from side, rear and front lot lines)

Existing:

One single detached dwelling with associated parking (located north east on site).

Proposed:

One single detached dwelling (per lot) (see concept plan).

13. Date of acquisition of subject lands:
2021
-
14. Date of construction of all buildings and structures on subject lands:
Unknown.
-
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 Yes Connected _____
 Sanitary Sewer Yes Connected _____
 Storm Sewers Yes
19. Present Official Plan/Secondary Plan provisions applying to the land:
"Neighbourhoods" designation.
20. Present Restricted Area By-law (Zoning By-law) provisions applying to the land:
"D/S-1787" zone.
21. Has the owner previously applied for relief in respect of the subject property?
☐ Yes ☒ No
 If the answer is yes, describe briefly.
 N/A
22. Is the subject property the subject of a current application for consent under Section 53 of the *Planning Act*?
☒ Yes ☐ No
23. Additional Information
 New reciprocal easements proposed over Parts 3 and 4 for drainage, access, and maintenance.
24. 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.



A. J. Clarke and Associates Ltd.
SURVEYORS • PLANNERS • ENGINEERS

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

October 18, 2021

Attn: Ms. Jamila Sheffield
Secretary Treasurer, Committee of Adjustment (email: Jamila.Sheffield@hamilton.ca)

Re: 83 Melbourne Street
Minor Variance and Severance Application Re-Submission
File Numbers : HM/B-21 :81 and HM/A-21 :335

Dear Ms. Sheffield:

A.J. Clarke and Associates Ltd. has been retained by Falcon Manor Homes for the purposes of submitting the enclosed Minor Variance and Consent Applications for the subject lands, municipally known as 83 Melbourne Street. Concurrent applications for severance consent and minor variance were previously submitted under the file numbers noted above. The purpose of this resubmission is to clarify details discussed at the previous Committee of Adjustments Hearing held on October 7, 2021, wherein this application was tabled. Those details include:

1. An amended Consent Sketch showing reciprocal easements over Parts 3 and 4 at a proposed width of 0.45m each. The purpose of this amendment is to show the correct easement width such that a 0.90m drainage swale can be accommodated between the two proposed structures as per Development Engineering comments.
2. The proposed Minor Variances as noted on the Notice of Public Hearing will also have to be amended to match the change to the Consent Sketch as described in point 1 above, and the related Development Engineering comments:

Lands Identified as Part 1: (Westerly Lot – to be known as 85 Melbourne)

Variance 4: A minimum easterly side yard width of **0.45 m** shall be provided instead of the minimum required side yard width of 1.2 m; and

Variance 7: Eaves or gutters shall be permitted to project **0.45 m** into the required **0.45 m** side yard so that the eaves and gutters may be as close as 0.0m to the easterly side lot line, instead of the requirement that an eave or gutter may project into the required side yard not more than ½ of its required width (being **0.225 m**);



Lands Identified as Part 2: (Easterly Lot – to be known as 83 Melbourne)

Variance 4: A minimum westerly side yard width of **0.45 m** shall be provided instead of the minimum required side yard width of 1.2 m; and

Variance 7: Eaves or gutters shall be permitted to project **0.45 m** into the required **0.45 m** side yard so that the eaves and gutters may be as close as 0.0m to the westerly side lot line, instead of the requirement that an eave or gutter may project into the required side yard not more than ½ of its required width (being **0.225 m**);

3. The Staff recommendation for Consent Approval included several Conditions:

Condition # 6: That the proponent shall carry out an archaeological assessment of the entire 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 confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI).

It is not typically the practice of the Committee of Adjustments to require full Archaeological Assessments for Consent Applications such as this condition will require as written. This is because the subject lands are part of a previously constructed subdivision/neighbourhood; wherein, all soils on the subject lands have previously been disturbed. It would seem very onerous and deleterious to my client's application to require a ± \$5,000.00 archaeological study when one is not necessary. Rather, a note is typically included in the Notice of Decision that states the following:

"Should deeply buried archaeological materials be found on the property during construction activities, the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both the MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499)."

It is requested that Condition # 6 be removed in its entirety and a note be included in the Notice of Decision as described above.

Condition # 7: That the applicant submit and implement a Cultural Heritage Impact Assessment to the satisfaction and approval of the Manager of Development and Planning, Heritage and Design prior to any minor variance or consent to sever approval.

We would request that this condition be amended to remove "prior to any minor variance or consent to sever approval", as we are in fact appearing before the Committee of Adjustments to obtain both minor variance and consent to sever approval.

As per correspondence with Amber Knowles, Cultural Heritage Planner for the downtown planning team, we would request that this condition be further amended to include “if required” at the end of the condition. The dwelling currently located on the subject lands has been extensively renovated over the years and has also suffered significant water damage. As a result, it is our opinion that any heritage value has likely been lost. We have agreed to provide photo documentation of the interior of the structure and are happy to attend a site visit with Cultural Heritage Staff. Following the review of this information, if Cultural Heritage Staff determine that a CHIA is indeed required, then the Study will be completed to the satisfaction of the Manager of Development and Planning, Heritage and Design. As this condition is currently written, a CHIA is an absolute requirement, where such a study may not be necessary. A picture of the existing dwelling currently located on the subject lands is shown below as Figure 1 for reference.



Figure 1: Photo of Existing Dwelling from Melbourne Street (83 Melbourne Street)

The following supporting materials are submitted to your attention, in support of the subject application:

- 1) One (1) digital copy of the Concept Plan.
- 2) One (1) digital copy of the Consent Plan.



I trust that you will find the enclosed satisfactory for your purposes. Please confirm receipt of this submission and we look forward to being scheduled for the next available hearing date. If you have any questions or require additional information, please do not hesitate to contact our office.

Sincerely,

Franz Kloibhofer, MCIP, RPP
Principal Planner
A. J. Clarke and Associates Ltd.

Encl.

Cc: Joseph Marchese, Owner
Falcon Manner Homes c/o Mike Vasallo