



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

Application for Consent/Land Severance

APPLICATION NUMBER: HM/B-21:133

SUBJECT PROPERTY: 11 Hyde Park Ave., Hamilton

APPLICANT(S): Agent Frank Raso
Owner H. & G. Waddell

PURPOSE OF APPLICATION: To validate the title of a parcel of land under the provisions of Section 57(1) of the Planning Act, correcting a Planning Act Validation that occurred during a past real estate transaction on the subject property.

Subject Lands Shown as 11 Hyde Park Ave. on the attached sketch

Background See attached letter

The Committee of Adjustment will hear this application on:

DATE: Thursday, January 20th, 2022

TIME: 1:10 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

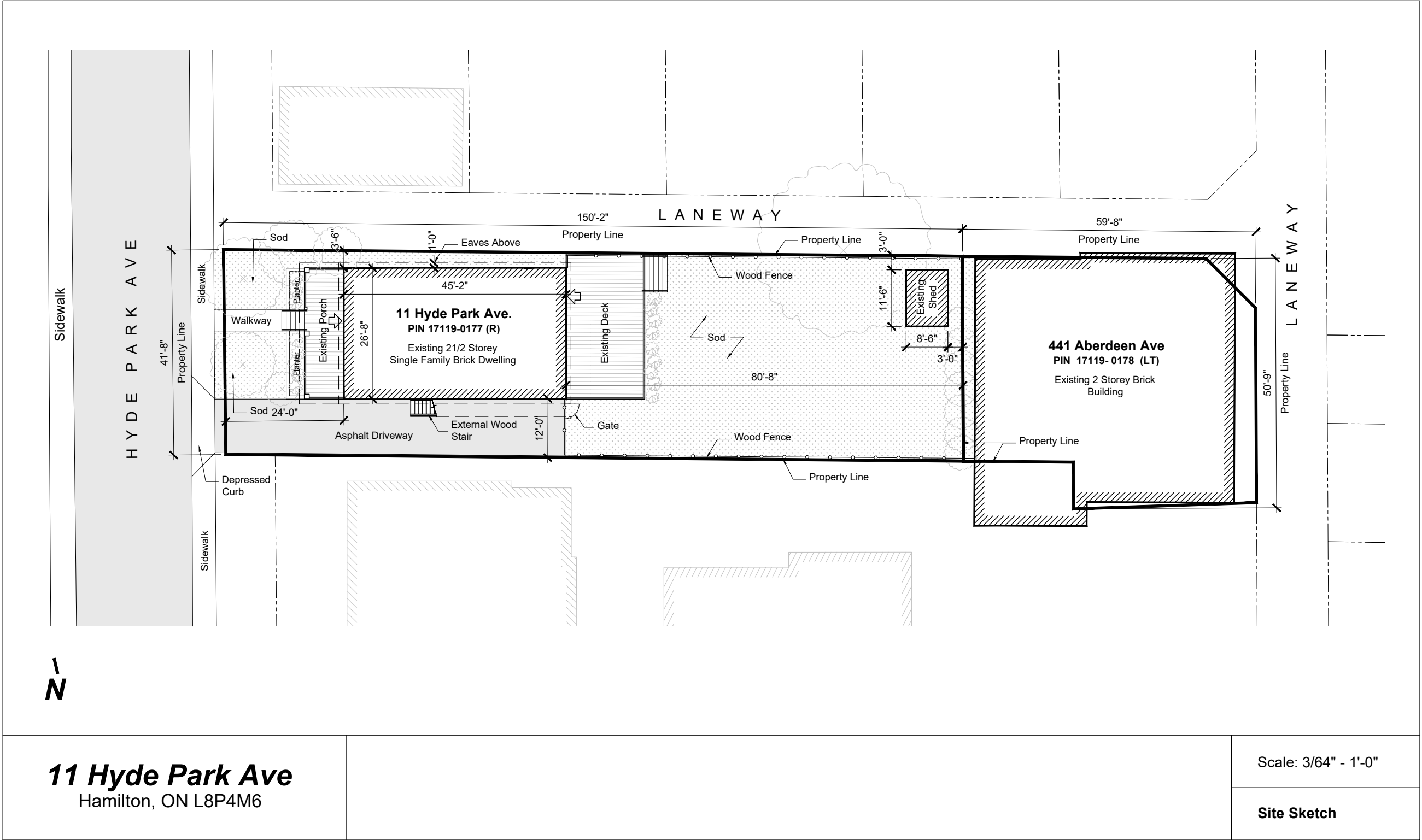
For more information on this matter, including access to drawings illustrating this request:

- 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: January 4th, 2022

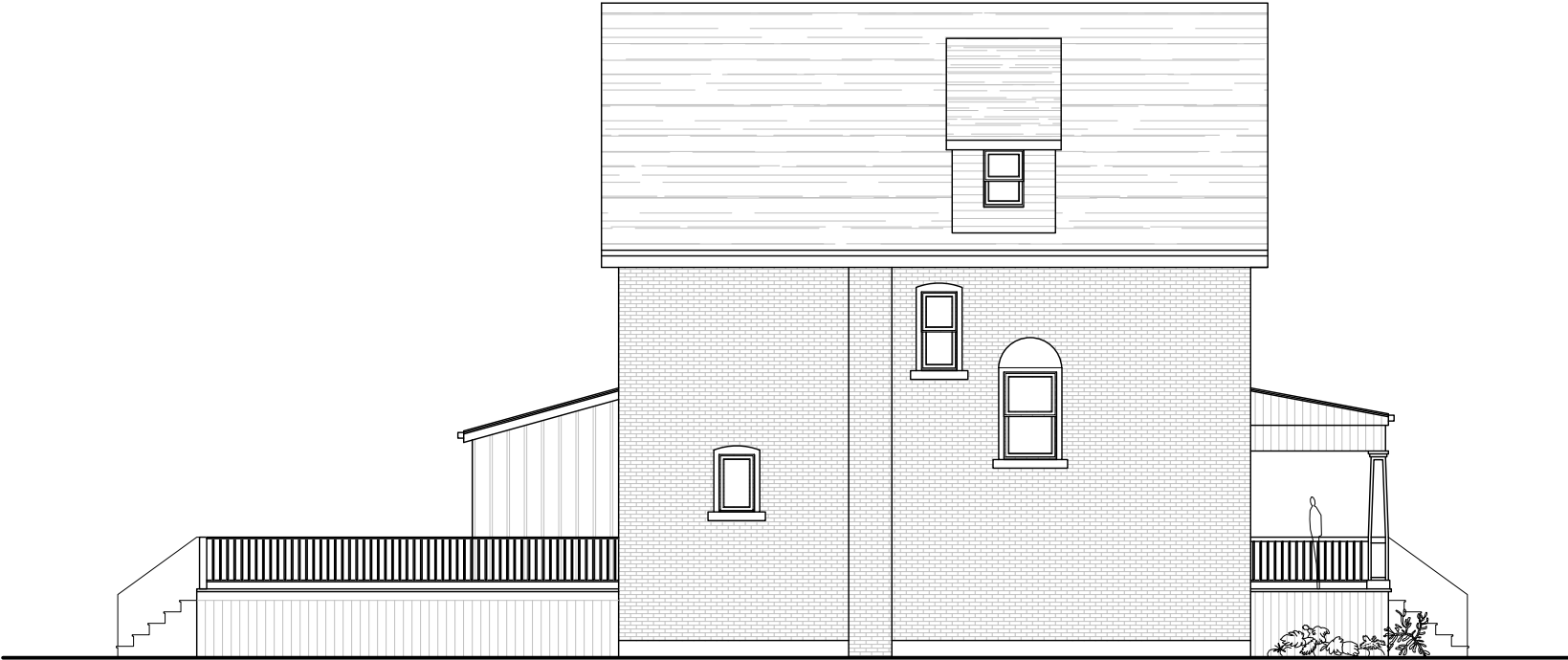
Jamila Sheffield,
Secretary-Treasurer
Committee of Adjustment

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.





West Elevation



North Elevation

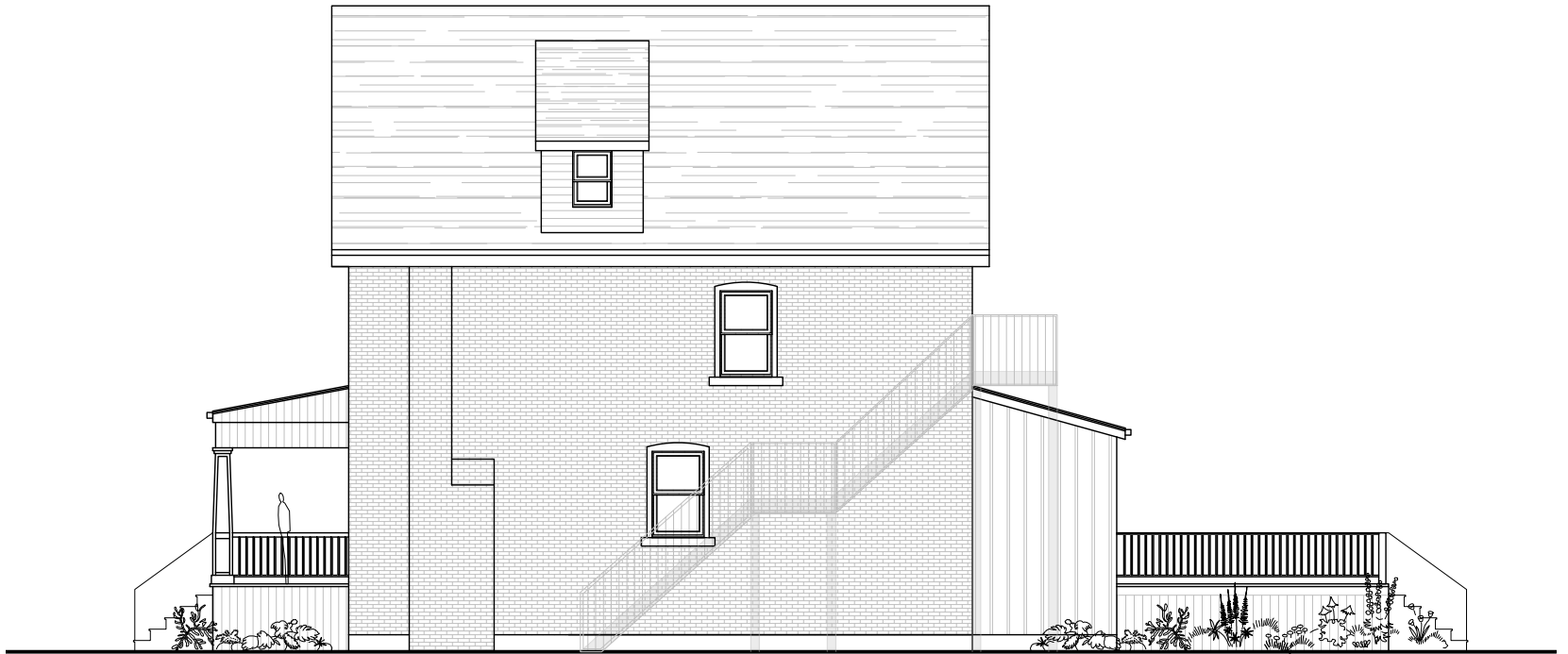
11 Hyde Park Ave
Hamilton, ON L8P4M6

Scale: 3/32" = 1'-0"

Elevations



East Elevation



South Elevation

11 Hyde Park Ave
Hamilton, ON L8P4M6

Scale: 3/32" = 1'-0"

Elevations

This submission is made in support of the Application for the Validation of Title in respect of the property known municipally as 11 HYDE PARK AVENUE , Hamilton, Ontario and legally described as Part Lot 21, Plan 403; PIN 17119-0177 (R)

SUMMARY OF REQUEST FOR VALIDATION OF TITLE- 11 HYDE PARK AVENUE, HAMILTON

1. The Validation of Title is required as a part-lot control Planning Act violation occurred in respect of **11 Hyde Park Avenue, Hamilton** (“the subject property”) on November 11th, 1991 when the then owner, Fritz Quade, transferred the subject property to his son Karl Quade but retained an interest in the rear adjoining part lot property known as 441 Aberdeen Avenue, Hamilton **PIN 17119-0178 (LT)** (“rear property”)

HISTORY

2. The subject property, 11 Hyde Park Avenue, Hamilton, is the front portion of Lot 21, Plan 403 (**PIN 17119-0177 (R)**) had been in separate ownership from the rear of Lot 21, Plan 403, **PIN 17119-0178 (LT)** for many years predating 1967.

3. The previous owner, Fritz Quade, (the father and father law of the current owners), took ownership of the rear property (441 Aberdeen Avenue), by Instrument No. CD63226 registered on **September 1, 1977**.

4. The said Fritz Quade then also took ownership of the front portion, being the subject property 11 Hyde Park Avenue, on **August 14, 1980** under Transfer registered as Instrument CD164248.

5. At that time, title to both the front, subject property, 11 Hyde Park Avenue and rear property, 441 Aberdeen Avenue, Hamilton were effectively merged into one whole parcel as the said **Fritz Quade** became the registered owner of both properties.

PLANNING ACT VIOLATION

6. The part-lot control Planning Act violation occurred when the then owner, Fritz Quade transferred the subject property, 11 Hyde Park Avenue , Hamilton to his son, Karl Quade, under **instrument No. VM102915 on November 11, 1991** but retained ownership of the rear property – 441 Aberdeen Avenue, Hamilton.

TRANSFERS AFTER THE PLANNING ACT VIOLATION

441 Aberdeen Avenue Transfer

7. On December 12, 1999, the rear property, 441 Aberdeen Avenue, Hamilton, was transferred from Fritz Quade Ernest Eberhard and Patricia Leila McKay under instrument No. LT582440.

8. The rear property, 441 Aberdeen Avenue, Hamilton, had already been converted to Land Titles Qualified Conversion (LTQC) which occurred on October 21st, 1996. The effect of the Conversion to LTQC was to forgive or cure any prior Planning Act violation. Thus, the title and description to and of the rear property, 441 Aberdeen Avenue, Hamilton is guaranteed and under the Land Titles Act by virtue of the LTQC designation. No Planning Act violations have occurred since the date of conversion in respect of the rear property, 441 Aberdeen Avenue, Hamilton.

11 Hyde Park Avenue Transfers

9. Karl Quade conveyed the subject property, 11 Hyde Park Avenue, back to his parents Fritz Quade and Donna Quade under instrument No. VM256706 registered on **April 22, 2003**.

10. Fritz Quade and Donna Quade then conveyed the lands to their daughter, **Heidi Waddell and son in-law Gordon Waddell** under Instrument No. VM270977 registered on **November 30, 2006**.

CURRENT OWNERS OF 11 HYDE PARK AVENUE, HAMILTON

11. The said **Heidi Waddell and Gordon Waddell** are the recognized current owners of the subject property.

12. The Planning Act violation described above is acknowledged by the Registry Office as the reason for not converting the subject property to LTQC and thereby preventing them from certifying title to the current recognized owners, Heidi Waddell and Gordon Waddell.

NEED FOR VALIDATION OF TITLE

13. The Registry Office has indicated it requires a Validation of Title in respect of the subject property in order evidence that the prior Planning Act violation is cured or forgiven to permit the conversion of the property to LTQC and thereby certify title to the current recognized owners, Heidi Waddell and Gordon Waddell.

14. Without the Validation of Title, the title to the subject property remains frozen in uncertainty as title cannot validly be transferred until the Planning Act violation is cured or forgiven.

15. The current recognized owners, Heidi Waddell and Gordon Waddell have entered into an Agreement of Purchase and Sale with respect to the subject property, 11 Hyde Park Avenue Hamilton, and this transaction remains an unconcluded until title is rectified.

16. The consent to this Application from all of previous owners of the subject property has been obtained –see Consent attached.

ATTACHMENTS TO THE APPLICATION

The following documents are attached to the Application for the Validation of Title in respect of the subject property, 11 Hyde Park Avenue, Hamilton:

1. Planning Act excerpt Part-Lot Control s.50(5)(a) and (21);
2. Title abstract PIN 17119-0177 (R) 11 Hyde Park Avenue, Hamilton;
3. Title abstract PIN 17119-0178 (LT) 441 Aberdeen Avenue, Hamilton;
4. Site Plan/Survey re: 11 Hyde Park Avenue and 441 Aberdeen Avenue, Hamilton;
5. 441 Aberdeen Avenue Transfer No.: CD63226 to Fritz Quade registered on September 1st, 1977;
6. 11 Hyde Park Avenue Transfer No.: CD164248 to Fritz Quade registered on August 14th, 1980;
7. 11 Hyde Park Avenue Transfer No.: VM102915 to Karl Quade on November 11, 1991- (“the violating Transfer”);
8. 11 Hyde Park Avenue Transfer No.: VM270977 to Heidi Waddell and Gordon Waddell registered on November 30, 2006.
9. Consent of previous owners in respect of the granting of the within Application for the Validation of Title of 11 Hyde Park Avenue, Hamilton.

Hereby submitted this 6th day of December, 2021 at the City of Hamilton,

A handwritten signature in black ink, appearing to read 'Frank M. Raso', with a long horizontal flourish extending to the right.

FRANK M. RASO

Frank M. Raso Law Office

On behalf of the Owners of 11 Hyde Park Ave, Hamilton

Gordon Waddell and Heidi Waddell



Hamilton

December 10, 2021

FILE: ALR
FOLDER: 21-162699-00 ALR
ATTENTION OF: Cam Thomas
TELEPHONE NO: (905) 546-2424
EXTENSION: 4229

Frank M. Raso Law Office
436 Aberdeen Ave
HAMILTON, ON L8P 2S2

Attention: Frank M. Raso

Re: ZONING COMPLIANCE REVIEW – VALIDATION OF TITLE
Present Zoning: “D” (Urban Protected Residential – One and Two Family Dwellings)
Address: 11 Hyde Park Avenue, HAMILTON, ON

An Zoning Compliance Review for the Validation of Title has been completed and the following comments are provided.

COMMENTS:

1. This property is currently zoned “D” (Urban Protected Residential – One and Two Family Dwellings) District in Hamilton Zoning By-law No. 6593. Section 10.1 of Hamilton Zoning By-law No. 6593 permits the following uses in the “D” District:

RESIDENTIAL USES

A use as permitted in a "C" District (includes single family dwelling, together with the accommodation of lodgers to the number of not more than three; a foster home; a residential care facility for the accommodation of not more than 6 residents; and a retirement home for the accommodation of not more than six residents);

A two family dwelling, together with the accommodation of lodgers to the number of not more than three in each Class A dwelling unit;

INSTITUTIONAL USES

A day nursery, provided that:

- (i) Subject to subsection (ii), every such day nursery, (A) shall accommodate not more than 25 children, and (B) shall be situated on a lot having a minimum radial separation of 180.0 metres from the lot line to the lot line of any other lot occupied or as may be occupied by a day nursery.

- (ii) Subsection (i) shall not apply to a day nursery located within a school, church, community centre, or other public building.

PUBLIC USES

A district yard of a municipal corporation;

A college or university

The proposed use is identified in the application as a single family dwelling. Building Division records from the 1950s and 1960s have identified that the building was previously occupied as a three unit dwelling. A site plan identifying the Single Family Dwelling and Elevations have been provided in the application for review.

- The applicant's solicitor has advised that the application for Validation of Title was provided to address a Planning Act violation in which the abutting rear property was converted as a separate parcel by the Registry Office to Land Titles Qualified Conversion (LTQC) as a means to address the violation. However, as 11 Hyde Park Avenue was not converted to LTQC, it is not possible for it to be transferred without the Planning Act issue being resolved or alternatively forgiven by way of Validation of Title. For the property at 11 Hyde Park Avenue, the applicant's solicitor has indicated that the Registry Office would support the conversion to LTQC for this parcel through an acceptable Validation of Title application.

An application for Validation of Title from the Committee of Adjustment will be submitted at a future date.

- The proposed development has been reviewed and compared to the standards of the "D" District zoning as indicated in the following chart:

Provisions	Required By By-Law	Provided	Conforming/ Non-Conforming
Section 10 - "D" District			
Minimum Front Yard <i>[Section 10.3(i) of Hamilton Zoning By-law No. 6593]</i>	6.0m	7.3m	Existing / Conforming
Minimum Side Yard <i>[Section 10.3(ii) of Hamilton Zoning By-law No. 6593]</i>	1.2m for buildings not over 2.5 storeys	1.06m (N) or slightly less As building was constructed prior to 1950, the side yard is regarded as legally established non-complying	Existing
		3.65m (S)	Existing / Conforming

Provisions	Required By By-Law	Provided	Conforming/ Non-Conforming
Minimum Rear Yard <i>[Section 10.3(iii) of Hamilton Zoning By-law No. 6593]</i>	7.5m	18.48m	Existing / Conforming
Minimum Lot Width <i>[Section 10.4(ii) of Hamilton Zoning By-law No. 6593]</i>	Single Family Dwelling: 12.0m	12.69m	Existing / Conforming
Minimum Lot Area <i>[Section 10.4(ii) of Hamilton Zoning By-law No. 6593]</i>	Single Family Dwelling 360m ²	45.76m ²	Existing / Conforming
Max. Bldg Height <i>[Section 10.2 of Hamilton Zoning By-law No. 6593]</i>	Buildings - 2.5 storeys and 14.0m (max.)	2.5 storeys No metric height provided The building was constructed before 1950 and likely around 1920 based on the property tax database	Existing
Encroachments – Section 18 Supplementary			
Yard Encroachment - Eaves <i>[per Section 18 (3)(vi) (b) (iii) of Hamilton Zoning By-law 6593]</i>	Eave or gutter may project into a required side yard not more than one-half its width, or 1.0 m, whichever is the lesser. 1.06 / 2 = 0.53m	N – 0.3m projection into side yard	Existing
		S - 0.3m side yard projection into side yard	Existing
Open Fire Escape <i>[per Section 18 (3)(vi) (c) (iii) of Hamilton Zoning By-law 6593]</i>	An open fire escape or open stairway may project: into a required side yard not more than one-third of its width, or 1.0m, whichever is the lesser	Permits were issued by the Building Division 1978 for fire escape (exterior stairs) to be constructed along the rear wall. The stairs were constructed along the southerly side wall of the dwelling. As the side yard is 3.65m in width, there is no encroachment into the	Existing

Provisions	Required By By-Law	Provided	Conforming/ Non-Conforming
		required 1.2m side yard.	
Yard Encroachment – Deck / Terrace <i>[per Section 18 (3)(vi) (e) (iii) of Hamilton Zoning By-law 6593]</i>	A <u>terrace</u> , uncovered porch, platform or ornamental feature 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 0.5 metres from the nearest side lot line and at least 1.5 metres from the nearest street line;	The rear deck projecting from the rear wall of the dwelling would be 0m from the northerly side lot line. The rear deck was constructed after 2002 and before 2005 based on aerial views on GISNet and the information provided by Frank Raso, Solicitor. A permit was not obtained for the deck based on Building Div. records.	Does Not Conform
Yard Encroachment – Roofed Over Uncovered Porch <i>[per Section 18 (3)(vi) (e) (iii) of Hamilton Zoning By-law 6593]</i>	A Roofed Over Uncovered Porch - May project into a required front yard or rear yard to a distance of not more than 3.0m, and every such projecting porch shall be distant at least 1.5m	Due to the existing front setback and the distance from the street, the porch and stairs would encroach less than 3.0m into the front yard and would be more than 1.5m from the street line Specific setback was not provided	Conforms
Min. Landscaped Area in Front Yard <i>[Section 18(14) of Zoning By-law 6593]</i>	50%	Based on Plans – appears to be 50% landscaped area as driveway width is proportionally less than half of the lot width Specific information was not provided	Appears to Conform
Section 18A – Parking and Accessory Bldgs			
Minimum Number of Parking Spaces <i>[per 18A table 1(1)(b) of Zoning By-law 6593]</i>	Single Family Dwelling 2 parking spaces	It appears 2 parking spaces can be provided in the driveway in front of the fire escape. No parking shown on plan. Based on the dwelling being constructed prior to 1920, no parking spaces are required	Existing

Provisions	Required By By-Law	Provided	Conforming/ Non-Conforming
Minimum Parking Space Width <i>[Section 18A(7) of Zoning By-law 6593]</i>	2.7m x 6.0 m	<p>It appears that the width of the driveway would accommodate the required parking spaces. No parking shown on plan.</p> <p>Based on the dwelling being constructed prior to 1920, no parking spaces are required</p>	Existing
Manoeuvring Space <i>[Section 18A(22) and 18A14(h) of Zoning By-law 6593]</i>	<p>All manoeuvring spaces shall be maintained free and clear of all obstructions to permit unobstructed access to and egress from required parking spaces.</p> <p><u>18A14(h)</u></p> <p><i>Only the accessibility to one of the required parking spaces may be obstructed by any other required parking spaces</i></p>	<p>A manoeuvring space would be available in the front yard and would also be one of the parking spaces as per 18A14(h). No parking shown on plan.</p> <p>Based on the dwelling being constructed prior to 1920, no parking spaces are required</p>	Existing
Accessory Buildings - Height <i>[Section 18(4)(iii) of Zoning By-law 6593]</i>	No accessory building shall exceed 4.0m in height	Based on the area of the shed, the height would be under 4.0m	Conforms
Accessory Buildings - Setbacks and Coverage <i>[Section 18(4)(iv) of Zoning By-law 6593]</i>	Min. Setback at least 0.45m from the nearest lot line, and shall occupy not more than thirty per cent of the required rear yard	<p>0.91m from side and rear lot lines</p> <p>Shed is less than 10m²</p> <p>Note – Shed is 9m² and would not be subject to a building permit</p>	Conforms

4. Based on the above-noted zoning review, the existing single family dwelling is in compliance with the requirements of City of Hamilton Zoning By-law 6593 with the exception of the location of the existing rear deck / terrace. As shown in the comments provided above, the deck was constructed at a distance of 0m from the northerly side lot line, whereas the Zoning By-law requires 0.5m. Additionally, a building permit does not appear to have been issued by the City of Hamilton Building Division when the deck was constructed during the period between 2002 to 2005.

The applicant's solicitor may wish to contact the Committee of Adjustment concerning next steps CofA@hamilton.ca.

5. Subject to the issuance of a building permit in the normal manner for tenant improvements, change of use, renovations, alterations, additions, conversions or new buildings. Be advised that Ontario Building Code regulations may require specific setback and construction types.
6. The review for zoning compliance was based on the submitted site sketch and elevations for 11 Hyde Park Avenue.

Yours truly

Can Thomas

for the Manager of Building Engineering and Zoning

436 Aberdeen AVE
HAMILTON, ON L8P2S2