



Hamilton

## COMMITTEE OF ADJUSTMENT

City Hall, 5<sup>th</sup> floor, 71 Main Street West, Hamilton, ON L8P 4Y5

Telephone (905) 546-2424, ext. 4221, 3935

E-mail: [cofa@hamilton.ca](mailto:cofa@hamilton.ca)

### **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

<b>APPLICATION NO.:</b>	<b>HM/A-22:115</b>	<b>SUBJECT PROPERTY:</b>	35 HAMILTON AVENUE, HAMILTON
<b>ZONE:</b>	D (Urban Protected Residential)	<b>ZONING BY-LAW:</b>	Zoning By-law former City of Hamilton 6593, as Amended

**APPLICANTS:** Owner – D. Vopni, M. Puzzella, D. Di Gennaro  
Agent – A.J. Clarke : Steve Fraser

The following variances are requested:

1. A minimum lot area of 485.0m<sup>2</sup> shall be provided instead of the minimum lot area of 540.0m<sup>2</sup> required for a Two Family Dwelling.
2. A minimum lot width of 12.6m shall be provided instead of the minimum lot width of 18.0m required for a Two Family Dwelling.
3. The parking area shall be permitted to occupy 56% of the gross area of the front yard instead of the maximum 50.0% gross area of the front yard permitted for parking purposes.
4. The front yard landscaped area shall be a minimum of 44.0% the gross area of the front yard instead of the minimum 50.0% required front yard landscaped area.
5. Two (2) parking spaces shall be provided in the front yard whereas the by-law prohibits required parking spaces from being in the front yard.
6. No on-site manoeuvring shall be provided for the parking spaces located within the front yard instead of the minimum required 6.0m manoeuvring aisle width and the requirement that a manoeuvring space shall be provided and maintained on the lot.

**PURPOSE & EFFECT:** To permit the construction of a new two (2) storey, Two Family Dwelling.

**Notes:**

- i. An eave/gutter may project a maximum of one half of a side yard or 1.0m whichever is the lesser amount. Insufficient details were provided to confirm compliance; as such, additional variances may be required if compliance cannot be achieved.

**This Notice must be posted by the owner of any land which contains seven or more residential units so that it is visible to all residents.**

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

DATE:	Thursday, August 11, 2022
TIME:	1:55 p.m.
PLACE:	Via video link or call in (see attached sheet for details)
	2 <sup>nd</sup> floor City Hall, room 222 (see attached sheet for details), 71 Main St. W., Hamilton
	To be streamed (viewing only) at <a href="http://www.hamilton.ca/committeeofadjustment">www.hamilton.ca/committeeofadjustment</a>

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

- Visit [www.hamilton.ca/committeeofadjustment](http://www.hamilton.ca/committeeofadjustment)
- Visit Committee of Adjustment staff at 5<sup>th</sup> floor City Hall, 71 Main St. W., Hamilton
- Call 905-546-CITY (2489) or 905-546-2424 extension 4221, 4130, or 3935

## 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, calling in, or attending in person. Please see attached page for complete instructions, including deadlines for registering to participate virtually and instructions for check in to participate in person.



 Subject Lands

DATED: July 26, 2022

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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, and may include posting electronic versions.

EDGE OF PAVEMENT

38.10m [125']

12.60m [41'-4"]

Property Line Fence

2.20m [7'-3"]

2.24m [7'-4"]

Existing building to be demolished

11.66m [38'-3"]

16.57m [54'-5"]

7.47m [24'-6"]

35 Hamilton

1.91m [6'-3"]

1.55m [5'-1"]

15.24m [50']

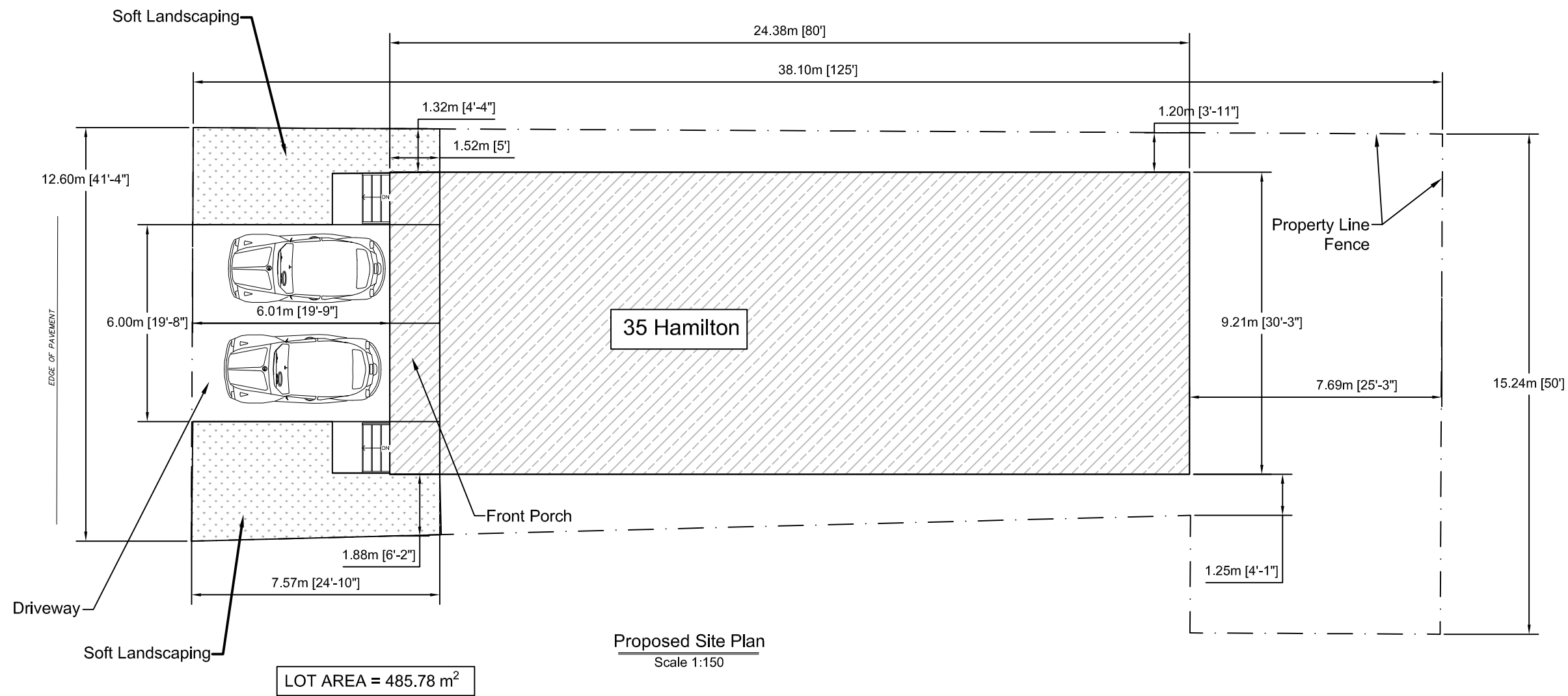
LOT AREA = 485.78 m<sup>2</sup>

Existing Site Plan

Scale 1:150

SCALE:	DRAWING NO.  <b>SP1.01</b>
DESIGNED BY:	
APPROVED BY:	

HAMILTON AVENUE



SauzTeq  
Engineering Inc.  
www.Sauzteq.ca  
Tel: 905-330-2431  
Email: info@sauzteq.ca

General Notes:  
The Contractor shall check and verify all existing conditions on site and shall also check and verify all dimensions on the drawings and report any inconsistencies to the Engineer before proceeding with the work.

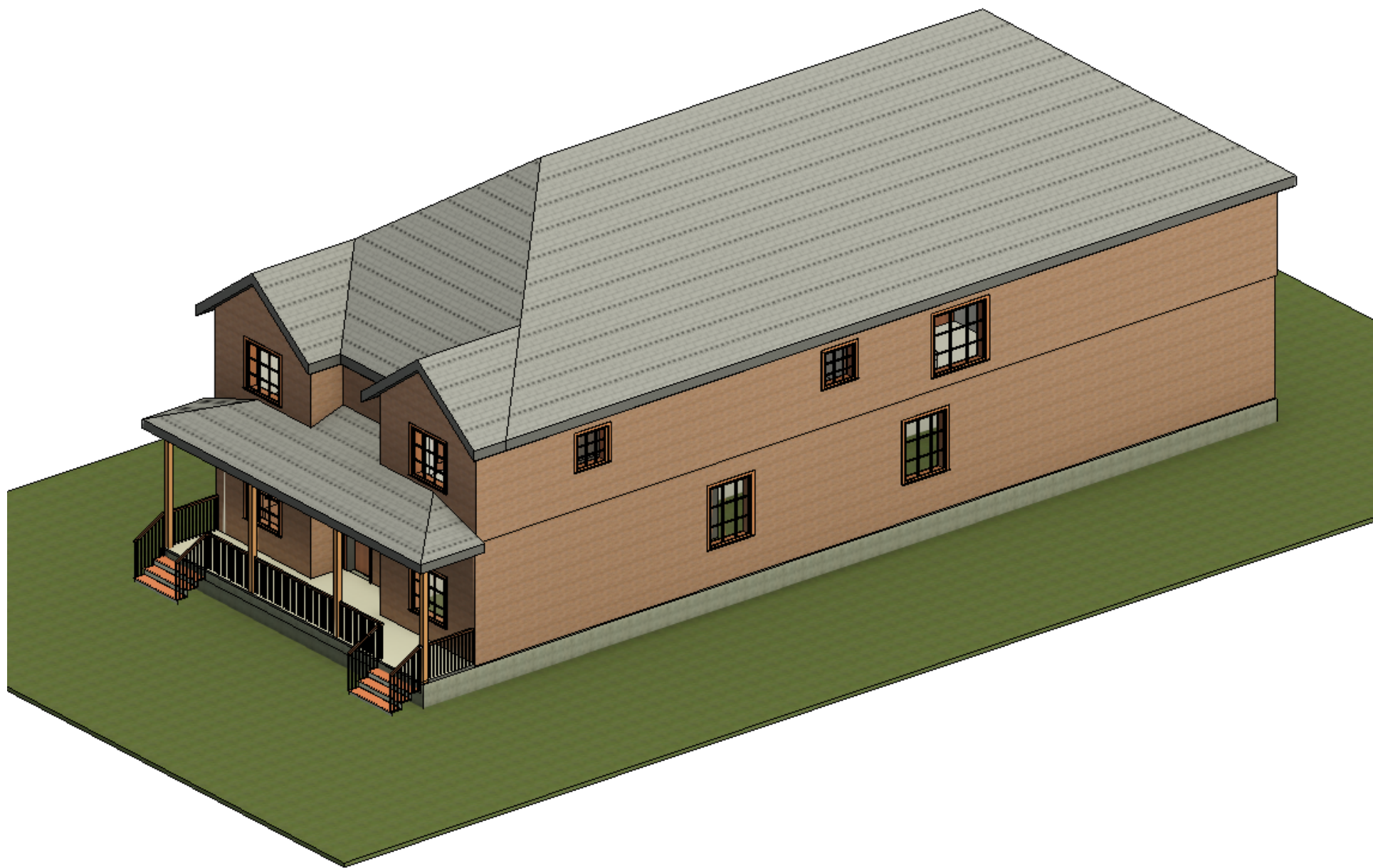
ENGINEER  
SEAL:

No.	Revision/Issue	Date

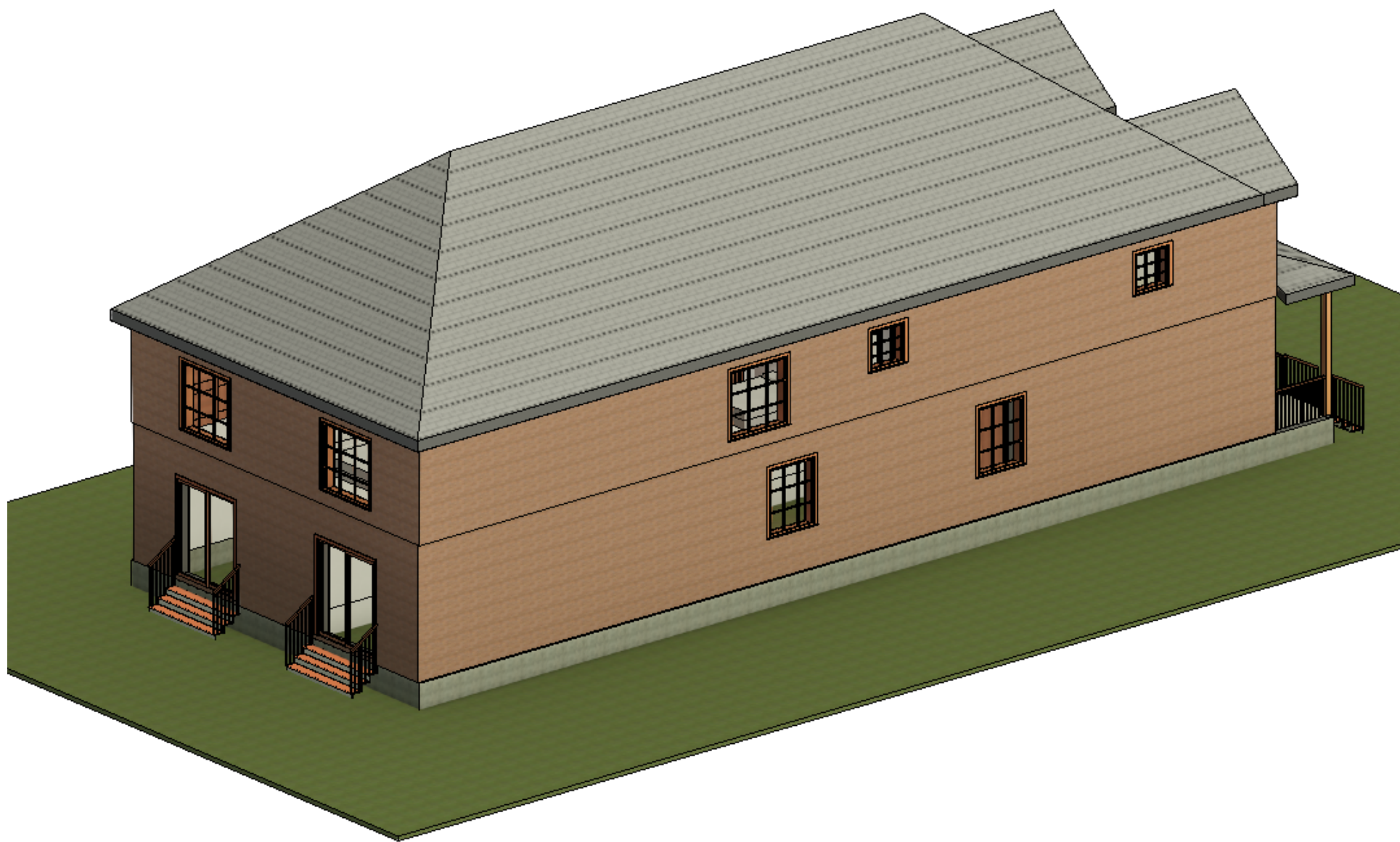
PROJECT:  
35 Hamilton Avenue  
Hamilton, Ontario

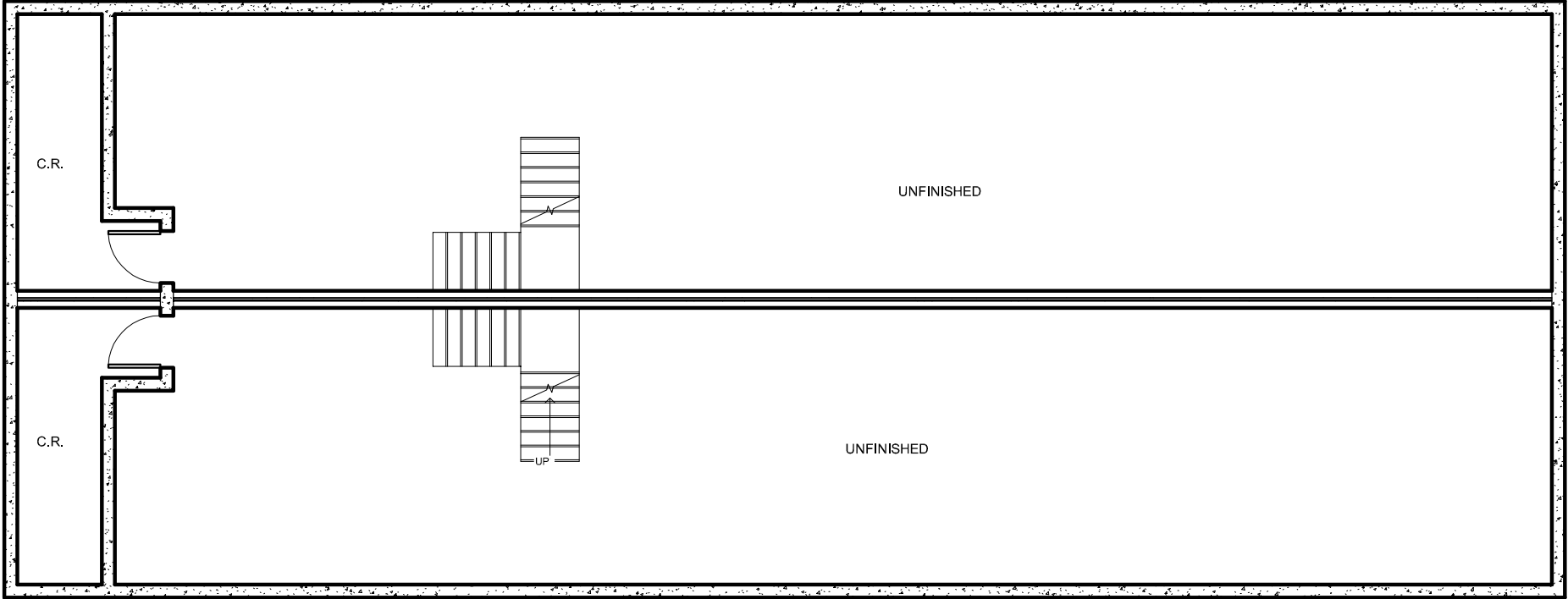
TITLE:  
  
Proposed Site Plan

SCALE:	DRAWING NO.  SP1.02
DESIGNED BY:	
APPROVED BY:	









Basement Plan

Scale 1:100

SauzTeq  
Engineering Inc.  
www.Sauzteq.ca  
Tel: 905-330-2431  
Email: info@sauzteq.ca

General Notes:  
The Contractor shall check and verify all existing conditions on site and shall also check and verify all dimensions on the drawings and report any inconsistencies to the Engineer before proceeding with the work.

ENGINEER  
SEAL:

No.	Revision/Issue	Date

PROJECT:  
35 Hamilton Avenue  
Hamilton, Ontario

TITLE:  
  
Basement Plan

SCALE:	DRAWING NO.  S1.01
DESIGNED BY:	
APPROVED BY:	



General Notes:  
The Contractor shall check and verify all existing conditions on site and shall also check and verify all dimensions on the drawings and report any inconsistencies to the Engineer before proceeding with the work.

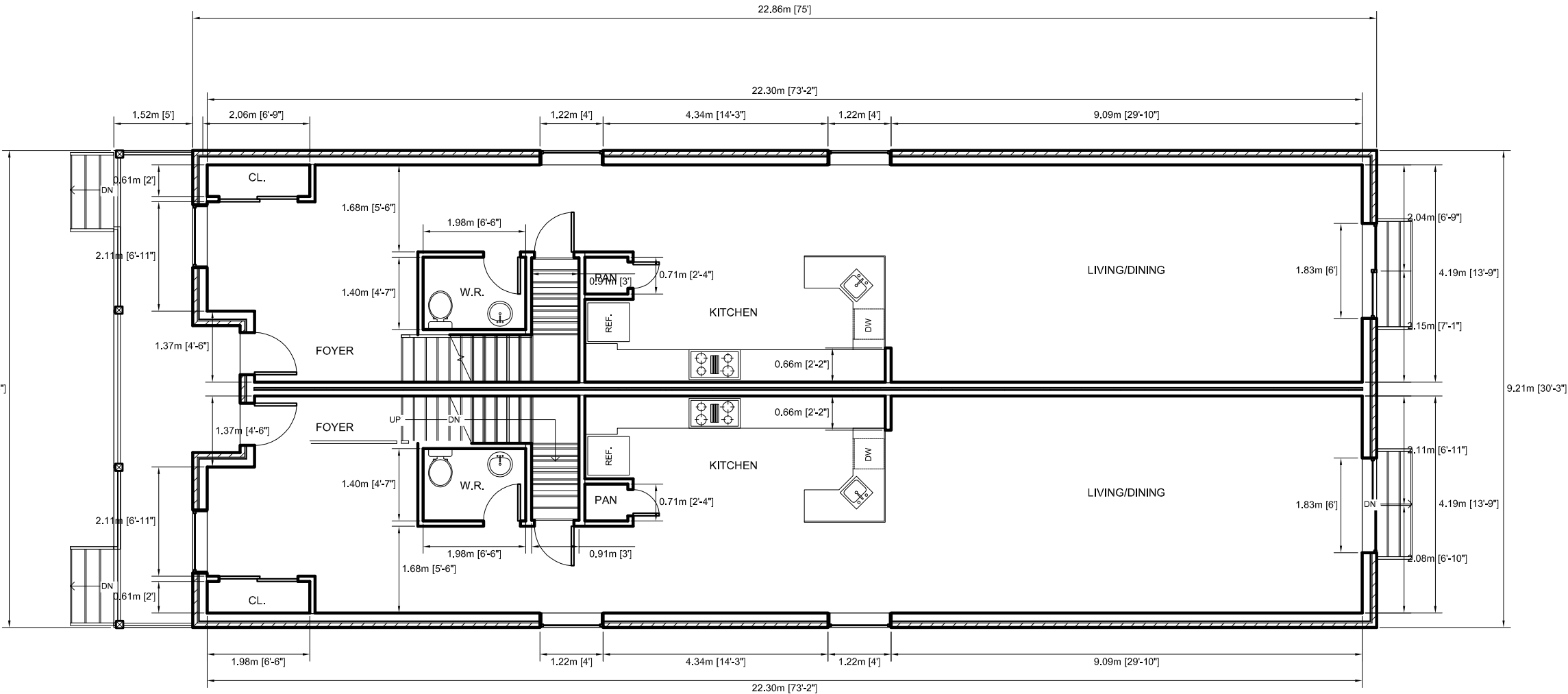
ENGINEER  
SEAL:

No.	Revision/Issue	Date

PROJECT:  
35 Hamilton Avenue  
Hamilton, Ontario

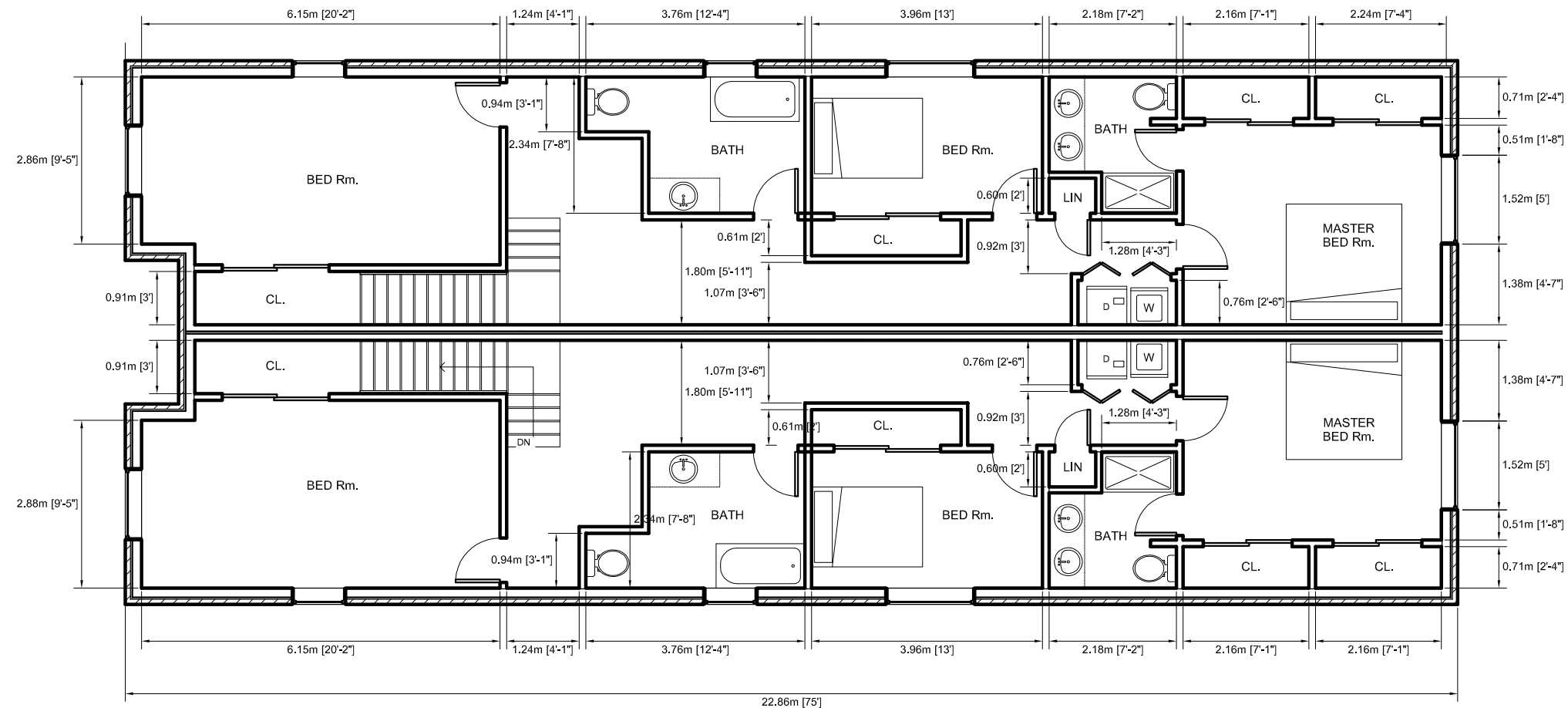
TITLE:  
First Floor Plan

SCALE:	DRAWING NO.  S1.02
DESIGNED BY:	
APPROVED BY:	



First Floor Plan

Scale 1:100



**Second Floor Plan**  
Scale 1:100

**SauzTeq  
Engineering Inc.**  
www.Sauzteq.ca  
Tel: 905-330-2431  
Email: info@sauzteq.ca

**General Notes:**  
The Contractor shall check and verify all existing conditions on site and shall also check and verify all dimensions on the drawings and report any inconsistencies to the Engineer before proceeding with the work.

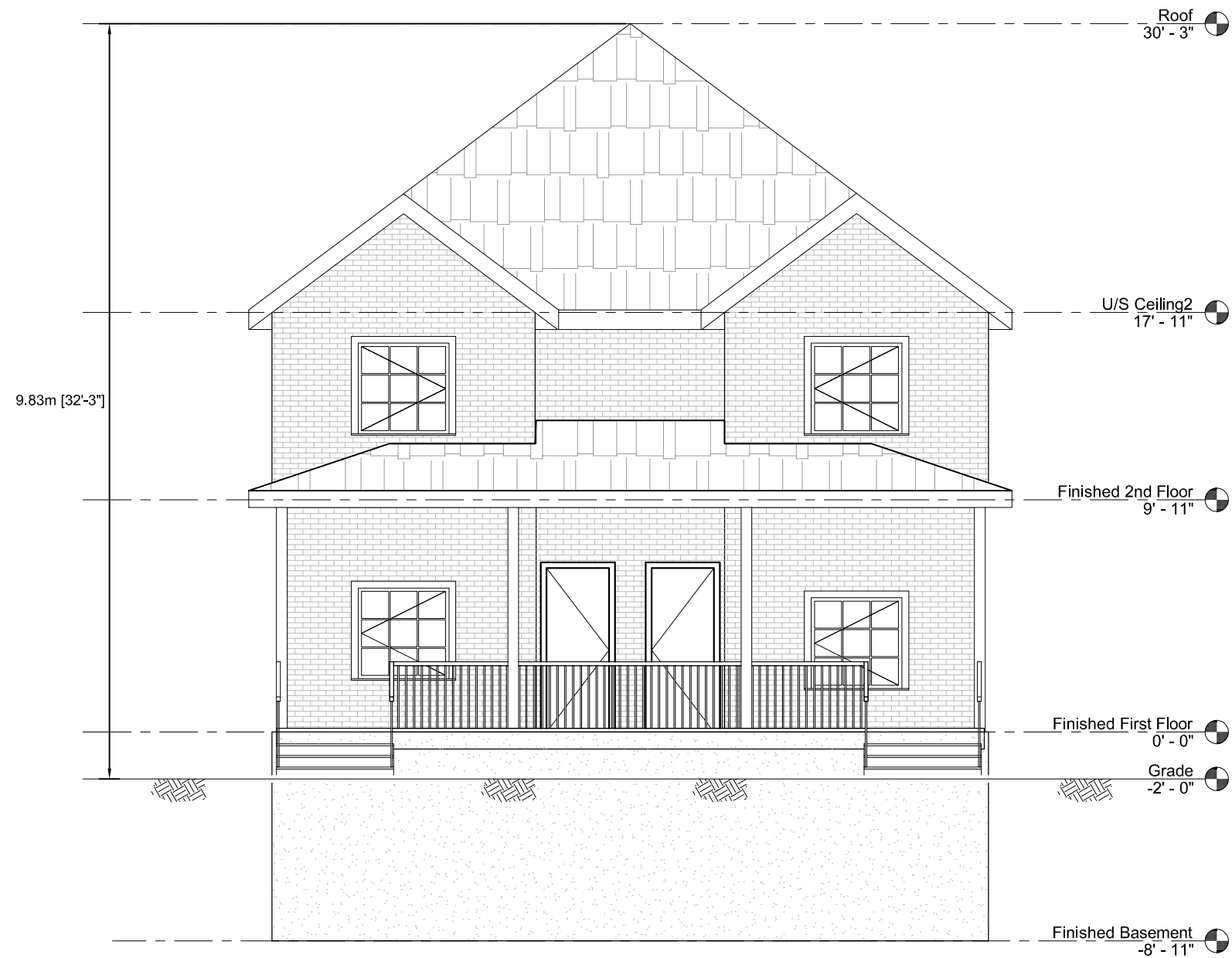
**ENGINEER  
SEAL:**

No.	Revision/Issue	Date

**PROJECT:**  
35 Hamilton Avenue  
Hamilton, Ontario

**TITLE:**  
Second Floor Plan

SCALE:	DRAWING NO.  <b>S1.03</b>
DESIGNED BY:	
APPROVED BY:	



Front View  
Scale 1:75

**SauzTeq  
Engineering Inc.**  
www.Sauzteq.ca  
Tel: 905-330-2431  
Email: info@sauzteq.ca

**General Notes:**  
The Contractor shall check and verify all existing conditions on site and shall also check and verify all dimensions on the drawings and report any inconsistencies to the Engineer before proceeding with the work.

**ENGINEER  
SEAL:**

No.	Revision/Issue	Date

**PROJECT:**  
35 Hamilton Avenue  
Hamilton, Ontario

**TITLE:**  
Front View

SCALE:	DRAWING NO.  <b>S2.01</b>
DESIGNED BY:	
APPROVED BY:	



*A. J. Clarke and Associates Ltd.*

SURVEYORS • PLANNERS • ENGINEERS

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

June 30, 2022

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

**Re: 35 Hamilton Avenue, Hamilton (HM/A-22:115)**  
**Minor Variance Application – Revised Submission**

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Dear Ms. Sheffield:

A.J. Clarke and Associates Ltd. has been retained by David Vopni, Michael Puzzella, and Daniela Di Gennaro for the purposes of submitting the enclosed Minor Variance Application for the subject lands, municipally known as 35 Hamilton Avenue, in the City of Hamilton.

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

- One (1) digital copy of the proposed site plan, floor plans and elevations;
- One (1) cash payment delivered to City Hall in the amount of \$200.00 representing the required recirculation fee.

On May 12, 2022, the City Staff provided comments regarding the Minor Variance Application previously submitted. After hearing city comments regarding the Minor Variance Application for 35 Hamilton Avenue (HM/A-22:115), our client has revised their proposed plans. As a summary, the subject lands are currently occupied by one (1), one-storey, single-detached dwelling. This dwelling will be demolished in favour of a semi-detached, two-family dwelling – which is a permitted use.

We no longer propose an enclosed, projecting, garage for the semi-detached, 2-dwelling structure, which was most of the cause for the refusal of the required associated variances. Instead, we propose a new building plan that includes a double-wide driveway that will occupy just less than 50% of the front yard with a small path leading from the driveway to the front stairs. This will provide the one parking space per dwelling unit required by the zoning by-law, but within the required front yard.

We will now seek relief from Zoning Bylaw 18-A(14a):

*(14a) Except for single family dwellings, two family dwellings and three family dwellings erected prior to the 14th day of December 1971, no part of a required parking space for a single family dwelling, two family dwelling or three family dwelling in a residential district shall be located in a required front yard and not 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 materials. (92-281) (93-063) (94-145)*



We will also require relief for the proposed front yard landscaping required in (14a) – from 50% to 44% landscaping to accommodate a small path from the top of the driveway to the front steps, and the front steps themselves. The purpose of this analysis is in support of the Minor Variance Application for the subject lands. The proposed development is the construction of a semi-detached dwelling, which is a permitted use. Minor variances are required to facilitate the desired built form for the development.

We will still seek relief from other minor variances aside from the above:

1. To permit a minimum lot frontage of 12.6 metres, whereas a minimum lot frontage of 18 metres is required.
2. To permit a minimum lot area of 485 square metres, whereas a minimum lot area of 540 square metres is required.

The surrounding area consists largely of residential uses, with various institutional uses, and various Commercial and mixed-use properties located along Concession Street. The residential uses are concentrated around the subject site, consisting mainly of single detached dwellings except for a semi-detached dwelling abutting the subject lands to the south. The medium-density, mixed use, Concession Street lies just south of the semi-detached dwelling. There are numerous places of worship in the surrounding neighbourhood and the Sacred Heart Elementary School is just to the north of the subject lands.

The immediate surrounding land uses include:

<b>North</b>	Single-Detached, Institutional
<b>South</b>	Semi-Detached Dwelling, Commercial Corridor
<b>West</b>	Single-Detached Dwellings,
<b>East</b>	Single-Detached Dwellings

A review of the applicable planning policies has been included below.

## **Planning Policy Overview**

### **Urban Hamilton Official Plan (UHOP)**

The Urban Hamilton Official Plan (UHOP) is the guiding document for where and how the City of Hamilton will grow until 2031 and beyond.

The subject lands are designated 'Neighbourhoods' on Schedule E-1 – Urban Land Use Designations in the UHOP. The 'Neighbourhoods' designation permits uses such as; residential dwellings, including second dwelling units, and housing with supports, open space and parks, local community facilities/services, and local commercial uses.



## **B.2.0 DEFINING OUR COMMUNITIES**

### **2.1 Urban Boundary**

2.1.1 The urban boundary defines the area where all urban development occurs. Lands within the urban boundary are already serviced or planned to be serviced with major roads, transit and full municipal services. The land within the urban boundary includes both the area within the built-up area and greenfield area. Lands within the urban boundary represent a 20-year supply of designated urban land and are intended to accommodate the majority of the City's projected growth.

### **2.4.1 General Residential Intensification Policies**

2.4.1.1 Residential intensification shall be encouraged throughout the entire built-up area, in accordance with the policies of Chapter E – Urban Systems and Designations and Chapter F – Implementation.

2.4.1.3(c) 40% of the residential intensification target is anticipated to occur within the Neighbourhoods as illustrated on Schedule E – Urban Structure.

2.4.2.2 When considering an application for a residential intensification development within the Neighbourhoods designation, the following matters shall be evaluated:

- a) the matters listed in Policy B.2.4.1.4;
- b) compatibility with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic, and other nuisance effects;
- c) the relationship of the proposed building(s) with the height, massing, and scale of nearby residential buildings;
- d) the consideration of transitions in height and density to adjacent residential buildings;
- e) the relationship of the proposed lot(s) with the lot pattern and configuration within the neighbourhood;
- f) the provision of amenity space and the relationship to existing patterns of private and public amenity space;
- g) the ability to respect and maintain or enhance the streetscape patterns including block lengths, setbacks and building separations;
- h) the ability to complement the existing functions of the neighbourhood;
- i) the conservation of cultural heritage resources; and,
- j) infrastructure and transportation capacity and impacts.

Additionally, the 'Neighbourhoods' designation contains specific policies in relation to 'Low Density Residential'. As such, 'Low Density Residential' uses permit single-detached, semi-detached, duplex, triplex, and street townhouse dwellings. Further, the maximum net residential density shall be 60 units per hectare, and the maximum permitted height shall be three (3) storeys. The proposal is to construct one (1) semi-detached dwelling on the lot (2 total dwellings). This use conforms to the permitted uses under the UHOP. Additionally, the proposal will have an overall density of 41.17 units per hectare (2 total units, 0.048578 hectares), which conforms to the maximum permitted density under the UHOP.

### **Former City of Hamilton Zoning By-law No. 6593**

The subject lands are zoned "D" District, (Urban Protected Residential - One and Two Family Dwellings, Etc.) in the former City of Hamilton Zoning By-law No. 6593. The "D" District zoning permits uses such as:





single and two-family dwellings; foster homes; residential care facility or retirement home (of no more than 6 residents); school, college, or university; seminary; and cultural, recreational, or community centre. The zone regulations within Section 10 shall apply to the proposed development. A review of the applicable zone regulations will be included below:

Regulation	Requirement
Minimum Lot Frontage	Two-family dwelling: 18 metres
Minimum Lot Area	540 square metres
Minimum Front Yard Depth	6 metres
Minimum Side Yard	Building under 11 metres: 1.2 metres
Minimum Rear Yard	7.5 metres
Maximum Building Height	14 metres
Special Requirements for Front Yard Landscaping	Requirement
Front Yard Landscaping	Two family dwelling: not less than 50% of gross area of front yard shall be used for a landscaped area

### Minor Variance

Variances are required to facilitate the proposed development and acknowledge existing conditions. The variances are as follows:

1. To permit a minimum lot frontage of 12.6 metres, whereas a minimum lot frontage of 18 metres is required.
2. To permit a minimum lot area of 485 square metres, whereas a minimum lot area of 540 square metres is required.
3. To permit a front yard landscaping of 44%, whereas a minimum of 50% is required.
4. To permit vehicular parking within the required front yard.

This minor variance application is made under the authority of Section 45(1) of the Planning Act. Accordingly, a minor variance must meet the requisite four tests as described in Section 45 (1) of the Act. The tests and professional opinion are outlined below:

#### 1. Do the proposed variances maintain the intent and purpose of the Urban Hamilton Official Plan?

The proposed variances maintain the intent and purpose of the Urban Hamilton Official Plan as the subject site is designated "Neighbourhoods", which permits semi-detached dwellings. The proposed dwellings will assist in the diversification of the available housing stock within the neighbourhood, while also capitalizing on an opportunity for the gentle intensification of the neighbourhood. This development purposes an overall density of 41.17 units per hectare, which is compliant with Section E of the Urban Hamilton Official Plan that permits a maximum residential density of 60 units per hectare.

The proposed development will feature a use that is permitted under the current Official Plan designation and will adhere to the net residential density provisions as detailed throughout Section E of the Urban



Hamilton Official Plan. It is of our professional opinion that the proposed variances maintain the intent and purpose of the Urban Hamilton Official Plan.

### **3. Do the proposed variances maintain the intent and purpose of the Former City of Hamilton Zoning By-law 6593?**

The required variances to Former City of Hamilton Zoning By-law 6593 are intended to facilitate a desirable built form which is compatible with the existing neighbourhood and is a use permitted in the current zoning.

#### **Lot Frontage**

Proposed is a lot frontage of 12.6 metres.

A variance is required to the minimum lot frontage requirement for the proposed development (from 18 metres to 12.6 metres). The surrounding neighbourhood is characterized by dwellings which have reduced lot frontages and dwellings that face the street. Most single-detached dwellings have a frontage under 10 metres (whereas 12 metres is required) and the semi-detached building to the immediate south has a shared frontage of less than 10 metres (this semi-detached structure does consist of two lots with individual frontages of less than 6 metres). Further, despite the reduction, there remains room for a combination of plantings along the frontage and the variance recognizes an existing condition. Accordingly, the proposed reduction in the lot frontage requirement is appropriate and compatible with the existing streetscape and maintains the intent of the Zoning By-law.

#### **Lot Area**

The proposed development will be on a lot with an area of 485 square metres.

A variance is required to the minimum lot area requirement for the proposed development of a semi-detached, two-family dwelling (from 540 square metres to 485 square metres). The surrounding neighbourhood contains a range of lot areas, with many below the minimum area requirement. The purpose of this reduction is to permit one (1) semi-detached, or two-family dwelling structure and the variance recognizes an existing condition. Accordingly, the intent of the Zoning By-law is maintained.

**NOTE: It should be noted that the variance requests for lot frontage and lot area deal with existing, as-is, lot conditions that cannot be altered. We are of the opinion that the proposed development is creative, effective use of lands that allows the city to gently intensify the neighbourhood with no adverse effects and will create a density of 41 UPH whereas the Urban Hamilton Official Plan allows for a UPH of 60 in low density residential neighbourhoods. These zoning requirements are from an older by-law that is currently being rewritten to follow the newer Official Plan more effectively; this proposal is more in line with the Official Plan than the current in-effect by-laws of the "D" District allow.**

#### **Parking in Required Front Yard**

As shown in the proposed site plan, the development will provide a double-wide driveway that will allow for the required one parking space per dwelling unit. This, however, will require relief from by-law Zoning Bylaw 18-A(14a) which does not permit parking in the required front yard. The intent of



this by-law is to create a more attractive streetscape while providing sufficient space soft landscaping elements and reducing the effects of hardscaping.

The proposed development is in keeping with the existing streetscape as several neighbouring residential lots utilize front yard parking. We do acknowledge that some of these may have existed prior to December 14, 1971, but the proposed driveway maintains the current, existing streetscape as several neighbouring lots contain driveway parking within the required front yard. Furthermore, the width of the proposed driveway parking will allow for the parking of two vehicles; whereas the width required to parallel park a single vehicle on-street would be greater. By allowing for the proposed parking on site, less on-street parking will be demanded which will in turn allow for more accessible neighbourhood guest parking.

The proposed driveway, front yard parking creates the required parking facilities while still allowing for ample soft landscaping to occur with enough space to permit the planting of new trees to enhance the streetscape. We are of the opinion that the intent of the zoning by-law is maintained as the development will still create an attractive streetscape.

#### **Front Yard Landscaping**

Proposed, the development will require the allocation of 44% of the total gross front yard area be used for landscaping.

A variance is required to the minimum requirement for front yard landscaping (from 50% of total gross front yard area to 44%). The purpose of this regulation is to prevent the overdevelopment of lots using hard, grey infrastructure that will not only lead to a less desirable streetscape but also help in stormwater management to absorb precipitation. As previously mentioned, there are several neighbouring properties which have similar front yard drives and parking; some of which appear to occupy more than the required 50%. The required relief is to allow for a small portion of the front yard to be used for front-entrance stairways and a small path leading from the driveway to the stairs. Furthermore, the remaining front yard will still provide adequate space for plantings, including new trees, and other permeable landscaping features. We are of the opinion that the requested variance is minimal and maintains the intent of the zoning by-law.

### **3. Are the proposed variances appropriate for the development of the subject lands?**

As noted above, the variances are intended to facilitate desirable built form within an urban neighbourhood context. The proposed variances are consistent with the established character of the surrounding neighbourhood in terms of scale, density, and will help implement a use permitted within the zoning. The variances are therefore appropriate for the development of the subject lands.

### **4. Are the proposed variances minor in nature?**

The proposed variances reflect the scale and character of this neighbourhood. There are no perceived impacts resulting from the variances to the lot frontage, lot area, front yard parking, or landscaping requirements as they are in keeping with the general built form and existing setbacks found within this neighbourhood. There are no perceived impacts on the neighbourhood resulting from the



proposed development and accordingly, it is my professional planning opinion that the variances are minor in nature.

In accordance with the above criteria, variances to permit reduced lot frontage, lot area – which are existing conditions – front yard parking and landscaping requirements will be required to facilitate the redevelopment of the lot as the existing building on the subject lands will be demolished for the redevelopment. The lot is generally in keeping with the lot sizes and frontages in the immediate vicinity of the neighbourhood and will provide a built form that fits into the existing streetscape. As a result, it will maintain the character of the area. The variances represent good planning and should be approved.

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,

Stephen Fraser, B.A.(Hons), MCIP, RPP  
Principal, Planner  
**A. J. Clarke and Associates Ltd.**