



Hamilton

COMMITTEE OF ADJUSTMENT

City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5

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

E-mail: 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

APPLICATION NO.:	HM/A-23:156	SUBJECT PROPERTY:	501 & 509 UPPER WELLINGTON STREET, HAMILTON
ZONE:	“C5a” (Mixed Use Medium Density – Pedestrian Focus)	ZONING BY-LAW:	Zoning By-law City of Hamilton 05-200, as Amended

APPLICANTS: **Owner:** WILLIAM & EDITH DALTON
 Agent: T. JOHNS CONSULTING C/O DIANA MORRIS

The following variances are requested:

Lands to be retained (509 Upper Wellington)

1. A northerly side yard setback of 0.722m shall be permitted instead of the 7.5m setback required abutting a residential zone, or lot containing a residential use.
2. A 0.36m northerly side yard setback shall be permitted for an accessory building have a gross floor area less than 18 square meters instead of the minimum 1.0m side yard setback required for an accessory building having a gross floor area less than 18 square metres.

Lands to be severed (501 Upper Wellington)

1. A Single detached dwelling shall be permitted.

PURPOSE & EFFECT: To facilitate severance appliance HM/B-22:111.

Notes: N/A

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, July 13, 2023
TIME:	10:05 a.m.
PLACE:	Via video link or call in (see attached sheet for details)
	2nd floor City Hall, room 222 (see attached sheet for details), 71 Main St. W., Hamilton
	To be streamed (viewing only) at www.hamilton.ca/committeeofadjustment

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

- Visit www.hamilton.ca/committeeofadjustment
- Visit Committee of Adjustment staff at 5th 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.

FURTHER NOTIFICATION

If you wish to be notified of future Public Hearings, if applicable, regarding HM/A-23:156, you must submit a written request to cofa@hamilton.ca or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5.

If you wish to be provided a Notice of Decision, you must attend the Public Hearing and file a written request with the Secretary-Treasurer by emailing cofa@hamilton.ca or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5.



 Subject Lands

DATED: June 27, 2023

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.



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E-mail: cofa@hamilton.ca

PARTICIPATION PROCEDURES

Written Submissions

Members of the public who would like to participate in a Committee of Adjustment meeting are able to provide comments in writing or via email in advance of the meeting. Comments can be submitted by emailing cofa@hamilton.ca or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5. **Comments must be received by noon two days before the Hearing.**

Comment packages are available two days prior to the Hearing and are available on our website: www.hamilton.ca/committeeofadjustment

Oral Submissions

Members of the public are also able to provide oral comments regarding Committee of Adjustment Hearing items by participating Virtually through Webex via computer or phone or by attending the Hearing In-person. Participation Virtually requires pre-registration in advance. Please contact staff for instructions if you wish to make a presentation containing visual materials.

1. Virtual Oral Submissions

Interested members of the public, agents, and owners must register by noon the day before the hearing to participate Virtually.

To register to participate Virtually by Webex either via computer or phone, please contact Committee of Adjustment staff by email cofa@hamilton.ca. The following information is required to register: Committee of Adjustment file number, hearing date, name and mailing address of each person wishing to speak, if participation will be by phone or video, and if applicable the phone number they will be using to call in.

A separate registration for each person wishing to speak is required. Upon registering for a meeting, members of the public will be emailed a link for the Webex meeting the Wednesday afternoon before the hearing. The link must not be shared with others as it is unique to the registrant.

2. In person Oral Submissions

Interested members of the public, agents, and owners who wish to participate in person must sign in at City Hall room 222 (2nd floor) no less than 10 minutes before the time of the Public Hearing as noted on the Notice of Public Hearing.

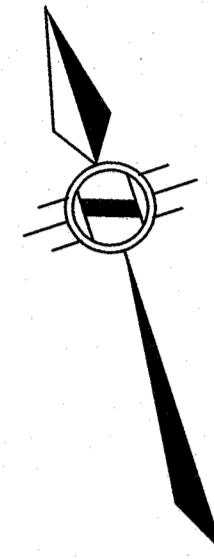
We hope this is of assistance and if you need clarification or have any questions, please email cofa@hamilton.ca or by phone at 905-546-2424 ext. 4221.

Please note: Webex (video) participation requires either a compatible computer or smartphone and an application (app/program) must be downloaded by the interested party in order to participate. It is the interested party's responsibility to ensure that their device is compatible and operating correctly prior to the Hearing.

SURVEYOR'S REAL PROPERTY REPORT
 PART 1, PLAN OF
LOTS 2, 57 & 58
 AND PART OF
LOT 1
REGISTERED PLAN 537
 IN THE
CITY OF HAMILTON

SCALE 1:150 METRIC

R.A. McLAREN, O.I.S. - 2022



LEGEND:

- DENOTES MONUMENT SET
- MONUMENT FOUND
- IB IRON BAR
- IR ROUND IRON BAR
- IP IRON PIPE
- CC CUT CROSS
- CP CONCRETE PIN
- SI STANDARD IRON BAR
- SSB SHORT STANDARD IRON BAR
- 824 A.T. McLAREN, O.I.S.
- RHW CITY OF HAMILTON
- OU ORIGIN UNKNOWN
- Msd MEASURED
- P1 PLAN BY E. BARON, O.I.S.
- P2 DATED JUNE 26, 1987, FILE NO. 2L-1353
- P3 PLAN BY A.J. CLARKE & ASSOCIATES LTD.
- P4 DATED JUNE 27, 1994, FILE NO. E-13104
- P5 PLAN BY E. BARON, O.I.S.
- P6 DATED OCTOBER 24, 1986, FILE NO. 2L-1096
- P7 DATED OCTOBER 24, 1986, FILE NO. 2L-1096
- P8 REGISTERED PLAN 537
- P9 PLAN BY A.T. McLAREN LTD.
- P10 DATED FEBRUARY 25, 1991, FILE NO. 16401
- P11 PLAN BY J.P. WOOLLEY, O.I.S.
- P12 DATED DECEMBER 2, 1994
- P13 PLAN 629-21218
- BF BOARD FENCE
- CF CHAIN LINK FENCE
- FN FOUNDATION
- HP HYDRO PILE
- OH OVERHANG
- CRW CONCRETE RETAINING WALL
- WW WOOD RETAINING WALL
- /// NOT TO SCALE

BEARING NOTE:
 BEARINGS ARE UTM GRID, DERIVED FROM OBSERVED REFERENCE POINTS A AND B, BY REAL TIME NETWORK OBSERVATIONS, UTM ZONE 17, NAD83 (CSRS) (2010.0)

NOTE:
 DISTANCES ARE GROUND AND CAN BE CONVERTED TO GRID BY MULTIPLYING BY THE COMBINED SCALE FACTOR OF 0.999678865

INTEGRATION DATA

POINT ID	NORTHING	EASTING
CRP A	4788071.569	592350.866
CRP B	4788080.291	592105.792

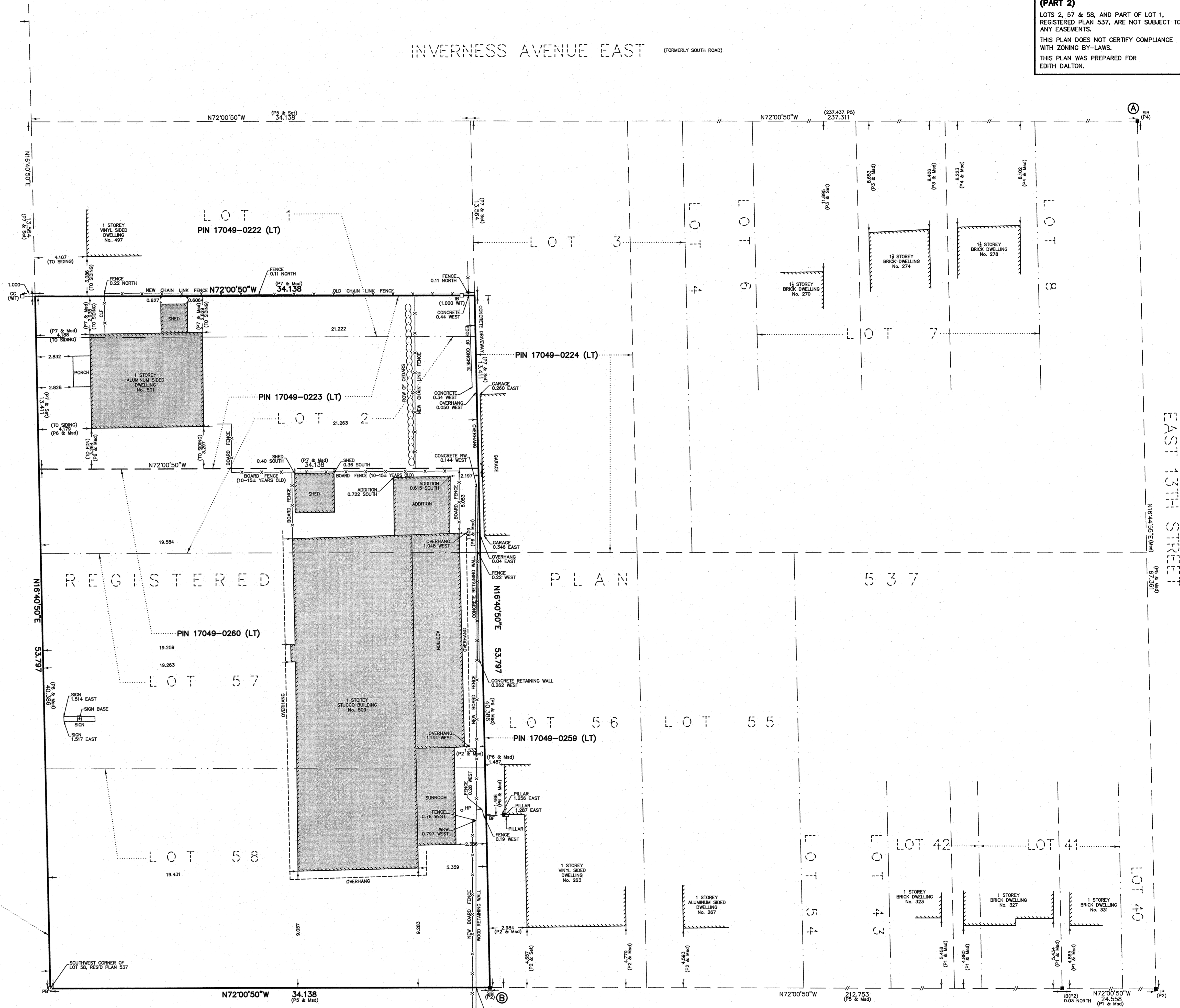
COORDINATES CANNOT, IN THEMSELVES, BE USED TO RE-ESTABLISH CORNERS OR BOUNDARIES SHOWN ON THIS PLAN.

SURVEYOR'S REAL PROPERTY REPORT (PART 2)

LOTS 2, 57 & 58, AND PART OF LOT 1, REGISTERED PLAN 537, ARE NOT SUBJECT TO ANY EASEMENTS.

THIS PLAN DOES NOT CERTIFY COMPLIANCE WITH ZONING BY-LAWS.

THIS PLAN WAS PREPARED FOR EDITH DALTON.



THAYER AVENUE
 (ESTABLISHED BY REGD PLAN 537)
 PIN 17049-0261 (LT)

METRIC NOTE:

DISTANCES AND COORDINATES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:
 1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEY ACT, THE SURVEYORS ACT AND THE REGULATIONS MADE UNDER THEM.
 2. THE SURVEY WAS COMPLETED ON THE 15th DAY OF SEPTEMBER, 2022

DATE 15SEP22
 ROB A. McLAREN, O.I.S.

© R.A. McLAREN, O.I.S. - 2022. NO PERSON MAY COPY, REPRODUCE, DISTRIBUTE OR ALTER THIS PLAN IN WHOLE OR IN PART WITHOUT THE WRITTEN PERMISSION OF R.A. McLAREN, O.I.S.

A.T. McLaren
 LEGAL AND ENGINEERING SURVEYS
 69 JOHN STREET SOUTH, SUITE 230
 HAMILTON, ONTARIO, L8N 2B9
 PHONE (905) 527-8559 FAX (905) 527-0032

THIS PLAN OF SURVEY RELATES TO AGLS PLAN SUBMISSION FORM NUMBER 35183

Drawn	Checked	Overlaid	Scale
JC	RBM	MPW	1:150

Dwg No. 37102

June 8, 2023

Via Email (Digital Submission)

ATTN: Jamila Sheffield, Secretary-Treasurer

Committee of Adjustment
City of Hamilton
Planning and Economic Development Department
71 Main Street West, 5th Floor
Hamilton, ON L8P 4Y5

**RE: 501 & 509 Upper Wellington Street, Hamilton
Minor Variance Application**

T. Johns Consulting Group (“T. Johns”) was retained by the owners, Edith and William Dalton, to submit a Minor Variance application on their behalf.

501 & 509 Upper Wellington Street (“subject lands”) is located in Hamilton, legally described as Part 1, Plan of Lots 2, 57 & 58 and Part of Lot 1 Registered Plan 537 in the City of Hamilton. The subject lands are rectangular in shape with a total area of 0.184 hectares.

A consent to sever application was submitted on October 19, 2022, to correct the title of the subject lands and to legally separate the two properties as they were unintentionally merged on title. No development/additions are being proposed and the existing conditions of the lands are to remain.

Consent approval (File no. HM/B-22:111) was granted on January 5, 2023, with the following conditions: (not a complete conditions list)

#4. The owner shall submit survey evidence that the lands to be severed and the lands to be retained, including the location of any existing structure(s), parking and landscaping conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Planning Division – Zoning Examination Section).

#5. The applicant shall provide confirmation of the existing uses on the lands to be retained/conveyed in order to determine compliance with the permitted uses of the C5a zone or alternatively apply for and receive final approval of a Zoning By-law Amendment as determined necessary by the Planning and Economic Development Department (Planning Division – Zoning Examination Section).

Upon submission of a zoning compliance review application and upon review by the City’s zoning examiner, there were 3 variances requiring approval as they do not conform with the requirements of the Zoning By-law. These include:

1. To allow a minimum rear yard setback of 0.7 metres, whereas a minimum of 7.5 metres is required;
2. To allow a minimum rear yard setback for accessory buildings less than or equal to 18 square metres of 0.3 metres, whereas a minimum of 0.6 metres is required where a rear lot line does not abut a laneway;
3. To permit a single-detached dwelling for lands located at #501 Upper Wellington Street.

T. Johns respectfully requests that this letter and enclosed documents be accepted and circulated to all relevant departments in support of the Minor Variance application.

Please find the enclosed:

- Minor Variance Application with signatures;
- Planning Rationale;
- Copy of a cheque in the amount of \$3,735.00 to satisfy the application fee, made payable to the City of Hamilton;
 - Cheque hand delivered to City Hall on June 8, 2023
- Survey Plan;
- Copy of Consent Approval.

Should you have any questions or require additional information, please do not hesitate to contact Diana Morris at (905) 574-1993 ext. 202.

Respectfully Submitted,
T. JOHNS CONSULTING GROUP LTD.



Diana Morris, BA, MCIP, RPP
Senior Planner

T. Johns Consulting Group Ltd. (“T. Johns”) has prepared the following Planning Rationale Report in support of the Minor Variance application for 501 & 509 Upper Wellington Street in Hamilton (“subject lands”).

Description of Subject Lands

501 & 509 Upper Wellington Street (“subject lands”) are located on the east side of Upper Wellington Street, north of Thayer Avenue, in Hamilton. The subject lands are rectangular in shape with an area of 0.184 hectares. 501 Upper Wellington Street has an area of 457.7 square metres (0.046ha), 13.411 metres of frontage along Upper Wellington Street and contains a 1-storey single detached dwelling. 509 Upper Wellington Street is a corner lot, with a total area of 1378.3 square metres (0.138ha), 34.138 metres of frontage on Thayer Avenue and 40.386 metres of frontage along Upper Wellington Street. 509 Upper Wellington Street contains a 1-storey commercial building occupied by a flower shop and one (1) accessory shed. The two parcels of land function independently from one another.

Application History/Approvals

The subject lands were granted consent approval (file no. HM/B-22:111) from the Committee of Adjustment on January 5, 2023, to permit a conveyance of the parcel of land known as 501 Upper Wellington Street and to retain the parcel of land known as 509 Upper Wellington Street. The application was submitted due to the two parcels inadvertently merging on title.

At the time of writing the staff report for the Consent Application, the Zoning department stated the following:

“Be advised the existing single detached dwelling on the lands to be severed is subject to the regulations of Section 10.5a.4 Single Detached and duplex dwellings legally existing at the date of passing of the by-law (November 8, 2017).”

This Policy will be discussed in greater detail below.

Important to note that no development, additions, extensions, expansions or change in use are proposed to either the existing single detached dwelling or existing flower shop. As a condition of final approval, the following conditions were implemented:

4. *“The owner shall submit survey evidence that the lands to be severed and the lands to be retained, including the location of any existing structure(s), parking and landscaping conform to the requirements of the Zoning By-law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Planning Division- Zoning Examination Section).”*

5. *“The applicant shall provide confirmation of the existing uses on the lands to be retained/conveyed in order to determine compliance with the permitted uses of the C5a zone or alternatively apply for and receive final approval of a Zoning By-law Amendment as determined necessary by the Planning and Economic Development Department (Planning Division- Zoning Examination Section).”*

Upon review of the submitted survey plan, the City’s zoning examiner determined that minor variances are required in order for the existing structures/buildings to be recognized as they relate to the regulations set out in the Mixed-Use Medium Density - Pedestrian Focus (C5a) Zone within the *City of Hamilton Zoning By-law 05-200*.

Nature and extent of relief applied for:

The subject lands require relief from the “C5a” (Mixed-Use Medium Density- Pedestrian Focus) Zone of the *City of Hamilton Zoning By-law 05-200*. To recognize the existing conditions of the flower shop located at #509 Upper Wellington Street before the lots were inadvertently merged which requires relief for a reduction in the rear yard setback for the principal building and rear yard setback for the accessory building (shed).

Since the use it is not permitted within the C5a Zone, the existing single-detached dwelling on #501 Upper Wellington Street has legal non-conforming status since it has been legally established before the passing of *By-Law 05-200*. Upon severance of the two parcels, the existing single detached dwelling will lose its non-conforming status. Accordingly, it is requested that a single detached dwelling be permitted as a use in the C5a Zone at #501 Upper Wellington Street.

Therefore, the requested Minor Variances are as follows:

	<u>Zoning By-law No. 05-200</u> <u>Section</u>	<u>Purpose</u>
#509 Upper Wellington Street (Flower Shop)		
1.	10.5a.3 (b)	To allow a minimum rear yard setback of 0.7 metres, whereas a minimum of 7.5 metres is required.
2.	4.8.3a i) 2.	To allow a minimum rear yard setback for accessory buildings (shed) less than or equal to 18 square metres of 0.3 metres, whereas a minimum of 0.6 metres is required where a rear lot line does not abut a Laneway.
#501 Upper Wellington Street (Single Detached Dwelling)		
3.	10.5a.1	To allow the permitted use of a single detached dwelling in the C5a Zone.

PLANNING RATIONALE TO SUPPORT THE VARIANCES:

Overall Conformity to the *Urban Hamilton Official Plan*

The Urban Hamilton Official Plan (“UHOP”) identifies and designates the subject lands *Neighbourhoods* on Schedule “E” - Urban Structure and *Mixed Use - Medium Density* on Schedule “E-1” - Urban Land Use Designations. The *Mixed Use - Medium Density* designation permits a range of commercial and institutional uses, as well as multiple dwellings.

The existing single detached dwelling was built in the 1950s and has continually existed since then, which makes the use legally established for the purposes of the Official Plan. The existing flower shop is permitted as a commercial use in the *Mixed Use - Medium Density* designation.

The following policies pertain to the non-conforming status of the single detached dwelling.

Policy F.1.12 of the Urban Hamilton Official Plan states:

*“ Existing, Non-Complying and Non-Conforming Uses
It is recognized there are some previously existing land uses that do not presently comply with the goals and objectives set out in this Plan. This Plan, while endeavouring to achieve a high degree of land use compatibility for new development, recognizes there is a degree of diversity in land use for existing areas where time and custom have achieved an acceptable level of tolerance. Many of these uses have been established for a considerable number of years. In some cases, it is recognized such situations exist and they can be continued in the interim. In other cases, there are some existing uses that not only do not comply with the Official Plan or conform to the Zoning By-law, and are incompatible with surrounding land uses.”*

Further, Policy F.1.12.8 of the Urban Hamilton Official Plan states:

“ F. 1. 12.8 Where appropriate, the City may amend the Zoning By-law to recognize the legal non-complying use as an existing use provided that all the following criteria shall be met:

- a) the Zoning By-law shall permit only the existing use and the associated performance standards;*
- b) the use does not constitute a danger to surrounding uses and persons by virtue of their hazardous nature or by the traffic generated; and,*
- c) the use is in compliance with appropriate provincial and municipal regulations.”*

Considering that the existing single detached dwelling has been established and continually used as a residential use for decades with an acceptable level of tolerance, the request to permit its continued use is consistent with the UHOP.

City of Hamilton Zoning By-law No. 05-200

The subject lands are zoned Mixed-Use Medium Density - Pedestrian Focus “C5a” Zone in City of Hamilton Zoning By-law 05-200. The existing flower shop is a permitted use within this zone. Although the existing single detached dwelling is not a permitted use within the C5a Zone, it is a legal non-conforming use since it was been legally established before the date of effect of the City of Hamilton Zoning By-law 05-200.

Subsection 10.5a.4 of the City of Hamilton By-law 05-200 states:

“ SINGLE DETACHED AND DUPLEX DWELLINGS LEGALLY EXISTING AT THE DATE OF THE PASSING OF THE BY-LAW (November, 8, 2017)

In addition to Section 4.12f) and in accordance with subsection 34(10) of the Planning Act, R.S.O., 1990, c.P. 13, an addition or alteration to a single detached or duplex dwelling not permitted by the by-law but legally existing at the date of the passing of the by-law that increases the volume or size of the interior of the building shall be permitted as follows:

- i) The increase shall not exceed a maximum of 10% of the Gross Floor Area of the building existing at the date of the passing of the by-law;*
- ii) Section 10.5a.3.a) and d) i) shall not apply; and,*
- iii) The existing side yard setbacks are maintained for the addition.”*

Although the above statement sets regulations specifically pertaining to the addition/alteration to a single detached or duplex dwelling, it recognizes that these residential uses have been legally existing before the passing of the by-law. As stated above, City zoning department referred to this provision upon writing the staff report for the consent application that stated Section 10.5a.4 applies to the subject lands.

The following minor variances are being requested in order to recognize site conditions existing before the lots were inadvertently merged.

- Relief of the rear yard setback for the principal use (the flower shop);
- Relief from the minimum rear yard setback of an accessory building (the shed); and
- To permit the existing single-detached dwelling on #501 Upper Wellington Street.

VARIANCE 1. To allow a minimum rear yard of 0.7 metres for #509 Upper Wellington Street (existing flower shop), whereas a minimum of 7.5 metres is required.

Why is it not possible to comply with the provision of the by-law?

The variance is to allow a minimum rear yard of 0.7 metres to recognize the existing condition of the building.

PLANNING RATIONALE TO SUPPORT VARIANCE 1:

1. Conformity to the Intent of the Zoning By-law

The general intent and purpose of the minimum rear yard requirement is to ensure sufficient space for privacy and personal enjoyment. Although the northerly lot line is considered the rear lot line due to the nature of the corner lot, it functions as the side yard of the flower shop. The rear yard setback has not disrupted adjacent properties in the form of sightline or personal enjoyment and has not affected the existing streetscape of the surrounding lands. Accordingly, the variance meets the general intent and purpose of the Zoning By-law and is appropriate for the subject lands.

2. Is the Variance Minor and Desirable?

The variance is required as a result of the Consent to Sever to re-establish a previously existing lot line. No further development or site alteration is proposed, and as a result the overall impact to the surrounding properties will be minimal. The commercial buildings along Upper Wellington Street are similar in orientation with reduced side and rear yard setbacks, which promotes Upper Wellington Street as a pedestrian-oriented street. Therefore, the variance to reduce the minimum rear yard is appropriate for the existing and continued use of the subject lands.

VARIANCE 2. To allow a minimum rear yard for accessory buildings (shed) less than or equal to 18 square metres of 0.3 metres, whereas a minimum of 0.6 metres is required.

Why is it not possible to comply with the provision of the by-law?

The variance to allow a minimum rear yard of 0.3 metres for the accessory shed ancillary to the existing flower shop is required to recognize its existing condition.

PLANNING RATIONALE TO SUPPORT VARIANCE 2:

1. Conformity to the Intent of the Zoning By-law

The general intent and purpose of the minimum rear yard requirement is to allow sufficient separation between commercial uses and adjacent properties. As previously stated, the rear yard acts as a side yard due to the orientation of the flower shop. The proposed reduction of the minimum rear yard of 0.3 metres for the shed will meet the general intent and purpose of the Zoning By-law since it does not impede privacy of the adjacent property’s rear yard and allows sufficient spacing for maintenance access and drainage.

2. Is the Variance Minor and Desirable?

The requested variance to permit a minimum rear yard of 0.3 metres for accessory buildings is minor in nature since the rear yard is consistent with the surrounding neighbourhood with buildings in close proximity to adjacent buildings and/or structures which is common in older neighbourhoods. The proposed reduction is appropriate for the use of the subject lands as it recognizes an existing condition.

VARIANCE 3. To add the permitted use of the single detached dwelling to the C5a Zone list of permitted uses.

Why is it not possible to comply with the provision of the by-law?

The C5a Zone of the City of Hamilton Zoning By-law 05-200 does not permit single detached dwellings. The existing single detached dwelling was legally established before the date of effect of the City of Hamilton Zoning By-law 05-200, which makes it a legal non-conforming use. Upon

severance of the subject lands, the single detached dwelling will no longer be recognized as a permitted use.

PLANNING RATIONALE TO SUPPORT VARIANCE 2:

1. Conformity to the Intent of the Zoning By-law

The overall intent of the permitted uses is to ensure that development is compatible with adjacent properties and vision for the neighbourhood. Considering the single detached dwelling has long been established before the date of effect of the City of Hamilton Zoning By-law 05-200, it does not pose any danger to the public, and its use is in compliance with municipal regulations in accordance to Policy F.1.12.8 of the Urban Hamilton Official Plan. The continued use of the single detached dwelling conforms to the intent of the Official Plan, and ultimately Zoning By-law 05-200. The variance will recognize the existing legal non-conforming status of the subject lands.

2. Is the Variance Minor and Desirable?

The City of Hamilton recognizes that there are previous existing land uses that do not comply with current Zoning By-law regulations or Official Plan directives. However, considering that the existing detached dwelling is a previously established use, it should be considered to be desirable for it to stay in its current form as no proposals are made to change its structure or use.

Conclusion

The above requested variances are necessary to facilitate the granted Consent approvals for the subject lands. As mentioned, these variances have been requested to legally recognize the existing conditions on site and no additions and/or alterations will occur. The variances are minor in nature, desirable for the appropriate use of the lands, maintain the general intent of the Official Plan and Zoning By-law, and represent good land use planning.

Respectfully Submitted,
T. Johns Consulting Group Ltd.



Diana Morris, MCIP, RPP
Senior Planner



Hamilton

COMMITTEE OF ADJUSTMENT

City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5

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

E-mail: cofa@hamilton.ca

NOTICE OF DECISION
Consent/Land Severance

APPLICATION NO.:	HM/B-22:111	SUBJECT PROPERTY:	501 - 509 Upper Wellington St., Hamilton
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APPLICANTS: Owner: William/Edith Dalton
Agent: T. Johns Consulting Group c/o Diana Morris

PURPOSE & EFFECT: To permit the conveyance of a parcel of land containing an existing single detached dwelling, being the land known as 501 Upper Wellington and to retain a parcel of land known municipally as 509 Upper Wellington containing a flower shop. These properties inadvertently merged in title and the owner wishes to recreate the two original lots.

	Frontage	Depth	Area
SEVERED LANDS (501 Upper Wellington):	13.411 m [±]	34.138 m [±]	0.046 ha [±]
RETAINED LANDS (509 Upper Wellington):	34.138 m [±]	40.386 m [±]	0.138 ha [±]

Associated Planning Act File(s): N/A

THE DECISION OF THE COMMITTEE IS:

That the said application, as set out above, Approved with Conditions, for the following reasons:

1. The proposal does not conflict with the intent of the Urban/Rural Hamilton Official Plan.
2. The proposal does not contravene Zoning By-law requirements.
3. The Committee considers the proposal to be in keeping with development in the area.
4. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.
5. The submissions made regarding this matter affected the decision by supporting the granting of the application.

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 condition(s):

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 pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system. (Committee of Adjustment Section)
2. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)
3. The owner submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)
4. The owner shall submit survey evidence that the lands to be severed and the lands to be retained, including the location of any existing structure(s), parking and landscaping conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Planning Division – Zoning Examination Section).
5. The applicant shall provide confirmation of the existing uses on the lands to be retained/conveyed in order to determine compliance with the permitted uses of the C5a zone or alternatively apply for and receive final approval of a Zoning By-law Amendment as determined necessary by the Planning and Economic Development Department (Planning Division – Zoning Examination Section).

Note:

Prior to a person performing any work on, in or around a public tree an application for a permit shall be submitted to the Director of Public Works.

DATED AT HAMILTON, December 8, 2022.

D. Smith (Chairman)

M. Dudzic

B. Charters

T. Lofchik

N. Mieczko

D. Serwatak

M. Smith

M. Switzer

The date of the giving of this Notice of Decision is **December 15, 2022**. Above noted conditions **MUST** be fulfilled within **TWO (2) YEARS** of the date of this Notice of Decision (December 15, 2024) or the application shall be deemed to be REFUSED (Planning Act, 53(41)).

NOTES:

1. THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO LAND TRIBUNAL (OLT) MAY BE FILED IS **January 4, 2023**. A Notice of Appeal must be filed with the Secretary-treasurer of the Committee of Adjustment, must set out the reasons for the appeal and must be accompanied by the applicable fee. See Appeal Information Consents/Severances for more information.
2. **This Decision is not final and binding unless otherwise noted and must not be acted upon until the period of appeal has expired.**
3. The Decision does not release any persons from the necessity of observing the requirements of building regulations, the license by-law, or any other by-law of the City of Hamilton.



Hamilton

Committee of Adjustment
City Hall, 5th Floor,
71 Main St. W.,
Hamilton, ON L8P4Y5

Phone: (905) 546-2424 ext. 4221
Email: cofa@hamilton.ca

**APPLICATION FOR A MINOR VARIANCE/PERMISSION
UNDER SECTION 45 OF THE PLANNING ACT**

1. APPLICANT INFORMATION

	NAME	MAILING ADDRESS	
Registered Owners(s)	[REDACTED]		
Applicant(s)			
Agent or Solicitor	Same as applicant		Phone:
			E-mail:

1.2 All correspondence should be sent to Purchaser Applicant Owner Agent/Solicitor

1.3 Sign should be sent to Purchaser Applicant Owner Agent/Solicitor

1.4 Request for digital copy of sign Yes* No

If YES, provide email address where sign is to be sent [REDACTED]

1.5 All correspondence may be sent by email Yes* No

If Yes, a valid email must be included for the registered owner(s) AND the Applicant/Agent (if applicable). Only one email address submitted will result in the voiding of this service. This request does not guarantee all correspondence will sent by email.

2. LOCATION OF SUBJECT LAND

2.1 Complete the applicable sections:

Municipal Address	501 & 509 Upper Wellington St		
Assessment Roll Number			
Former Municipality	Hamilton		
Lot	Part of Lot 1	Concession	
Registered Plan Number	537	Lot(s)	2, 57&58
Reference Plan Number (s)		Part(s)	1

2.2 Are there any easements or restrictive covenants affecting the subject land?

Yes No

If YES, describe the easement or covenant and its effect:

N/A

3. PURPOSE OF THE APPLICATION

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

All dimensions in the application form are to be provided in metric units (millimetres, metres, hectares, etc.)

3.1 Nature and extent of relief applied for:

- 1) To allow a minimum rear yard setback of 0.7 metres, whereas a minimum of 7.5 metres is required.
- 2) To allow a minimum rear yard setback for accessory buildings (shed) less than or equal to 18 square metres of 0.3 metres, whereas a minimum of 0.6 metres is required.
- 3) To allow the permitted use of a single detached dwelling in the C5a Zone.

See Planning Rationale submitted for more details.

Second Dwelling Unit Reconstruction of Existing Dwelling

3.2 Why it is not possible to comply with the provisions of the By-law?

The setbacks and use are existing conditions of the subject lands, as they were constructed in 1950-1970. The request is to recognize the existing uses/buildings on the lands that have existed for decades.

3.3 Is this an application 45(2) of the Planning Act.

Yes No

If yes, please provide an explanation:

4. DESCRIPTION OF SUBJECT LAND AND SERVICING INFORMATION

4.1 Dimensions of Subject Lands:

Lot Frontage	Lot Depth	Lot Area	Width of Street
34.138m; 13.411m	40.386m; 34.138m	0.138ha; 0.046ha	20m

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

Existing:

Type of Structure	Front Yard Setback	Rear Yard Setback	Side Yard Setbacks	Date of Construction
#509 - Flower Shop	9.057m	0.722m	19.431m; 1.533m	1970s
#509 - Shed	---	0.36m	---	1990s
#501 - Single detached dwelling	4.179m	21.222m	2.829m; 3.264m	1950s
#501 - Shed	---	---	0.606m	1950s

Proposed: N/A

Type of Structure	Front Yard Setback	Rear Yard Setback	Side Yard Setbacks	Date of Construction
Same				
Same				
Same				
Same				

4.3. Particulars of all buildings and structures on or proposed for the subject lands (attach additional sheets if necessary):

Existing:

Type of Structure	Ground Floor Area	Gross Floor Area	Number of Storeys	Height
#509 - Flower Shop	344 sq.m.	344 sq.m.	1	~4-5m
#509 - Shed	9.3 sq.m.	9.3 sq.m.	1	~2.7m
#501 - Single detached dwelling	63.8 sq.m.	63.8 sq.m.	1	~4-5m
#501 - Shed	4.6 sq.m.	4.6 sq.m.	1	~2-3m

Proposed: N/A

Type of Structure	Ground Floor Area	Gross Floor Area	Number of Storeys	Height
Same				
Same				
Same				
Same				

4.4 Type of water supply: (check appropriate box)

- publicly owned and operated piped water system
 privately owned and operated individual well

- lake or other water body
 other means (specify)

4.5 Type of storm drainage: (check appropriate boxes)

- publicly owned and operated storm sewers
 swales

- ditches
 other means (specify)

4.6 Type of sewage disposal proposed: (check appropriate box)

publicly owned and operated sanitary sewage

system privately owned and operated individual

septic system other means (specify) _____

4.7 Type of access: (check appropriate box)

provincial highway

municipal road, seasonally maintained

municipal road, maintained all year

right of way

other public road

4.8 Proposed use(s) of the subject property (single detached dwelling duplex, retail, factory etc.):
Flower Shop and Single Detached Dwelling. No changes to the existing site conditions or uses

4.9 Existing uses of abutting properties (single detached dwelling duplex, retail, factory etc.):
North: Single detached dwelling; East: Single detached dwellings; South: Single detached dwelling, restaurant; West: Vacant lands and vehicle rental service

7 HISTORY OF THE SUBJECT LAND

7.1 Date of acquisition of subject lands:

2007

7.2 Previous use(s) of the subject property: (single detached dwelling duplex, retail, factory etc)
Retail, Residential (Single detached dwelling)

7.3 Existing use(s) of the subject property: (single detached dwelling duplex, retail, factory etc)
Retail (Flower Shop), Single detached dwelling

7.4 Length of time the existing uses of the subject property have continued:
Flower Shop: since 1970s. Single detached dwelling: since 1950s.

7.5 What is the existing official plan designation of the subject land?

Rural Hamilton Official Plan designation (if applicable): _____

Rural Settlement Area: _____

Urban Hamilton Official Plan designation (if applicable) Mixed Use - Medium Density

Please provide an explanation of how the application conforms with the Official Plan.
See Planning Rationale submitted.

7.6 What is the existing zoning of the subject land? Mixed-Use Medium Density - Pedestrian Focus (C5a)

7.8 Has the owner previously applied for relief in respect of the subject property?
(Zoning By-law Amendment or Minor Variance)

Yes

No

If yes, please provide the file number: _____

7.9 Is the subject property the subject of a current application for consent under Section 53 of the *Planning Act*?

Yes No

If yes, please provide the file number: HM/B-22:111

7.10 If a site-specific Zoning By-law Amendment has been received for the subject property, has the two-year anniversary of the by-law being passed expired? N/A

Yes No

7.11 If the answer is no, the decision of Council, or Director of Planning and Chief Planner that the application for Minor Variance is allowed must be included. Failure to do so may result in an application not being "received" for processing.

8 ADDITIONAL INFORMATION

8.1 Number of Dwelling Units Existing: 1

8.2 Number of Dwelling Units Proposed: 1

8.3 Additional Information (please include separate sheet if needed):

To development is being proposed. The existing structures/uses on the subject lands will remain. The variances are being requested to recognize existing site conditions.

11 COMPLETE APPLICATION REQUIREMENTS

11.1 All Applications

- Application Fee
- Site Sketch
- Complete Application form
- Signatures Sheet

11.4 Other Information Deemed Necessary

- Cover Letter/Planning Justification Report
- Authorization from Council or Director of Planning and Chief Planner to submit application for Minor Variance
- Minimum Distance Separation Formulae (data sheet available upon request)
- Hydrogeological Assessment
- Septic Assessment
- Archeological Assessment
- Noise Study
- Parking Study
