

**From:** [Jeff Tweedle](#)  
**To:** [Committee of adjustment](#)  
**Cc:** [Matt Johnston](#)  
**Subject:** February 13, 2024 - CoA - HCA Comments for DN/A-23:348 for 98 Sydenham Street, Dundas  
**Date:** Friday, February 9, 2024 9:49:41 AM  
**Attachments:** [image002.png](#)

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Good morning,

The Hamilton Conservation Authority (HCA) has reviewed the Committee of Adjustment Agenda for February 13, 2024 in accordance with HCA's responsibilities under the *Conservation Authorities Act* relating to provincial interests for natural hazards and offer the following comments for DN/A-23:348 for 98 Sydenham Street, Dundas. HCA has cc'd the applicant's agent on this email for their information.

**DN/A-23:348 – 98 Sydenham Street, Dundas**

The subject property is approximately 0.31 ha (0.76 ac) in size and located within the Sydenham Creek watershed, which drains to Spencer Creek and eventually Hamilton Harbour. A portion of Sydenham Creek traverses the north-most corner of the subject property flowing from north to south. This portion of Sydenham Creek forms a short reach of open channel as the watercourse is confined within existing culverts both upstream and downstream of the property as it crosses under Livingstone Road and Sydenham Street. The open channel of Sydenham Creek between Livingstone Road and Sydenham Street is considered an unconfined watercourse and the subject property may be affected by flooding and erosion hazards associated with the watercourse.

The minor variances requested in the application are intended to facilitate severance application DN/B-23:44 which was conditionally approved on August 3, 2023. The conditionally approved severance has retained lands entirely within Dundas Special Policy Area 1 and severed lands partially within Dundas Special Policy Area 1. Dundas Special Policy Area 1 provides policies related to the management of existing and future development of areas of the former Town of Dundas located within flooding hazard areas. HCA previously provided comments on severance application DN/B-23:44 and had recommended the deferral of the application and additional assessments be completed to determine potential impacts of the flood spill hazard on the severed and retained lands. HCA's recommendations were incorporated in Condition 12 of the conditional approval granted on August 3, 2023 for severance application DN/B-23:44. To date HCA has not received any further information regarding the assessment of the flood spill hazard as a result of the backwater effect potentially produced by the Sydenham Creek watercourse crossing (culvert) at Livingstone Road or demonstration of building envelopes within the severed parcels which comply with HCA's Planning & Regulation Policies and Guidelines and Dundas Special Policy Area 1 provisions.

HCA staff do not have any concerns regarding the requested minor variances as they do not propose or facilitate additional development on the subject site. HCA does not object to the granting of the requested minor variances. HCA staff would note Condition 12 of the granted conditional approval for DN/B-23:44 remains outstanding and would recommend the applicants consult with HCA staff regarding this condition and the potential impact of flood spill hazards on the property.

The property is regulated by HCA pursuant to *Ontario Regulation 161/06* (HCA's Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses) made under the *Conservation Authorities Act, R.S.O. 1990*. The regulated area is associated with the flooding and erosion hazards produced by Sydenham Creek. Written permission from HCA is required for any construction, site alteration, or grading completed within the regulated portion of the subject site.

Please contact the undersigned if there are any questions regarding the provided comments.

There will be no fee for HCA's review of DN/A-23:348 given HCA's previous review of the severance file. **However, HCA has not received the \$1,233.96 (includes HST) review fee for the severance application (DN/B-23:44) which HCA previously reviewed. It is requested the applicant or their agent contact HCA staff regarding the payment of this outstanding fee.**

Regards,

## Jeff Tweedle

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February 9, 2024

To: Ms. Jamila Sheffield  
Committee of Adjustment  
City of Hamilton

From: Penny Gill and Christopher Pibus  
94 Sydenham St.  
Dundas ON

Re: Minor Variance Application No. DN/A-23:348 -- Subject property 98 Sydenham St.

Background:

This submission is filed in our capacity as the assessed owner and residents of the property at 94 Sydenham St., which is directly adjacent to the subject property, along the side lot line that runs from Sydenham St. to Queen St. at the rear.

Last year an application for severance was conditionally approved by the Committee which would subdivide the subject property into 3 lots. This variance application seeks to satisfy the outstanding condition by authorizing the location of certain existing remaining structures, so they are rendered compliant with various zoning setbacks.

Amendment Requested:

Adjustment to the language of the variances is respectfully requested to remove ambiguities, and to make it clear that the variances relate to the identified setbacks for existing buildings on the **retained property**, not the setbacks for the new parcels.

Submissions:

In the Applicant's letter of December 22 2023, the applicant explains that "the requested variances are required to permit the location of the existing frame shed and detached garage relative to the approved property boundary of the lands to be retained." A Minor Variance Sketch is attached to the letter that identifies the location of the shed and garage, and illustrates the necessity for the variances.

Ambiguities arise in the drafting of the requested variances, where there are references to the "rear lot line" and the "side lot line" without clear identification of their locations. If the variances are granted in the broad terms requested, there is a risk that a developer/ owner of the severed lot could claim the variance gives them the right to build accessory structures along our side lot line with a minimum set back of 0.80 metres. This ambiguity can be readily resolved by the addition of language making it clear that the new setbacks only apply to the retained property, and by referencing the existing shed and garage as shown on the Sketch. Any future development or new development on the existing lot or either of the two new lots would have to comply with the existing zoning.

With those amendments in place, we would have no objection to the proposed Minor Variances.

Thank you for considering our submissions.

Penny Gill and Christopher Pibus