



Hamilton

COMMITTEE OF ADJUSTMENT

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

Telephone (905) 546-2424, ext. 4221

E-mail: cofa@hamilton.ca

NOTICE OF DECISION
Minor Variance

APPLICATION NO.:	DN/A-23:339	SUBJECT PROPERTY:	12 NAPIER STREET N, DUNDAS
ZONE:	“R2” (Single Detached Residential Zone)	ZONING BY-LAW:	Zoning By-law former Town of Dundas 3581-86, as Amended

APPLICANTS: Owner: 2778024 ONTARIO INC
Applicant: JORDAN STATION DESIGN CO INC.(LEE CURTIS)

The following variances are **GRANTED WITH CONDITIONS:**

1. An Office shall be permitted within the ground floor of the existing building;
2. Parking spaces shall be provided within the required Front Yard instead of the requirement that no such required parking or loading space shall be located in a required front yard;
3. No Manoeuvring Space shall be provided for a parking space instead of the required 6.0 metre Manoeuvring Space for 90 degree parking spaces;
4. A Minimum of three (3) Parking Spaces shall be provided instead of the required five (5) Parking Spaces for a Dwelling Unit and Office use;
5. A 1.9 metre Landscaping Area shall be provided directly abutting a street line instead of the required 3.0 metre Landscaping Area directly abutting a street line.
6. No Buffer Strip shall be provided abutting a Residential Zone or Lot instead of the required 3.0 metre Buffer Strip when the side or rear lot line abuts an RU/S-58, R1, R2, R3, R4, RM1, RM2, RM3 or RM4 Zone
7. A minimum 40% Landscaping in the Front Yard shall be provided for a building containing a residential use instead of the required 50% Landscaping in the Front Yard for residential buildings.

Notes:

- i) Please note, as per the submitted Minor Variance application form, the following items were provided regarding the requested variances:
 - (1) “Existing legal non-conforming office use
 - (2) Parking variance in relation to office use (3 stalls required, requesting 2)”

Be advised, all applicable Zoning regulations have been applied to the Office use and as such it

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has been determined through this review that the requested variances would be insufficient to bring the Office use and proposed parking spaces into Zoning Compliance. As such, additional variances have been provided to permit the use as well as permit all associated lot standards created as a result of the change of use to an Office.

- ii) Be advised, insufficient information was provided on the site plan to determine the projection of the eaves, gutters or canopies of the existing building. Should the eaves, gutters or canopies not be existing and project more than the required encroachments permitted under Section 6.6.2 of Dundas Zoning By-Law 3581-86, additional variances may be required.
- iii) Be advised, insufficient information was provided regarding the intended vehicles to be parking on the property. Note, as per Section 7.10, the following vehicles are prohibited on lots within Residential Zones, including the R2 Zone:
 - iv) A vehicle for which the permit fee under The Highway Traffic Act is based on the weight of the vehicle and load in excess of 4.0 tonnes; or
 - ii. A vehicle for which the permit fee under The Highway Traffic Act is based on the weight of the vehicle and load in excess of 4.0 tonnes; or
 - iii. A vehicle which exceeds 6.5 metres in length; or
 - iv. A vehicle which is equipped with dual rear wheels or tandem axles; or
 - v. A vehicle which is a tow truck; or
 - vi. A vehicle which is a bus.

Should vehicles intended for the proposed Office use include any such vehicle listed above, additional variances may be required.

- v) Be advised, insufficient information was provided regarding the existing shed indicated within the required rear yard. Note, should the shed not be legally established, and non-conforming, current performance standards shall apply to the shed as per Section 9.5 and additional variances may apply.
- vi) Please note, an Encroachment Agreement with Public Works is required for any work or alterations, including the driveway extension landscaping area, indicated within the Napier Street North Road Allowance.
- vii) Please note, the proposed relocation of the fence shall comply with the requirements of the Fence By-Law 10-142.

THE DECISION OF THE COMMITTEE IS:

That the variances, as set out above, are **GRANTED WITH CONDITIONS** for the following reasons:

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1. The Committee, having regard to the evidence, is of the opinion that the relief granted is of a minor nature.
2. The relief granted is desirable for the appropriate development of the land and building and is consistent with the general intent and purpose of the By-laws and the Official Plans as referred to in Section 45 of The Planning Act, 1990.
3. The Committee, having regard to the evidence, is satisfied that there will be no adverse impact on any of the neighbouring lands.
4. The submissions made regarding this matter affected the decision by supporting the granting of the application.

That the said application be GRANTED subject to the following condition:

1. The Applicant is required to establish an encroachment agreement with the City of Hamilton for the parking spaces located within the municipal right-of-way (To the satisfaction of the Manager of Transportation Planning).

DATED AT HAMILTON, February 13, 2024.

M. Switzer

D. Smith (Chairman)

D. Lord

N. Lauwers

S. Rybarczyk

R. Reid

NOTES:

1. THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO LAND TRIBUNAL (OLT) MAY BE FILED IS **March 4, 2024**. 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 – Minor Variances 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.



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APPEAL INFORMATION – MINOR VARIANCES

1. Who may file an appeal of the Decision of the Committee of Adjustment?

Please note neighbours and other interested parties not defined are no longer eligible to file Planning Act Section 45(12) appeals. See [Bill 23, More Homes Built Faster Act, 2022](#) for more information.

Planning Act Section 45(12) appeals may be filed by the applicant, the Minister of Municipal Affairs and Housing, a “specified person” (as defined by Planning Act 1(1)), and a “public body that has an interest in the matter” (as defined by Planning Act 1(1)).

2. When must an appeal be received to be considered?

Planning Act Section 45(12) appeals must be received no later than the end of business on the last date of appeal listed on the Notice of Decision. The last date of appeal is 20 days from the date of the Decision. Please see Notice of Decision for exact date.

3. Where must the appeal be filed to be considered?

Planning Act Section 45(12) appeals must be received either by hardcopy or electronic copy. Please see below for more information:

Hardcopy: at City Hall and addressed to the Secretary-Treasurer of the Committee of Adjustment, Hamilton City Hall, 5th Floor, 71 Main Street West, Hamilton, ON, L8P 4Y5. Do not address appeals to any other departments or locations. Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of second-hand mailing will be time barred and of no effect.

Electronic copy: by email delivered to cofa@hamilton.ca. Do not address appeals to any other departments or locations. Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of incorrectly addressed emails will be time barred and of no effect. If the information submitted will include large file sizes not able to be sent in one email, please contact cofa@hamilton.ca in advance to request a file sharing link.

4. What information must be submitted for the appeal to be considered?

Planning Act Section 45(12) appeals must include:

- Notice of appeal, the Ontario Land Tribunal (OLT) Appeal Form, this can be found by contacting Committee of Adjustment staff at the 5th floor of City Hall or at the OLT website <https://olt.gov.on.ca/appeals-process/forms/>, a cover letter, etc. may also be submitted if there is not sufficient room in the form;
- Filing fee, the fee is currently \$400 (subject to change) and must be paid as outlined on the OLT Appeal Form;

- All other information as required by the Appeal Form.