



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 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-24:13	SUBJECT PROPERTY:	47 ALDERSON DRIVE, HAMILTON
ZONE:	"B" (Suburban Agriculture & Residential)	ZONING BY-LAW:	Zoning By-law former City of Hamilton 6593, as Amended

APPLICANTS: Owner: AZIZ LAZAR AND KLODYA SIMON
 Agent: A.J. CLARKE AND ASSOCIATES LTD (C/O LIAM DOHERTY)
 Applicant: 2839178 ONTARIO INC. (C/O AZIZ LAZAR)

The following variances are requested:

Lands to be Severed;

1. A minimum lot area of 781.70 square metres shall be permitted instead of the minimum 784.0 square metres required.

Lands to be Retained;

1. A minimum lot area of 781.70 square metres shall be permitted instead of the minimum 784.0 square metres required.

PURPOSE & EFFECT: To facilitate severance application HM/B-21:105.

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:	Tuesday, February 27, 2024
TIME:	1:25 p.m.
PLACE:	Via video link or call in (see attached sheet for details)

	City Hall Council Chambers (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

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, written comments must be received no later than February 23, 2024

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, registration to participate virtually must be received no later than February 26, 2024

FURTHER NOTIFICATION

If you wish to be notified of future Public Hearings, if applicable, regarding HM/A-24:13, 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: February 8, 2024

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.



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

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 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 on the date listed on the Notice of Public Hearing.**

Comments are available the Friday 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 on the day listed on the Notice of Public 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 one business day before the Hearing. Only those registered will be called upon to speak.

2. In person Oral Submissions

Interested members of the public, agents, and owners who wish to participate in person may attend Council Chambers on the date and time listed on the Notice of Public Hearing. Please note, you will be required to provide your name and address for the record. It is advised that you arrive **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.

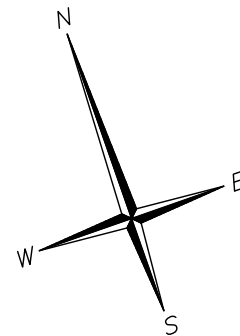
BEARINGS ARE UTM GRID, DERIVED FROM OBSERVED REFERENCE POINTS (A) AND (B) BY REAL TIME NETWORK (RTN) OBSERVATIONS, UTM ZONE 17, NAD83 (CSRS) (1997)

DISTANCES ARE GROUND AND CAN BE CONVERTED TO GRID BY MULTIPLYING BY THE COMBINED SCALE FACTOR OF 0.999650

FOR BEARING COMPARISON A ROTATION OF 00°39'10" COUNTERCLOCKWISE WAS APPLIED TO PLANS P1, P2, P3, P4, P5 TO CONVERT TO GRID BEARINGS.

POINT ID	NORTHING	EASTING
(A)	4783570.474	589537.245
(B)	4783505.368	589739.097

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



PLAN 62R-22213

Received and deposited

September 27th, 2023

George Dsouza

Representative for the
Land Registrar for the
Land Titles Division of
Wentworth (No.62)

SCHEDULE				
PART	LOT	PLAN	PIN	AREA
1	PART OF LOT 121	970	PART OF 17121-0054	781.70m ²
2	PART OF LOT 121	970	PART OF 17121-0054	781.70m ²

PARTS 1 & 2 COMPRISE ALL OF PIN 17121-0054

PLAN OF SURVEY OF
LOT 121
REGISTERED PLAN No.970
IN THE
CITY OF HAMILTON

SCALE 1:250
0 5 10 metres

THE INTENDED PLOT SIZE OF THIS PLAN IS 432mm IN WIDTH BY 610mm IN HEIGHT WHEN PLOTTED AT A SCALE 1:250
KEVIN H. BROWN O.L.S.

- LEGEND:**
- SIGN THUS □ DENOTES A SURVEY MONUMENT PLANTED
 - SIGN THUS ■ DENOTES A SURVEY MONUMENT FOUND
 - IB DENOTES IRON BAR
 - SIB DENOTES STANDARD IRON BAR
 - SSIB DENOTES SHORT STANDARD IRON BAR
 - (717) DENOTES J.J. KISWAY O.L.S
 - (600) DENOTES S.W. WOODS O.L.S
 - (655) DENOTES J.T. PETERS O.L.S
 - (1629) DENOTES B.A. JACOBS O.L.S
 - (RHW) DENOTES REGION OF HAMILTON WENTWORTH
 - (WT) DENOTES WITNESS
 - P1 DENOTES REGISTERED PLAN No. 970
 - P2 DENOTES SURVEYOR'S REAL PROPERTY REPORT BY B.A. JACOBS SURVEYING LTD. DATED FEBRUARY 29, 2012 (INDEX 12s07-T1)
 - P3 DENOTES PLAN 62R-6679
 - P4 DENOTES PLAN BY A. J. CLARKE & ASSOCIATES. NOTES DATED JANUARY 29, 1965 (INDEX H-2410)
 - P5 DENOTES SURVEYOR'S REAL PROPERTY REPORT BY B.A. JACOBS SURVEYING LTD. DATED MAY 29, 2015 (INDEX 14s69-F)

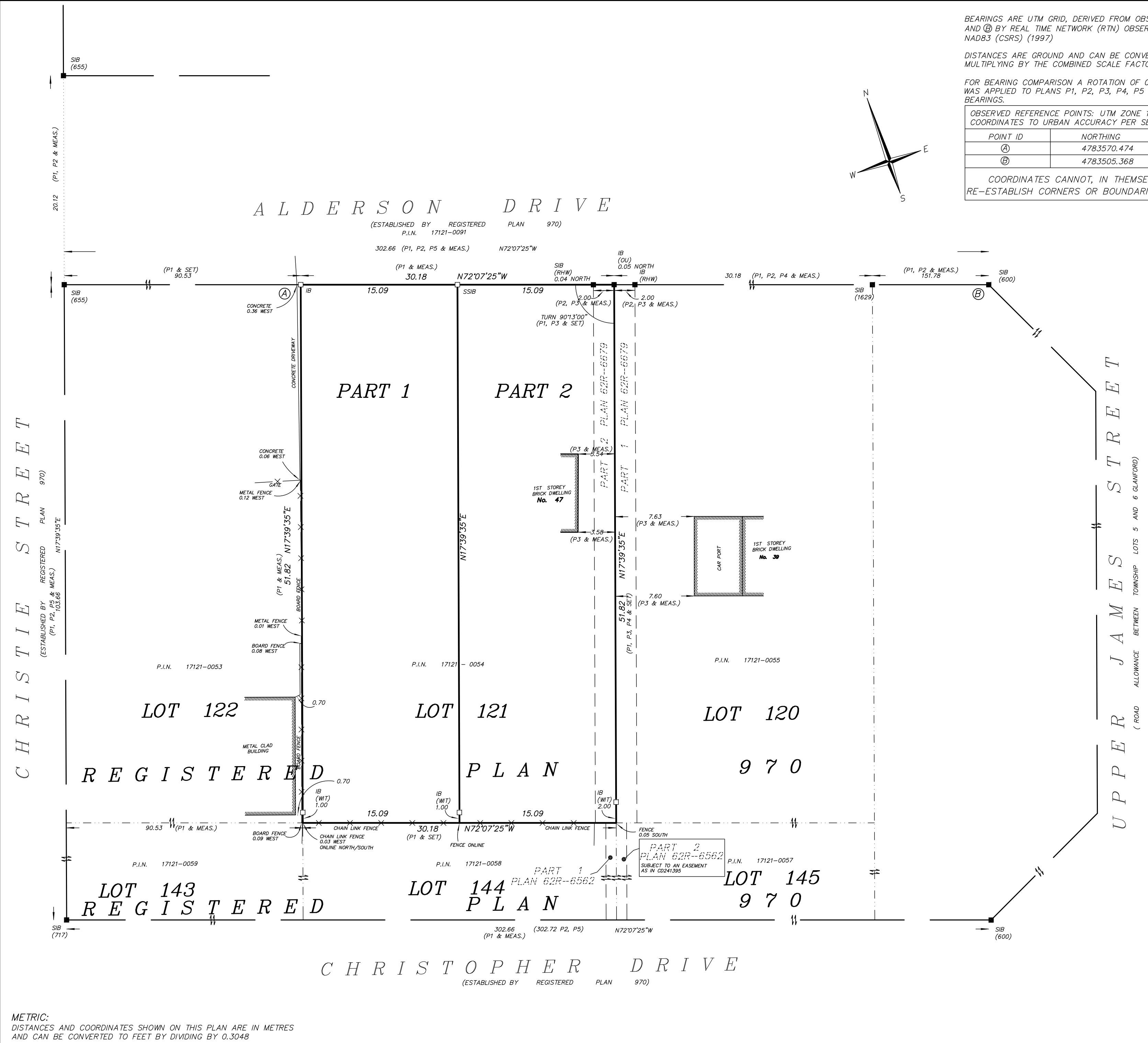
SURVEYOR'S CERTIFICATE:
I CERTIFY THAT:
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.
2. THE SURVEY WAS COMPLETED ON THE 9th DAY OF JUNE, 2023

SEPTEMBER 11, 2023
DATE
KEVIN H. BROWN
ONTARIO LAND SURVEYOR

THIS PLAN OF SURVEY RELATES TO AOLS PLAN SUBMISSION FORM NUMBER V-58355

A. J. Clarke and Associates Ltd.
SURVEYORS • PLANNERS • ENGINEERS
25 MAIN STREET WEST, SUITE 300
HAMILTON, ONTARIO, L8P 1H1
TEL. 905-528-8761 FAX 905-528-2289
email: ajc@ajclarke.com

DRAWN BY: MW CHECKED BY: KB PROJECT No. 238074R



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

H:\Jobs\W-to-S\VR\970\Lot121\47 Alderson (238074R)\CURRENT\REF-PLAN.dwg



A. J. Clarke and Associates Ltd.

SURVEYORS • PLANNERS • ENGINEERS

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

January 22, 2024

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

**Re: 47 Alderson Drive, Hamilton
Minor Variance Application**

Dear Ms. Sheffield:

A.J. Clarke and Associates Ltd. has been retained by the owner of the subject lands, 47 Alderson Drive, for the purposes of submitting a Minor Variance Application with the City of Hamilton

Below is a summary of the materials submitted to your attention:

- One (1) digital copy of the required filled and signed Minor Variance Application Form
- One (1) digital copy of the Deposited Reference Plan 62R-22213
- One (1) digital copy of OLT Decision for Case Numbers OLT-22-002209 and OLT-22-002210

*Payment in the sum of \$3,900.00 representing the required application fee, will be made by credit over phone.

The subject lands are located on the southern side of Alderson Drive between Upper James Street to the east, and Christie Street to the west. The lands have a frontage of 30.18 metres, a maximum depth of 51.82 metres and a total area of 1,563.4 metres.

History

A previous joint submission of Consent to Sever and Minor Variances applications were heard in December of 2021 (HM/B-21:105 and HM/A-21:406). The applications were to facilitate two lots with "lot areas of ±784 square metres". Both applications were staff supported with recommendations for approval, however, the applications were denied by the Committee of Adjustment.

The Committee of Adjustment's decision was appealed by the applicant. The matter was heard by the Ontario Land Tribunal (OLT) in June of 2022, with Leo Palozzi representing the applicant. The tribunal's decision approved the proposed consent, along with the requested minor variances permitting a minimum side yard of 1.25 metres, a minimum lot width of 15.08 metres, and a minimum lot area of 784.00 square metres.

A. J. Clarke and Associates Ltd was retained in 2023 to clear the conditions of severance set by the OLT. The A. J. Clarke surveying department was also retained to survey the lands and provide the required Reference Plan.



Discovery of Zoning Deficiency

The current application before the Committee, is to remedy an error from the original submission of file HM/A-21:406. The original application was not based a legal survey of the lands, but rather a conversion from the original survey, hand-drawn in imperial in 1949. The surveying work by A. J. Clarke determined that the original application's request for Minimum Lot Area of ± 784 square metres did not capture the true area of the proposed parcels due to a difference of 0.12 metres in lot depth calculation between the original submission against the new surveyed reference plan.

The original submission calculated the lot area using a supposed depth of 52 metres, while the survey evidence enclosed with this submission shows an exact depth of 51.82 metres; this creates a total lot area of 781.70 square metres, which is 2.30 square metres less than the OLT-approved 784.00 square metre minimum. This is a deficiency of less than 0.4% of the minimum approved by the OLT.

Requested Variances

This application seeks a minor variance to permit a Minimum Lot Area of 781.0 square metres, whereas 784.0 square metres is required.

Four Tests

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.

Original Application

The original minor variances were assessed by Member M. Arpino as part of the OLT Decision, enclosed provided with this application. Their assessment is as follows:

“[29] Having considered the Provincial policy concerns, matters of Provincial interest set out in s. 2 of the Act and the criteria set out in s. 51(24), the Tribunal finds that the proposed severance has due regard for matters of Provincial interest, is consistent with the PPS, conforms to, or is not in conflict with the Growth Plan and the UHOP and represents good planning in the public interest. The Tribunal will allow the appeal and give provisional Consent subject to the City’s conditions.

Variance Application – the Four Tests s. 45(1) of the Act General Intent and Purpose of the UHOP

[30] For reasons set out above, the Tribunal has considered the evidence and based on the uncontroverted opinion evidence submitted by the Applicant, the Tribunal is satisfied that the requested Consent, with the Variances, meet the general intent and purpose of the UHOP.

General Intent and Purpose of the By-law

[31] Mr. Palozzi provided uncontroverted opinion that the Variances meet the general intent and purpose of the By-law. This opinion is supported by City staff.



[32] Based on the opinion evidence provided with respect to varied lot pattern within the neighbourhood, despite the reduced side-yard setback, lot frontage and lot area the Variances will nevertheless maintain the general intent and purpose of the By-law.

[33] The Tribunal accordingly finds that this test for the Variances has been satisfied.

Variance is Desirable for the Appropriate Development of Land

[34] Mr. Palozzi opined that the Variances are desirable for the appropriate development of the Site. The benefits of allowing for the infill lot and construction of a new detached dwelling on the Site aid in Provincial goals regarding intensification and take advantage of existing municipal services and infrastructure.

Variances are Minor in Nature

[35] Mr. Palozzi testified that both parcels will front on to Anderson Drive. He opined that the Consent if granted, will create two (2) relatively large parcels. He testified that having regard to the orientation the parcels and location of the Site and the size of the parcels, the Variances are minor in nature.

[36] The Tribunal accordingly finds that the Variances are Minor.

[37] The Tribunal finds that this test for Variances has been satisfied.
Summary-Variances

[38] For the reasons indicated in the analysis above, and upon various findings made in this Decision, the Tribunal will allow the Application and authorize the Variances

[39] The Tribunal finds that both the Consent and Variances are consistent with the PPS, conform to the Growth Plan and have regard to Provincial interests set out in s. 2 of the Act.”

Present Application

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

The subject site is designated “Neighbourhoods” on Schedule E-1 Urban Land Use Designations in the Urban Hamilton Official Plan and “Community Node” on Schedule E. The proposed variance will not alter the permitted land use, building form, or streetscape of the subject lands. The required variances maintain the intent and purpose of the Urban Hamilton Official Plan.

2. Do the proposed variances maintain the intent and purpose of the Zoning By-law?

The lands are designated ‘**B**’ **Suburban Agriculture And Residential, Etc. District**, in the Former City of Hamilton Zoning Bylaw 6593. The lands have an in-force minor variance, **HM/A-21:406**. A single variance to permit two lots 0.4% smaller than the permitted Minimum Lot Area will have a negligible effect on the in-force provisions for land use and built-form. The required variances maintain the intent and purpose of the Zoning By-Law.

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

The development form of the subject lands, the land use, the lot width and building setbacks were assessed, examined and approved through the planning approval process. A single variance of a 0.3%



reduction from the permitted Minimum Lot Area, which result in similar reduction of the effective building envelope, will have a negligible effect on the development of the subject lands. The proposed variance is required to allow the development of the subject lands as proposed and is an appropriate adjustment to the zoning provisions.

4. Are the proposed variances minor in nature?

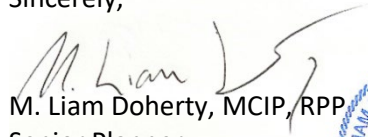
The application is for a single variance, to reduce the Minimum Lot Area by 0.4%, without changing the Minimum Lot Width or the building setbacks. The effect of the variance will be imperceptible to the public and to future landowners. The required variance is minor in nature.

Conclusion

As such, the subject land is appropriate for the redevelopment as proposed and has sufficient regard for the matters listed under Section 2 of the *Planning Act*, satisfies the four tests of Described in Section 45(1) of the Act, represents good planning, and should be approved.

I trust that you will find the enclosed satisfactory for your purposes. Please confirm receipt of this submission; 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,



M. Liam Doherty, MCIP, RPP
Senior Planner

A. J. Clarke and Associates Ltd.



Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: June 22, 2022

CASE NO(S):

OLT-22-002209

PROCEEDING COMMENCED UNDER subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicants and Appellants: Aziz Lazar
Subject: Consent
Property Address/Description: 47 Alderson Dr.
Municipality: City of Hamilton
Municipal File No.: HM/B-21:105
OLT Lead Case No.: OLT-22-002209
OLT Case No.: OLT-22-002209
OLT Case Name: Lazar v. Hamilton (City)

PROCEEDING COMMENCED UNDER subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicants and Appellants: Aziz Lazar
Subject: Minor Variance
Property Address/Description: 47 Alderson Dr.
Variance from By-law: 6593
Municipality: City of Hamilton
Municipal File No.: HM/A-21:406
OLT Lead Case No.: OLT-22-002209
OLT Case No.: OLT-22-002210

Heard: June 13, 2022 by video hearing

APPEARANCES:

Parties

Counsel*/Representative

Aziz Lazar

Alex Lusty*

City of Hamilton

Not in attendance

MEMORANDUM OF ORAL DECISION DELIVERED BY M. ARPINO ON JUNE 13, 2022 AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] The Applicant owns the property at 47 Alderson Drive (“Site”). He wishes to construct two (2) new detached residential dwellings at the Site. The Site is located in the City of Hamilton (“City”).

[2] The Applicant applied for consent to sever the Site into two (2) parcels (“Consent”).

[3] The Applicant also applied for three (3) minor variances (“Variances”).to City By-law No. 6593 (“By-law”).

[4] Planning Staff for the City recommended approval of the Applications. The Committee of Adjustment (“COA”) for the City denied both Applications.

[5] The Applicant appealed the COA decisions to the Tribunal (the “Appeals”) pursuant to s. 53(19) of the *Planning Act* (“Act”) and s. 45 (12) of the Act. The Tribunal convened a hearing of the merits of the Appeals.

[6] The City informed the Tribunal that it would not attend the hearing.

[7] The Applicant brought forward one witness, Leo Palozzi. Mr. Palozzi was qualified by the Tribunal to provide opinion evidence regarding land-use planning.

[8] The Tribunal had available the Applicant’s Book of Document Exhibit 1 and the Witness Statement of Leo Palozzi, Exhibit 2.

SITE DETAILS, PROPOSED CONSENT AND VARIANCES

[9] The Site is located on Alderson Drive, It is 30.16 metres (“m”) wide and 52 m deep. It is zoned Suburban Agriculture and Residential, which permits single detached dwellings. It is designated as “Neighbourhoods” in the Urban Hamilton Official Plan (“UHOP”).

[10] Both the severed and retained parcels are proposed to have a frontage of ± 15.08 m, a depth of ± 52.0 m and lot areas of ± 784 square metres (“m²”). The existing dwelling on the Site is to be demolished.

[11] The Variances consist of the following:

1. A minimum side yard width of 1.25 metres shall be provided for the both the severed and retained lots instead of the minimum required side yard width of 3.0 metres
2. A minimum lot width of 15.08 metres shall be provided for each parcel instead of the minimum required lot width of 20.0 metres.
3. A minimum lot area of 784.00 square metres shall be provided for each parcel instead of the minimum required lot area of 1100.0 square metres.

[12] The City informed the Applicant that:

The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances. If archeological resources are encountered, the proponent may be required to conduct an archaeological assessment prior to further impact in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI). All archaeological reports

shall be submitted to the City of Hamilton for approval concurrent with their submission to the MHSTCI. Should deeply buried archaeological materials be found on the property during any of the above development activities the MHSTCI should be notified immediately (416-212- 8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499).

ISSUES

Consent Appeal – s. 53(19) of the Act

[13] In the determination of the Appeal of the COA decision regarding the Consent and deciding whether the proposed provisional consent should be granted, with such conditions that may be required, the Tribunal must consider and decide the following issues:

- a. the Tribunal must address the threshold question in accordance with s. 53(1) of the Act and be satisfied that a plan of subdivision is not necessary for the proper and orderly development of the municipality and can proceed by way of application for consent. Given the circumstances of the Consent in this case, a Plan of Subdivision is not necessary.
- b. the Tribunal must then, under s. 53(12), have regard for the criteria set out in s.51(24) of the Act which stipulates: that the Consent has regard to the effect that the Consent will have on matters of provincial interest set out in s. 2 of the Act; whether the proposed consent is premature or in the public interest; and whether the Consent conforms to the UHOP; the suitability of the site for the purposes for which it is to be subdivided; and the dimensions and shapes of the proposed parcels; and the adequacy of utilities and municipal services.
- c. as required by s. 3(5) of the Act the Tribunal must, in its decision, be satisfied that the approval of the proposed provisional Consent is

consistent with the Provincial Policy Statement 2020, (“PPS”) and conforms to such Provincial Plans that may be applicable, which in this case is the A Place to Grow: Growth Plan for the Greater Golden Horseshoe, as amended (“Growth Plan”).

- d. the Tribunal must also have regard to the decision of the COA relating to the Consent and the information and material that was before the COA in making the decision.
- e. the Tribunal may, under s. 53(12) also consider and impose such conditions as may be determined to be reasonable, having regard to the nature of the Consent, and such conditions may include such requirements as are set out in s. 51(25) of the Act; and
- f. The Tribunal will decide whether granting the Consent, with any required conditions, represents good planning in the public interest.

Variance Appeal – s. 45(1) of the Act

[14] With respect to the application for the Variances, the issue before the Tribunal is whether the Variances meet the four tests set out in s. 45(1) of the Act and should be authorized by the Tribunal.

[15] The Tribunal must accordingly be satisfied, in this appeal, that the Variances that would permit the single detached dwellings on the parcels created by the Consent if granted: (a) maintain the general intent and purpose of the UHOP; (b) maintain the general intent and purpose of the By-law; (c) are minor, and (d) are desirable for the appropriate use and development of the Site.

[16] Additionally, the Variances must also be consistent with the PPS, and conform to the Growth Plan under s. 3(5) of the Act. The Tribunal must also have regard to matters of Provincial interest. The Tribunal must also consider the decision made by the COA,

as well as all information and material that the COA considered in making its decision.

ANALYSIS AND FINDINGS

[17] The expert planning evidence presented by the Mr. Palozzi before the Tribunal is uncontroverted.

[18] For the reasons that follow, and upon the various findings set out herein, the Tribunal determines that the Appeal under s. 53(19) should be allowed and provisional Consent should be given for the proposed Consent, and further, that the Variances should be authorized and that appeal pursuant to s. 45(12) allowed.

Provincial Policy Statement and Growth Plan

[19] Based upon the whole of the evidence, including the uncontroverted planning opinions provided by Mr. Palozzi and City Staff, the Tribunal finds that in all respects both the Consent and Variances are consistent with the policies within the PPS and conform with the Growth Plan.

The Consent Application – s. 51(24) Criteria

[20] Mr. Palozzi concluded that that the Consent and Variances have appropriate regard to the listed criteria set out in s. 51(24) of the Act.

[21] Regarding the suitability of the land for the proposed use and dimensions and shape of the severed and retained parcel, the Applicant's uncontroverted expert testified that the existing neighbourhood character and varied lot sizes are supportive of the Consent and Variances. The Tribunal would agree, having examined various photos and plans presented by the Applicant, which demonstrated that the neighbourhood has no consistent lot pattern with a variety of housing types and lot sizes. The Consent will, as discussed further below, conform to the UHOP and in that respect has regard for s. 51(24)(c).

[22] Upon the whole of the evidence and upon additional findings below regarding conformity with the UHOP and the uncontroverted evidence presented, the Tribunal finds that the Consent satisfies, the criteria set out in s. 51(24) of the Act.

Urban Hamilton Official Plan “(UHOP)

[23] The Site is located within the General Urban Area, an area where the UHOP supports intensification where it will complement the existing pattern, scale and planned function of an area. The Tribunal reviewed and accepted the unchallenged evidence of Mr. Palozzi, Mr. Palozzi testified that the Applications conform with the UHOP policies regarding development in the General Urban Area.

[24] With regards to development in a mature neighbourhood in a General Urban Area, the UHOP supports intensification where it will complement the existing pattern, scale and planned function of an area, which the Application does as demonstrated by Mr. Palozzi

[25] Although there are no participants in this hearing, the municipal record includes letters to the COA from area property owners who express concerns regarding persons outside of the City purchasing properties and applying for consent to sever or variances from the By-law. The Tribunal determined that these are not land use planning issues.

[26] There was also a concern regarding the lack of sidewalks. The Tribunal noted that one of e conditions suggested by City staff was that the Applicant make a payment for future urbanization, including the installation of sidewalks. Mr. Palozzi opined that there are sufficient municipal services and accessible sidewalks to accommodate two (2) additional dwellings.

[27] The Tribunal noted that a letter was sent to the municipality regarding grading of the parcels and potential flooding. City staff recommended that the Consent include a condition regarding grading of the new parcels. Mr. Palozzi opined that management of

surface water run-off and grading is commonly and, in his opinion, appropriately addressed in conditions of severance. as recommended by City staff.

[28] At the Hearing itself the Tribunal heard only the uncontroverted and the expert witness of the Applicant who opined that the issues were unfounded.

Summary – Consent

[29] Having considered the Provincial policy concerns, matters of Provincial interest set out in s. 2 of the Act and the criteria set out in s. 51(24), the Tribunal finds that the proposed severance has due regard for matters of Provincial interest, is consistent with the PPS, conforms to, or is not in conflict with the Growth Plan and the UHOP and represents good planning in the public interest. The Tribunal will allow the appeal and give provisional Consent subject to the City's conditions.

Variance Application – the Four Tests s. 45(1) of the Act

General Intent and Purpose of the UHOP

[30] For reasons set out above, the Tribunal has considered the evidence and based on the uncontroverted opinion evidence submitted by the Applicant, the Tribunal is satisfied that the requested Consent, with the Variances, meet the general intent and purpose of the UHOP.

General Intent and Purpose of the By-law

[31] Mr. Palozzi provided uncontroverted opinion that the Variances meet the general intent and purpose of the By-law. This opinion is supported by City staff.

[32] Based on the opinion evidence provided with respect to varied lot pattern within the neighbourhood, despite the reduced side-yard setback, lot frontage and lot area the Variances will nevertheless maintain the general intent and purpose of the By-law.

[33] The Tribunal accordingly finds that this test for the Variances has been satisfied.

Variance is Desirable for the Appropriate Development of Land

[34] Mr. Palozzi opined that the Variances are desirable for the appropriate development of the Site. The benefits of allowing for the infill lot and construction of a new detached dwelling on the Site aid in Provincial goals regarding intensification and take advantage of existing municipal services and infrastructure.

Variances are Minor in Nature

[35] Mr. Palozzi testified that both parcels will front on to Anderson Drive. He opined that the Consent if granted, will create two (2) relatively large parcels. He testified that having regard to the orientation the parcels and location of the Site and the size of the parcels, the Variances are minor in nature.

[36] The Tribunal accordingly finds that the Variances are Minor.

[37] The Tribunal finds that this test for Variances has been satisfied.

Summary-Variances

[38] For the reasons indicated in the analysis above, and upon various findings made in this Decision, the Tribunal will allow the Application and authorize the Variances

[39] The Tribunal finds that both the Consent and Variances are consistent with the PPS, conform to the Growth Plan and have regard to Provincial interests set out in s. 2 of the Act.

ORDER

[40] With respect to the Application for Consent, and the appeal pursuant to s. 53(19) of the Act, the Tribunal hereby orders that that the appeal is allowed, and provisional

consent is to be given, subject to the Conditions set out in Schedule 1 to this Order.

[41] With respect to the Minor Variance Application, the Tribunal orders that the appeal pursuant to s. 45(12) of the Act is allowed and the following Variances to By-law No. 6593 are authorized:

1. A minimum side yard width of 1.25 metres shall be provided for the both the severed and retained parcels instead of the minimum required side yard width of 3.0 metres
2. A minimum lot width of 15.08 metres shall be provided for each new lot instead of the minimum required lot width of 20.0 metres.
3. A minimum lot area of 784.00 square metres shall be provided for each lot instead of the minimum required lot area of 1100.0 square metres.

"M. Arpino"

M. ARPINO
MEMBER

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

SCHEDULE 1

Consolidated Conditions of Approval for 47 Alderson Drive June 13, 2022

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 must enter into with the City of Hamilton and register on title, a Consent Agreement, having an administrative fee of \$4,310.00 (2021 fee) to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as any outstanding servicing cost for the existing municipal services adjacent to the property, street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure and securities for items that may include: lot grading (\$10,000.00 grading security), water and sewer services inspections, driveway approaches, relocation of any existing infrastructure (such as hydrants) and any damage during construction (unknown costs at this time), to the satisfaction of the City's Manager of Development Approvals. Cash payments mentioned above are subject to change.
5. That the owner provide a cash payment to the City for the future urbanization of the street for sidewalks based on the frontage of the severed and retained lands on Alderson Drive and the "New Roads Servicing Rate" at the time of payment to the satisfaction of the Manager of Engineering Approvals Section.
6. The owner shall submit survey evidence that the lands to conveyed/retained, including the location of any existing structure(s) and permitted yard encroachments 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 (Building Division – Zoning Section).

7. That the Owner agrees to physically affix the municipal numbers or full addresses to either the buildings or on signs in accordance with the City's Sign By-law, in a manner that is clearly visible from the road.

9. Should deeply buried archaeological materials be found on the property during any of the above development activities the MHSTCI should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499).



Hamilton

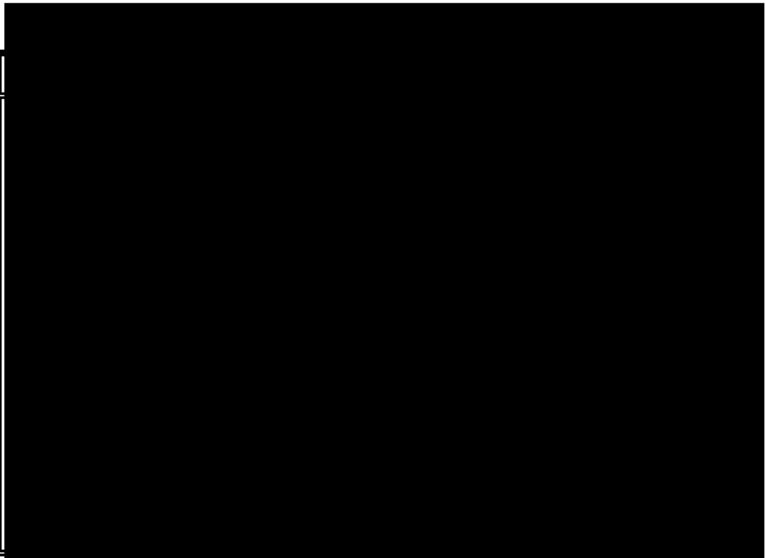
Committee of Adjustment
City Hall, 5th Floor,
71 Main St. W.,
Hamilton, ON L8P4Y5

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
Registered Owners(s)	Aziz Lazar and Klodya Simo
Applicant(s)	2839178 Ontario Inc.
Agent or Solicitor	A. J. Clarke & Associates Ltd.



1.2 Primary contact Applicant Owner Agent/Solicitor

1.3 Sign should be sent to 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 _____

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.

1.6 Payment type In person Cheque



*Must provide number above

2. LOCATION OF SUBJECT LAND

2.1 Complete the applicable sections:

Municipal Address	47 Alderson Drive		
Assessment Roll Number	08110103120		
Former Municipality	Glanford		
Lot	5	Concession	1
Registered Plan Number	970	Lot(s)	121
Reference Plan Number (s)		Part(s)	

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:

Plan 62R-6679, Part 2 - CD255620: Stormwater Easement

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:

To permit a lot area of 781 square metres for a single-detached dwelling on the provisionally-approved lots, whereas 784 square metres is required through OLT-22-002209 and OLT-22-002210.

Second Dwelling Unit Reconstruction of Existing Dwelling

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

Previous application submitted by previous consultant did not have a modern survey of the subject lands. Post-approval survey of lands showed insufficient lot area to meet approved minimum.

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
30.18 m (15.09 each)	51.82m	1,563.9m ² (781.7 each)	20.12 m

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
single-detached dwelling	16.2m	24.5m	3.5m (east)/ 2.6m (west)	03/01/1950

Proposed:

Type of Structure	Front Yard Setback	Rear Yard Setback	Side Yard Setbacks	Date of Construction
single-detached (one/ lot)	TBD	TBD	1.25	01/01/2025

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
single-detached dwelling	180.4 m ²	180.4 m ²	1	±4.5 metres

Proposed:

Type of Structure	Ground Floor Area	Gross Floor Area	Number of Storeys	Height
single-detached (one/lot)	TBD	TBD	2	TBD

- 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

right of way

municipal road, seasonally maintained

other public road

municipal road, maintained all year _____

4.8 Proposed use(s) of the subject property (single detached dwelling duplex, retail, factory etc.):

Two single-detached dwellings (one per lot) as per the Approved with Conditions Consent to Sever application HM/B-21:105.

4.9 Existing uses of abutting properties (single detached dwelling duplex, retail, factory etc.):

single-detached dwellings

7 HISTORY OF THE SUBJECT LAND

7.1 Date of acquisition of subject lands:

August 2021

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

single-detached dwelling

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

single-detached dwelling

7.4 Length of time the existing uses of the subject property have continued:

since lot creation

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) Neighbourhoods, Community No

Please provide an explanation of how the application conforms with the Official Plan.

Please see cover letter.

7.6 What is the existing zoning of the subject land? "B" - Suburban Agriculture And Residential, Etc.

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: HM/A-21:406 through OLT-22-002210

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-21:105 through OLT-22-002209

8 ADDITIONAL INFORMATION

8.1 Number of Dwelling Units Existing: 1

8.2 Number of Dwelling Units Proposed: 2

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

This application is to remedy an error from the previous approved application, HM/B-21:406, approved through OLT-22-002210. This application sought relief for lot area, lot width, and side yard setback. The previous application did not have and did not provide a legal survey of the lands. Following the OLT approval, AJ Clarke and Associates Ltd was retained in 2023 to clear the conditions of severance, including surveying the lands and deposit the required Reference Plan. During this surveying exercise it was determined that the original application's request for a minimum lot area of 784 square metres was too high for the calculated area of the lands.

The true surveyed dimensions of the lots proposed calculated lot areas of 781.7m² each. This application seeks an additional relief to account for the original submission's error, and is requesting a Minimum Lot Area of 781 square metres, whereas 784 square metres is required per HM/B-21:406.

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

Cover letter
