



Hamilton

STAFF COMMENTS

HEARING DATE: April 9, 2024

HM/A-24:45 – 135 Flatt Avenue, Hamilton

Recommendation

- Deny

Proposed Conditions

1. That the owner submits and receives approval of a Tree Protection Plan including the review fee as per the Schedule of Rates and Fees, prepared by a qualified tree management professional (i.e., certified arborist, registered professional forester or landscape architect) to the satisfaction of the Manager of Heritage and Urban Design.
2. That the owner submits and receives approval of a Landscape Plan that shows the location of compensation trees to the satisfaction of the Manager of Heritage and Urban Design.

Proposed Notes

N/A.



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Development Planning:

Background

To permit the construction of an attached garage and attached unenclosed porch in the rear yard.

Analysis

Urban Hamilton Official Plan

The subject lands are designated as “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations and are identified as “Neighbourhoods” in Schedule E – Urban Structure of the Urban Hamilton Official Plan. Policy E.3.4.3, amongst others, is applicable and permits the existing residential use.

Kirkendall South Neighbourhood Plan

The subject lands are identified as “Single and Double” on Map 6802 of the Kirkendall South Neighbourhood Plan, which permits the existing single detached dwelling.

Archaeology

The subject property meets the criteria used by the City of Hamilton and Ministry of Citizenship and Multiculturalism for determining archaeological potential. These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the Provincial Policy Statement apply to the subject application.

If this variance is granted, the City does not require an archaeological assessment, but the proponent must be advised in writing by the Committee of Adjustment as follows:

“Caution: Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required by the City of Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Citizenship and Multiculturalism (MCM) should be notified immediately (416-212-0036). In the event that human remains are encountered during construction, the proponent should immediately contact both MCM and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499).”

Cultural Heritage

The subject property comprises 135 Flatt Avenue, which is included in the City’s Inventory of Heritage Properties and located in the Kirkendall South Established Historical Neighbourhood.



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The City recognizes there may be cultural heritage properties that are not yet identified or included in the Municipal Heritage Register nor designated under the *Ontario Heritage Act*, but still may be of cultural heritage interest. These may be properties that have yet to be surveyed, or otherwise identified, or their significance and cultural heritage value has not been comprehensively evaluated but are still worthy of conservation.

Accordingly section B.3.4.1.4, B.3.4.2.1 (g) and B.4.3.6 of the Urban Hamilton Official Plan, Volume 1, apply.

The proponent proposes a minimum side yard width to the lot line of 0.2 metres to permit the construction of an attached garage and attached unenclosed porch in the rear yard.

Notwithstanding that the subject property is listed on the City's Inventory of Heritage Properties, Staff have reviewed the application and are of the opinion that the heritage attributes of the property will be conserved. The proposed 1 storey garage has a planned set back from the front of the primary dwelling. Staff strongly encourage the salvaging of materials from the existing garage to be demolished, including wooden doors and historic brick, which may assist with any necessary masonry repairs to the principal dwelling in the future. Staff have no further comments on the application as circulated.

Natural Heritage

The subject property is located within the boundaries of the Urban Hamilton Official Plan (UHOP). Based on Schedule B (Natural Heritage System) of the UHOP, Core Areas (i.e., Environmentally Significant Areas, Areas of Natural and Scientific Interest, Significant Woodlands, wetlands, and watercourses) as well as Linkages (natural areas that ecologically connect Core Areas) have not been identified within or adjacent to the subject property. As a result, it is anticipated that the proposed development will not further negatively impact the features and functions of the City's Natural Heritage System.

Through aerial photograph interpretation and the site plan provided, trees have been identified within the subject property. The City recognizes the importance of trees to the health and quality of life in the community (i.e., canopy cover, energy conservation, mental health benefits) and encourages the protection and restoration of trees (policy C.2.11.1).

The proposed covered outdoor space may impact the trees on site. To ensure that trees are considered, it is recommended that a Tree Protection Plan (TPP) be prepared in accordance with the



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City's Council adopted Tree Protection Guidelines (revised October 2010). If trees are to be removed, it is recommended that a Landscape Plan (showing the required compensation be provided). This can be addressed through the following conditions.

3. Condition 1: That the owner submits and receives approval of a Tree Protection Plan including the review fee as per the Schedule of Rates and Fees, prepared by a qualified tree management professional (i.e., certified arborist, registered professional forester or landscape architect) to the satisfaction of the Manager of Heritage and Urban Design.
4. Condition 2: That the owner submits and receives approval of a Landscape Plan that shows the location of compensation trees to the satisfaction of the Manager of Heritage and Urban Design.

Former City of Hamilton Zoning By-law No. 6593

The subject lands are zoned "C/S-1822" (Urban Protected Residential) District, Modified under Former City of Hamilton Zoning By-law No. 6953. The existing residential use is permitted.

Variance 1

1. A minimum side yard width along the northern lot line of 0.2 metres shall be permitted whereas the By-law requires a minimum side yard width of 1.2 metres.

The intent of this provision is to ensure sufficient space is maintained for access, maintenance and drainage purposes. Staff defer to Development Engineering staff regarding drainage concerns.

Staff note that, as shown on the site plan submitted with this application, the proposed attached garage, mudroom and unenclosed porch would have a 0.2 metre setback from the northerly side lot line. Staff are of the opinion that the proposed additions to the existing dwelling do not maintain adequate space between the lot line and the structure for access and maintenance purposes. Therefore, staff are of the opinion that the requested variance does not maintain the general intent of the Zoning By-law, is not minor in nature and is not desirable for the appropriate development or use of the land. Staff do not support the variance.

Staff are of the opinion that the variance does not meet the four tests of a minor variance. Based on the foregoing, **staff recommend denial.**



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Zoning:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	<ol style="list-style-type: none"> 1. The existing parking required must be maintained on the site, parking stall were not shown on site plan. 2. Variances written as requested by applicant. 3. Additional variances may be required.
Proposed Notes:	

Development Engineering:

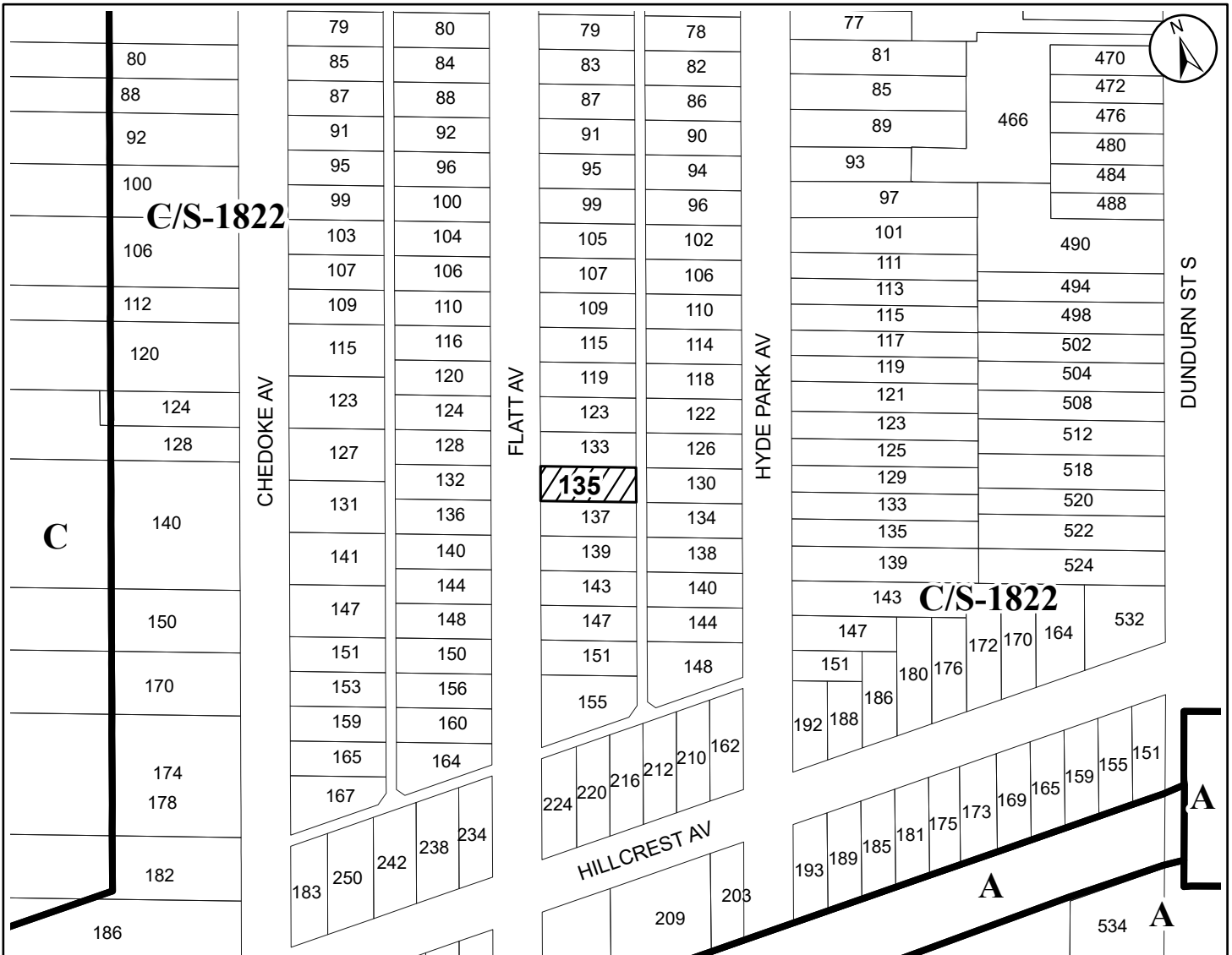
Recommendation:	Deny
Proposed Conditions:	
Comments:	The proposed side yard setback 0.20m does not meet the minimum requirement of 1.2m side yard setback as identified in the City's Lot Grading Policy. This is required for drainage purposes as well as maintenance and access on the garage side.
Proposed Notes:	

Building Engineering:

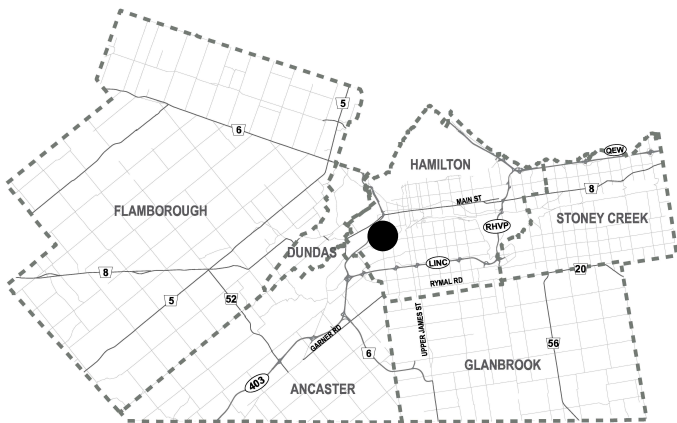
Recommendation:	Comments Only
Proposed Conditions:	
Comments:	
Proposed Notes:	<p>A building permit is required for the construction of the proposed attached garage and attached unenclosed porch in the rear yard.</p> <p>Be advised that Ontario Building Code regulations may require specific setback and construction types</p>

Transportation Planning:

Recommendation:	No comments.
Proposed Conditions:	
Comments:	
Proposed Notes:	



● Site Location



City of Hamilton

Committee of Adjustments

Subject Property



135 Flatt Avenue, Hamilton (Ward 1)

File Name/Number:

HM/A-24:45

Date:

March 15, 2024

Technician:

AL

Scale:

N.T.S.

Appendix "A"



Hamilton