



Hamilton

STAFF COMMENTS

HEARING DATE: April 9, 2024

HM/A-24:47 – 79 Markland Street, Hamilton

Recommendation

- Approve

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.



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Development Planning:

Background

To permit the construction of an accessory building (detached garage) and a rear yard Secondary Dwelling Unit – Detached. Staff note that the intend of the Secondary Dwelling Unit is to be utilized as a pool house, however the design as submitted meets the Zoning By-law definition of a Secondary Dwelling Unit – Detached. The subject property is designated as part of the Durand-Markland Heritage Conservation District under Part V of the *Ontario Heritage Act*. Heritage Permits for the proposed front yard accessory structure (detached garage, Heritage Permit Application HP2023-041) and proposed Secondary Dwelling Unit – Detached (pool house, Heritage Permit Application HP2023-024) were conditionally approved by City Council on November 8, 2023 and August 18, 2023 respectively.

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. Policies found in Sections E.3.4.3, B.3.4.2.1 and B.3.4.3.6, amongst others, are applicable and permits the existing residential use.

Policies found in Sections B.3.4.2.1 and B.3.4.3.6, amongst others, provide direction regarding the preservation of cultural heritage resources to ensure compatibility of new development or construction with existing cultural heritage resources. Development Planning staff defer to Cultural Heritage staff regarding the interpretation of the Cultural Heritage policies of the Urban Hamilton Official Plan.

Durand Neighbourhood Plan

The subject lands are identified as “Single and Double” on Map 6701 of the Durand 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:



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“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 79 Markland Street, a property designated under Part V of the *Ontario Heritage Act* as part of the Durand-Markland Heritage Conservation District, and a “protected heritage property” under the Provincial Policy Statement.

The proponent proposes the erection of a front detached accessory structure and the erection of a rear detached accessory structure on the designated property at 79 Markland Street, Hamilton.

Under the *Ontario Heritage Act*, a Heritage Permit is required for the erection of any new building or structure in a designated Heritage Conservation District (HCD) and the related HCD Plan and guidelines apply. Two Heritage Permit Applications (HP2023-041 and HP2023-024) were conditionally approved for the proposed scope of work, subject to applicant obtaining any required *Planning Act* approvals required to implement them. Therefore, staff are of the opinion that the impacts of the proposed detached front and rear accessory structures have been addressed from a cultural heritage perspective and have no further comments on this 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, 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



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cover, energy conservation, mental health benefits) and encourages the protection and restoration of trees (policy C.2.11.1). The proposed garage 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 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.

- 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.
- 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.

Variances 1-3

2. No accessory building shall exceed 4.5 metres in height instead of the requirement that no accessory building shall exceed 4.0 metres in height.
3. Every accessory building over 4.0 metres in height shall be at least 1.0 metres from the nearest lot line instead of the required setback of 3.0 metres from the nearest lot line.
4. An accessory building shall be permitted to be erected in a front yard instead of the requirement that no accessory building shall be erected in a front yard.

The intent of these provisions is to ensure a consistent streetscape and neighbourhood character are maintained and to provide sufficient space for access and maintenance purposes between an accessory building and the nearest lot line. Staff note Variances 1 through 3 are necessary to permit the location of the proposed detached garage. Staff defer to Development Engineering staff regarding drainage concerns.

Staff note the requested increased in maximum height of 4.5 metres is to permit a roof pitch complimentary in style to the existing dwelling. Staff are of the opinion that the increase of 0.5 metres represents a minor increase and will not negatively impact the character of the neighbourhood. Staff support Variance 1.



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Staff are of the opinion that the proposed setback of 1.0 metres from the nearest lot line, being the easterly side lot line, maintains sufficient space for access and maintenance purposes. Staff defer to Development Engineering staff regarding drainage or grading concerns. Provided Development Engineering has no objections to Variance 2, staff support Variance 2.

Regarding Variance 3, Staff note there are existing structures along Markland Street with similar setbacks from the street line. Therefore, staff are of the opinion that the proposed location of the detached garage within the front yard is generally compatible with the existing built form and character of the neighbourhood and Durand-Markland Conservation District. Staff support Variance 3.

Variances 4 & 5

5. Every required parking space, other than a parallel parking space, shall have dimensions not less than 3.91 metres wide and 5.94 metres long instead of the required minimum parking space dimensions of 2.7 metres wide and 6.0 metres long.
6. Two required parking spaces may be located in the front yard instead of the requirement that only one of the required parking spaces may be located in the front yard.

The intent of these provisions is to ensure parking spaces are large enough to accommodate the majority of personal vehicles as well as to maintain the existing streetscape and neighbourhood character by ensuring that vehicular parking is not a predominant feature of the streetscape. Staff note Variances 4 and 5 are necessary to permit the proposed parking configuration.

Regarding Variance 4, staff note the requested reduction in parking space length is 6 centimetres and accommodates the approved Heritage Permit design. Staff are of the opinion that this minor reduction would function on the site as the parking space would accommodate the majority of personal vehicles lengths. Staff also note that the second proposed parking space is 6.4 metres in length, providing a space to accommodate a particularly long vehicle, such as a truck, if necessary. Staff support Variance 4.

Regarding Variance 5, staff note that the intent of this provision is to ensure the front yard and streetscape are not dominated by vehicular parking. Staff note that the proposed parking would be within the proposed detached garage, with an architectural style that is to be complimentary to the existing dwelling on the property. Therefore, staff are of the opinion that the proposed parking spaces, while in the front yard of the subject property, would not negatively impact the character of the neighbourhood or streetscape. Staff support Variance 5.



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Variances 6 & 7

7. A landscape strip shall not be required to be provided within the required side yard adjacent to a Secondary Dwelling Unit – Detached instead of the requirement that a landscape strip limited to sod, ground cover, permeable pavers or a planting strip shall be provided within the required side yard adjacent to a Secondary Dwelling Unit – Detached.
8. A minimum distance of 6.35 metres shall be required between the rear wall of the principle dwelling and the Secondary Dwelling Unit – Detached instead of the required minimum distance of 7.5 metres.

The intent of these provisions is to ensure sufficient amenity space is provided and that sufficient separation is provided between a Secondary Dwelling Unit – Detached. Additionally, the landscape strip provides an opportunity to plant trees or hedges to mitigate potential privacy concerns between the principle dwelling and adjacent properties.

Regarding Variance 6, staff note that as per the site plan submitted with this application, a board fence is shown between the proposed Secondary Dwelling Unit – Detached and neighbouring properties, mitigating potential impacts on the privacy of neighbouring properties. Staff support Variance 6.

Regarding Variance 7, staff note that the requested reduction of 1.15 metres to permit a rear yard of 6.35 metres between the rear wall of the principle dwelling and the Secondary Dwelling Unit – Detached would still provide a significant separation to preserve privacy between the principle dwelling and the Secondary Dwelling Unit. Staff also note that the rear yard of the subject property extends beyond the 6.35 metre gap between the principle dwelling and the Secondary Dwelling Unit, primarily in the form of the existing pool. Staff have no concerns regarding available amenity space in the rear yard. Staff support Variance 7.

Staff are of the opinion that the requested variances meet the four tests of a minor variance. Based on the foregoing, **staff recommend approval.**

Zoning:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	1. The proposed development shall be in accordance with Section 18 (4) (v) of the Former Hamilton Zoning By-law 6593.



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STAFF COMMENTS

HEARING DATE: April 9, 2024

	<p>2. Insufficient information was provided to determine front yard landscaping. Additional variances may be required if compliance with the By-law cannot be achieved.</p> <p>3. Insufficient information regarding eaves, gutters, unobstructed path, ground floor area and landscaping for the proposed Secondary Dwelling Unit – Detached was unable to be determined. Additional variances may be required if compliance with the By-law cannot be achieved.</p> <p>4. Please note that these lands may be:</p> <ul style="list-style-type: none">- Regulated by a Conservation Authority;- Located within or adjacent to an Environmentally Sensitive Area (ESA);- Designated under the Ontario Heritage Act;- Listed in the City of Hamilton's Inventory of Buildings of Architectural and/or Historical Interest; and/or,- Included in the City of Hamilton's Register of Property of Cultural Heritage Value or Interest. <p>Staff cannot confirm this information at this time and the applicant should make the appropriate inquiries in order to determine what other regulations may be applicable to the subject property.</p>
Proposed Notes:	

Development Engineering:

Recommendation:	No Comments
Proposed Conditions:	
Comments:	Provided the existing drainage pattern is maintained, Development Engineering has no comments.
Proposed Notes:	

Building Engineering:

Recommendation:	Comments Only
Proposed Conditions:	



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STAFF COMMENTS

HEARING DATE: April 9, 2024

Comments:	
Proposed Notes:	Be advised that Ontario Building Code regulations may require specific setback and construction types. A building permit is required for the construction of the two car garage and pool house.

Transportation Planning:

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

Attn: Jamila Sheffield: NEC Comments for 79 Markland St, Hamilton RE: April 9th, 2024 - COA Agenda

Adair, Kendra (MNRF) <Kendra.Adair@ontario.ca>

Thu 3/28/2024 9:08 AM

To:Committee of adjustment <cofa@hamilton.ca>

Cc:Dobbyn, Sandy (MNRF) <Sandy.Dobbyn@ontario.ca>

Good morning Jamila,

Thank you for circulating NEC staff. 79 Markland Street, Hamilton while located outside of the Niagara Escarpment Development Control Area, is still located within the Niagara Escarpment Plan Area, and is designated Urban Area by the 2017 Niagara Escarpment Plan. As such, the policies in Parts 1.7 and 2 of the Niagara Escarpment Plan apply.

The NEC understands that this application is in part seeking to establish a secondary dwelling unit within a detached structure on the single lot of record, and as such, the City should ensure that the policies of Part 2.2.11 of the Niagara Escarpment Plan are met, quoted below:

2.2.11: "The following provisions apply to secondary *dwelling units*:

- a) a single secondary *dwelling unit* may be permitted on an *existing lot of record*;
- b) notwithstanding the above, a secondary *dwelling unit* shall not be permitted on an *existing lot of record* where there is more than one *single dwelling*, including any dwelling approved under Part 2.2.7 of this Plan;
- c) the secondary *dwelling unit* shall be contained entirely within a *single dwelling* or in an addition to a *single dwelling* and shall not be permitted in a detached *accessory facility*;
- d) the floor area of a secondary *dwelling unit* shall be subordinate in size to the *single dwelling*;
- e) secondary *dwelling units* shall not be permitted in a *group home* or a *single dwelling* containing a *bed and breakfast*; and
- f) a *home occupation* or *home industry* shall not be permitted within a secondary *dwelling unit*."

It should be noted that detached secondary dwelling units are not permitted within the Niagara Escarpment Plan, as 2.2.11c) requires that secondary dwelling units be contained entirely within an existing single dwelling, or in an addition to an existing single dwelling, and specifically states that they shall not be permitted in a detached accessory facility.

Please let NEC staff know if you have any questions.

Kind regards,

Kendra Adair (She/Her)

A/Senior Planner | Niagara Escarpment Commission
232 Guelph Street, Georgetown, Ontario, L7G 4B1
905-703-0827 | www.escarpment.org



Niagara Escarpment Commission Logo

Accessibility: As part of the NEC's commitment to providing accessible service, please let me know if you have any accommodation needs or require the contents of this email in an alternative format.

Availability: NEC staff provide services in person, via telephone, or via email. To better serve you, **we ask that you make an appointment if you prefer to meet in person.** You may request an appointment with staff at escarpment.org/appointments.

Did you know: You can now submit Development Permit Applications to the Niagara Escarpment Commission online? Visit our [website](#) to learn more.

From: Committee of adjustment <cofa@hamilton.ca>
Sent: March 21, 2024 2:36 PM
To: Committee of adjustment <cofa@hamilton.ca>
Subject: April 9th, 2024 - COA Agenda Available - In Person Hearing

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.
Good Afternoon,

Attached is a copy of the Agenda for the **April 9th, 2024** In Person Hearing date, please follow the link below for a copy of the submitted materials.

www.hamilton.ca/committeeofadjustment

(Please allow enough time to download, as the files are sometimes very large.)

Staff Written Comment Deadline: **April 2nd, 2024 at noon**
Public Agency Written Comment Deadline: **April 5th, 2024 at noon**

Staff comments **must** be provided in one of the 3 attached templates. Public Agencies wishing to have their comments included with the staff comment package must submit comments by the Staff deadline. Any written comments from City Departments or agencies are solicited and should be prepared in a timely fashion and received in the office of the Committee of Adjustment, Attn: Jamila Sheffield via cofa@hamilton.ca. Comments received after the date and time noted above will not be provided to the Committee of Adjustment in the comment package. If you are unable to meet this time frame you should be prepared to attend the hearing to provide your comments or concerns verbally, in person.

If you would like to provide verbal comments or want to be available to answer questions from the Committee about your written comments, you must attend the Hearing, in person. Virtual attendance is not available for this Hearing.

Decision Posting Date: **April 12th, 2024 by the end of day**

Decisions will be posted at the link above on the date above.

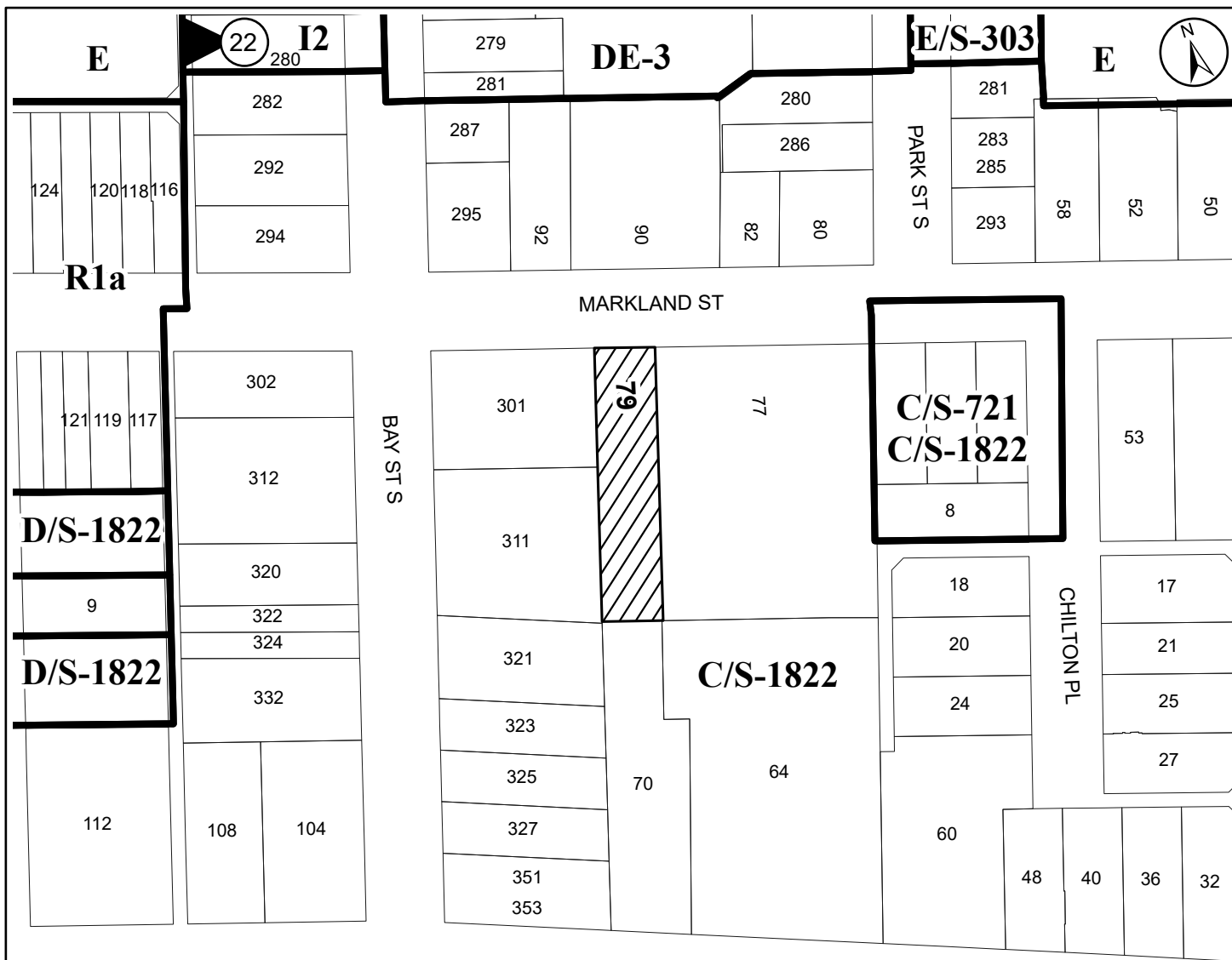
The link above contains the material that is sent to the area residents and is available to everyone; you can forward the above link to anyone. You can also direct all inquiries to the Committee of Adjustment office: cofa@hamilton.ca

Further Delegated Authority files will not be Heard by the Committee of Adjustment. They will be decided upon by the Director of Planning and Chief Planner and no public hearing will take place. Delegated Authority files are posted on the website under the Delegated Consent Authority Tab. Please refer to the Notice of Application for additional information, provided on the website. Written comment deadlines and when Decisions will be available remain as noted.

Please Note that if your Department or Division has a concern or condition that is important, you should plan on attending the Hearing. This will enable you to answer questions as to why the concern or condition is required and defend your position. The Committee of Adjustment is unable to and will not justify or defend your concerns or conditions.

Thank you,

COA



● Site Location



City of Hamilton

Committee of Adjustments

Subject Property



79 Markland Street, Hamilton
(Ward 2)

File Name/Number:

HM/A-24:47

Date:

March 15, 2024

Technician:

AL

Scale:

N.T.S.

Appendix "A"



Hamilton

Planning and Economic Development Department