



Hamilton

STAFF COMMENTS

HEARING DATE: April 9, 2024

FL/A-23:351 – 2 Taylor Crescent, Flamborough

Recommendation:

Approve Variance 1, Deny Variances 2 to 4

Proposed Conditions:

Proposed Notes:

“Acknowledgement Note: 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 archaeological 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 Citizenship and Multiculturalism (MCM).

All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the MCM. Should deeply buried archaeological materials be found on the property during any of the above development activities the MCM should be notified immediately (416-212-8886). 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).”



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Development Planning:

Background

To facilitate the construction of a new building (detached garage) accessory to an existing single detached dwelling. Staff note that Provincial Highway No. 5 abuts the northern lot line of the subject property.

Analysis Greenbelt Plan

The subject lands are identified as “Protected Countryside” under the Greenbelt Plan. Per Section 4.5.4 of the Greenbelt Plan, the existing residential use is permitted.

Rural Hamilton Official Plan

The subject lands are designated as part of the “Greenville Rural Settlement Area” in Schedule D - Rural Land Use Designations under the Rural Hamilton Official Plan. Policies found in D.5.1.1, amongst others, are applicable.

Greenville Rural Settlement Area

The subject lands are designated “Settlement Residential” in Map 8a of the Greenville Rural Settlement Area Plan and further identified as part of “Major Development Area A” in Map 8b of the Greenville Rural Settlement Area. Per Volume 2, Chapter A – Policy 1.3.1, single detached dwellings are permitted.

Archeology

The subject property meets two (2) of the ten criteria used by the City of Hamilton and Ministry of Citizenship and Multiculturalism for determining archaeological potential:

- 1) In an area of sandy soil in areas of clay or stone; and,
- 2) Along historic transportation routes.

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:

“Acknowledgement Note: 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 archaeological resources are encountered, the proponent may be required to



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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 Citizenship and Multiculturalism (MCM). All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the MCM.

Should deeply buried archaeological materials be found on the property during any of the above development activities the MCM should be notified immediately (416-212-8886). 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 property known as 2 Taylor Crescent, Flamborough is part of the Greensville Cultural Heritage Landscape. Accordingly, the following section of the Provincial Policy Statement applies:

2.6.1 Significant built heritage resources and significant cultural heritage landscapes shall be conserved.

Additionally, the following section of the Rural Hamilton Official Plan, Volume 1, applies:

B.3.4.6.2 Cultural heritage landscapes...shall be protected in the carrying out of any undertaking subject to the Environmental Assessment Act or the Planning Act.

Where new construction and/or alterations or additions to existing structures are proposed in a Cultural Heritage Landscape, key considerations are the visual and physical impacts on landscape features, typically public views of the building fabric, building set-back, the streetscape and significant vistas.

Accordingly, the following section(s) of the Urban/Rural Hamilton Official Plan, Volume 1, apply/applies:

B.3.4.1.3/ 4 "Ensure that all new development, site alterations, building alterations, and additions are contextually appropriate and maintain the integrity of all on-site or adjacent cultural heritage resources."

B.3.4.2.1(g) "Ensure the conservation and protection of cultural heritage resources in planning and development matters subject to the Planning Act either through appropriate planning and design measures or as conditions of development approvals." and,

B.3.4.2.1(h) "Conserve the character of areas of cultural heritage significance, including designated heritage conservation districts and cultural heritage landscapes, by encouraging those land uses, development and site alteration activities that protect, maintain and enhance these areas within the City."

Staff have no further comments on the application as circulated.



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The subject lands are zoned Settlement Residential (S1) Zone in Hamilton Zoning By-law No. 05-200. The existing single detached dwelling and the proposed accessory structure are permitted uses.

Variance 1

1. Accessory buildings shall be permitted to be located within the flankage yard instead of the requirement that accessory buildings shall not be permitted within a front or flankage yard.

The intent of this provision is to ensure accessory structures are positioned in the rear or interior side yard of a property, away from the streetscape, in order to preserve neighbourhood character and built form.

Staff note that the Zoning Compliance Review dated May 15, 2023, submitted as supporting documentation with this application, the front lot line is determined to be the easterly lot line along Old Brock Road. Consequently, the westerly lot line is deemed to be the rear lot line and all other lot lines are considered flankage lot lines. While the proposed location of the accessory structure is within a flankage yard, it is functionally within an interior side yard as the existing dwelling and property are situated to front towards Taylor Crescent. Staff are of the opinion this variance maintains the general intent of the Zoning By-law and is minor in nature.

Variances 2 & 3

2. All accessory buildings shall be permitted to have maximum height of 5.94 metres instead of the requirement that all accessory buildings shall have a maximum height of 4.5 metres.
3. The aggregate gross floor area of all accessory buildings shall be permitted to be 149.0 square metres or 7.5% total lot coverage, whereas the Zoning By-law requires that the aggregate Gross Floor Area of all accessory buildings shall not exceed 45 square metres or 7.5% total lot coverage, whichever is the lesser.

The intent of these provisions is to ensure that accessory structures remain subordinate in size and scale to the primary structure or dwelling and to ensure a consistent built form within the existing neighbourhood.

Staff are of the opinion that the requested variances represent significant increases from the permitted maximum height and aggregate gross floor area for accessory buildings, and therefore the proposed variances do not maintain the intent of the Zoning By-law and are not minor in nature. Staff do not support the variances.



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Variance 4

- 4. All buildings, structures, required parking areas and stormwater management facilities located on a property shall be permitted to be setback a minimum of 10.65 metres from a Provincial Highway Right-of-Way whereas the Zoning By-law requires a minimum 14.0 metre setback.

In the absence of approval or a permit issued by the Ministry of Transportation, staff cannot support the requested reduction in setbacks from the Provincial Highway Right-of-Way. Staff are of the opinion that the requested reduction in the setback from the Provincial Highway Right-of-Way is not in keeping with the intent of the Zoning By-law. Staff do not support the variances.

Staff are of the opinion that Variance 1 meets the four tests of a minor variance and is minor in nature. However, staff are of the opinion that Variances 2 to 4 do not maintain the general intent of the Zoning By-law and are not minor in nature. Based on the foregoing, staff recommend denial.

Zoning:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	<ol style="list-style-type: none"> All proposed mechanical equipment shall conform to Section 4.9 in the Hamilton Zoning By-law 05-200. Please note that these lands may be: <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:	



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STAFF COMMENTS

HEARING DATE: April 9, 2024

Comments:	Provided the existing drainage pattern is maintained, Development Approvals has no comments.
Proposed Notes:	

Building Engineering:

Recommendation:	Comments Only
Proposed Conditions:	
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 an accessory building to an existing single detached dwelling.

Transportation Planning:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	MTO will have to comment on this application.
Proposed Notes:	

