

HEARING DATE: January 18, 2024

Hamilton

FL/B-23:82 – 764 Valens Road, Flamborough

Recommendation:

Deny – Development Planning

Approve – Transportation Planning

Proposed Conditions:

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 shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department (Building Division – Plans Examination)
5. The owner shall receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section).
6. The owner shall submit survey evidence that the lands to be severed and/or the lands to be retained, including the location of any existing structure(s), conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section).
7. The owner shall submit survey evidence from a BCIN Qualified Designer (Part 8 Sewage System) or Professional Engineer that the existing septic system complies with the clearance requirements of Part 8 of the Ontario Building Code for the lands to be severed and or retained, to the satisfaction of the Planning and Economic Development Department (Building Division – input either Plan Examination Section).

HEARING DATE: January 18, 2024



Hamilton

8. The owner shall receive final and binding approval of Minor Variance application HM/A-23:312, to the satisfaction of the Director of Development Planning.
9. That the owner submits and receive approval of a Tree Protection Plan for the lands to be retained, 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.
10. That the owner submits and receives approval of a Landscape Plan, 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.

Proposed Notes:

“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 (416-212-8886). 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).”

HEARING DATE: January 18, 2024



Hamilton

Development Planning:

To permit the conveyance of a parcel of land containing an existing dwelling and to retain a parcel of land containing an existing farm.

	Frontage	Depth	Area
SEVERED LANDS:	50.3 m [±]	50.3 m [±]	0.25 ha
RETAINED LANDS:	468.1 m [±]	410.2 m [±]	26.2 ha

Greenbelt Plan

The subject lands are identified as “Protected Countryside” under the Greenbelt Plan. The policies found in Section 4.6 Lot Creation, amongst others, are applicable. Specifically, 4.6.1 a) which states: “1. Lot creation is discouraged and may only be permitted for: a) Outside prime agricultural areas, including specialty crop areas, the range of uses permitted by the policies of this Plan”. Per Section 4.5.1 and 4.5.2, all existing uses are permitted and single dwellings are permitted on existing lots of record, provided they were zoned for such as of the date of the Greenbelt Plan came into force.

Rural Hamilton Official Plan

The subject lands are designated “Rural” Schedule D – Rural Land Use Designations in the Rural Hamilton Official Plan. Policies found in Sections D.4.1, F.1.14.2.1, and F.1.14.2.3, amongst others, are applicable. The existing residential and agricultural uses are permitted. Policy F.1.14.2.1 a) states:

- a) *Severances that create a new lot for the following purposes shall be prohibited:*
- i) *Residential uses except in accordance with 1) Policies F.1.14.2.1 b) iii) and F.1.14.2.8, where a dwelling may be severed as a result of a form consolidation; and, 2) Policies F.1.14.2.1 b) iv) and F.1.14.2.4, where a dwelling within a designated Rural Settlement Area may be severed;*

Similarly, Policy F.1.14.2.1 c) states:

- c) *All proposed severances that create a new lot shall:*
- i) *Comply with the policies of this Plan including a rural settlement area plan where one exists;*
 - ii) *Be compatible with and not hinder surrounding agricultural operations;*
 - iii) *Conform to the Zoning By-law;*

HEARING DATE: January 18, 2024



Hamilton

- iv) *Only be permitted when both severed and retained lots have frontage on a public road; and,*
- v) *Meet the requirements of Section C.5.1, Private Water and Wastewater Services.*

Staff note that the applicant has indicated that the subject site inadvertently merged on title as a result of a previous Consent Application (being FL/B-05:231), which transferred a portion of the subject lands to lands immediately south (Part 1 on Reference Plan 62R-17432, transferred to 674 Valens Road). As a result, the dwelling (being Part 4 on the consent sketch and Part 4 of Reference Plan 62R-17114 and Part 1 on Reference Plan 62R-8514) merged with the adjacent farm parcel (Parts 1, 2 and 3 on the submitted consent sketch and Parts 1, 2 and 3 on Reference Plan 62R-17114).

Staff note that there is no Rural Hamilton Official Plan policy that speaks to inadvertently merging of lands within the rural area of the City of Hamilton. Due to the length of time passing since the merging of lands, staff have reviewed the Consent Application through the existing policy framework of the rural land use designation.

Based on the above policies, it is Staff's opinion that the proposed severance does not comply with the policies of the Rural Hamilton Official Plan as the proposed residential severance is not within a Rural Settlement Area nor is the proposed severance a surplus farm dwelling severance as a result of a farm consolidation. Similarly, the proposed lot size of 0.25 hectares does not meet the minimum lot area requirements of Section C.5.1, being a minimum lot size of 0.4 hectares (1 acre).

Per Schedule B – Natural Heritage System of the Rural Hamilton Official Plan, there are Core Areas (Rockton Northeast Woodlot) within the subject lands. Staff defer to Natural Heritage staff regarding Natural Heritage concerns.

Archaeology

The subject property meets three (3) of the ten criteria used by the City of Hamilton and Ministry of Citizenship and Multiculturalism for determining archaeological potential:

- 1) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody;
- 2) Along historic transportation routes; and,
- 3) In an area of sandy soil in areas of clay or stone.

Section 2.6.2 of the Provincial Policy Statement apply to the subject application. If this variance is approved, the proponent must be advised 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

HEARING DATE: January 18, 2024

Hamilton

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 (416-212-8886). 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

No comments.

Natural Heritage

Natural Heritage staff note that the area of the proposed severance is regulated by the Hamilton Conservation Authority and permits may be required. The proposed severance is more than 30m from the edge of the adjacent woodlot and is not within the ESA area. There is concern that trees may be impacted as a result of the severance. A Tree Protection Plan and Landscape plan will be required as a condition. The 2024 fee is \$715.00.

Hamilton Zoning By-law No. 05-200

The subject lands are zoned Rural (A2) Zone, Conservation/Hazard Land Rural (P6) Zone and Conservation/Hazard Land Rural (P8) Zone. The which permits the existing residential use and agricultural use. For an agricultural use, a minimum lot area of 40.4 hectares is required. For a single detached dwelling, a minimum lot width of 30 metres and a minimum lot area of 0.4 hectares is required. The proposed retained agriculture parcel does not meet the minimum lot area requirement and the proposed severed lot does meet the minimum lot width requirement of 30 metres, however satisfied the minimum lot area requirement of 0.4 hectares.

Recommendation:

In conclusion, Staff are not supportive of the proposed severance as the proposal does not meet the policies of the Rural Hamilton Official Plan. Staff recommends that the applications be **denied**.

CONDITIONS: (If Approved)

1. The owner shall receive final and binding approval of Minor Variance application HM/A-23:312, to the satisfaction of the Director of Development Planning.
2. That the owner submits and receive approval of a Tree Protection Plan for the lands to be retained, 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.

HEARING DATE: January 18, 2024



Hamilton

3. That the owner submits and receives approval of a Landscape Plan, 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.

NOTE: Staff note that the subject property is within the regulation area of the Hamilton Conservation Authority and approvals by the HCA may be required.

Zoning:

Recommendation:	
Proposed Conditions:	<ol style="list-style-type: none"> 1. The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department (Building Division – Plans Examination) 2. The owner shall receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section). 3. The owner shall submit survey evidence that the lands to be severed and/or the lands to be retained, including the location of any existing structure(s), conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section). 4. The owner shall submit survey evidence from a BCIN Qualified Designer (Part 8 Sewage System) or Professional Engineer that the existing septic system complies with the clearance requirements of Part 8 of the Ontario Building Code for the lands to be severed and or retained, to the satisfaction of the Planning and Economic Development Department (Building Division – input either Plan Examination Section)
Comments:	<ol style="list-style-type: none"> 1. This application shall be heard in conjunction with Consent application FL/A-23:312. 2. The applicant should obtain an appropriate municipal address for the proposed parcel(s) from the Growth Planning Section of the Planning and Economic Development Department prior to the issuance of a building permit. 3. In order to clear conditions, the applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.

HEARING DATE: January 18, 2024



Hamilton

	<p>4. Legally established rights of ways and access easements shall be properly registered on title as per reference to Sun-Canadian Pipeline Easement indicated on application form.</p> <p>5. The applicant, as a condition of approval, shall be required to provide evidence from a qualified professional that the existing septic system will be in compliance with The Ontario Building Code with respect to its location to the new property lines. The septic system shall be located entirely within the lands to be conveyed/retained or the lot lines shall be reconfigured to accommodate the existing septic system. A septic system is not permitted to be located on adjacent lands.</p>
Notes:	

Development Engineering:

Recommendation:	
Proposed Conditions:	
Comments:	<p>Based on the proposed Consent Application, there are no buildings or structures proposed and the property lies outside of the Urban Boundary. The main purpose of the application is for land conveyance purposes. Provided there are no structures / buildings proposed or foundation alterations and the existing drainage patterns are maintained, then Development Engineering has no comments.</p>
Notes:	

Transportation Planning:

Recommendation:	Approve
Proposed Conditions:	
Comments:	<p>The existing ~20 metre Right-of-Way on Valens Road is sufficient to meet the 20 metre requirement for local roads under the City of Hamilton Official Plan.</p>
Notes:	

Source Protection Planning:

Source Protection Planning understands the applicant is seeking to sever the existing lot at 764 Valens Road, with the severed land being 0.25 ha to be used for residential purposes, and the retained land being 26.2 ha to be used for agricultural purposes. We also understand that the application does not include the construction of any additional new dwellings or increase the size of the existing dwelling on each proposed parcel. Our comments are as follows:

HEARING DATE: January 18, 2024

Hamilton

The proposed severed lot size of 0.25 ha is considered insufficient, as our desktop review indicates pollution from the severed lot's septic system would not meet policies within Rural Hamilton Official Plan C.5.1 and put neighboring properties at increased water quality / health risk.

Based on the site-specific surficial geology and typical wastewater flows from a 3-bedroom dwelling, the minimum sustainable lot size would be 0.55 ha. It is the responsibility of the applicant to retain a qualified professional to confirm the minimum sustainable lot size.

Without an amendment to the severed lot area, Source Protection Planning cannot support the application as proposed. If the application is tabled and an increase of severed lot area is of at least 0.55 ha in a future submission, we would be able to support the application with the condition of a Scoped Hydrogeological Report to the satisfaction of Director, Hamilton Water completed by a qualified professional (P.Eng., P.Geo.). This Scoped Hydrogeological Report would focus on the sustainability of the applicant's private water supply. It should consider all the uses proposed on-site and will need to be completed in accordance with the City of Hamilton Guideline for Hydrogeological Studies and Technical Standards for Private Servicing (link: <https://www.hamilton.ca/sites/default/files/2022-09/pedpolicies-guidelines-hydrogeologicalstudies.pdf>).

Scope of work would include but not necessarily limited to:

1. A water supply assessment should be conducted by a qualified professional in accordance with the City of Hamilton's Hydrogeological Guideline. It should include expected water use / flows and provide evidence that onsite water supply well will meet the capacity of the proposed use through the completion of a minimum of 6-hour pumping test.
2. It is assumed a private well supports the existing dwelling and its water servicing. As a result, the applicant shall forward the Ministry of Environment Water Well Record for the existing well to Source Protection Planning for our review. If the Water Well Record cannot be located or if the well is more than 10 years old, it shall be inspected by a licensed water well contractor for its condition and its sustainable pumping rate verified to demonstrate that the existing well can sustainably support the residential use. Any improvement to the condition of the well suggested by the water well contractor (i.e., in order to comply with Regulation 903) shall be implemented and associated documentation shall be forward to Source Protection Planning for review. Find licensed water well contractor here: <https://www.ontario.ca/page/find-licenced-well-contractors>
3. The water well contractor or other qualified professional (P.Eng., P.Geo.) shall obtain water quality samples from the onsite well. Parameters to be analyzed shall be at minimum, general chemistry, major ions, nutrients, metals, E. coli, total coliforms. If a new well is to be drilled to support the development, the proponent shall test water quality parameters stated in Tables 1 through 4 as found in the document "Technical Support Document for Ontario Drinking Water Standards, Objectives and Guidelines" (2006). Gross Alpha and Gross Beta screening can be done for radiological activity. If the screening yields a negative result, there is no need to test for any of the

HEARING DATE: January 18, 2024



Hamilton

parameters under Table 3.

Find licensed laboratories here: <https://www.ontario.ca/page/list-licensed-laboratories>

4. Completion of a water well survey within a 500m radius of the site to confirm the existing groundwater use in the area.

5. A revised site plan shall indicate the location of the well and septic system components (tank(s) and leaching bed) and demonstrate that the location conforms with minimum clearance distances within Part 8 of the Ontario Building Code. A reserve area bed shall be delineated to conform to Rural Hamilton Official Plan requirements.

6. As per Ontario Regulation 903, if any wells onsite are to be abandoned, they should be decommissioned by a licensed water well contractor.

If the applicant disagrees with the City’s assessment, they have the option to conduct a Full Hydrogeological Report, following the City’s Guideline for Hydrogeological Studies and Technical Standards for Private Services.

The applicant should be aware that a Full Hydrogeological Report does not necessarily promote favorable outcome and may simply confirm the City’s findings.

Legislative Approvals:

Recommendation:	
Proposed Conditions:	
Comments:	Lands to be retained will be assigned the address of 772 Valens Road, Flamborough. Lands to be severed will retain the address of 764 Valens Road, Flamborough.
Notes:	We ask that the following be noted to the applicants: 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.

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

Hamilton

To: Jamila Sheffield, Secretary-Treasurer, Committee of Adjustment

From: Sam Brush, Urban Forest Health Tech – Forestry and Horticulture

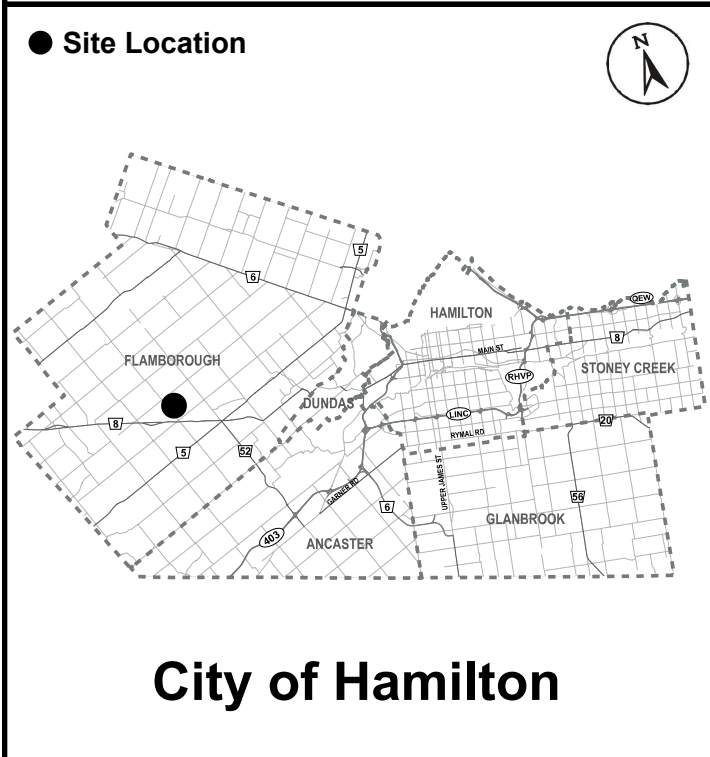
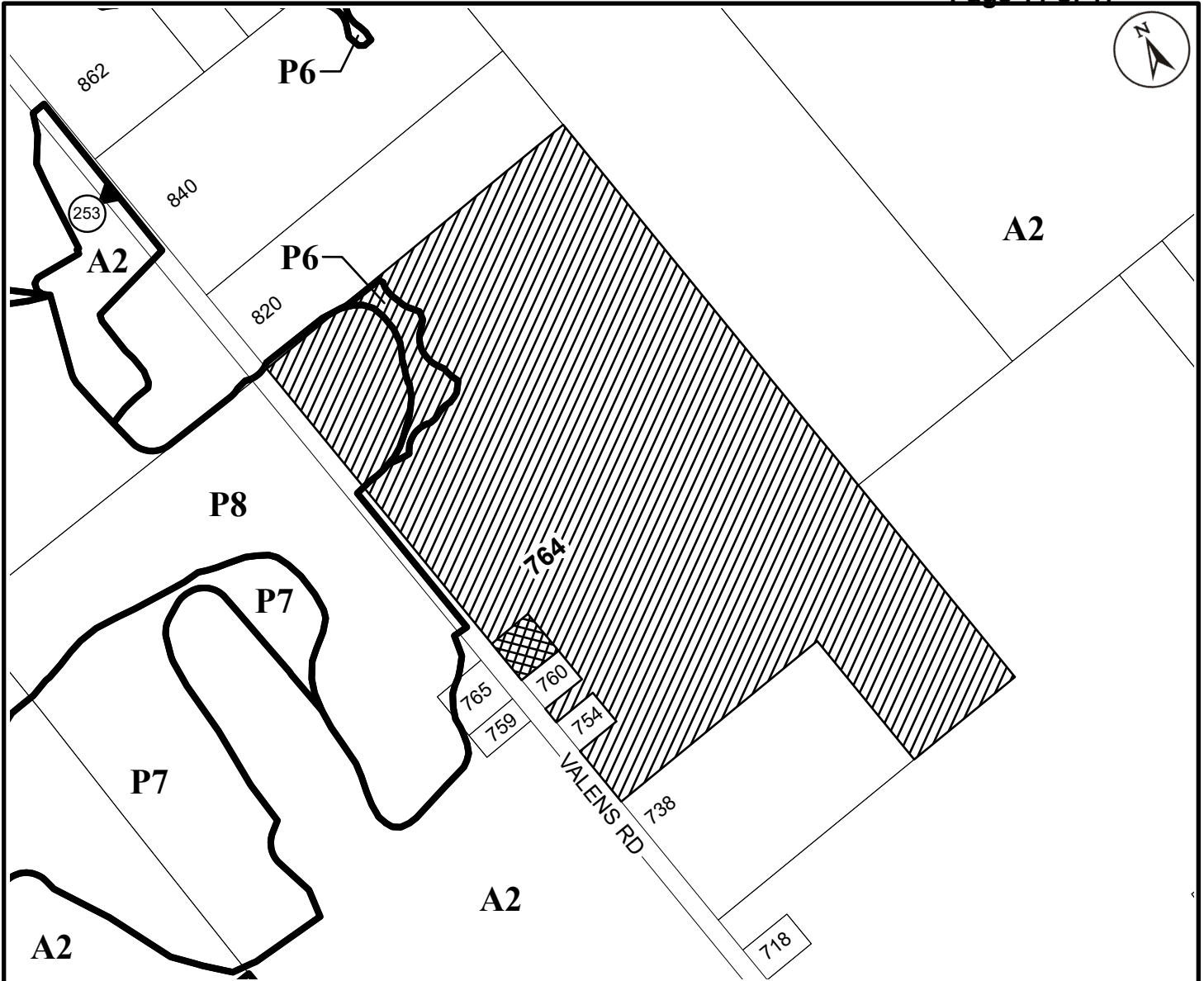
Email: Sam.brush@hamilton.ca

File Number: FL/B-23:82

Address: 764 Valens Road, Flamborough

Subject: Committee of Adjustment File Comments – Thursday January 18, 2024


Recommendation	Approve
Proposed Conditions:	
Comments:	There are municipal tree assets on site although it is determined that no impacts are anticipated through this application. No public tree permit is required. No Landscape plan required.
Notes:	Prior to a person performing any work on, in or around a public tree an application for a permit shall be submitted to Forestry. Email urbanforest@hamilton.ca for questions or public tree permit application.




Committee of Adjustment

Subject Property

764 Valens Road, Flamborough (Ward 13)

 Lands to be Retained

 Lands to be Severed

File Name/Number:
FL/B-23:82

Date:
January 9, 2024

Technician:
AL

Map Not To Scale

Appendix "A"



Hamilton

HEARING DATE: January 18, 2024



Hamilton

FL/A-23:312 – 764 Valens Road, Flamborough

Recommendation:

Deny

Proposed Conditions:

N/A

Proposed Notes:

NOTE: Staff note that the subject property is within the regulation area of the Hamilton Conservation Authority and approvals by the HCA may be required.

HEARING DATE: January 18, 2024



Hamilton

Development Planning:

To create two separate lots in accordance with Consent Application FL/B-23:82. The severed lands contain a two story, single detached dwelling and barn structure, to be retained.

Greenbelt Plan

The subject lands are identified as “Protected Countryside” under the Greenbelt Plan. The policies found in Section 4.6 Lot Creation, amongst others, are applicable. Specifically, 4.6.1 a) which states: “1. Lot creation is discouraged and may only be permitted for: a) Outside prime agricultural areas, including specialty crop areas, the range of uses permitted by the policies of this Plan”. Per Section 4.5.1 and 4.5.2, all existing used are permitted and single dwellings are permitted on existing lots of record, provided they were zoned for such as of the date of the Greenbelt Plan came into force.

Rural Hamilton Official Plan

The subject lands are designated “Rural” Schedule D – Rural Land Use Designations in the Rural Hamilton Official Plan. Policies found in Sections C.5.1, D.4.1, amongst others, are applicable. The proposed residential use is permitted. Staff note that the proposed severed lot does not meet the minimum lot are requirement of 0.4 hectares (1 acre) found in Section C.5.1, Private Water and Wastewater Services.

Per Schedule B – Natural Heritage System of the Rural Hamilton Official Plan, there are Core Areas (Rockton Northeast Woodlot) within the subject lands. Staff defer to Natural Heritage staff regarding Natural Heritage concerns.

Archaeology

See comments for FL/B-23:82.

Cultural Heritage

No comments.

Natural Heritage

See comments for FL/B-23:82.

Former Hamilton Zoning By-law No. 6593

The subject lands are zoned Rural (A2) Zone, which permits the existing single detached dwelling and agricultural use.

HEARING DATE: January 18, 2024

Hamilton

Variances

Lands to be Retained

1. A minimum lot area of 26 hectares shall be permitted whereas the By-law requires a minimum lot area of 40.4 hectares.
2. A minimum side yard setback of 13.0 metres shall be permitted whereas the By-law requires a minimum side yard setback of 15.0 metres.

The intent of these provisions is to ensure agricultural lots are of a sufficient size to be economically viable for agricultural operations and to ensure there is sufficient separation from barn or farm structures and neighbouring properties to avoid obnoxious or nuisance impacts.

Regarding Variance 1, Staff note that the existing agricultural operation operates on an existing undersized lot, being significantly below the minimum required lot size of 40.4 hectares. However, as the proposed severance would result in a decrease in lot area of 0.25 hectares and an increase in non-conformity. Staff are of the opinion the intent of the Zoning By-law is not maintained and the variance is not minor in nature.

Regarding Variance 2, Staff note that information regarding the functionality of the barn structure in terms of livestock has not been provided nor have MDS calculations been provided. As Staff are unable to confirm if the barn structure could potentially have impacts on neighbouring properties in terms of obnoxious odours, staff do not consider this variance to be minor in nature.

Lands to be Severed

3. A minimum lot area of 0.24 hectares shall be permitted whereas the By-law requires a minimum lot area of 0.4 hectares.

The intent of this provision is to ensure that residential lots in Rural Areas are of a size large enough to accommodate adequate private water and wastewater servicing, particularly concerning nitrate impacts and on-site and off-site water quality impacts. Staff note that the proposed severed lot is significantly undersized compared to the required minimum lot area of 0.4 hectares in both the Zoning By-law and Section C.5.1 of the Rural Hamilton Official Plan. Therefore, Staff are of the opinion that the requested variance does not maintain the general intent of the Rural Hamilton Official Plan or Zoning By-law.

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

HEARING DATE: January 18, 2024



Hamilton

Recommendation:

Staff are of the opinion the requested variances do not maintain the general intent of the Rural Hamilton Official Plan and Hamilton Zoning By-law No. 05-200 and are not minor in nature. In conclusion, Staff recommends that the application be **denied**.

CONDITIONS: (If Approved)

NOTE: Staff note that the subject property is within the regulation area of the Hamilton Conservation Authority and approvals by the HCA may be required.

Zoning:

Recommendation:	
Proposed Conditions:	
Comments:	<ol style="list-style-type: none"> 1. This application shall be heard in conjunction with Consent application FL/B-23:82 2. Variance #1 pertaining to the "Lot to be Conveyed (Single Detached Dwelling; Part 4 as indicated on Site Sketch)" should be altered to replace the wording "Are" with "Area" so that the variance reads as follows: "A minimum Lot Area of 0.24 hectares shall be provided instead of the minimum required Lot Area of 0.4 hectares." 3. Be advised, the Site Survey provided does not indicate property areas for the proposed lots. The variances have been provided exactly as requested by the applicant. Should lot areas not be as requested, additional variances may be required for lot areas the do not meet minimum requirements. 4. Please be advised that a portion of this property is under Conservation Management. Please contact Hamilton Conservation at 905-525-2181 for further information.
Notes:	

Development Engineering:

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

HEARING DATE: January 18, 2024



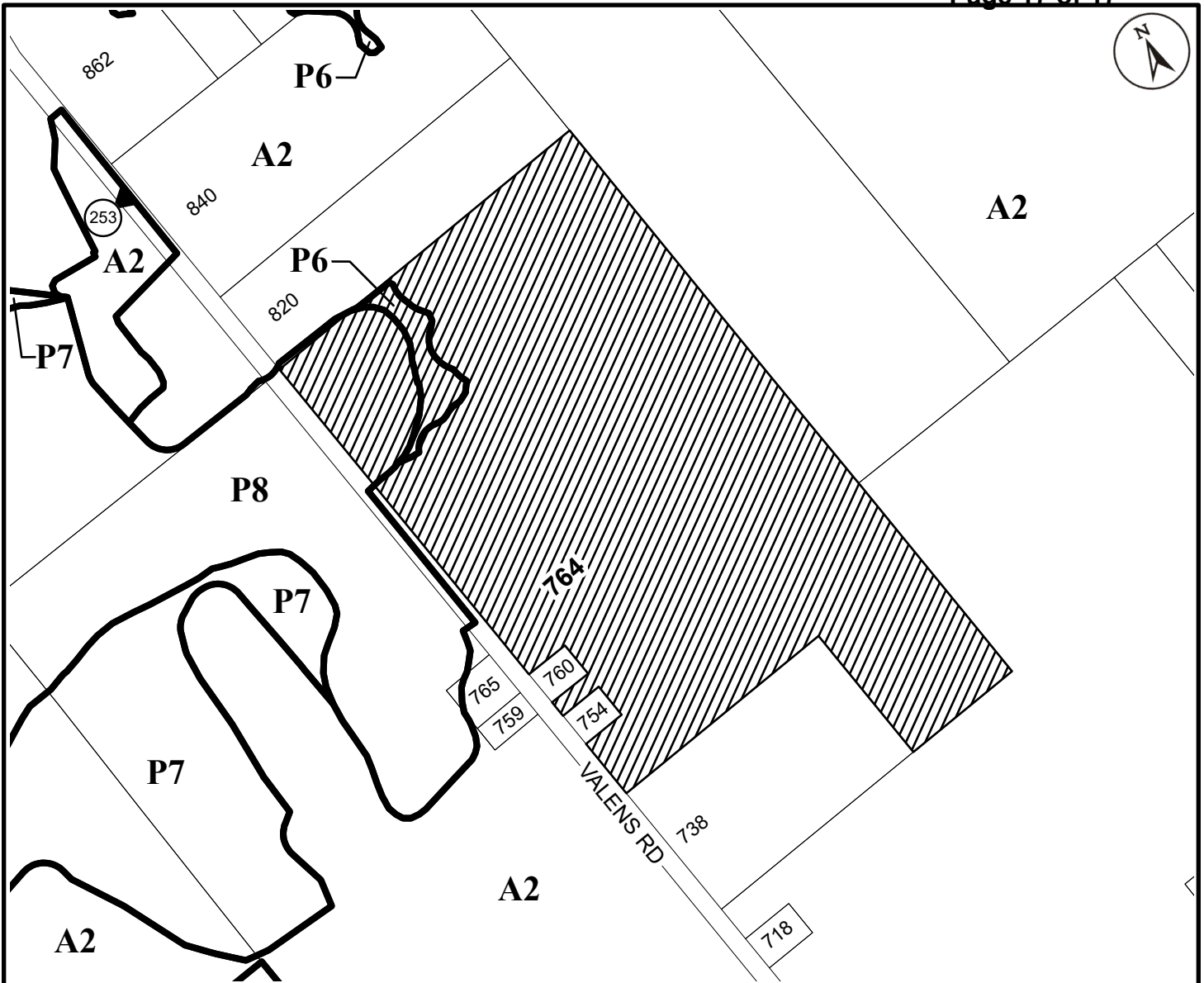
Hamilton

Transportation Planning:

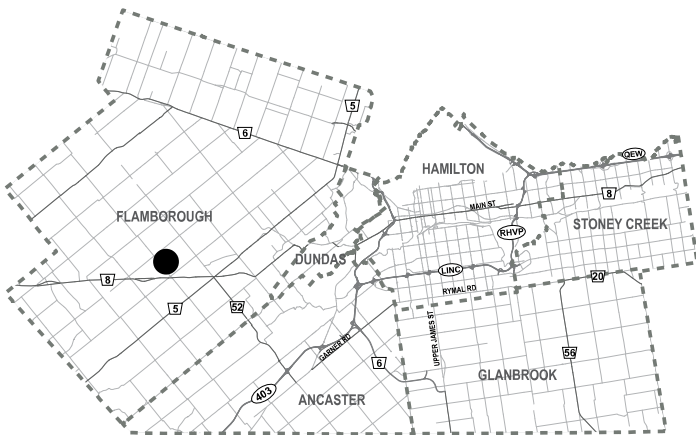
Recommendation:	
Proposed Conditions:	
Comments:	No comments.
Notes:	

Legislative Approvals:

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



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



764 Valens Road, Flamborough
(Ward 13)

File Name/Number:

FL/A-23:312

Date:

January 9, 2024

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton