



Hamilton

A-24:91 – 45 Marion Avenue North, Hamilton

Recommendation:

Deny

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.

Should deeply buried archaeological materials be found on the property during any of the above development activities the MCM should be notified immediately (416-212-0036) 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).”



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Development Planning:

Background

To permit an addition containing a secondary dwelling unit to the existing single detached dwelling.

Staff note that per Zoning By-law Amendment By-law No. 24-051, which was passed by City Council on April 10, 2024, the zoning of the subject property has been amended from the “C/S-1361” (Urban Protected Residential, Etc.) District, Modified under Former City of Hamilton Zoning By-law No. 6953 to the Low Density Residential – Small Lot (R1a) Zone under Hamilton Zoning By-law No. 05-200. The property remains subject to both the requirements of Zoning By-law No. 6593 and Zoning By-law No. 05-200 until such time that Zoning By-law Amendment No. 24-051 has been deemed final and binding.

Analysis

Urban Hamilton Official Plan

The subject lands are designated “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.3.2.3, amongst others, is applicable and permits the existing single detached dwelling as well as the proposed secondary dwelling unit.

Ainslie Wood Westdale Secondary Plan

The subject lands are designated “Low Density Residential 2” in Land Use Plan - Map B.6.2 – 1 of the Ainslie Wood Westdale Secondary Plan and are located within the “Westdale Original Subdivision” Cultural Heritage Landscape in Cultural Heritage Landscapes – Map B.6.2-2 of the Ainslie Wood Westdale Secondary Plan. Policies 6.2.5.3 and 6.2.5.4, amongst others, are applicable and permit the existing single detached dwelling and proposed secondary dwelling unit.

Policy 6.2.5.3 c) of the Ainslie Wood Westdale Secondary Plan states the following:

“Changes to the existing housing stock, such as new infill construction and renovations, shall be comparable to existing housing styles on the same block and street. New construction shall be encouraged to reflect similar housing styles, massing, height, setbacks, and other elements of style as the adjacent homes on the same block and street. The City shall discourage the building-out of rooflines to convert dormers into a full storey. The City shall limit overbuilding on properties, to maintain compatibility within the neighbourhood.”



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Based upon the application submission, including a site plan, floor plans, and building elevations, it is staff's opinion that the proposed addition to the existing single detached dwelling new is not compatible in character, scale and massing to the surrounding neighbourhood.

Archaeology

No comment.

Cultural Heritage

No comment.

Former City of Hamilton Zoning By-law No. 6593

The subject lands are zoned "C/S-1361" (Urban Protected Residential, Etc.) District, Modified under Former City of Hamilton Zoning By-law No. 6953. The existing single detached dwelling and proposed secondary dwelling unit are permitted uses.

Variance 1

1. A gross floor area ratio of 1.48 (148%) or 451.1 square metres shall be permitted instead of the required gross floor area ratio of 0.45 (45%).

The intent of this provision is to maintain the existing character and built form of a neighbourhood is preserved by ensuring lots are not overdeveloped.

Staff note that the existing lot area is 304.8 square metres and the permitted floor area ratio (at 0.45) is 137.26 square metres. The existing single detached dwelling has a gross floor area of 300.69 square metres and the proposed addition has a proposed floor area ratio of 152.54 square metres, for a final gross floor area of 453.23 square metres (or floor area ratio of 1.472). The existing dwelling exceeds the permitted floor area ratio by more than double and the proposed addition alone exceeds the maximum permitted. Staff are of the opinion that the requested increase, does not maintain the intent of the Zoning By-law and is not considered minor in nature. **Staff do not support the variance.**

Variance 2

2. A minimum side yard of 0.2 metres shall be permitted instead of the required minimum side yard of 1.2 metres.



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The intent of this provision is to maintain sufficient space between structures or buildings on a lot and the side lot line for stormwater drainage, access and maintenance purposes. Staff defer to Development Engineering staff regarding drainage and grading concerns.

Staff note that the existing single detached dwelling generally maintains a similar setback from the northern side lot line, as shown on the site plan submitted with this application. Staff also note that the proposed addition maintains a 1.2 metre setback from the southerly side lot line, maintaining access to the rear of the property. However, staff are of the opinion that the proposed 0.2 metre setback does not maintain sufficient space along the northerly side lot line for maintenance purposes. Staff are of the opinion that the requested variance does not maintain the intent of the Zoning By-law. **Staff do not support the variance.**

Variations 3 and 4

3. Zero parking spaces shall be required for a single detached dwelling instead of the required minimum two parking spaces required for each Class A dwelling unit, for the first 8 habitable rooms in the dwelling unit plus 0.5 parking spaces for each additional habitable room.
4. Zero parking spaces shall be required for a secondary dwelling unit instead of the required minimum one parking space for a secondary dwelling unit.

The intent of these provisions is to ensure that the required parking for the principal dwelling and secondary dwelling unit are provided on the subject property to minimize impacts on the public right-of-way.

The site plan submitted with this application does not illustrate an appropriately dimensioned parking space and the proposed design of the accessory dwelling unit further restricts the side and rear yards to be utilized for a minimum of one appropriately sized parking space. Staff note that the survey submitted with this application, dated November 16, 2023, shows an existing garage on the subject property which is to be demolished. Staff recommend a reduction in the size or reconfiguration of the proposed addition and accessory dwelling unit to provide on site parking within the area of the structure to be demolished.

Staff are of the opinion that the requested variances do not maintain the intent of the Zoning By-law. Staff do not support the variances.



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Staff are of the opinion that the requested variances do not maintain the intent of the Urban Hamilton Official Plan and Zoning By-law, are not minor in nature and are not desirable for the appropriate development and use of the land. Based on the foregoing, **staff recommend denial**.

Zoning:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	<p>1. Be advised, Zoning By-Law Amendment 24-051 and 24-052 was passed on April 10, 2024 to amend Section 4: General Provisions, Section 5: Parking and Section 15: Residential Zone regulations under Hamilton Zoning By-Law 05-200. The Amendment remains Not Final and Binding and as such, both regulations under the current Hamilton Zoning By-Law 05-200 and those regulations applicable under Zoning By-Law Amendments 24-051 and 24-052 are applicable to the subject property. For the purposes of this review, an additional review has been provided below as it relates to the new regulations required under Zoning By-Law Amendments 24-051 and 24-052. Until such time that Zoning By-Law Amendments 24-051 and 24-052 is deemed Final and Binding, regulations under both Zoning By-Laws shall apply.</p> <p>2. Please note, as per the above comment, insufficient information has been provided to determine if the Minimum Landscape Area has been provided as per Section 15.2.2.1 h)i) of Hamilton Zoning By-law 05-200. Be advised, should the proposed addition result in a reduction of landscaped area below the minimum required 30% for the entire lot, additional variances may be required.</p>
Proposed Notes:	

Cultural Heritage:

Recommendation:	Comments and Conditions / Notes
Proposed Conditions:	
Comments:	<p>Archaeology:</p> <p>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 <i>Planning Act</i> and Section 2.6.2 of the <i>Provincial Policy Statement</i> apply to the subject application.</p>



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	<p>If this variance is granted, the proponent must be advised in writing by the Committee of Adjustment as follows:</p> <p>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. Should deeply buried archaeological materials be found on the property during any of the above development activities the MCM should be notified immediately (416-212-0036). 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).”</p> <p>Cultural Heritage:</p> <p>No comments.</p>
Proposed Notes:	

Natural Heritage:

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



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Development Engineering:

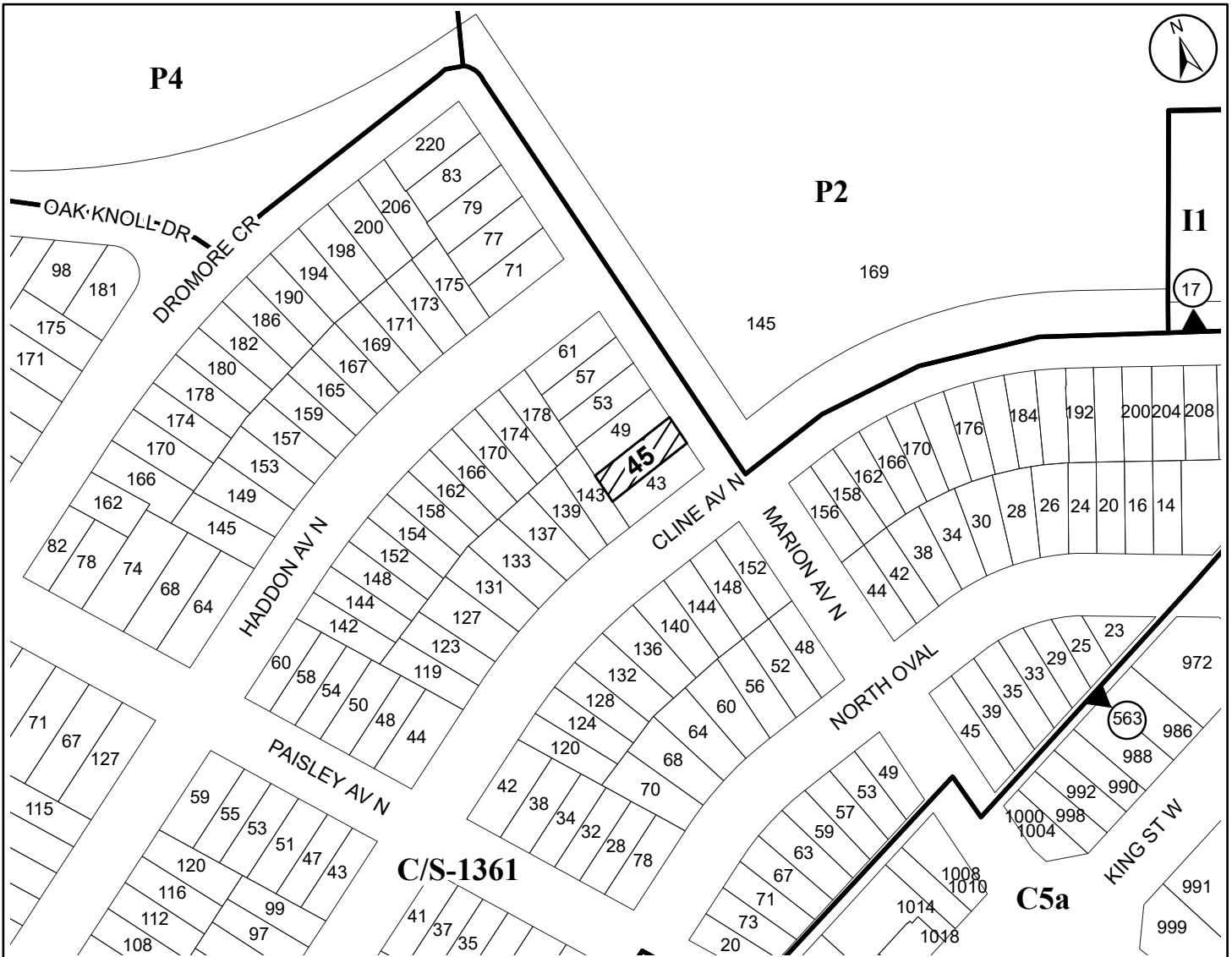
Recommendation:	Comments Only
Proposed Conditions:	
Comments:	1. The proposed side yard setback of 0.20 m at the north side follows the projection of the outside walls of the existing dwelling, therefore Development Engineering has no objections to the minor variances as proposed.
Proposed Notes:	

Building Engineering:

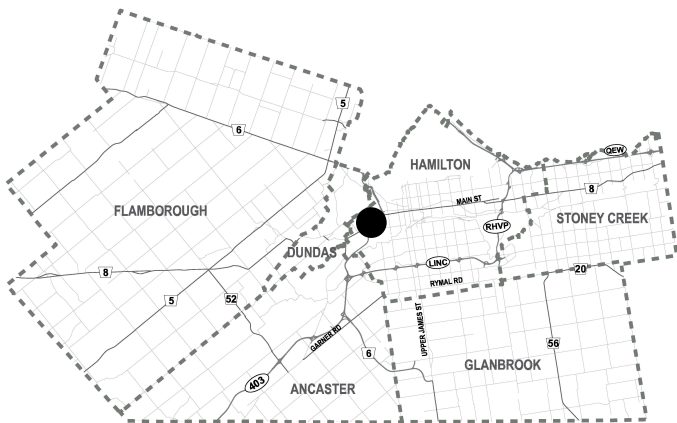
Recommendation:	Comments Only
Proposed Conditions:	
Comments:	
Proposed Notes:	<p>Building Permit # 23-308183, issued on December 11, 2023. To construct a 65.6 m² second storey addition to the existing single-family dwelling. To construct 22.3m² deck at the rear of the single-family dwelling and to construct 10.6m² second-storey deck at the rear of the single-family dwelling remains not finalized.</p> <p>A building permit is required for the addition containing a Secondary Dwelling Unit to the existing Single-Family Dwelling.</p> <p>Be advised that Ontario Building Code regulations may require specific setback and construction types.</p>

Transportation Planning:

Recommendation:	Approve
Proposed Conditions:	
Comments:	
Proposed Notes:	



● Site Location



City of Hamilton

Committee of Adjustments

Subject Property



45 Marion Avenue North, Hamilton
(Ward 1)

File Name/Number:

A-24:91

Date:

May 27, 2024

Technician:

AL

Scale:

N.T.S.

Appendix "A"



Hamilton